

STATE OF DEMOCRACY IN MONGOLIA

A DESK STUDY

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1. MAIN FINDINGS

1.1 Introduction

Since its democratic transition in 1990, Mongolia represents a primary example of a ‘least likely’ (Eckstein 1975; Landman 2003) case of democratisation in relation to other ‘fourth wave’ democracies (Doorenspleet 2000; 2001) and in the Central Asian region itself (Fish 1998, 2001; Sabloff 2002; Fritz 2002). The political system that has been established meets most of the minimal and procedural criteria for democracy outlined by democracy analysts (Diamond 1999; Przeworski, Alvarez, Cheibub, and Limongi 2000), has a competitive and developed political party system and has maintained peaceful and regular transfers of power over five successive parliamentary elections (1990, 1992, 1996, 2000, 2004) and four presidential elections (1993, 1997, 2001, 2005) (see www.idea.int). It is ‘least likely’ since it lacks the standard ‘prerequisites’ for democracy posited by the modernization perspective, it lacks the certain cultural factors seen to be essential for democracy, and it has established democracy among a set of comparable post-communist neighbours that have remained (or become) largely undemocratic.

First, Mongolia does not fit the expectations of either the endogenous or exogenous versions of modernization theory. The *endogenous* version of modernization theory has long argued that high levels of economic development are conducive to democratisation, and countless global statistical analyses have sought to establish this empirical generalization (e.g. Lipset 1959; Burkhart and Lewis-Beck 1994; Helliwell 1994; Boix 2003; Vanhanen 1997). The *exogenous* version of modernization theory argues that once democracy is established in wealthy countries, it tends not to collapse (Przeworski and Limongi 1997; Landman 2005a). In either case, Mongolia has democratised in the absence of high levels of economic development (Fish 1998, 2001; Fritz 2002). Second, Mongolia belies the expectations of certain cultural theories of democratisation, which posit a significant relationship between the establishment of democracy on the one hand and the predominance of Western Christianity and the separation of church and state on the other (Sabloff 2002: 19; Lee 2002: 829). Mongolia is 90 percent Buddhist and the church and state were only separated during the 1911-1921 Revolution, which led to the long period of totalitarian rule modelled after the Soviet system. Third, Mongolia is an exception for its level of democratisation compared to its distance from the possible spatial influences of the West (Kopstein and Reilly 2000: 9-12). Fourth, outside these socio-economic, cultural, and general geographical concerns, Mongolia serves as an exception to broader regional trends. Uzbekistan, Turkmenistan, Tajikistan, Kazakhstan, and Kyrgyzstan have had significant difficulties in establishing even basic democratic institutions and procedures, and have had persistent problems with the violation of fundamental human rights (Fish 1998; 2001; Kopstein and Reilly 2000; McFaul 2002), while Mongolia’s process of democratisation has not been subject to undue interference from either Russia or China (Fish 1998, 2001; Fritz 2002; Sabloff 2002).

In light of the exceptional and anomalous nature of Mongolian democratisation, this desk study provides a preliminary set of findings on the state of Mongolian democracy. Such a study serves as part of Mongolia’s larger quest under the auspices of the Fifth International Conference of New and Restored Democracies (ICNRD-5)

and the Ulaanbaatar Plan of Action to carry out its own state of democracy assessment; share its knowledge, skills and technical capacity with other new democracies; develop a set of core and satellite democratic governance indicators (DGIs) that can be used by other countries in Central Asia; and make a lasting contribution to democratisation more generally by providing useful input into the Sixth International Conference of New and Restored Democracies (ICNRD-6) to take place in November 2006 in Doha, Qatar.

The desk study uses a well-established methodology for carrying out democracy assessment that has now been applied around the world across numerous single country studies and two comparative studies on the state of democracy in Asia and Africa. The International Institute for Democracy and Electoral Assistance (IDEA) has developed this methodology in partnership with the UK Democratic Audit and the Human Rights Centre at the University of Essex (see Beetham 2005). For this desk study, the methodology has been combined with extant quantitative democratic governance indicators to provide a robust picture as possible on the state of democracy in Mongolia using publicly available information. Its results are organised across the four main pillars of the International IDEA democracy assessment framework: (1) *Citizenship, Law, and Rights*; (2) *Representative and Accountable Government*; (3) *Civil Society and Popular Participation*; and (4) *Democracy Beyond the State*. The study draws together what is known and publicly available concerning these main pillars, identifies areas in need of further research, and makes concluding observations and recommendations for carrying out the full assessment. The desk study thus serves as a primer on carrying out a full democracy assessment, as a diagnostic tool for identifying those aspects of Mongolian democracy that need to be researched further, and as an advocacy tool for continued reform, progress, and development of Mongolian democracy.

1.2. Timeline of Mongolian Democracy¹

1990 - Street demonstrations force resignation of the Mongolian People's Revolutionary Party (MPRP) Politburo. Political parties are legalised. Elections to the Great Hural (parliament) are won by the MPRP, but 19 of the 50 seats in a new standing legislature go to non-communists.

1992 - Mongolia's new constitution gives first place to human rights and freedoms. In the first democratic elections the MPRP wins 71 of the 76 seats in the new single-chamber Great Hural.

1993 - The first direct presidential elections are won by Ochirbat, nominated by the National and Social Democrats.

1996 - The National and Social Democrats win 50 seats in the Great Hural elections, but the MPRP can deny a quorum, hindering passage of legislation.

¹ Story from BBC NEWS: http://news.bbc.co.uk/go/pr/fr/-/1/hi/world/asia-pacific/country_profiles/1235612.stm

1997 - MPRP candidate Bagabandi wins presidential election.

2000 - After the democrats form three new governments in two years the MPRP wins 72 seats in the Great Hural elections. The National and Social Democrats and three other parties form a new Democratic Party.

2001 February - UN launches appeal for \$8.7m (£6m) to support herders suffering in worst winter conditions in more than 50 years.

2001 May - President Bagabandi re-elected.

2001 October - IMF approves nearly \$40 million in low-interest loans over next three years to help tackle poverty and boost economic growth.

2002 November - Dalai Lama visits. China denounces trip and warns Mongolian leaders not to meet the Tibetan spiritual leader.

2003 July - It is announced that 200 soldiers will be sent to Iraq to contribute to peacekeeping.

2004 January - Russia writes off all but \$300 million of Mongolia's debts.

2004 June-August - Parliamentary elections, in which the opposition performs strongly, result in political deadlock over contested results. Tsakhiagiin Elbegdorj is eventually appointed as prime minister following power-sharing deal.

2005 March-April - Protesters in the capital demand the government's resignation and an end to poverty and official corruption.

