

MONGOLIA

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Country Background

Mongolia is a landlocked country bounded by China and Russia. It is divided into 21 provinces and one capital city (Ulaanbaatar). The population for 2009 is estimated at 3,041,142. Per capita income increased from US\$ 2,700 (2006) to US\$ 3,200 in 2008 largely due to its extensive mineral deposits that include among others, copper and gold.⁴⁴

The annual population growth rate was at 1.493% in 2008. The average life expectancy at birth is 67.65 years (70.19 for women and 65.23 for men). With increasing urban migration, 57% (as of 2008) of the population has moved into the capital city.

44 <https://www.cia.gov/library/publications/the-world-factbook/geos/mg.html>



A Glimpse of the Present: Economic and Political Conditions

Mongolia is described as a relatively young state that has steadily moved towards establishing and strengthening its democratic laws and institutions. The President is the elected head of state supported by a 76-member Parliament (State Great Hural). After legislative elections, the State Great Hural elects the leader of the majority party or coalition as Prime Minister. Transition of political power is relatively smooth although legislative gridlock and delays in the appointment process have occurred in the past. Mongolia's legislative process has a long way to go before reaching its maturity. In fact, the first public hearing by a parliamentary committee was held only in 2002, and it was only in 2004 that the Great Hural passed measures giving parliamentary committees separate budgets, staff, and rules of procedure.

By the year 2000, the impact of the transition from a socialist economy to a more liberal market-oriented economy was felt. The absence of strengthened institutions, rule of law and well-planned and implemented reform programs contributed to a low Human Development Index (HDI) and Human Poverty Index (HPI) during that time. Rather than decreasing in scope, the national poverty level increased. It seemed that democracy and the market-based economy was unable to facilitate a balanced distribution of wealth among the population.

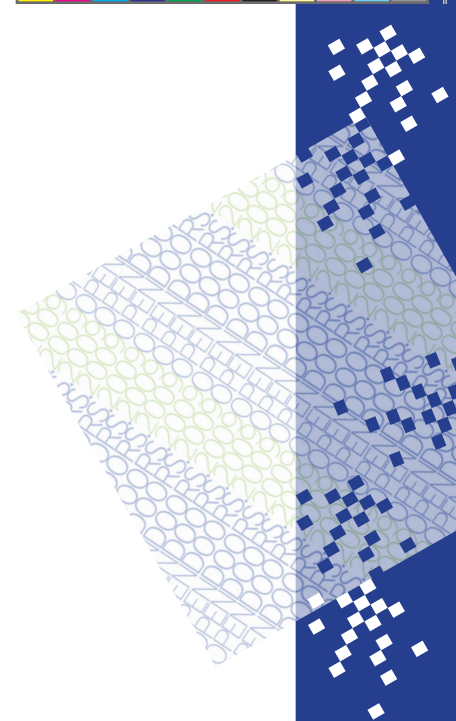
In 2008, Mongolia also felt the impact of the current global economic slowdown. The International Monetary Fund projected that the real GDP growth will decelerate from 8.9% in 2008 to 2.7% in 2009. Likewise, the demand for export-related products is expected to decline. Due to the effects of the slowdown, it is foreseen that the country may suffer from high unemployment rates, corruption, and inadequate resources to fund infrastructure projects that are important for bringing in investors.

In the 2009 index of economic freedom published by the Heritage Foundation and the Wall Street Journal, Mongolia ranked 11th among the 41 countries within the Asia-Pacific region, and its overall rank globally is slightly above the average.⁴⁵ Although the country is currently enjoying a sustained increase in economic growth, the percentage of urban poverty level continues to rise due to the influx of people moving to the capital. The United Nations Development Program's 2009 HDI score for Mongolia was 0.727, receiving the 115th place out of 182 countries examined.⁴⁶ The country's 2009 Human Poverty Index-1 (HPI-1)⁴⁷ is at 12.7, giving it a rank of 58 among 135 countries. In 2004, the population living below the national poverty line was pegged at 36.1%. Transparency International (TI) has been measuring indicators to show corruption perception. Despite its efforts, Mongolia's rank

⁴⁵ <http://www.heritage.org/Index/Country/Mongolia>

⁴⁶ The HDI provides a composite measure of three dimensions of human development: life expectancy, adult literacy and gross enrolment in education, purchasing power parity, and income.

