

## **SoD Summary**

# **Democratic governance indicators: assessing the state of governance in Mongolia**

*UNDP  
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After more than 20 years of democracy, Mongolia and its people have shown a strong democratic commitment and faced the challenge of establishing democratic institutions and procedures incorporating them into deeply rooted traditional culture. nonetheless, democracy is still not entrenched and the situation still could turn either way.

## Key Recommendations

- The enforcement of constitutional provisions for popular power and control over decision making must be ensured.
- The lack of professional approach, openness and transparency in law making processes has to be dealt with.
- Policies must be implemented to guarantee effective free and fair elections.
- The law regulating political parties must be improved and implemented effectively.
- Programmes on civic and democratic education are needed.
- Strengthen the national capacity to protect human rights and freedoms.
- Legislation on freedom of information is needed.
- Coordination and rationalization of the 90 or so laws regulating the media is needed.
- Equal opportunities for participation and competition in the political and socio-economic spheres is needed.

**Origins: Why perform a SoD assessment?**

Since the beginning of the 1990's, Mongolia has implemented political and economic reforms as part of a constant democratization process. In this sense, the Mongolian people face the challenge of introducing democratic institutions and procedures into a long-standing traditional society and culture.

After the 5th International Conference of New or Restored Democracies Movement (ICNRD), an intergovernmental forum for discussion and exchange on democratic governance and developmental issues, held in Ulaanbaatar in 2003, national authorities, stakeholders and civil society took up the challenge and decided to conduct an exhaustive evaluation based on the International IDEA assessment framework.

## **The 4 Pillars and the assessment**

### **Citizen, Law and Rights**

#### ***Nationhood and citizenship***

Mongolian citizenship is quite exclusive, and accession to it is determined by economic conditions, familiarity with the culture and language and permanence in the country. Moreover, dual citizenship is not allowed. There has been an increase in emigration since the 1990's, and although there are no formal statistics, it is estimated that 113000 Mongolian citizens reside in foreign countries. Mongol is the predominant culture and language, comprising about 92% of the population, although Kazakh minorities inhabit the western part of the country. In general, the conditions for ethnic minorities to maintain and develop their language and culture are secured, although discrimination and disregard of the Tsaatan ethnic minority have been reported. Mongolian boundaries are accepted and there are no territorial controversies with neighbouring countries. The Mongolian constitution was adopted in 1992 and its principles and provisions are accepted by all major political forces and citizens; yet, amendment procedures are not well regulated.

#### ***Rule of law and access to justice***

Scant participation of citizens in the legislative process has made development of efficient and quality policy more difficult, leading to negative impacts on law enforcement and implementation. Moreover, ambiguity of provisions in the law and the absence of detailed legal stipulations have made laws open to wide and arbitrary interpretations, eroding the rule of law and fostering corruption. In this sense, control mechanisms are weak,

accountability is insufficient, and public officials themselves appear to violate the law. On the other hand, a long-standing "respect the state" culture allows public officials to place themselves above ordinary citizens. Despite positive reforms of administrative courts and procedures, the judicial system is still immature and not fully institutionalized. Regulations protecting independence of the judiciary from the executive are insufficient. Senior police, prosecution and court officials are highly involved in law making processes, seeking to preserve authority, traditional practices and positions. Criminal law is focused on achieving guilty pleas from suspects and the accused, thereby facilitating torture and limiting access to justice. Poorer segments of the population have limited access to justice and legal aid. According to surveys, almost 51% of the Mongolian population considers that court decisions could be manipulated, and 30% of the population view the court system as time consuming and ineffective.

#### ***Civil and political rights***

Although political and civil rights have developed in Mongolia during its first ten democratic years, and political and ethnic motivated violence is rare, several challenges are still to be met. According to surveys, 27.1% of the population have experienced physical harassment. Use of torture and attainment of guilty pleas through compulsion and repression are still reported; moreover, there is a two year time limit for investigation under detention, which can be extended indefinitely, allowing for unlimited detention of any person. Although its application has been substantially reduced, the death penalty is still in use. According to independent surveys, criminal offences are six times higher

than reported in official statistics, and almost 64% of the surveyed Mongolian citizens believe their right to live in safety is not fully guaranteed. There is still widespread violence against women, and human trafficking - mainly for prostitution - has increased during the last few years. Violence against minors also appears to be widespread, and 80% of the surveyed children have experienced some form of violence. Several human rights advocacy groups are actively engaged in Mongolia, although they face some legal and administrative obstacles.

