



Globe International Center

# MEDIA FREEDOM REPORT

# 2016

January 2016 - January 2017  
By Globe International Center

*Our sincere gratitude for publication of this report to:*



UNESCO Beijing Office



**Prepared by:** Khashkhuu Naranjargal  
Tumurbaatar Ayushjav  
Jambaldorj Enkhtuul

**Edited by** Brooke Daniels

**Address:** Chingeltei district, Khoroo – 6,  
Ikh Toiruu 68/1, Logos – 902,  
Ulaanbaatar -15141, Mongolia

**Tel:** 976-11-324627,  
976-11-324764

**Fax:** 976-11-324764

**E-mail:** [globenews@globeinter.org.mn](mailto:globenews@globeinter.org.mn),  
[globemon@gmail.com](mailto:globemon@gmail.com),

[hnanan@globeinter.org.mn](mailto:hnanan@globeinter.org.mn),

**Web site:** [www.globeinter.org.mn](http://www.globeinter.org.mn)

# TITLE

<b>PREFACE .....</b>	<b>4</b>
<b>ONE. MEDIA LEGAL ENVIRONMENT .....</b>	<b>6</b>
1.1. GUARANTEES OF FREEDOM OF EXPRESSION .....	6
1.2. MEDIA FREEDOM AND JOURNALISM PROFESSIONAL ACTIVITIES .....	7
1.3. THE RIGHT TO INFORMATION AND RESTRICTIONS .....	8
1.4. ELECTION AND MEDIA .....	9
1.5. DEFAMATION LAW .....	11
1.6. CONTENT RESTRICTIONS .....	11
1.7. OTHER REGULATIONS.....	12
<b>TWO. VIOLATIONS OF FREEDOM OF EXPRESSION IN 2016 .....</b>	<b>16</b>
<b>THREE. CIVIL AND CRIMINAL DEFAMATION CASES.....</b>	<b>19</b>

# PREFACE

We are pleased to present to you the 2016 Media Freedom Report. We would like to take this opportunity to express our sincere gratitude to UNESCO Beijing Office for their support of our publication.

In 2016, global media struggled through an extremely difficult period, with accusations of ‘fake news’ and the dissemination of misinformation. Journalism became the target of political propaganda and according to many observers, two major stories: Brexit and the election of Donald Trump, caused deep alarm among media professionals around the world. The free circulation of malicious lies, the resilience of populist propaganda and encouragement of racism and inequality go against the fundamental principles of ethical and responsible journalism. Whether you call it: ‘media war’, ‘journalism under fire’, ‘journalism crisis’, or ‘post-truth era’, it creates both opportunity and challenges for journalists. It also affects the public’s right to change their lives by participating in decision-making on issues around democracy.

Over the last few months, academics, leading journalists, media leaders and policy makers, have been deep in thought about what has led to this state of affairs. Some blame technology and others the Internet (in particular social media giants, Google, Facebook and Twitter), but part of the blame must be borne by the media itself, because the press is too politicized. Broadcast systems are owned by the elite, making them an easy target for political manipulation.

Mongolia has its own share of problems. False news, fake news and disinformation are interpreted as libel and insult by the political elite and hotly debated during discussions on Criminal Law and the Law on Administrative Measures in Parliament. Politicians say it’s the fault of journalists who shouldn’t be circulating negative information. Unfortunately politicians forget that they own the media outlets.

The Parliamentary election held under the new Election Law, first used its strict provisions encouraging censorship against the media in June 2016. Eleven News web sites were blocked for 24 hours (in accordance with legal provisions) after they were accused of spreading false news and information, libel and insult to others.

In 2016, a total of 446 media outlets operated in the highly competitive Mongolian media market. According to the Press Institute report 96 of them are online media. There are 4726 media practitioners, with 66 percent employed as journalists and creative staff. Twenty five percent of media outlets operate in rural areas. There are 6 newspapers published in English and other foreign languages and one newspaper is in Kazakh, a national minority language.

The first part of this year’s report introduces you to the freedom of expression legal framework, in particular its guarantees and restrictions, and we highlight the 2016 freedom of expression violations in the report’s second part.

The report notes some changes in the country's media law in 2016. Notably the Law on the List of State Secrets and the Law on Organizational Privacy were invalidated and replaced by Laws on State and Office Secrets. The newly elected Parliament made the decision to postpone the introduction of the new Criminal Law and the Law on Administrative Measures, which should have been effective 1st September 2016

Globe International Center's freedom of expression monitoring has recorded a total of 63 cases of violations. The majority, 52.5% of cases were against web sites and social media, 26.2% against broadcast media, 14.8% against print media and 6.5% were against individuals and freelance journalists. In 77% of cases, media were based in Mongolia's capital and 23% were local media. In 57.4 of incidents, freedoms of expression violators were politicians, authorities, public officials and public bodies.

In 2016, the Mongolian courts heard a total of 12 civil cases and one criminal defamation case and compared to 2015, the number of civil cases increased from 10 to 12, while criminal cases decreased from five to one.