2005 May - MPRP candidate Nambaryn Enkhbayar wins presidential election.

1.3 Main findings

- 1.3.1 Mongolia has consolidated democracy over the last 15 years. By both narrow and quite broad criteria ranging from regular elections to popular attitudes towards democracy, Mongolia appears to have consolidated democracy and it is unlikely that democratic governance itself is under serious threat, but its long-term prospects remain precarious.
- 1.3.2 Mongolia has established a multi-party competitive political system where there has been significant alternation in power between civilian leaders without any interruption to democratic practices.
- 1.3.3 Mongolia has a large number of political parties that serve to represent a broad range of political views and interests, and which have established firm roots in society.

- 1.3.4 Mongolia has a vibrant and lively civil society with strong and large non-governmental organisations, particularly among journalists and women.
- 1.3.5 Mongolian citizens express strong support for the democratic transition and the democratic system even during times of economic adversity, while express less support for the democratic process itself and mixed support for political institutions.
- 1.3.6 Despite the process of democratic consolidation there remain significant areas of concern about the fullness of Mongolian democracy, particularly in areas such as the right to health, problems with corruption, poverty and unemployment, and other social and economic rights limitations that impinge on the full exercise of civil and political rights.
- 1.3.7 There are problems with access to and administration of justice, where patterns of corruption have undermined due process, and unreasonable conditions of pre-trial detention and the use of the death penalty in secret limit the notion of a full protection of civil rights.
- 1.3.8 The semi-presidential institutional design has provided the opportunity for power sharing and political accommodation, but elections have been dominated by the success of the Mongolian People's Revolutionary Party (MPRP), which has tended to control the parliament and the presidency, while constitutional amendments have undermined horizontal accountability by allowing MPs to serve simultaneously as cabinet members.
- 1.3.9 At the international level, Mongolia has served as a beacon of democracy in a fairly non-democratic part of the world and has shown leadership in the international community of democracies, as well as adopting a ninth Millennium Development Goal specifically on democracy and human rights.
- 1.3.10 Mongolia has ratified most of the international human rights treaties with few reservations, but has had persistent difficulty in implementing their provisions fully.
- 1.3.11 Mongolia remains highly donor-dependent, which has had an impact on its economic policies (particularly privatisation), but it has resisted undue influence from Russia and China.

2 OBJECTIVES AND APPROACH

2.1 Background

Drawing on successive democratic assessments at the domestic level of the UK, the ‘Democratic Audit’ methodology (Klug, Starmer, and Weir 1996; Weir and Beetham 1999; Beetham, Byrne, Ngan, and Weir 2002) has been developed to ‘travel’ beyond the UK and be applied to any country in the world. The development and implementation of this methodology was sponsored by the Institute for Democracy and Electoral Assistance (IDEA) and has become known as the ‘State of Democracy’ project (SoD). The main intellectual forces behind the UK Democratic Audit, Professors David Beetham and Stuart Weir, greatly expanded the methodology used in the UK to make it universal in application along with the aid of a panel of experts recruited by International IDEA and in-house staff. International IDEA has tested the expanded methodology by means of a pilot program in a number of developed and developing nations in different regions around the world to assess the robustness, flexibility and universality of the methodology.

International IDEA recruited assessment teams in eight nations – Bangladesh, El Salvador, Italy, Kenya, Malawi, New Zealand, Peru and South Korea – each of which successfully concluded a democracy assessment using the methodology. These teams were recruited largely from universities and academic centres within the countries under assessment. A small core team at the University of Leeds also provided desk studies for the assessment teams while developing a database of relevant sources and sets of international standards and examples of best practice for wider use of the methodology in the future.

In 2002, International IDEA published two major reports on the progress of the State of Democracy project in association with Kluwer Law International. The first of these was *The International IDEA Handbook on Democracy Assessment*, which fully sets out the methodology; provides a databank of sources; lists international standards and best practice for comparative purposes; and describes in detail processes for stakeholder and other consultative legitimation, the use of opinion polling, and techniques for validation, publicity and dissemination. The second volume, *The State of Democracy: Democracy Assessments in Eight Nations Around The World*, provides a summary of the eight assessments; builds a comparative set of both qualitative and quantitative indicators; and draws a series of comparative conclusions. The methodology has since been applied in Africa on a comparative basis, Australia, Ireland, the Philippines, and South Asia on a comparative basis (Beetham 2005).

This desk study on the state of democracy in Mongolia uses the International IDEA framework and complements it with extant quantitative indicators on democratic governance in an effort to establish the trends and patterns in the main features of Mongolian democracy; provide a baseline of quantitative and qualitative democratic indicators; and identify significant gaps in the public record about the quality of Mongolian democracy that need to be addressed through the full democracy assessment. The study therefore represents a primer and diagnostic tool for domestic institutions, research teams, and local stakeholders from the public and private sector in Mongolia for addressing problems of democratic quality and seeking ways in which to pursue significant democratic reforms.

2.2 The State of Democracy Framework

2.2.1 Purpose

The State of Democracy framework serves several related purposes all of which are important for bringing about significant progress in developing democratic institutions and deepening the democratic experience for all citizens. The framework (1) serves to raise public awareness about what democracy involves and how political institutions reflect and are related to fundamental democratic ideas; (2) helps address popular concerns through the identification of strengths and weakness in current democratic practice in a systematic fashion; (3) contributes to public debate about the nature of the democratic system and the ways in which to pursue reforms; and (4) it provides an instrument for the assessment of reforms (Beetham, Bracking, Kearton, and Weir 2002: 10; Beetham 2005).

2.2.2 Values and principles

The State of Democracy framework is founded on a fundamental set of democratic principles and mediating values. Drawing on the rich tradition of democratic theory and efforts at defining democracy (see Landman 2005a), the fundamental principles of democracy upon which the framework is based are (1) popular control over public decision making and decision makers, and (2) equality of respect and voice between citizens in the exercise of that control. In addition to these two principles, there are seven mediating values in the framework, including participation, authorisation, representation, accountability, transparency, responsiveness, and solidarity. The achievement of these mediating values in turn rely on a series of requirements that need to be in place and institutional means with which to realise them (Beetham, Bracking, Kearton, and Weir 2002: 14). The combination of the mediating values, requirements, and institutional means for realising them is outlined in Figure 2.1.

2.2.3 Methodology

The State of Democracy framework provides a list of ‘search’ questions organised across four main pillars and sub-categories of investigation for which qualitative and quantitative indicators can be assembled (see Table 2.1). This desk study used the four main pillars and the list of search questions to establish its preliminary findings on the state of democracy in Mongolia by matching qualitative and quantitative data to the various categories of analysis as best as possible. There are a total of 94 search questions organised across these different pillars and categories, for which the desk study sought to provide answers through analysis of publicly available information.