### ***Economic and social rights***

Mongolia's labour code is in compliance with its Constitution, UN conventions on human rights, and several international covenants. However, political party membership is still a decisive factor determining access to employment. Moreover, officials frequently abuse their authority and, in rural areas, even act as a second rule. Mongolia is located amongst the Medium Human Development countries according to the Human Development Report, although it is one of the most food insecure countries in Asia: 38% of the population is unable to guarantee food for themselves and their family everyday. Half of the population lives in traditional *gers* (felt dwellings) while the other half live in modern apartments: the differences in living conditions is considerable. 55% of urban households, as well as all smaller rural units, lack central heating electricity, shower and toilet facilities, while at least 40% of the Mongolian population have limited access to fresh water. Lack of infrastructure and qualified staff limit access to medical facilities and care for rural dwellers. Migration from rural to urban areas has increased considerably, and levels of poverty in rural areas are 8.4% higher than the national average; on the other hand, migration puts increased pressure on already overburdened social welfare and protection services. According to migration indicators, the provision of civil and socio-economic rights is highly unequal for immigrants, particularly in matters of employment and access to social services. School enrolment has increased considerably, but that has resulted in overcrowded classrooms and decreasing teaching quality. Traditional Mongolian values reveal limits to the cultural openness towards democracy evidenced by a lack of willingness to complain or resort to legal mechanisms of redress which tends to clash with standards of modern democracy and respect of human rights.

## **Representative and Accountable Government**

### ***Free and fair elections***

Since the adoption of the Constitution in 1992, Mongolia has held four presidential, parliamentary and local elections. Elections are free in general, although there are reports of breaches of electoral laws and procedures, the inadequacy of voter rolls, violation of secret ballots, insufficient popular participation in candidate selection, inequalities in campaigning opportunities, and the extensive use of public resources to support ruling parties. Moreover, there is an established practice to nominate candidates and make political appointments on the basis of campaign contributions, personal loyalty to individual politicians, and personal or unofficial relationships. Overall, voter turnout for national elections is relatively high, though it has decreased consistently, while local elections have lower rates.

### ***Democratic role of political parties***

Democratization in Mongolia has come hand in hand with the development of a multi-party system. However, the majoritarian electoral system has allowed for the consolidation of two major parties. Rights of association and establishment of political parties and other voluntary organizations are recognized by the Constitution. Party competition has become an institutionalized practice, and government alternation is peaceful. Any party with more than eight seats may form a parliamentary group, which entitles it to express official positions on bills and parliamentary decisions; yet, the capacity to exercise oversight or constructive influence over executive government is limited. Legal provisions exist in favour of women and grass-roots participation, internal democracy, and openness and transparency in decision-making and financing; however, there are no mechanisms to ensure effective compliance.

### **Government effectiveness and accountability**

The Mongolian government lacks the resources required to tackle its major problems: Mongolia's external debt amounts to 90% of GDP, and despite increasing GDP and public budget revenues, public expenditure increases at the same levels. Poverty levels have not decreased during the last decade, and around 36% of the population is considered poor. According to a satellite indicator on the real economy's effective capacities to solve social problems, the mining sector has strong potential in Mongolia: this industry alone contributed with a 6.8% increase to the public budget during the 2001-04 period; yet, it also produced environmental degradation and increased political risks related to corruption. Surveys indicate support for democracy although confidence in institutions has decreased during the last decade, while local assemblies and governors, police, the courts, and political parties are seen as the least effective institutions. Public service professionalization has been underway, despite the widespread practice of politically motivated appointments. In this sense, a satellite indicator on the political impartiality of public servants shows that the number of discharged professional civil servants dramatically increases after elections. The public service is composed by a high percentage of women, although there is no gender balance in the higher government echelons. Capacity to conduct policy analysis on draft legislation and other parliamentary decisions is still weak; drafting and law making processes are not open and transparent; minority parties have limited capacity to exercise oversight of executive actions, and there is scant citizen participation in these processes. In fact, as a satellite indicator proves, the participation of state and local assembly members in the respective executive government decreases oversight capacities of representative chambers. There are mechanisms of accountability in the public service, although the independence of these organisms has not been ensured. State budget implementation is decided by the parliament, whilst local assemblies implement their own budgets; the State Audit Agency effects audits on the state budget, as well as state companies and other budget funded organizations. However, there are several shortcomings in this area: lack of information related to state budget, poor coherence between budget allocation and development guidelines, lack of openness and transparency in budget development, and insufficient public involvement in budgetary development and discussion processes. A law on State Secrets is still in force and limits freedom of information, transparency and accountability.