It is commendable that Mongolia adopted two policies to protect journalists and ensure their safety. On 5th May, 2015 Mongolia assessed the UN Universal Periodic Review (UN UPR) and saw that eight countries had issued freedom of expression recommendations in order to harmonize national legislation with international law, ensuring independence of their regulatory bodies; decriminalization of defamation; ensuring the legal protection of journalistic sources and whistle blowers; and provisions for the safety of journalists and human rights activists. The Mongolian Government accepted all recommendations and adopted them in its General Action Plan on the implementation of UPR, by resolution No: 204 on 11th April 2016.

The National Program to Fight Corruption adopted by the Parliament on 3rd November 2016, pledges to: "Create a legal environment for the protection of whistle bowlers and journalists" (4.1.5.6), "Create legal regulations to decriminalize defamation, ensure the safety and protection from attack and pressure of those journalists who investigate and report on corruption and the crimes of public officials" (4.1.8.2), "Enabling an environment which ensures the independence of media and safeguards media freedom"(4.1.8.3). UNESCO, in cooperation with NGOs, Globe International Center and Transparency Fund, and the Confederation of Mongolian Journalists, published a report and assessment of media development in Mongolia and submitted their recommendations delivered to the Mongolian Parliament.<sup>1</sup>

Globe International Center has since formed a lobby group in the Parliament to advocate for the recommendations.

In 2016, Mongolia dropped from 60 to 69th place out of 180 world countries and is still rated as having notable problems around press freedom. According to Freedom House, Mongolia still remains a country with only partial press freedom.

We hope the present report gives you an overall picture of media freedom of Mongolia

**Naranjargal Khashkhuu, Head of Globe international center**

<sup>1</sup> <http://unesdoc.unesco.org/images/0024/002453/245364e.pdf>

# ONE.

# MEDIA LEGAL ENVIRONMENT

## 1.1. Guarantees of Freedom of Expression

### Constitution and International laws and standards

Article 16 of the Chapter on Human Rights and Freedoms of the Constitution of Mongolia guaranteed that “The citizens of Mongolia shall be guaranteed the privilege to enjoy the following rights and freedoms:

16.16 Freedom of thought, opinion, expression, speech, press and peaceful assembly.

16.17 The right to seek and receive information except that which the state and its bodies are legally bound to protect as secret.

Mongolia became a member of the United Nations in 1961 and recognized the Universal Declaration of Human Rights. In 1974, Mongolia ratified the International Covenant on Civil and Political Rights (ICCPR) and joined the Organization for Security and Co-operation in Europe (OSCE) in 2012. As such, Mongolia is legally bound to protect the freedom of expression in accordance with international laws and standards. In conformity with Article 10 of the Constitution, the above mentioned documents are effective as domestic laws. This is formally recognized in part 10.3 of Article 10 of the Constitution which stated that: “The international treaties to which Mongolia is a Party become effective as domestic legislation upon the entry into force of the laws on their ratification or accession” and was published in Turiin Medeelel (State Gazette) in 2004.

Article 19 of the Universal Declaration of Human Rights stated that: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” Article 19 of the International Covenant on Civil and Political Rights stated that: “Everyone shall have the right to hold opinions without interference. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”

Part 16.17 of Article 16 of the Constitution of Mongolia stated that: “In order to protect the human rights, dignity and reputation of persons and to ensure national defense, security and public order, the information which is not subject to disclosure must be classified and protected by law.” This article indicates the purpose and reason that can put restriction on freedom of expression. Part 3.3 of Article 3 of the Criminal Code of Mongolia states that: “No one may be subjected to criminal liability for his/her opinion and beliefs”. Even though there are opinions and beliefs, but there is no means to express them, this right cannot be fully implemented.

The restrictions on freedom of expression can only be accepted if they are based on the concept of the Constitution and international instruments and when they pass the following three part tests:

First: Only prescribed by law

Second: Have a legitimate aim

Third: Truly necessary and proportionate

Even though restrictions beyond these grounds are not allowed, there are still some unnecessary restrictions which violate fundamental human rights.

The UN Human Rights Committee adopted the General Comment No34 on Article 19 of ICCPR which guaranteed the right to freedom of expression, by its session 102 held from 11-29 July 2011 in Geneva. This General Comment provides a more clear interpretation and application of Article 19.

## 1.2. Media Freedom and Journalism Professional Activities

The Parliament of Mongolia enacted the Law on Media Freedom on 28 August, 1998. Article 2 of the Law prohibited the Parliament to pass any laws restricting media freedom. Article 3 of the Law stated: "The Government shall not censor the content of public information and media outlets shall take responsibility for their publications and programs". Article 4 of the Law prohibited the Government to own its own mass media. This Law is the main regulation guaranteeing media freedom.

The Supreme Court of Mongolia interpreted this definition of "media tools": "informing tools mean television networks, radio and communication, computer networks, specific programs, print media and other tools" which were reflected in part 3.1.5 of Article 3 of Law on Advertisement.