Mediating values	Requirements	Institutional means of realisation
Participation	<ul style="list-style-type: none"> • rights to participate • capacities/resources to participate • agencies for participation • participatory culture 	<ul style="list-style-type: none"> • civil and political rights system • economic and social rights • elections, parties, NGOs • education for citizenship
Authorisation	<ul style="list-style-type: none"> • validation of constitution • choice of officeholders/programmes • control of elected over non-elected executive personnel 	<ul style="list-style-type: none"> • referenda • free and fair elections • systems of subordination to elected officials
Representation	<ul style="list-style-type: none"> • legislature representative of main currents of popular opinion • all public institutions representative of social composition of electorate 	<ul style="list-style-type: none"> • electoral and party system • anti-discrimination laws • affirmative action policies
Accountability	<ul style="list-style-type: none"> • clear lines of accountability, legal, financial, political, to ensure effective and honest performance civil service and judicial integrity 	<ul style="list-style-type: none"> • rule of law, separation of powers • independent auditing process • legally enforceable standards • strong parliamentary scrutiny powers
Transparency	<ul style="list-style-type: none"> • government open to legislative and public scrutiny 	<ul style="list-style-type: none"> • freedom of info. legislation • independent media
Responsiveness	<ul style="list-style-type: none"> • accessibility of government to electors and different sections of public opinion in policy formation, implementation and service delivery 	<ul style="list-style-type: none"> • systematic and open procedures of public consultation • effective legal redress • local government close to people
Solidarity	<ul style="list-style-type: none"> • tolerance of diversity at home • support for democratic governments and popular democratic struggles abroad 	<ul style="list-style-type: none"> • civic and human rights education • international human rights law • UN and other agencies • International NGOs

Figure 2.1. Mediating values, requirements, and institutional means (www.idea.int)

Table 2.1. Main pillars and subcategories in the state of democracy framework

Main Pillars	Sub-Categories
Citizenship, Law, and Rights	Nationhood and citizenship The rule of law and access to justice Civil and political rights Economic and social rights
Representative and Accountable Government	Free and fair elections Democratic role of political parties Government effectiveness and accountability Civilian control of the military and police Minimizing corruption
Civil Society and Popular Participation	Media in a democratic society Political participation Government responsiveness Decentralisation
Democracy Beyond the State	International dimensions of democracy

Source: Beetham, Bracking, Kearton and Weir, 2002: 16; 64-66; www.idea.int

2.3 Desk Study as a Diagnostic Tool

The desk study serves as an important diagnostic tool by looking at those institutions and practices that are in place that realise the mediating values, and by extension the fundamental principles of democracy, while at the same time providing constructive evaluation of those institutions and practices that are either not in place or that serve as significant obstacles to realising the mediating values and fundamental principles of democracy. The findings contained in this desk study demonstrate the democratic achievements, democratic challenges, and democratic opportunities for Mongolia, as well as identify a set of areas in need of further research and in-depth investigation at the grassroots level. In this way, the subsequent democracy assessment in Mongolia, informed and inspired by the findings contained in the desk study will motivate a locally-owned and highly participatory process of democracy assessment in which the key stakeholders from Mongolian society will have the opportunity to address key areas of democratic reform.

2.3.1 Trends and patterns

The desk study collected a variety of statistical indicators on democracy, development, human rights, and governance to provide answers to the search questions across the different sub-categories of the four main pillars listed in Table 2.1. For democracy, these indicators included measures of institutionalised democracy (e.g. the Polity IV measure of democracy), indicators on general levels of development, patterns of distribution, and foreign aid (e.g. World Bank Development Indicators; Human Development Index, and USAID), and public opinion surveys on various aspects of Mongolian democracy and patterns of governance. The indicators on human rights are standards-based scales of the relative protection of civil and political rights, physical integrity rights, levels of torture, the protection of worker's rights, as well as women's social and economic rights, including the Political Terror

Scale, the Cingranelli and Richards human rights data (www.humanrightsdata.com), and Hathaway (2002) scale of torture. The study provides a combined measure of the institutional and rights dimensions of democracy that shows the degree to which rights protections conform to the institutional aspects of Mongolian democracy. These quantitative indicators allow for over time comparisons that can chart the relative progress and possible regress across different dimensions of Mongolian democracy. In addition, the study includes measures of corruption, good governance, food security, progress in the achievement of the Millennium Development Goals, and other indicators of socio-economic development.

Alongside these quantitative indicators, which are necessarily limited, the desk study includes qualitative summaries of the key aspects of Mongolian democracy organised using the sub-categories and pillars outlined in Table 2.1, including reports and analyses from the US Department of State, Amnesty International, the Foreign and Commonwealth Office of the United Kingdom, the Mongolian Human Rights Commission, UN Special Rapporteurs, UN Treaty Monitoring Bodies, and other governmental, inter-governmental, and non-governmental organisations, as well as academic journal articles, newspaper reports, online information, and other sources.

2.3.2 Gaps

The desk study contains findings that emerge from the data that are publicly available, as well as identifying those areas where there is a dearth of available information. It is hoped that the identification of these gaps will assist the Mongolian democracy assessment researchers in identifying their priorities and shape their inquiry into the state of democracy.

3 State of Democracy Analysis

This section of the desk study forms the core content of the preliminary democracy assessment and draws on all of the different types of data and information outlined above, which are used to address the search questions and identify significant knowledge gaps on various aspects of the state of democracy in Mongolia. In addition to the core content contained in the four main pillars and their subcategories, the section also lists areas of further research that ought to be addressed by the Mongolian team of researchers that will carry out the democracy assessment.

3.1 Citizenship, Law, and Rights

3.1.1 Nationhood and citizenship

The 1992 Constitution of Mongolia² establishes the country as a sovereign, independent republic (Chapter I) with legal guarantees for the protection of human rights and freedom (Chapter II), the organs and structure of the state (Chapter III), the administrative and territorial units (Chapter IV), the mandate and function of the Constitutional Court (Chapter V), and procedures for amending the constitution. The rights of citizenship are guaranteed where deprivation of citizenship, exile, or extradition are prohibited (Article 15-2). Ethnic Mongolians comprise 93% of the society, with the remainder comprised mostly of Kazakhs (4%), who represent 85% of the population in the western province of Bayan-Olgii. There is widespread public agreement on common citizenship and there are no significant problems with ethnic, racial, religious, or gender discrimination, but there are problems with discrimination against disabled people and there is not a full recognition of the scale of the problem of domestic violence, particularly against women and children. Migration from Mongolia has increased and migrants typically go to South Korea, while migration into Mongolia from North Korea has raised concerns among Mongolians, who have increased their opposition to state accession to the 1951 Refugee Convention. The Government does not grant refugee status, but in practice protects people against refoulement (US State Department 2004).