⁴⁷ HP-1 is used for developing countries. HP-1 measures "a composite index measuring deprivations in the three basic dimensions captured in the human development index — a long and healthy life, knowledge and a decent standard of living."



in TI's corruption perception index slid from 99th in 2007 to 102nd in 2008 among 180 countries.⁴⁸

A Peek into the Past: Historical Backdrop

Mongolia has come a long way from 1203AD when a single state based on nomadic tribal groupings was established under Genghis Khan. Today, Mongolia is a parliamentary democracy based on its 1992 Constitution that allows a multi-party system and mixed form of presidential and a parliamentary system of government. The constitution also places a premium on freedom and human rights.

The transition from a nomadic existence to landed settlers had a large impact to the country's philosophy and culture. Traditionally, the country observed a nomadic way of life that had no boundaries or limits. The people's lifestyle was largely dictated by animal husbandry, which prevented them to grasp the concept of land ownership. Freedom meant no limits, and many Mongolian folk tales and myths also reflected this concept. Privatization of land resulted to both generational and cultural change, and has split Mongolian society into two - nomadic and urban.⁴⁹ The rapid progress toward settled communities and the harsh weather conditions contributed to the decreasing dependency on the animal husbandry sector. With the country's communications, computer services, and banking sectors aggressively contributing to the economy, nomadic traditions are pushed to the brink.

48 http://www.transparency.org/policy_research/surveys_indices/cpi/2008. The Transparency International annual Corruption Perceptions Index (CPI) for 2008 ranks countries as per 'the degree to which corruption is perceived to exist among public officials and politicians'. The 2008 CPI scores 180 countries (same number as in the 2007 CPI) on a scale from zero (highly corrupt) to 10 (highly clean).

49 <http://www.apcss.org/Publications/Edited%20Volumes/RegionalFinal%20chapters/Chapter19Sarlagtay.pdf>

A Look into Reforms Towards Good Governance

Anticorruption

Anticorruption initiatives were formalized with the enactment of the Anti-Corruption Law in 1996. This was further strengthened in 2002 when the National Anti-Corruption Council was established. During the same year, the government adopted the policy of good governance for human security in its "Action Programme for the Government of Mongolia."⁵⁰ The main objective of the Action Programme was to develop state policies that would establish justice, serve the people, and address their basic needs. This was approved by the parliament as Resolution No. 33 of 2000. Another resolution was passed in 2001 to incorporate the policy as part of the country's socio-economic development objectives (Resolution No. 45 of 2000).

Mongolia joined the Asian Development Bank/Organization for Economic Cooperation and Development (ADB/OECD) Anti-Corruption initiative in 2001. Since then, the country has actively engaged and participated in international anticorruption institutions and protocols, such as the Anti-Corruption Plan of the Asian Development Bank, Organization of Economic Cooperation and Development, and the United Nations Convention Against Corruption.

In line with its commitment as a member of the International Conference of New or Restored Democracies (ICNRD)⁵¹, Mongolia drafted its own National Plan of Action (NPA) in 2003 based on the results generated by the country assessment team. The NPA

50 http://www.mongolianembassy.us/eng_government/docs/BookEnglish.pdf

51 The ICNRD is an intergovernmental process open to all UN member States. Since the first Conference was held with the participation of 13 countries, the ICNRD has grown into a global event bringing together more than 100 countries from all over the world. To date, a total of six International Conferences of New or Restored Democracies have been held in Manila, the Philippines (1988); Managua, Nicaragua (1994); Bucharest, Romania (1997); Cotonou, Benin (2000); Ulaanbaatar, Mongolia (2003), and the latest in Doha, Qatar (2006).

responded to the challenges on the limitations of state power, control of corruption, increasing civil society participation, strengthening of rule of law, independence of the judiciary, and access to information. Table 1 outlines the short and long-term outcomes indicated in the NPA.