The Parliament passed the Law on Public Radio and Television on 27 January 2005. It created a legal ground for public television and radio which are under control and finance of the public at a national level.

Since then no legal regulation has been adopted to broadly address programmes which is important in the media sector, along with the protection of confidential sources and whistleblowers, fair competition, and ownership transparency.

Numerous drafts of new Media Freedom Law were developed. However the State Great Hural is yet to discuss the final version or pass it.

According to the Law on the National Human Rights Commission of Mongolia passed in 2000, the Commission is an institution mandated with the promotion and protection of human rights and charged with monitoring the implementation of provisions on human rights and freedoms, provided in the Constitution of Mongolia, laws and international treaties of Mongolia (Article 3.1). Since its establishment in 2001, the Commission has been receiving and resolving complaints of human rights violations.

The National Security Concept stated that the State, citizens and media shall: "cooperate in developing a policy to build awareness of a society proud of its motherland, nationality and respect for national interests, ethics, rule of law and state" (3.3.3.2). It also stated that social sustainability should be ensured through the strengthening of independence and autonomy of the media and by following responsible and professional journalism and journalism ethical standards (3.3.4.3).

In 2015, the Law on the Mongolian Language was passed by the Parliament and media outlets and publishing entities are obliged to: "strictly follow the grammar of the Mongolian language and standards of the Mongolian language of modern Mongolian literature". Article 19 imposed to determine indicators of knowledge of the Mongolian language and grammar, shall be included in professional skills exams of journalists and media workers". In accordance with Article 21.7.9, the

National Council of the Language Policy of the President shall take control over implementation by media organizations, of the adherence of the standards of the Mongolian language.

### 1.3 The right to information and restrictions

Part 16.17 of Article 16 of the Constitution of Mongolia guaranteed the: “right to seek and receive information”. Even though the Constitution did not include the right to impart information literally, it ensured the freedom to “seek, receive and impart” information “regardless of frontiers<sup>2</sup>” in the aforementioned international human rights instruments.

The Law on Public Radio and Television (PSB Law) passed in 2005 guaranteed the rights of journalists of Mongolian National Public Radio and Television (MNB) by Article 34.1, stating that: “Workers of Public Radio and Television shall have the right to obtain information except other information relating to secrecy of state, organization and privacy, and make it generally available”. When the Parliament passed the Law on Information Transparency and Right to Information in 2011, it not only guaranteed media and journalists’ access to information, but also guaranteed the citizens’ right to information.

According to article 6 of the above-mentioned Law, state organizations are obliged to disclose information relating to their activities, budget, finance, procurement and services, received by state and local budgets. Any citizen and/or legal entity retains the right to request information in any form of media desired, and officials are legally obliged to respond to freedom of information requests within seven working days at maximum, if there is need, the period can be extended by seven working days. If information is available, citizens and legal entities must be given immediate access. Moreover, there are regulations on implementation and monitoring of the law by stating to take notes in order to monitor law implementation (Article 23) and to make the above notes to assess indicators of outcome agreement (Article 24)

The types of exemptions specified under Article 18 of the Law on Information Transparency and Right to Information are very broad and include: (1) if there are well-grounded reasons that the public release of the concerned information might be detrimental to the national security and public interest of Mongolia (18.1.1), (2) if the concerned information is related to matters under review by the Mongol Bank, the Financial Regulatory Commission, or by the state administrative organizations in charge of competition or specialized inspection (18.1.2), (3) if it is necessary to protect state secrets, organizations and/or individuals during the process of inquiry, investigation and prosecution (18.1.3). The Law also protects intellectual property (Article 19), protection of personal secrets (Article 20) and secrets of any organization or business entity (article 21). It is prohibited to disclose intellectual property related information without the permission by the owner (19.1). Article 17 of the Law sets forth a complaint mechanism for citizens and legal entities whose rights are violated. They can lodge a complaint to the officials in higher positions and organizations of higher instances as well as to the National Human Rights Commission and the Administrative Court.

In accordance with the Law, the Government has adopted the following two procedures: “Regulation on charges, exemption and reduced charges for information services” approved in January 2013 and “General regulation to ensure information transparency” approved in December 2013.

Article 9 of the Law on Information Transparency and Right to Information “Transparency of budget and finance” and article 10 “Transparency on procurement, purchase of goods and service by state and local budget” were abolished by enactment of the Law on Glass Account

<sup>2</sup> See Article 19 (2) of ICCPR.



which came into effect from 1 January 2015. However, this change creates doubt regarding transparency and disclosure obligations of certain organizations or certain information.

According to the Law on Regulation of Public and Private Interests and Prevention of Conflict of Interests in Public Service, public officials must provide interests declaration. Under the Law against Corruption, they are also obliged to declare their personal as well as family assets, income and loans. As such, these kinds of information are accessible.