3.1.2 The rule of law and access to justice

Despite the promulgation of the 1992 Constitution, which establishes the main legal and institutional framework for Mongolia, there have been significant problems in implementing the rule of law and persistent problems with reasonable and reliable access to justice. According to the Mongolian Human Rights Commission, the law enforcement system is characterised by red-tape, delays, a ‘bribing epidemic’, ‘systemic corruption’, tribalism and cronyism. In a survey of 475 law functionaries (prosecutors, judges, detectives, court decision executors and advocates) and 417 clients, 55.3 percent of people from the legal profession and 73.8 percent of citizens reported that law enforcement officials were receiving bribes (see also Section 3.5 of this study).³ Decisions of primary courts may be overruled by superior courts if pre-trial proceedings have not been carried out properly (Article 317.1.1 of the Criminal

² The English version of the Constitution was obtained from the University of Southern California (USC) and University of California Los Angeles (UCLA) Joint East Asian Studies Centre (www.isop.ucla.edu/eas/documents/mon-const.htm).

³ Making Law Enforcement Operations Transparent, Human Rights Education Centre.

Proceedings Law) or if a case deserves more severe sentencing (Article 317.1.4), which could be interpreted as a violation of the right to a fair trial and effectively means that numerous cases are ‘ping-ponged’ between the courts and the prosecutor’s office.

In September 2002 responsibility for the authorization of pre-trial detention was transferred from the Public Prosecutor’s office to the courts. As a result, according to information gathered by the Centre for Human Rights and Development, the number of detainees in pre-trial detention had halved by early 2003, leading to a reduction in overcrowding. Anecdotal evidence from across the country suggested that the transfer in 2002 of supervision of pre-trial detention facilities from the police to the Judicial Decision Execution Agency has led to an improvement in conditions; the quantity and quality of food provided is reportedly better, as is guards’ treatment of detainees. However, conditions in detention continued to cause concern. Detainees in Gants Hudag detention centre continued to have little or no access to lawyers, insufficient access to toilets and inadequate lighting. In addition, detainees were grouped together without regard to age or the nature of their offence. The detention of drunks to detoxify them, under Decree No. 74 of the ‘Regulations of Detoxification Centres’, May 15, 1994, results in arbitrary arrests, bribes being paid, property/money being confiscated, and people being charged for detoxification services without them being provided.

3.1.3 Civil and political rights

Since 1990, Mongolia has established a set of institutions that provide guarantees for the protection of civil and political rights. ‘The freedom to assemble and associate has essentially been respected since the beginning of the transition; numerous political parties, new trade unions, and nongovernmental organizations (NGOs) have flourished’ (Fritz 2001: 81). The effectiveness of such institutions and the relative protection of these rights are reflected in quantitative and qualitative indicators. There are several extant quantitative measures that provide a preliminary portrait of civil and political rights protection in Mongolia for the 1990–2003 period. First, there are the two Freedom House measures of civil and political rights each of which have been coded on a scale ranging from 1 (full protection of rights) to 7 (no protection of rights). Second, there are the two versions of the Political Terror Scale, which focuses on torture, extra-judicial killings, political imprisonment, and exile. One version of the scales uses Amnesty International reports as its sources of information and the other scales uses the US State Department reports on human rights for its information, while both versions range from 1 (full protection of rights) to 5 (no protection of rights). Third, there is Oona Hathaway’s (2002) scale of torture that ranges from 1 (no occurrence of torture) to 5 (widespread use of torture), and uses the US State Department for its information. Fourth, there is the Physical Integrity Rights measure from the Cingranelli and Richards human rights data set (www.humanrightsdata.com), which range from 1 (low protection) to 8 (high protection).

Five of the measures give high scores for higher levels of rights violations and low scores for lower levels of rights violations, but for ease of presentation and interpretation, this desk study transformed all the scales to range from 0 (low protection of rights) to 1 (high protection of rights). Figure 3.1 shows the Freedom

House Scales, Figure 3.2 the Political Terror Scale, Figure 3.3 the torture scale, and Figure 3.4 the physical integrity rights scale for Mongolia for various years between 1990 and 2004.