Table 1: National Plan of Action⁵²

National Plan of Action (NPA)

The NPA was developed in tandem with the DGI and CIN and drew on the results from the entire set of the follow-up activities. The Plan noted that Mongolia needed to overcome a series of challenges that were typical of new democracies, including access to information, control of corruption, limitations of state power, development of civil society, independence of the judiciary, and strengthening the rule of law more generally.

Figure 2⁴: National Plan of Action

Short-term outcomes	Long-term outcomes
Creation of a favourable environment for comprehensive public participation	Strengthen democratic consolidation
Advancement in the civil political culture of all citizens	Guarantee openness, transparency, and accountability for all state policies and activities
Strengthening of the relationship between the state and citizens	Embedding democratic values and democratic beliefs
Creation of a fair electoral system	Constrain state power and reduce corruption
Professionalization of state institutions	Strengthen and democratize political party organizations

The Outcomes of the Assessment and Subsequent Challenges

Several milestones were also observed during the implementation of the NPA. In 2004, an Administrative Court was created to reduce corruption in the bureaucracy. The court reviewed complaints against unlawful decisions and activities of civil servants of the administrative organizations. By April 2005, Mongolia adopted its 9th Millennium Development Goal⁵³ on human rights, anti-corruption and democracy. The targets, if achieved 2015, will institutionalize the Democracy Governance

⁵² Consolidated Report: Mongolia's Follow-up to the Fifth International Conference of New or Restored Democracies, Ulaanbaatar, 2006, p. 12

⁵³ MDG-9 has three associated targets: (1) to uphold the rights found in the Universal Declaration of Human Rights, (2) to uphold and inculcate democratic principles and values, and (3) to show zero-tolerance of corruption.

Indicators and ensure a sustainable democracy monitoring system over time.

Additional efforts were also made to strengthen transparency and accountability in government processes under the Country Strategy Program (2006-2008) prepared for the Asian Development Bank. In 2006, Mongolia enacted the revised Anti-Corruption law that requires public officials to declare their assets and income. Declarations of income and assets of high-ranking government officials are reported publicly through mass media. Politicians are also required to declare conflicts of interest to increase transparency and reduce opportunities for corruption. The law also provides for the disclosure of corruption at all levels of government. Moreover, it created an independent anticorruption agency with its own structure, special power and functions. The agency grants incentives for gathering bribery information and conducts investigations to verify the reports it has received. Moreover, the agency monitors the corruption situation and provides recommendations to tackle it. A Public Council was established under the anticorruption agency to solicit citizen support and participation in the fight against corruption.

Following the implementation of the revised Anti-Corruption law in 2006, the Independent Authority Against Corruption (IAAC) was established in 2007. Since then, over 200 cases of corruption have been investigated. This has led to the ongoing prosecution of a considerable number of Mongolian government officials including a former central bank governor and a member of parliament. The anticorruption campaign in Mongolia has resulted to the imprisonment of more than 20 senior and mid-ranking officials from various political parties.⁵⁴

⁵⁴ <http://www.abs-cbnnews.com/nation/03/10/09/ex-ombudsman-marcelo-helping-mongolia-fight-corruption>

Additional effort was put in place to further reduce risks and vulnerabilities in the government. The Ministry of Finance issued a letter requiring Mandatory Conflict of Interest Disclosure (MCID) for all procurement officials, regardless of agency or governmental jurisdiction.