The principles of transparency and open information, in accordance with the Law on Information Transparency and Right to Information, are reflected in the laws passed in 2016 and include the Laws on: Deliberative Opinion Poll, Future Heritage, Legislation, Development Banks, Construction, and Hygiene. Furthermore, new legal provisions imposing an obligation to involve media representation and dissemination through media, in the framework of ensuring transparency and open information, have been enacted. Article 19.1 of the newly amended Law on Referendum passed on 5th February 2016 states: "Vote counting shall start at 22.00 of the voting day and shall be transparent and open with the involvement of observers, representatives of the media and citizens". Article 18.1: "Common Principles of the Public Hearing" of the Law on Public Hearing adopted on 8th July 2015 states: "It is necessary that a media representative shall be involved in a public hearing.

The Mongolian Parliament enacted the Law on State and Office/Official Secrecy on 1 December 2016 and the Law on the List of State Secrets and Law on Organizations Privacy were invalidated. It is positive that the maximum period of the protection of secret information has been reduced from 60 to 30 years.

However, some provisions in the new law are critical. For example, Article 5 provides a precise definition of official secrecy. Provision 5.1.2 says: "Official secrecy means information that is harmful to the interests of the sector, public organizations and other entities in the case of disclosure and loss and that shall be under state protection". This law is of public interest and clearly contradicts the concept and principles of the main RTI Law.

The scope of the state secret information is very broad including state policy, economy, science and technology, defense, intelligence, counter-intelligence, law enforcement and information security.

Moreover, in accordance with Article 10.1.5 of the new law, the Government has the power to approve procedures on taking decisions to make information secret, and transfer, disclose and categorize secret information, and change and prolong the period of secret information. We are skeptical that it complies with the Mongolian Constitution which states state and organizational secrets information must be protected by law.

## 1.4. Election and media

Under Article 14 of the Law on General Organization of Election, the Media Council shall work during the election. In accordance with Article 14.2 "The Media Council shall consist of equal representatives of professional institute of press and media, NGO and political party, coalition" and "Media Council shall control and monitor the equilibrium of election media advertisement of political party, coalition, candidate; and shall review and make comments on complaints lodged by political party, coalition, candidate, legal entity and citizens regarding above matter and present them to the Committee" (14.3). However, this could not become an effective mechanism in previous elections.

On 25 December 2015, the new Election Law was enacted and it integrated the regulations of the previous Parliamentary and Presidential elections. Chapter 9 regulates the election campaign. Article 68.3 specifies means and types of the election advertising including printed materials and its distribution to voters /68.3.1/ and use of radio and television programs /68.3.6/, and use of web sites /68.3.7/. Concerning the restrictions of the printed election advertising materials, it shall not

exceed three printed pages in the daily and other newspapers and the same size limitation applies to magazines /77.17/.

Article 82 includes the narrow regulations on use of radio and television. The public broadcaster shall air election programs in accordance with schedule and equal time allocated which shall be adopted five days prior to the start of election campaign and no payments shall be charged. In accordance with new Election Law, no equal time for individual candidates running for parliamentary and local elections shall be allocated, so it applies to political parties and coalitions participating in the election. Regarding the Presidential election, equal time shall be allocated to each candidate. Besides equal time, legal requirements are equal conditions and equal opportunities. Other radio and television stations other than PSB, shall air election programs basing on the agreement. A total air time of paid programs shall not exceed 60 minutes a day. Fifteen minutes or up to 25 percent of one hour's duration shall be allocated for a political party, or one candidate.

The new Election law includes regulation of Internet space by its Article 83 and Article 83.3 allows to distribution of e-materials through e-mail and 83.4 obliges that names of subscribers and Party's Election Campaign Headquarters running web sites must be necessarily mentioned.

More restrictions are imposed by Article 70 titled Prohibition of the Illegal Campaign, namely, media is prohibited:

- To distribute information that is libeling and insulting, or false information, or any type of activities with the purpose of determining political ranking by media outlets, online space and messages /70.1.6/,
- To call people not to vote /70.5.7/
- To print, publish and air the songs and pictures related to religion in election broadcast programs and materials /70.5.9/
- To libel and insult others and to disseminate false information and news of any types/70.5.13/
- To sign an agreement and pledge to release all types of information and news about any parties participating in the election, or not to release such information during election campaign /70.7/

Sanctions against media are included in various parts of the Election Law. For example,

- If the Court decision proves the bodies guilty in dissemination, publishing and airing flashy and false information on parties, coalitions and candidates, they shall reimburse the expenses spent for the campaign /70.8/.
- In the case of breach of the provision 70.1.6 by web sites, the CRC shall terminate the license for six months based on the conclusion of the government administrative organization responsible for fair competition
- Radio and televisions breaching the Law shall be warned once and in the repeated cases, its operations will be stopped until the voting day by the organization which issued the license /82.19/.
- In the case of the breaches specified in this chapter, license of the broadcasters shall be terminated until six months from the day breach occurred /82.21/
- In case, if it is not possible to identify the bodies and media individuals who breached this provision, web site shall be blocked in Mongolian territory until the end of the voting by the regulatory body /83.7/
- Procedures of the election media campaign on radio and television, and monitoring shall be adopted by the Central Election Organization and Communications

Regulatory Committee (CRC) in accordance with Article 82.17 of this Law. The CRC shall conduct monitoring on election advertising and it may take measures to not breaching the Law and stop the breaches in cooperation with police, election organizations and specialized non-governmental organizations /82.18/.