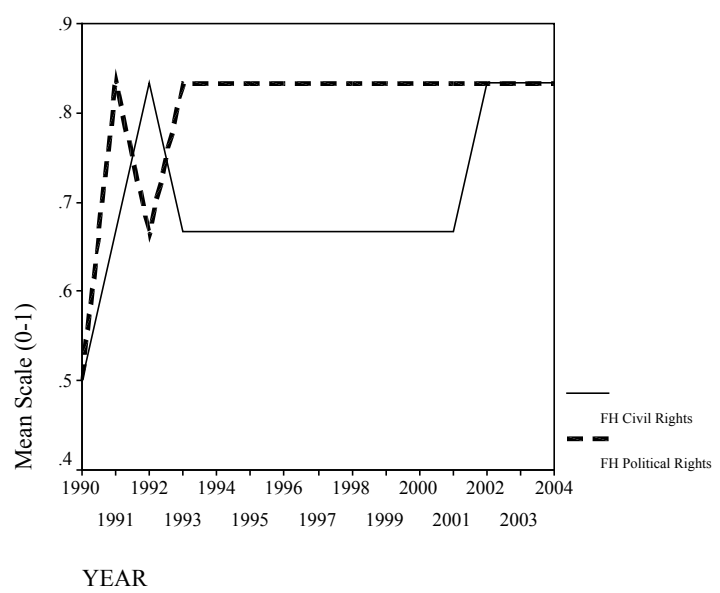


Figure 3.1. Freedom House Civil and Political Rights, 1990-2004

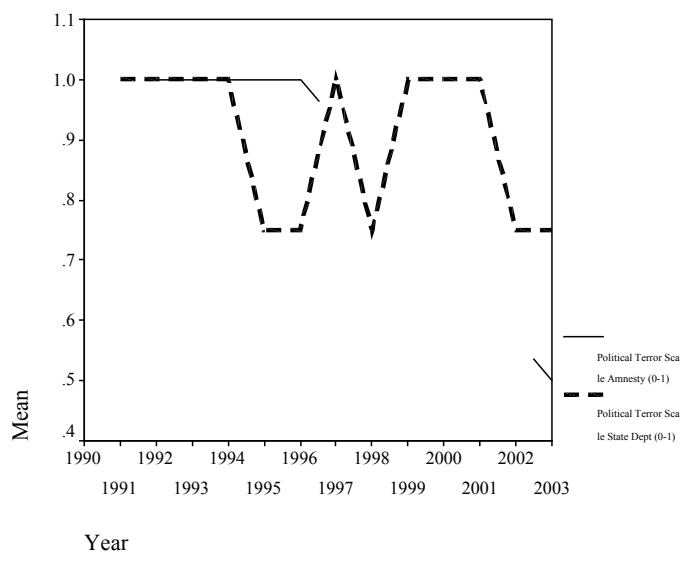


Figure 3.2. Political Terror Scale, 1991-2003

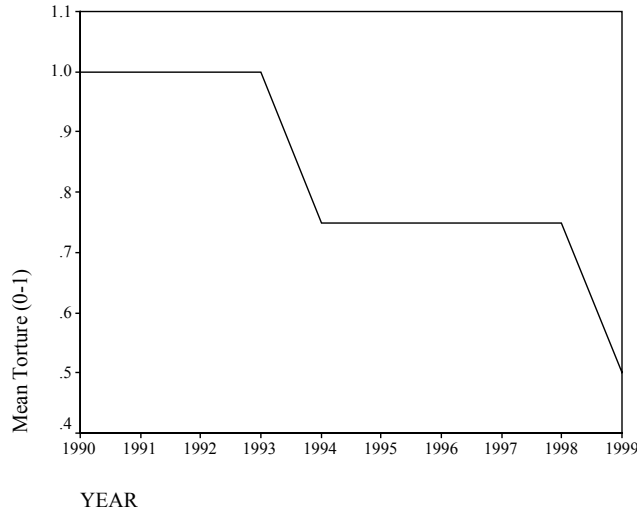


Figure 3.3. Torture, 1990-1999 (Hathaway 2002).

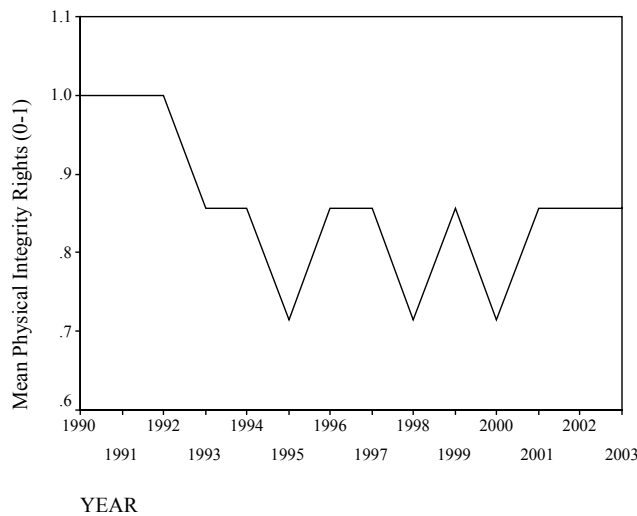


Figure 3.4 Physical Integrity Rights

In addition, the scales are all highly inter-related ($.42 < \text{Pearson's } r < .92$), and apart from the Freedom House measure of political rights, all of them are essentially measuring the same social phenomena, namely the relative protection of civil rights. The desk study thus created two factor scores using all six measures and then the five civil rights measures for all countries in the world from 1976 to 2003. The factor loadings for the six measures range from .57 to .85, while the factor loadings for the five civil rights measures range from .70 to .89, which suggests that these measures are all in some way capturing the same underlying phenomena. Figure 3.5 shows the two factor scores Mongolia for the period 1990-2003.

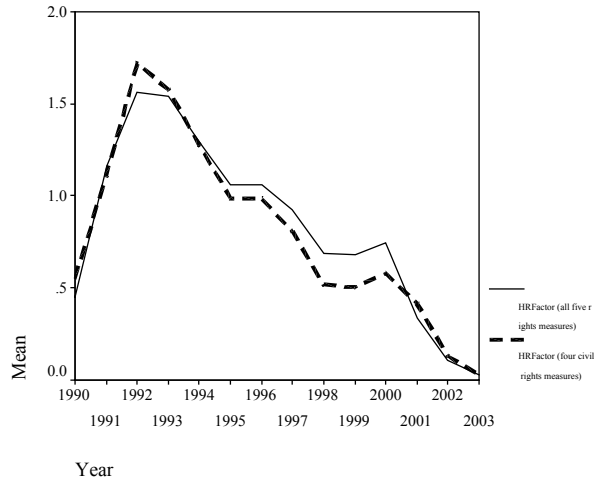


Figure 3.5. Civil and Political Rights Factor Scores

Taken together, the quantitative indicators on civil and political rights suggest that the early years of Mongolian democracy saw a relatively high protection of both civil and political rights, while the ensuing years have seen the continued protection of political rights, but a slight decline in the protection of civil rights, where the measures for the protection of physical integrity rights and torture show declines across the period. For democracy analysts, such a separation between the protection of political rights on the one hand, and civil rights on the other is an indication of the development of ‘illiberal’ democracy (Diamond 1999; Zakaria 2003; Landman 2005a), or an increase in illiberal elements and practices within an otherwise functioning electoral democracy.

But what do the qualitative and narrative accounts reveal about the protection of civil and political rights? What kinds of practices constitute violations or less than full protection of these rights? The US State Department *Country Reports* (1998-2004) note that freedom of association, freedom of speech, and freedom of religion or belief are generally well protected and practiced, but there are persistent problems with arbitrary arrest and detention, as well as cruel and inhuman treatment of people in custody (e.g. beatings, and inadequate food, heat and medical care) and isolated cases of torture that are still being investigated. Police may hold suspects for up to 72 hours before charging or releasing them, but pre-trial detention times have decreased over the last few years owing to new legislation. The proportion of Juvenile detainees that receive legal advice while in custody was 29% in 2002, increased to 38% in 2003, and then dropped to 29% again in 2004 (Mongolia General Police Department 2005).

In addition, The Special Rapporteur on the question of torture and other cruel, inhuman or degrading treatment or punishment of the United Nations Commission on Human Rights, Manfred Nowak, notes in a press release after his June 2005 visit to Mongolia:

...despite recent efforts in Mongolia, such as legislative reform and the establishment of a unit within the Prosecutor's Office to combat abuses of law enforcement, torture persists, particularly in police stations and pre-trial detention facilities

He was concerned with the secrecy surrounding the application of the death penalty, and especially the absence of any official data, where his view is that the deplorable conditions on death row and the lack of notification of families, among other things, amount to cruel treatment. He also noted that the treatment of prisoners serving 30-year terms in isolation is inhuman, even though the 'ordinary' prison regime was found generally to be in line with international standards.

3.1.4 Economic and social rights

Procedural and liberal definitions of democracy do not include the protection of economic and social rights as a key dimension, where such rights, their realisation, and their protection are argued to be *extrinsic* to democracy and as the outcomes of government policies (see Dahl 1971; Przeworski, Alvarez, Cheibub, and Limongi 2000; Foweraker and Krznaric 2000; Landman 2005a). In contrast, the State of Democracy framework follows larger normative developments in the international human rights community and sees the protection of these rights as inexorably linked to democracy. As Figure 2.1 shows, the realisation and protection of economic and social rights is a necessary requirement for the mediating value of participation, which is in turn linked to the fundamental democratic principle of equality of respect and voice between citizens in the exercise of control over public decisions and decision makers.