In January 2009, the IAAC's Corruption Reporting Center hotline received 218 calls, of which 28 were reports of corruption. Since its inception, the hotline has received 315 corruption reports. Currently, the IAAC is investigating 36 corruption cases, and 9 cases are at the prosecutors' office. To date, the courts have adjudicated 31 cases.⁵⁵

Procurement Initiatives

The country introduced government procurement reforms as part of its efforts to reduce corruption. The Public Procurement Law of Mongolia became effective in 2000 for selected contracts above a certain threshold, with the exception of procurement related to national defense. Mongolia also adopted the General Guidelines for Procurement of Goods and Works and General Guidelines for the Use of Consultant to complement the law in the same year.

Mongolia has a decentralized public procurement system with limited centralized supervision. Under the Public Procurement Law of Mongolia (PPLM), the Procurement Policy and Coordination Department (PPCD) of the Ministry of Finance is in charge of drafting procurement policies and standards, conducting training for procuring agencies, and acting on

complaints from bidders. The PPLM law has no provision to establish a Procurement Office. Government agencies are responsible for their procurement implementation from advertising to contract awarding as a procuring entity.

In the PPLM, two separate committees are formed during the procurement process – the tender committee and the evaluation committee. The tender committee makes the recommendation on awarding the contract based on the evaluation report submitted by the evaluation committee. Only the head of the procuring entity makes the final decision to award the contract.

There are several means of procurement under the PPLM. Open competitive tendering is the preferred method although the procuring entity may use restricted tendering, comparison of price quotations, or direct contracting. The latter method is used for contracts of lower value or under circumstances of urgency. Large civil works, turnkey contracts, and contracts involving technically complex equipment have pre-qualification procedures. A registration system maintained by State Administrative Bodies was established for suppliers, contractors, and/or service providers. The registered list of pre-qualified contractors is used for the limited tendering procedure. However, non-registered bidders may also be invited should the need arise. The law ensures transparency in the tendering process by providing model tender documents and form contracts.

⁵⁵ <http://www.usaid.gov/mn/programs/macs/mac-update-486.html>



Advertising of tenders is done in newspapers and websites of the State Grand Hural, Ministry of Justice and Home Affairs, PPCD, and the Ministry of Finance. The procuring entities are also required to publish a list of goods and civil works to be procured in the mass media annually. The minimum deadlines for submitting a tender are 30 days for open tendering and 15 days for restricted tendering.

The PPLM has issued guidelines for the handling of bids. Bids must be opened publicly within two hours after the bid closing time. The procuring entity only evaluates tenders that do not materially deviate from the selection criteria. Unsuccessful bidders are notified of the decision but not the reasons for their failure to win the bid. Post-award negotiations are not allowed and are unnecessary due to the model contracts that have been issued. If there is a failed bidding procedure, two courses of action are available. The procuring entity may conduct an open or restricted tender after examining why there were no appropriate tenders. Alternatively, the procuring entity may proceed to direct contracting.

The PPCD is working on a national training strategy to strengthen the technical knowledge and skills of procurement professionals. For cases where corruption is evident in the procurement process, the PPCD may make a declaration regarding the applicable legal rules or principles, annul or modify any act or decision of a tender committee, or instruct a tender committee to take remedial measures if the contract has not been signed. Violations of the PPLM by a tender committee that do not amount to a criminal offense give rise to remedial action under the Civil Services Law.

Sanctions against bidders are also available. A contract is annulled if the court finds that the supplier or contractor has engaged in corrupt or fraudulent practices when bidding for the contract. The supplier will also be declared ineligible for future procurements for an indefinite or stated period of time. This will also be announced to the public through the media.