The involvement of the Authority for the Fair Competition and Customers and the CRC which is a government body by law, encourage the government censorship and it violates the Media Freedom law which bans any type of censorship.

## 1.5. Defamation law

An individual's honor is protected in both the Civil and Criminal Codes of Mongolia. State, non-state, business and all kinds of organizations can redress their name, honor and reputation by using aforementioned laws.

In accordance with the Administrative Law enacted in 2016, if information defaming honor and dignity of person disclosed and distributed through media and social media, individual shall be fined. Currently, amendments to the Criminal and Administrative Laws are being discussed.

According to the Article 497 of the Civil Code "A legal person who caused damage to others' rights, life, health, dignity, business reputation or property deliberately or due to negligent action (inaction) shall compensate for that damage".

According to the Article 511 of the Civil Code "If the party responsible to distributing information damaging honor, dignity and business reputation of others fails to prove that it is true, it shall be liable to compensate the non-material damage in monetary or other form separately from the material damage".

One problem with these civil defamation provisions is that they allow public bodies to bring defamation legal action. Another problem is the fact that the Civil Code places the onus on the person who disseminated the allegedly defamatory statement to prove that the information was "accurate" or that it was "truthful". This poses a significant burden on the defendant and has a chilling effect on freedom of expression.

## 1.6. Content restrictions

A number of laws in effect in Mongolia contain content restrictions including the Law on Protection for Child Right, the Law on Prevention from Crime, Law to Control Circulation of Narcotic Drugs and Psychotropic Substances, the Law against Prostitution, the Law against Alcoholism, the Law on Combating Trafficking in Persons, and the Law on Copyright and Related Rights.

We recognize that these restrictions are made in order to protect the public interests. However, we concern that these provisions can create a condition where these restrictions can be overused due to lack of general definition in terminology and scope. This can also be harmful for journalists.

The Parliament enacted the Law on Child Protection on 5th December 2016 and Article 8 of the law titled: "Child Protection in the Media and Online Space" protects children from games, news, information, advertising, and online networks that negatively affect child development, health and upbringing. Instructions on child protection shall be open to the public and permanent control shall be taken over. The regulation meets the criteria of necessity and legitimizes the restrictions on the protection public order set forth in Article 19 of the ICCPR.

The CRC regulations “General terms and requirements on Radio and Television Broadcasting” and General terms and requirements on digital content service” were amended in 2015. Standards set in these documents target the groups serving the public and these are also external by its nature. Therefore, these regulations are administrative acts.

These regulation acts did not have any impact assessment by the Ministry of Justice and nor did register in state registration. According to the Rule for decision on administrative norms adopted by the Government resolution No. 119: “any decision unregistered in state registration considered invalid and citizen, enterprises and organizations will not be held responsible for failure of adhering such decision”. In contrast, these terms are used in controlling the content of broadcast media and news and information web sites and also utilization in terminating and invalidating licenses.

Currently there is no content regulator for print media.

As for radio and television, they are obligated to respect public interest (5.1) and at least 50 percent of the weekly programming shall be produced locally in Mongolia, or produced by Mongolians or by legal entities registered in Mongolia (5.4).

During past years, laws adopted by the State Great Hural and bills contain provisions to oblige media outlets, impose unnecessary restrictions and prohibitions which give an opportunity of increasing public organizations’ censorship.

For instance, the Law on Culture was amended on 12 February 2015 and the Law will come into effect from 1st January 2016. The provision: “Restrictions on operation run by public and other organizations and citizens in the frame of culture,” was amended. Even the main context of this regulation associated with government policy to support national content, it could turn into restriction on media and exert pressure.

The following bodies have control over contents including the Authority for Fair Competition and Customer, Authority of Intellectual Property, Coordinating Council for Crime Prevention, police, courts, intelligence authority, General Authority for Specialized Inspection. This illustrates that there is a state censorship on media.

## 1.7. Other regulations

### Media Ownership and Concentration

All media outlets are required to register in Mongolia and they must submit their registration application form within 10 days after their establishment. In accordance with the General Law on the State Registration, Law on the Registration of Legal Bodies, Civil Code and other relevant laws and rules, media was registered as either company or as an NGO. However, in practice, requirements for the documents to be submitted for registration, extends to such ones which should be included in the bylaws or statutes of the NGOs. It is not clear why this requirement mixes up principles of profit-making entities with non-profit-making organizations.

