



Improving Training and Adherence to an Enhanced Judicial Code of Ethics in the Mongolian Judiciary

| | |
|-----------------|--|
| CSO: | Transparency International - Mongolia (TIM) |
| Years: | 2008 (phase 1) 2009 – 2010 (phase 2) |
| Country: | Ulaanbaatar, Mongolia |
| Amount: | \$ 23,681 USD (phase 1) \$ 22,380 USD (phase 2) |
| Sector: | Strengthening anti-corruption legal frameworks and promoting the rule of law |

| | |
|----------------------------|---|
| Corruption Problem: | Judges are not aware of corrupt practices in procurement and there is no clear definition and adherence to a judicial COE |
| Tools employed: | Capacity Building, Constructive Engagement, Coalition Building, Awareness Raising, Advocacy, Legal Reform |

Based on its assessment that Mongolia’s legal system could substantially benefit from capacity building in the areas of procurement and ethics, Transparency International Mongolia (TIM) set out to implement two highly successful projects building on each other over the course of two years. Building capacity of legal personnel, including judges, clerks, prosecutors, auditors and even law students, TIM has achieved significant success in raising problem awareness and has measurably improved Mongolia’s judicial system. Furthermore, TIM has worked constructively with all actors involved to further enhance the legal framework of a Mongolian Judicial Code of Ethics.

Corruption Problem Addressed

The shift from the socialist command system to a market economy in the 90’s opened up the country’s legal system to scrutiny by the public - weary of corruption. Surveys conducted by different international agencies were consistent with the public perception that the courts and those entrusted to crack down on corruption - judges, prosecutors, and the police - were among

the most corrupt. Despite the coordinated efforts by donors to enhance and strengthen the judiciary, training – specifically focused on preventing and curbing corruption in the judicial system – was not prioritized and neither conducted by donors, nor CSOs or other specialized professional organizations. The General Council of the Courts (GCC) identified training gaps and areas for strengthening the judiciary to fight corruption within the courts and in dispensing justice. Against the backdrop of increasing government procurement of private services, judges and court officials lacked the skills and a basic understanding of the different stages of public procurement and were not schooled in identifying corrupt practices. Judges also lacked awareness of when judicial actions/inactions were considered corrupt on the basis of international standards and global best practices. The absence of an acceptable judicial code of ethics exacerbated the problem.

In response, TI-Mongolia (TIM) cooperated with the GCC in tackling corruption within the courts by organizing the first ever nationwide anti-corruption training for judges and improving the Code of Ethics adopted in 2003.

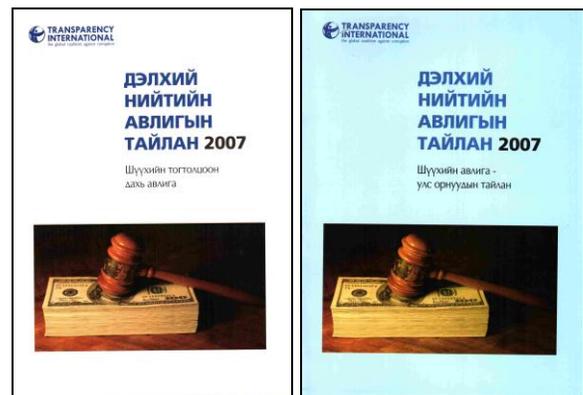
Actions Taken by TIM

In partnership with the GCC, TIM implemented two projects: “Training on Preventing Corruption in Public Procurement and Judicial System” and “Improvement of Judicial Code of Ethics and Training of Lecturers of 18 Law Schools”. Both projects were aimed at building the capacity of the judiciary to fight corruption within its ranks and to better understand, adhere to and enforce the rule of law. Activities within the first project (phase 1) included:

- Training in all 22 provinces, covering 330 judges, 327 law clerks, court personnel from all 63 courts of all instances, 21 NGO representatives monitoring judiciary performance, 23 investigators of the Special Investigative Unit of the Prosecutor’s Office charged with investigating allegations against court workers, and 30 auditors of the Mongolian National Audit Office. Three training teams were formed each consisting of a judge/trainer from the Capital City Administrative Court and an expert/trainer from TIM. A total of 27 1-day trainings were conducted. The Executive Secretary of GCC acknowledged that the training was the first time that judges would learn about the forms of corruption in public procurement and the types of judicial acts that would constitute corruption based on international standards and best practices.
- Provision of handbooks from Transparency International as learning materials, namely the Handbook on Public Procurement and the Global Corruption Report 2007, Part 1: Corruption in Judicial Systems, which contains guidelines on investigation, prosecution, court rulings, and international good practices. These handbooks embody international standards

and provide the courts with a common understanding of what corruption is in its many forms based on materials that represent the experiences of 67 countries worldwide.

- Mounting a media campaign highlighting the project’s actions and recommendations for controlling and curbing judicial corruption, by improving judicial independence and fostering the impartiality of judges as well as advising the public to file complaints against judges’ perceived misconduct.



Part I and Part II of TI’s Global Corruption Report 2007 on Judicial Corruption – translated into Mongolian

The second project built on the results and achievements of the first project and involved the institutionalization of the Judicial Code of Ethics based on the Bangalore Principle of Judicial Conduct. Activities included:

- Bringing Mongolia’s Judicial Code of Ethics to international standards, based on the UN’s Bangalore Principles of Judicial Conduct to institutionalize high standards of personal and professional conduct of judges leading to reduction in corruption in the judiciary. The approval and acceptance of this COE, after public rejection of two previous COEs, represented a significant milestone achieved in



Mongolia's legislative framework governing the judicial system.

- Strengthening of the Mongolian Association of Judges (MAJ) with new MAJ By-Laws and rules and regulations transforming the half-functioning MAJ into a fully operational association capable of asserting judicial independence, protecting the rights of judges, and holding the member-judges accountable. The project enabled MAJ to attend the 52nd Conference of the International Association of Judges at Marrakesh City (Morocco), and to play an active role in the drafting and approval of the COE and to establish MAJ as an NGO.
- Introduction of an ethics-related program at law schools by means of incorporating a discussion of the Global Corruption Report 2007 into the schools' curriculum. Copies of the Reports, translated into Mongolian, were handed-over to the library of 14 participating law schools as reference materials. 54 lecturers were trained on using and incorporating the material.

Impact and Results Achieved

The most significant outcomes of the first project were the new knowledge and skills gained and immediately utilized by judges around the country, who now have a common understanding of judicial corruption including means on how to address these issues based on international standards and best practices from 67 countries worldwide. The materials produced and considered by judges as "intellectual investment in the courts", are serving as reference materials for studying corruption-related cases in other countries and help in identifying appropriate ways on how to handle specific issues in Mongolia using international standards and experience.

The second project accomplished to establish an enforceable ethical standard in the judiciary and helped rebuild MAJ and other judiciary mechanisms to control corruption within the judiciary. Even at this early stage, the combined impact of the anti-corruption training for judges and the COE can already be seen in the decline of the number of complaints and disciplinary cases filed against judges by the Judiciary Disciplinary Committee (JDC). After just one year of implementing the COE (and the completion of the training for judges), disciplinary cases have declined by 53%, compared against a 6-year average before the COE instatement. These findings support the claim of the legal adviser of the president that the Code of Ethics has significantly improved the ethical conduct of judges: It provides the definition and parameters of ethical conduct; it clarifies the grounds on which judges will be disciplined; and, because of this, judges now know what is right and wrong. Consistent enforcement of the COE by MAJ and pressure from the public will be needed to sustain these early results. The incorporation of ethical conduct in law-students' curricula will furthermore promote youth leadership to be aware and educated about the crucial function of ethical conduct, ensuring that Mongolia can benefit from a higher standard of rule of law in the future.

Documentation

Project completion reports (PCRs) and Project completion assessments (PCAs) can be accessed at www.ptfund.org under the "Where-we-work" tab.

For further information please contact: sukhee@transparency.mn

Prepared by: Sukhee Dugersuren, TIM; Dante de los Angeles, PTF; Johannes Tonn, PTF