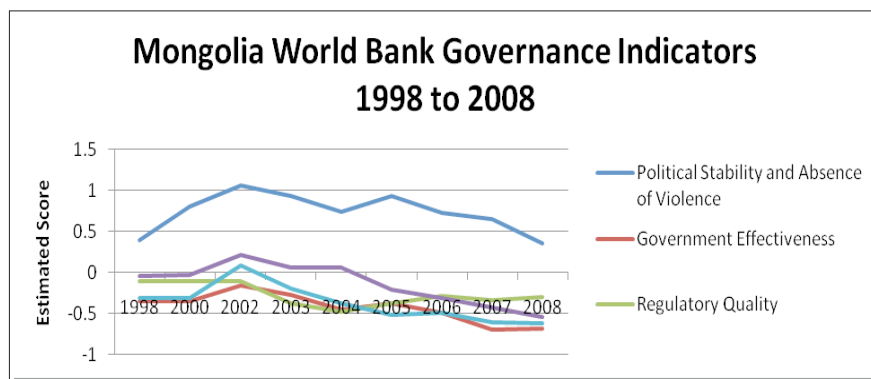
A system for complaints from the bidders is available. Administrative and judicial review by the tender committee can be done before the case is filed in court. The procurement system is also subject to audit by the Professional Supervision Agency (PSA). If a breach in procurement laws be discovered, the PSA may apply sanctions under the Civil Services Law and other administrative legislation.

In 2000, Mongolia adopted the Code of Ethics for the Civil Servants conducting Procurement. It contains conflict-of-interest provisions, wherein it is mandatory for civil servants to declare any conflict of interest. Receiving gifts from suppliers or contractors are also prohibited.

Curbing corruption is a shared concern, not only for Mongolia, but among other countries as well. In the 2008 World Bank Governance Index Report, Mongolia scored -0.679 for Government Effectiveness, which is a slight improvement from the -0.694 in 2007. Under Control of Corruption, the country slid from -0.610 in 2007 to -0.617 in 2008. Slight improvement was observed in the state of Political Stability and Absence of Violence/Terrorism and Regulatory Quality, while the Rule of Law index suffered.⁵⁶

⁵⁶ Kaufman, D., et al. (June 2009).

Table 2: World Bank Governance Indicators for Mongolia (1998-2008)



Despite this, donor support to Mongolia remains consistently high due to the government's sincerity in curbing corruption. With support from international donor agencies such as the Asian Development Bank, World Bank and the United States Agency for International Development, Mongolia has been implementing governance reforms that focus on institutional strengthening, anti-corruption and civil society participation in the policy process.

Overview of Civil Society Organizations

In 1997, Mongolia passed a law on NGOs that provided a favorable environment for the development of civil society participation in government processes. By 1992, citizen-led NGOs started to emerge and in the late 1990's, Mongolia's civil society organizations participated in the policymaking process

and in government oversight activities. By the end of 2006, around 6,000 CSOs were registered with the Ministry of Justice and Interior.⁵⁷ Today about 70 percent of registered CSOs focus on social and economic issues of Mongolia and organize various activities in their respective fields of development.⁵⁸

A Picture of Years Gone by: A Brief History of CSO Involvement

Prior to 1997, public organizations like women and youth groups were formed by the ruling political party. These groups were established to support the socialist government and ideology. The organization's powers were concentrated at the top; they were dependent on the party-state power. This made public participation compulsory. Other organizations like the Red Cross and trade unions needed approval from the government.

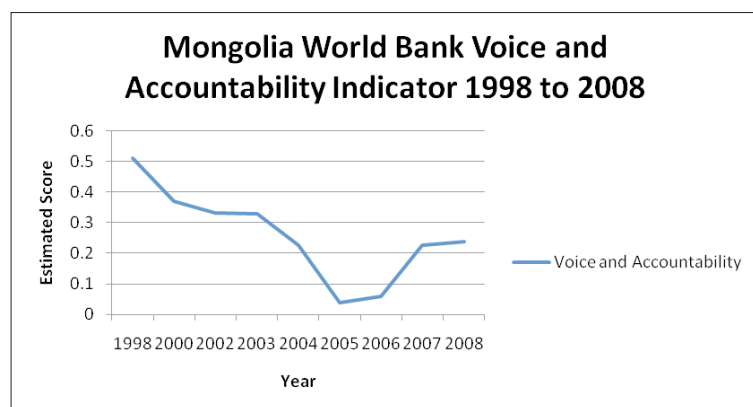
Nonetheless, the government-sponsored organizations laid the foundation for the development of civil society in Mongolia. They organized and developed citizen's capacities to collaborate with the government. In an interdependent world, opportunities for democratic reform started from outside the country based on global trends that thwarted the progress of socialism. From within, democratic movements succeeded to mobilize public support to demand a change in form of government and in drafting the new constitution. This also led to the organization and influx of new groups that aimed to keep the government accountable.