At issue here are the capacity and resources available to individuals for taking part in the democratic process, where severe socio-economic constraints may serve as significant obstacles to full political participation. International human rights standards establish a number of rights that fall under the general category of social and economic rights, including the rights to education, family, food, health, social security, work, and independent unions (see The 1966 United Nations International Covenant on Economic, Social, and Cultural Rights; see also Green 2001: 1068). Many of these rights are protected further through the numerous International Labour Organisation (ILO) Conventions (see www.ilo.org/ilolex/english/convdisp2.htm). These rights are thus of equal concern to any state of democracy assessment. Of particular concern in the Mongolian case and thus the subject of this desk study are the rights to food, health, education, housing, and worker rights as well as the general characteristics and features of socio-economic development since the transition.

Before considering these separate rights areas, it is first necessary to consider the general trends and patterns in socio-economic development. Standard indicators of socio-economic performance illustrate that the Mongolian developmental experience since the democratic transition has been mixed. Like any country undergoing the 'dual transition' from a Soviet-style command economy and totalitarian rule to a market-based liberal democracy, Mongolia has confronted significant challenges. In addition to the historical and political legacies from the Communist period, Mongolia has a relative dearth of natural resources (Fish 2001: 325), is land locked, and has an extreme climate, all of which have presented particular obstacles to economic development. The transition also brought with it the loss of significant Soviet subsidies, while the implementation of financial liberalisation and privatisation (particularly of land) represent significant shocks to the economy.

With these background features in mind, Mongolia saw a significant drop in per capita GDP in the early years after the transition, which has seen a steady increase from \$370 (indexed to 1995) in 1993 to over \$420 in 2000 (see Figure 3.6), where the average growth rate in per capita GDP between 1990 and 2002 is .2%. The annual average change in the consumer price index between 1990 and 2002 is 39%. Mongolia's human development scores averaged around .65, but hit a low point of .62 in 1995, while the country itself was ranked 117th in 2002 (see www.undp.org). 13.9% of the population lives under a dollar a day, 50% of the population lives under two dollars a day, and the ratio of richest 10% of the population to the poorest 10% is 17.8 (Gini coefficient = .44). Employment in agriculture has increased and employment in industry has declined, while overall levels of unemployment are decreasing and remain below 10% (see Figure 3.7).

Imports and exports as a percentage of GDP have fluctuated between lows of 20-40% in the early 1990s to 70-80% during other years in the period since the transition (see Figure 3.8). Net foreign direct investment as a percentage of GDP has increased from under 2% in 1993 to over 10% by 2003 (see Figure 3.9). Foreign aid per capita has grown from near zero in 1990 to over \$100 in 2003 (see Figure 3.10), where Mongolia ranks as the fifth most aid-dependent country in the world with aid comprising 20% of GNP⁴, which is supplied primarily by the IMF, the World Bank, and the Asian Development Bank, as well as Japan, the United States, and Germany (Fritz 2001: 90). Finally, the Heritage Foundation's combined economic freedom score comprising trade policy, fiscal burden of the state, government intervention in the economy, monetary policy, capital flows and foreign investment, banking and finance, wages and prices, property rights, regulation, and informal market shows that Mongolia has moved from being 'mostly unfree' to 'mostly free' (www.heritage.org) between 1995 and 2004 (see Figure 3.11).

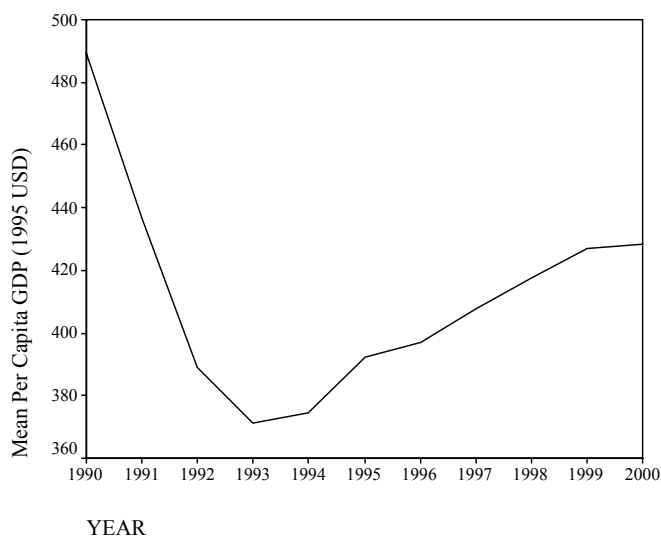


Figure 3.6 Per capita GDP in Mongolia, 1990-2000.

⁴ Mc Kinley, T, The National Development Strategy and Aid Coordination, in Griffin, K, Poverty Reduction in Mongolia, p 136; the relatively high aid per capita figures are a function of its relatively small population (Fritz 2001: 92).

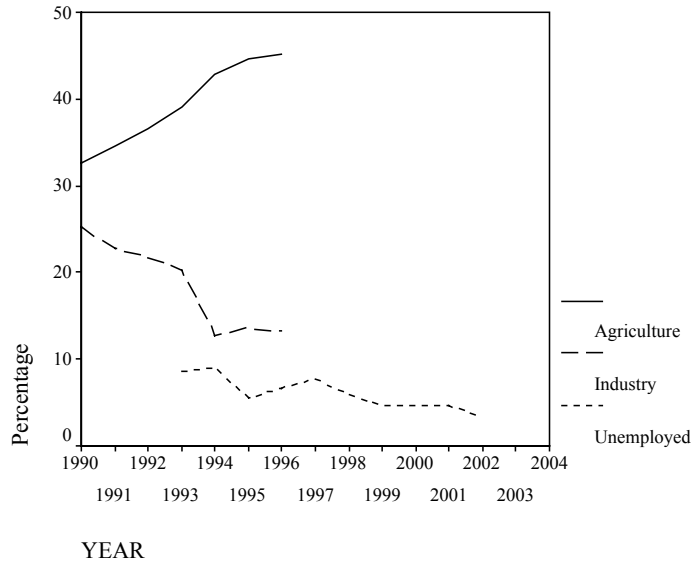


Figure 3.7 Percent employed in Agriculture and Industry, and Unemployed, 1990-2002