Radio and television broadcasting stations can only be registered after their license is granted in accordance with the Article 15.16.1 of the Law on Licensing for Business Activity. In order to apply for a license they must receive permission from their local governor. For the permission, media outlets must submit the following documents: their publication, programmed policy, frequency, structure, powers and duties of the governing body and editor-in-chief, and their financial information. In addition, they must also submit a contract signed with a printing company.

Even though the media ownership has various forms in Mongolia, the law does not clearly indicate ownership diversity. For instance, relevant laws recognize the public and private ownership, but the community ownership is not recognized at policy, legal and regulatory levels.

For the first time, a provision on “Transparency of ownership and affiliation of media outlet” was incorporated into the “Concept of National Security of Mongolia” which was adopted in 2010.

The Action Plan of the Mongolian Government for 2012-2016 adopted by the Parliament resolution No. 37 in 2012 included that “It shall disclose the ownership and revenue of the media; enhance the independence of media organizations; and guarantee the freedom to publish.”

The Chapter 5 entitled: “Ownership transparency” of the CRC regulation “General Terms and Requirements on Radio and Television Broadcasting” says “Owner of the broadcast media shall make the license transparent to the public with purpose to adore ensuring independence, openness and ethics. Information on percentages of investors, license holders, and management, names of license holders, detailed addresses, telephone numbers, management and organizational structure of the legal entities, and citizenship of the management staffs shall be sent to the CRC by letters within the 1st quarter of each year”.

Due to lack of transparency on media ownership and concealment of sales information and customers’ rate in the market, it becomes difficult to define a concentration in realistic way.

It is open to own a various media outlet in many ways including open and hidden way. Thus, it is extremely hard to identify a real owner of media outlet as information on ownership and investor given by entities is questionable. Media ownership concentration in Mongolia seems to go further. Specifically a media concentration among big business and political groups is surging or they are selling a media outlet to one another.

Part 21.1.3 of Article 21 of the Law on Investment passed in 2013 incorporated a new regulation. It stated that: “permission is required if a foreign state-owned legal entity happens to hold 33% or above of total share issued by Mongolian legal entity operating in the field of media, information and communication”.

The Law on Media Freedom prohibits the state ownership, but in reality, a number of media outlets are established by local governments in violation of the law. All state owned media outlets operate mainly to promote the policy of that state organization.

## **Broadcasting**

Mongolia has no separate legislation on broadcasting.

To conform to international legal standards, a competent regulating body of the media sector shall be independent from government and shall regulate a frequency spectrum. Under Article 8 of the Law on Telecommunications, the Communications Regulatory Committee was established in 1996. The Law on Telecommunications does not specifically and explicitly guarantee the independence of the Communications Regulatory Committee. In contrast, Article 4 of the Law on Radio Waves states that radio waves are State property and the Government solely reserves the right to allocate radio frequencies, while Article 5.2 of the Law refers to the Committee as “the government implementing body” suggesting that it is not intended to be independent.

The above legal statement restricts the opportunities of allocation and regulation of frequencies of waves in independent manner.

## Internet

There is no state regulation to restrict internet users in Mongolia to access any domestic and foreign websites and to join social media. Until 2011, there was not any requirement for anyone to create and operate a website or to open up their own blogs to get registered or licensed by the state. In accordance with Article 15.16 of the Law on Licensing for Business Activity amended in 2010, it stated about “issuing a license for content service”, according to the regulation “General Requirement for Regulation on Digital Content Service”, “content” means any product that transfers characters, signals, texts, pictures, graphics, sounds, tones, moving images and other types of information that is being transmitted through a communications network into electronic form. It also says that e-mail, bulk and spam, communication between individuals (for instance, via telephone, fax, IP etc.), shall not be considered as content.

The Mongolian Government adopted resolution No1 on “Unified System of Comments in Websites” during its Cabinet Meeting on 5 January 2013, neither without prior public consultation nor with a Parliamentary decision. As per this resolution, the CRC was assigned to develop a regulatory procedure on requirements for news websites and issuing domain names. The National Data Center will ensure the technical reliability of this Unified System of Comments and the General Authority for State Registration will register the information of users who post comments on websites based on their civil data and the database of mobile phone users. The resolution on restricting the right to online anonymity is still in effect.

The Joint Declaration adopted by the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the Organization of American States (OAS) Special Rapporteur on Freedom of Expression on 21 December, 2005 stated that: “No one should be required to register with or obtain permission from any public body to operate an Internet service provider, website, blog or other online information dissemination system, including Internet broadcasting. This does not apply to registration with a domain name authority for purely technical reasons or rules of general application which apply without distinction to any kind of commercial operation.”

However, CRC regulations have been imposing restrictions. “General Condition and Requirement for Regulation on Digital Content Service” states that “Service provider of news and information website operating in Mongolia shall register in the Communications Regulatory Committee (3.4)”.

If the registered web sites allow user-generated content and comments, the following must be introduced:

- It is obligatory to use filtering software;
- IP address of the customers shall be publicly visible under the user-generated content;
- Provide that customers login with a username and email address to leave comments;
- Keep that login in relation to those comments for at least 6 months.