### **Civilian control of the military and police**

The legal foundations for civilian control of the military are established, although information required for the exercise of such control is not available to the wider public. The proportion of the GDP allocated to defence has fluctuated around 2%, and it appears to be decreasing. Mongolian armed forces participate in international peacekeeping operations. There are no illegal, armed and militarized groups in Mongolia, nor any officially proscribed mafia-like organizations, and the police has been able to tackle serious criminal activities. Yet, violations related to police activities are frequently reported.

### **Funding and form**

The research was conducted by academics from the Institute of Philosophy, Sociology and Law of the Mongolian Academy of Sciences, with full participation and support of the Mongolian government. This assessment took place with financial and technical assistance from UNDP and methodological support of International IDEA.

The Mongolian assessment differed somewhat from the IDEA assessment framework. Adopting the IDEA framework as the basis, the research team evaluated the state of democracy by surveying democracy experts; then, citizens were surveyed. Finally, these results were verified and supported by data collected by the national research team. In this way, the team was also able to develop a second batch of indicators, called "satellite", which reflect the Mongolian situation, and complement the "core" indicators that come with the original IDEA framework.

## **Minimizing corruption**

Corruption is blooming in Mongolia, and actions taken to combat its spread have not been successful: bureaucracy and red tape, lack of transparency, weak law enforcement, and conflict of interest are amongst the main problems. Surveys indicate that almost 90% of the population believes that corruption has become a widespread phenomenon, and according to international measurements, the problem has worsened during the last few years. MPs, government and state officials are seen as the most corrupt group, and courts, customs and the Procurator's Office are taken as the most corrupt institutions. There are no clear policies aimed at preventing corporate influence over state institutions and officers; on the contrary, links between private and public interests have increased and strengthened. Implementation of existing laws and international conventions on corruption control, party financing, and conflict of interests is weak. Notwithstanding this, anti-corruption laws have been enacted, and an independent anti-corruption agency has been created and is operational.

## **Civil Society and Popular Participation**

### ***The Satellite Indicators***

- Civil, social and economic rights by migrants (access to health care service)
- Registration of migrants, number of migrants not registered
- Political affiliation of members of election organization
- Public opinion and MP's opinions about the fairness of election committees and - subcommittees
- Is there legislation providing for party discipline of parliamentary parties?
- Public perception of internal democracy within parties
- Can the growth of mining industry make a real contribution to development?
- Are public servants protected from politics?
- How well are the media and journalists protected from dependency on hidden influences?
- Have there been cases of closing down newspapers?
- Public opinion on the ability of NGOs to express people's views
- Expert evaluation of civil participation in government
- Public opinion and State Great Hural members' opinion regarding local government's ability to provide and decide on local matters
- Expert evaluation on the responsiveness of local government

### ***The media in a democratic society***

Freedom of press and media, and their independence from the government, are guaranteed, and during the last decades, several (mostly private) media organizations have been established in Mongolia. The amount published and the spread of coverage have increased during the last few years, contributing to extended access to information. National public television and, since 2005, four private companies provide country-wide broadcasting; there are several local TV and radio stations as well. In urban areas media has diversified, increasing pluralism and journalist professionalism; on the other hand, at least 25% of the rural population has limited access to media and information sources. Freedom of press has gradually

improved, with at least 90% of the media operating independently of government, and Freedom House rates Mongolia as partly free. Links between media owners, state officials, and political forces are strong. According to a satellite indicator on media's freedom from pressure, there have been repeated attempts from politicians and political forces to exert influence over the media, particularly during election campaigns. There have been attempts by organizations, state officials and individuals to use media instruments to blackmail or take revenge on other organizations and individuals on the basis of business and personal interests, and influential journalists and other media workers have used their professional positions for personal gains.