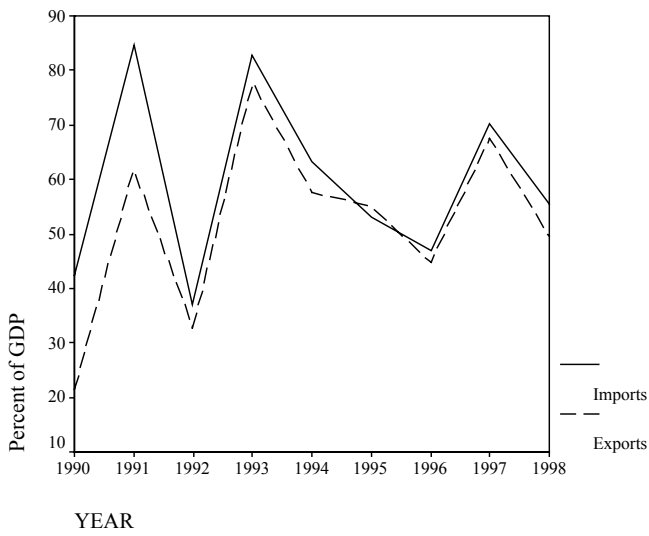


Figure 3.8. Imports and exports (% of GDP), 1990-1998

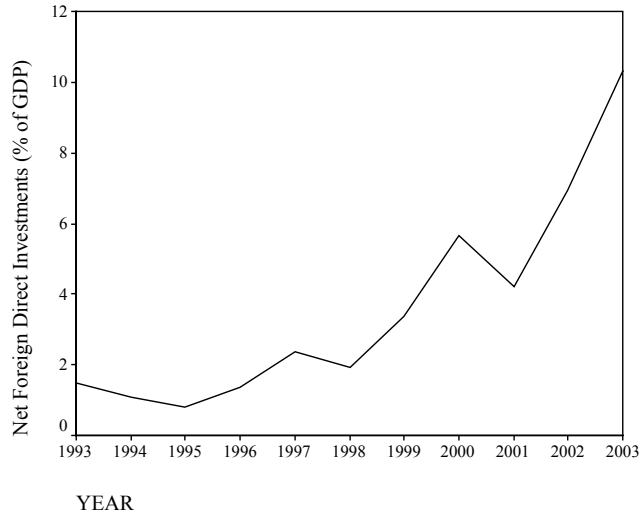


Figure 3.9 Net foreign direct investment (% of GDP), 1993-2003

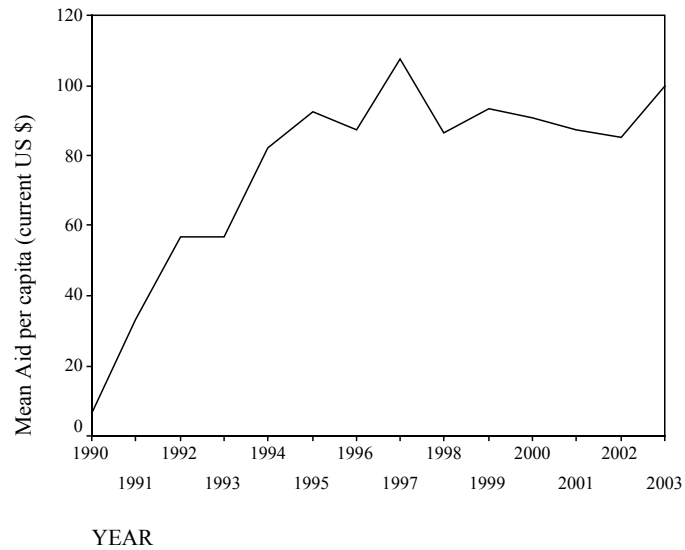


Figure 3.10. Total foreign aid per capita, 1990-2003

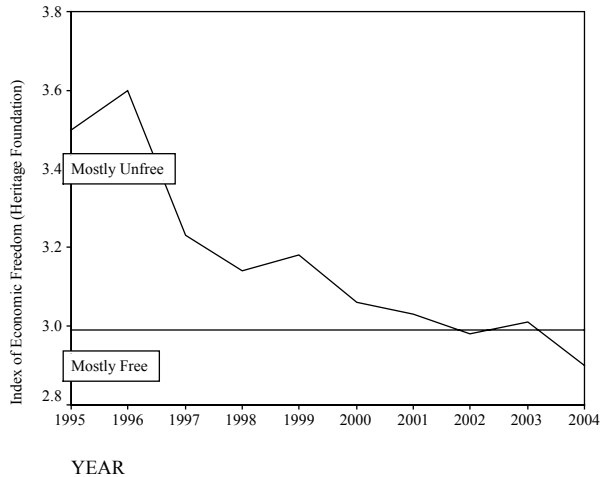


Figure 3.11. Level of Economic Freedom, 1995-2004 (www.heritage.org)

Beyond these basic indicators on socio-economic performance, there are further indicators on the spending patterns of the Mongolian government that have a direct bearing on the realisation of many social and economic rights. Government spending on health, education, and the military has varied greatly with initial declines in all three, followed by increases in spending on health and education, where health expenditure lags far behind the expenditure on education (see Figure 3.12). Central government debt has risen from a low point of less than 20% in 1992 to close to 80% of GDP by the late 1990s (see Figure 3.13). Foreign aid has been spent mostly on physical infrastructure (37 percent) and economic management (24 percent), while only 1.2 percent has been on the National Poverty Alleviation Programme and 5 percent on agricultural development⁵. This allocation of spending across these different areas is changing in some degree as international financial institutions (IFIs) have begun to recognise the need to address poverty.

⁵ Mc Kinley, T, The National Development Strategy and Aid Coordination, in Griffin, K, Poverty Reduction in Mongolia, p 138.

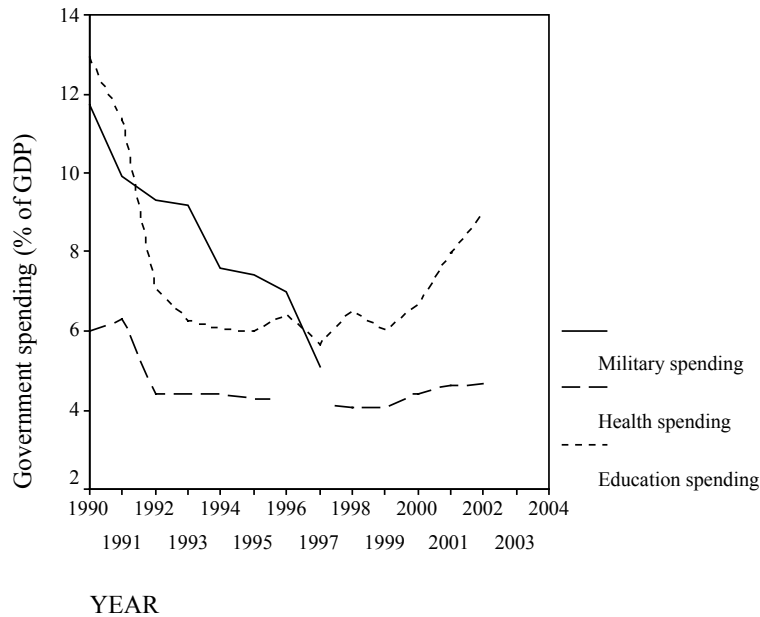


Figure 3.12. Government expenditure on health, education, and the military (% of GDP), 1990-2002