In the case of violations of the above mentioned requirements by any website providers, the CRC has the right to restrict their access from Mongolia.

Based on an official decision and conclusion on violation of laws by websites/internet service providers received from relevant authorities, the CRC has the right to demand them to eliminate such violations within 24 hours and to immediately restrict their website access without giving prior notice when necessary. Depending on the nature of violations, the CRC reserves the right to hold violators economic responsibility or commission them timely task; or to inform relevant organizations to impose administrative accountability on them; to notify them to terminate or cancel their licenses, or to cancel the licenses.

### **Self-Regulatory Body**

After long debates among media and journalistic communities, the first self-regulatory body Media Council was established and officially registered on 28 January 2015. It is managed by 15 members of the Board and it has two Committees: Ethical Committee on Radio and TV and Ethical Committee on Printed and Online Media each consists of 15 members. In 2016, the Committees reviewed a total of 12 complaints related to 41 media outlets about breaching the Code of Media Ethics.

The Media Council adopted the "Principles for Journalists" on 14 April 2015.

### **Confidential Source of Journalists**

Mongolia has no law protecting the confidentiality of sources for non-public media employees. The 2005 Law on Public Radio and Television guarantees protection for non-disclosure of sources and information only for journalists from the Mongolian National Broadcaster (Article 34).

In accordance with the ethical principle No 8 of the Code of Media Ethics, journalists have the ethical duty to protect their confidential sources.

## TWO. VIOLATIONS OF FREEDOM OF EXPRESSION IN 2016

Globe International Center has been monitoring violations of freedom of expression and journalists' professional rights since October 2005. Up till January 2017, we registered a total of 519 freedom of expression violations.

In 2016, GIC registered 63 violations affecting the professional work of 61 journalists and media outlets. If any right is violated, it will affect other rights. Mongolian journalists are highly self-censoring and fear further possible reprisals, attack and assault. Bearing this in mind, we were not able to include all cases in this report.

Among the registered cases: 14.8% of violations involved newspapers, 26.2% were against TV and radio stations, 52.5% involved websites and 6.5% were against individuals. Most of them (77 per cent) occurred in Ulaanbaatar and only 23 per cent were registered in the provinces. As a result of technological development, violations against traditional media have decreased and those targeting online media doubled from 25.7% in 2015 to 52.5% in 2016.

Authorities, high-ranking public officials and government organizations were responsible for 57.4% of freedom of expression or violations against journalists' rights.

Types of free expression violations in 2016 by per cent:

- Assaults: 1 case (or 1.6% of violations)
- Threats/pressure/insults to journalists or their family members: 12 (15.4%)
- Denial of information / violation about obtaining and disseminate information: 6 (9.5%)
- Damage/confiscation of equipment – 2 (3.2%)
- Court, police and other pressure or force by institutions/civil defamation: 17 (27.1%)
- Demands to reveal sources of information: 4 (6.3%)
- Censorship of publications/bans or attempts to ban program broadcasts: 13 (20.6%)
- Criminal defamation/detention/ arrest: 12 (19.0%)



## Violations of journalists' rights (2006-2016)

Types of violations	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	Total
Assaults	3	3	6	-	-	1	5	-	4	5	1	28
Threats, pressure and insults to journalists and family members	16	7	23	13	10	8	5	6	9	12	8	117
Denial of information / violation on obtaining and disseminating information	8	10	13	2	-	7	7	8	11	6	6	78
Damage or confiscation of equipment	3	3	2	-	2	2	4	2	2	4	2	26
Court, Police/ other institutions exerting pressure or force/ civil defamation	2	8	5	3	5	3	5	6	8	17	17	79
Demands for journalists to reveal their sources	3	1	5	1	6	3	4	11	9	10	4	57
Censorship of publications/bans or attempts to ban program broadcasts and other types of censorship	2	1	3	1	2	3	9	9	4	11	13	58
Criminal defamation/detention/ arrest	4	4	2	0	5	6	6	11	10	12	12	72
Death	-	-	-	-	-	-	-	1	2	1	-	4
<b>Total</b>	<b>41</b>	<b>37</b>	<b>59</b>	<b>20</b>	<b>30</b>	<b>33</b>	<b>45</b>	<b>54</b>	<b>59</b>	<b>78</b>	<b>63</b>	<b>519</b>

## Globe International Center highlights the following violations of journalists' professional rights in 2016

- Economist and Publicist D.Jargalsaikhan, hosted the weekly program, 'De Facto' on Mongolian National Broadcaster (MNB). After an interview in February 2016 with former head of the Constitutional Court, J.Amarsanaa, MNB reportedly informed the presenter that they could no longer air his show on their channel, effective immediately. According to D.Jargalsaikhan, MNB Director Ts.Munkhtur called and gave no specific reason for the cancellation of his show. Program management said he did not air balanced points of view and his program and did not comply with program policy.