## **Political participation**

Most NGOs in Mongolia are established in larger urban areas, and almost 80% of the 3374 NGOs in Mongolia operate in Ulaanbaatar. Youth and children, gender and family, human rights and social care are the major issues dealt with by them, while a few NGOs work in regional and local development. The number of NGOs, unions and movements has increased dramatically during the last few years, in particular politically-oriented, and environmental interest and pressure groups. Satellite indicators show that despite being an important channel for participation, NGOs are active mainly in urban centres, and their capacity to impact on decision making is weak. This is confirmed by surveys indicating that 64% of the population is not satisfied with NGO activities, and there is a common perception that they are more concerned with securing foreign funds than with implementing projects which have a major impact on Mongolia. Several policies seek to ensure gender equality in Mongolia, and political parties are legally bound to nominate at least 30% female candidates; yet, implementation and monitoring of these mechanisms is weak. Women's participation is higher in the middle and lower echelons of the public service and in NGOs.

**Funding and form**

Moreover, the research findings were processed through a government institution with multi-stakeholder participation, and were addressed directly to policy makers, which gave the assessment more impact, including the parliamentary approval of a [9th Millennium Development Goal](#) on governance.

This allowed a [follow up report](#), published in 2009, on the state of democracy and the achievements in terms of the MDG-9.

The research team also developed two additional indexes, one on Civil Society, and one in Urban Governance.

Finally, the project included the formulation of a National Plan of Action, and the preparation of a Country Information Note.

As in other assessments, the major results were submitted to evaluation by an expert panel, which scored the state of democracy on a scale, of 1 (very low/most undemocratic) to 5 (very high/most democratic).

**Government responsiveness**

Decision and policy-making processes are semi-open and consultations with citizens and the public are not conducted properly. In this sense, citizen participation is limited to the submission of ideas to the initiators of legislation. There is a lack of research and adequate information to feed legislative drafting processes. Legal requirements for responsiveness and the accountability of parliament and other representative bodies are ambiguous, and there are no mechanisms to enforce them. MPs and citizens' representatives display little initiative to establish communication lines with their constituencies. The performance of public service providers is not uniform and red tape and unresponsive attitudes are widespread, particularly at the lower- and mid-levels of the public service. Civil society organizations operate several projects and initiatives to allow public dissemination and discussion of draft legislation, and government programmes such as *E-Mongolia* and *Open Government* are becoming increasingly important mechanisms for public participation in decision making. In general, public administration is not effective, and its methods of implementation and performance evaluation are unsatisfactory.

**Decentralization**

Decentralization in Mongolia is to be implemented through taxation, economic management, and administrative structures. The law on public management and financing, and the state fund provided by it, has allowed increased budgetary transfers and incomes to be managed by the local governments. On the other hand, the laws on territorial administrative units and local representative bodies and their management authority and responsibilities are ambiguous, thereby hindering their consolidation and development. Moreover, self-government regulations are poor, and there is a lack of policy and organizational support. Laws provide for national and regional committees to manage regional development, yet, these tend to concentrate more decisions on the central level. Local assemblies are dominated mostly by executive and budgetary officials, at the expense of NGOs, civil society, and local business representatives. Moreover, due to lack of organizational and human resource capacity - and inadequate management and planning - the

principle of independence in establishing local legal norms is not properly enforced. Thus, as shown by a satellite indicator, decentralization policies appear to tend more towards centralization and recentralization of power in Mongolia.

## **Democracy Beyond the State**

### ***International dimensions of democracy***

After the end of the socialist period, Mongolia made several efforts to break away from narrow international relationships. The geographic situation of the country, landlocked and surrounded by two major economic and military powers – The Russian Federation and the People’s Republic of China - defines the goals and directions of Mongolian foreign policy: specifically the policy of openness, non-alignment and self sufficiency. Yet, in economic terms, Mongolia is heavily dependent on international development assistance and loans, and its foreign debt amounts to 90% of GDP. Mongolia’s foreign policies conform to the general principles of international law and the Charter of the United Nations; and it is signatory to most major UN and international agreements, conventions and pacts on human rights. Although there have been some shortcomings in the effective implementation of these obligations, Mongolian support for democracy, human rights and freedom around the world can be seen by its participation in the International Conferences of New or Restored Democracies since 1997, and in UN peacekeeping operations in Sierra Leone, Congo, Western Sahara, and Sudan.

#### ***Links***

Link to the full report:

<http://www.undp.org/oslocentre/docs07/DGI-Mongolia.pdf>

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