⁵⁷ http://www.forum.mn/p_pdf.php?obj_id=1829

⁵⁸ http://siteresources.worldbank.org/INTMONGOLIA/Resources/WB-draft_note_on_CSO_engagement.pdf

However, government response to citizen participation in the reform process has not been fully recognized. The process of public consultations between the citizens and the government needs to be established. This may be the reason why the aggregate indicator on Voice and Accountability published by the World Bank showed minimal increase of civil society participation from 1998 to 2008.

Table 3: World Bank Voice and Accountability Indicator for Mongolia (1998-2008)⁵⁹



59 <http://info.worldbank.org/governance/wgi/pdf/c147.pdf>

A Glance at CSOs Involvement in Governance Reforms

The Social Research Institute (SRI) of the National University of Mongolia organized a partnership of public, private sector, and civil society pilot program in 2008 to address inefficiencies, corruption, and lack of social accountability in Mongolia's public procurement system. The main goal of the program was to build capacity among local CSOs in monitoring small sized local public tenders. Within the program, the SRI provided trainings for local CSOs on procurement procedures, and red flags in procurement and monitoring methodologies. Several procurement officers from provincial administration and managers from provincial Department of Education and Culture were also trained.

Since SRI discovered that no formal mechanism for dialogue between the public, private sectors and civil society on procurement existed, civil society and the private sector capacities had to be enhanced. By strongly promoting specialized workshops and manuals on procurement monitoring and the introduction of social accountability mechanisms, CSOs were able to mobilize themselves to promote integrity and transparency in procurement system.

With support from The Asia Foundation in 1998 and 1999, tri-partite community dialogues, organized by rural branches of Women for Social Progress strengthened relations between local government, business, and CSOs. As a result, the

citizen hural (council) adopted 50 percent of the citizens' recommendations for its economic development plan. CSOs are now focused on monitoring budget implementation and recommending more open and accountable procedural changes for allotment of a reserve fund. Their proposal to merge two *soums* (counties) is currently under consideration by the Parliament. The meetings demonstrate community mobilization in rural Mongolia, and highlight the role of civil society as independent and neutral organizers for such initiatives.

A Snapshot of Civil Society – Government Relations

In 2005, CIVICUS released its survey results to the public. They revealed that despite the favorable legislative framework for CSO participation in government processes, the external environment of the country's civil society was largely disabling. This was due to the "rather hostile political context marked by the domination and repression of society by the state, excessive centralization, widespread corruption in the government and the strong entrenchment of oligarchic power."⁶⁰

Although the anti-corruption law is in place, a provision that prevents the disclosure of public officials' salaries is still being implemented. Furthermore, the State Secrecy and Law

restricts access to government records in Mongolia, also making it possible for anything to be classified as "secret" hidden from the public view for an indefinite period.

A Preview of Issues Past, Present and Future

In general, Mongolia's legal framework is relatively conducive to civil society participation and social accountability. However, problematic areas and implementation inefficiencies resulting from Mongolia's socialist legacy remain as stumbling blocks in the reform process. Pervasive corruption, legislative gridlocks, and general discontent with government policies continue to persist to this day. To address these issues, the government of Mongolia has taken a proactive stance to establish mechanisms and draft policies in recent years.

In the case of SRI, challenges include the absence of specialized CSOs on procurement matters, lack of funds and skilled human resources, unwilling public sector organizations to collaborate with civil society, and conflicts of interest of other CSOs. In the future, SRI will continue to focus on establishing efficient mechanisms for dialogue between the key stakeholders, facilitation of sustainable trainings through civil society networks.

60 http://www.civicus.org/new/media/CSI_Mongolia_Executive_Summary.pdf