“Provincial media often operates under pressure. It’s mostly ignored but recently it has become more difficult. I’ve been told that I should seek a sponsor or follow a political party because I cannot manage the operations of a TV station alone. That is the latest trend. I told them: “I have been working independently for 15 years, and if I have to follow someone I would refuse to work in the industry.”

S.Delger, Director, New Channel TV station, Dornod province

- TV8 station’s program ‘Mirror’ reported on the alleged wrong-doings of former Minister S.Erdene. They asked if Minister S.Erdene had become rich from public money and had no conscience. Following the segment, S.Erdene filed a criminal lawsuit against the media outlet. His civil complaint demands were for 25 million tugrugs for damage of reputation, along with three on air apologies and retractions.
- A TV crew from the western province of Bayankhongor was covering a story about mining operations in their province. When they entered the Galuut Shijir Aranjin mining area, security guards detained the crew including cameraman, driver and reporter, in a room for two hours. As a condition of their release, they had to leave their equipment as collateral. When they returned the next day to claim their gear, the memory card had been removed from the camera. The TV station approached police to investigate incident, but police gave no response for almost three months. When they demanded a response, police said that administrative measures taken against safeguards and their property will be repaid.
- VTV TV station reporter, L.Purevnyam, has a social duty to report from parliament and has clearance to enter Government Palace. In March 2016, Government Palace guards seized his security pass for no reason, alleging he had twice breached Palace rules. When he questioned the pass seizure and attempted to record the incident, guards took his mobile.

I regret that provincial media repeatedly maltreated and forced to operate under strict requirements.

“When former Prime Minister, Ch. Saikhanbileg visited Bayan-Ulgii aimag in 2016, journalists who have special clearance and ID cards, were pre-inspected by intelligence authority officers. It seemed strange that they instructed journalists on what to do. It has becomes standard, during a visit of high ranking officials, that law enforcement bodies stand around, preventing journalists from reporting and violating their rights to inform the public. After the former PM’s visit, officers again inspected journalists and seized some of their recordings. It’s shocking that this could happen in a democratic society. Provincial journalists are afraid to protest about violations of their rights by powerful law enforcement bodies and this has led to a worsening situation. It’s becoming more common for police to overstep their authority, weakening democracy and blocking the public’s channels for information.”

Rakhmet Surogan, journalist from Bayan-Ulgii province

# THREE. SURVEY ON CIVIL AND CRIMINAL DEFAMATION CASES

In 2016, Globe International Center has conducted research and analysis on court decisions relating to civil claims of honor, personal or business reputation and criminal cases of libel and defamation. Furthermore, the research looked into the use of Civil and Criminal Codes by public authorities and officials. The research was based on data available at the judicial website [www.shuukh.mn](http://www.shuukh.mn).

Provisions 21, 27, 497, 511 of the Civil Code protect the name, honor, personal or business reputation of the person and remedy for harm. Provisions 110 and 111 of the Criminal Code define crimes of dissemination of libel and insult and defamation.

Journalists and media organizations were accused of inflicting harm on the honor, personal or business reputation of persons in 12 cases out of 47 civil lawsuits heard by court. Accusations of libel and defamation were heard in one out of nine criminal cases in 2016.

Politicians, high-ranking public officials and public bodies made up 56% of plaintiffs in criminal cases and 34% in civil cases.

In 2016 a well-known politician claimed 100 million tugrugs (approx. US\$41,000) from media outlets for damaging his reputation, but case was dismissed in the first instance.

The maximum amount of damage claimed for harming honor, personal and business reputation was 149 million (approx. US\$61,000) tugrugs, 50 million less than was claimed in 2015. A maximum amount awarded by the court was 2 million tugrugs which is 2.5 times less than in 2015. The highest amount awarded by court in 2015 was 5 million tugrugs. Most civil cases were dismissed following reconciliation agreements between defendants and claimants.

In criminal cases, a fine amounting 10,368,000 tugrugs (equaling 54 times the minimum wage) was the highest financial penalty issued. In 2016, 55.6 per cent of total criminal case defendants were found guilty of defamation.

In 1999-2016, 52.1 percent (or 414 cases out from a total 794) of civil and criminal defamation cases were filed against media and journalists.

### Comparative data on the trials of defamation cases

Years	Civil		Criminal	
	Total	Against media	Total	Against media
1999	30	-	3	-
2000	39	-	-	-
2001	31	11	4	-
2002	44	37	2	2
2003	28	18	1	1
2004	40	40	1	1
2005	29	25	1	1
2006	36	31	3	3
2007	33	33	-	-
2008	39	25	5	5
2009	44	17	1	-
2010	67	37	2	-
2011	43	23	7	3
2012	43	20	8	4
2013	37	17	9	3
2014	45	20	12	9
2015	37	10	14	5
2016	47	12	9	1
<b>Нийт</b>	<b>712</b>	<b>376</b>	<b>82</b>	<b>38</b>