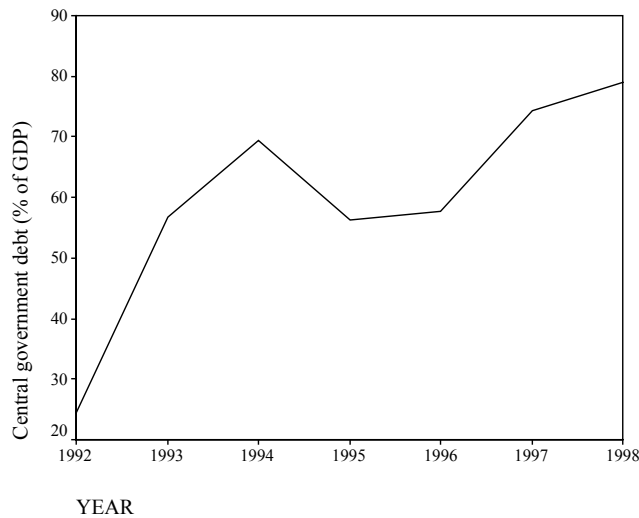


Figure 3.13 Central government debt (% of GDP), 1992-1998

Mongolia has also committed itself to the Millennium Development Goals (MDGs), and in April 2005, the Parliament adopted a 9th MDG on Democratic Governance and Human Rights. Table 3.1 summarises the 9 Millennium Development Goals (8 UN MDGs and one Mongolian MDG), itemises the twenty-one targets subsumed under the MDGs and provides selected indicators on their relative and time-dependent achievement. For this section on economic and social rights, many of the MDGs, their related targets and indicators are relevant since they provide further evidence on the degree to which individuals and groups may be socially excluded. Mongolia has made a good start on many of the MDGs, with the indicators pointing in the appropriate direction (e.g. the reduction of child mortality), but in many cases, the magnitude of

the change has been minimal (e.g. the proportion of people whose income is below the national poverty line and the proportion of people using adequate sanitation), while in some cases, the indicators show that there has been some regression (e.g. the prevalence of tuberculosis and associated death rates). The only interesting exception to these figures is the predominance of women in education, where the ratio of women to men across the educational sector is greater than 1, suggesting that Mongolia's gender policies must increase the number of men and boys attending school.

Table 3.1. Millennium development goals

Millennium development goal	Target	Indicators		
		1990	2000	2015
I. Reduce poverty and hunger	1. Halve, between 1990 and 2015, the proportion of people whose income is below the national poverty line	36%	35%	18%
	2. Halve, between 1990 and 2015, the proportion of people who suffer from hunger	12%	12%	0
	3. Develop and implement strategies for decent and productive work for youth. Create jobs for unemployed people, especially for youth by giving more opportunities for land use, simplifying the procedure of opening small and medium enterprises, giving more opportunities for unemployed citizens to get micro credits	na	na	Na
	4. Reduce negative effects of population concentration and migration, to create legal environment to protect interests of migrant citizens, provide them with job places, and establish system of their enrolment in medical, education, cultural and other social services.	na	na	Na
II. Achieve universal primary education	5. Provide primary education to all girls and boys by 2015			
	Net enrolment	na	91%	100%
	Proportion of girls starting grade 1 who reach grade 5	91%	84%	100%
	Youth literacy rate of ages 15-24	99%	98%	100%
III. Promote gender equality and empower women	6. Eliminate gender disparity in primary and secondary education by 2015 and to all levels of education no later than 2015			
	Gross primary education enrolment (F/M ratio)	1.01	1.01	1.00
	Gross secondary education enrolment (F/M ratio)	1.12	1.20	1.00
	F/M ratio of students in higher education	1.56	1.72	1.00
	Share of women in wage employment (non agr sector)	na	47%	50%
	Proportion of seats held by women in parliament	4	12	30
	Proportion of female candidate nominated	na	11.5%	35%
IV. Reduce child mortality	7. Reduce by two-thirds, between 1990 and 2015, the under-five mortality rate			
	Under five mortality rate (per 1000 live births)	87.5	42.4	29.2
	Infant mortality (per 1000 live births)	63.4	32.8	22.0
	Percentage of children vaccinated against measles	82.5%	92.4%	96%
V. Improve maternal health	8. Access for all individuals of appropriate age to required reproductive health services and, reduce by three-quarters, between 1990 and 2015, the maternal mortality ratio			
	Maternal mortality rate (per 100,000 live births)	200	158	50
	Proportion of births attended by skilled health personnel	99.9%	99.6%	99.8%

VI. Combat STIs, HIV/AIDS and TB	9. Have halted by 2015 the spread of HIV/AIDS and to reverse other diseases	na	na	Na
	10. Reverse the spread of tuberculosis by 2015			
	Prevalence of tuberculosis per 100,000 people	79	125	100
	Death rates associated with tuberculosis per 100,000	4.9	32.2	0
	Proportion of tuberculosis cases detected and cured		100%	100%
VII. Ensure environmental sustainability	11. Integrate the principles of sustainable development into country policies and programmes and combat air pollution in urban areas, especially in Ulaanbaatar			
	Percentage of land area covered by forest	9%	8.2%	9%
	Percentage of protected land area	7%	13.3%	30%
	CO ₂ emissions (tonnes per person)	4.08	4.19	4.00
	12. Protect river and spring sources, undertake rehabilitation measures for their protection			
	13. Halve, by 2015, the proportion of people without sustainable access to safe drinking water			
	Proportion of population using improved water source	30.8%	37%	70%
	14. By 2015, to have achieved a significant improvement in the lives of slum dwellers	na	na	na
	Proportion of population using adequate sanitation facilities	22%	25%	50%
	VIII. Develop a global partnership for development	15. Create favorable conditions for achieving the MDGs through developing trading and financial system	na	na
16. In view of special needs of landlocked Mongolia create favorable conditions to access the sea, improve the efficiency of transit transportation through the territory of foreign countries, and increase transit transportation through the territory of Mongolia		na	na	na
17. Develop a debt strategy to ensure sustainability of external and internal debts for long time, study methods applied nationally and internationally to coordinate and resolve debt issues without negative affects on the state budget and economy of Mongolia		na	na	na
18. Development of new information communication technologies, building an information society		na	na	na
IX. Strengthen human rights and foster democratic governance	19. Fully respect and uphold the Universal Human Rights Declaration and to ensure the freedom of media and the right of the public to have access to information	na	na	na
	20. Mainstream democratic principles and practices into life	na	na	na
	21. Develop a zero-tolerance environment towards corruption in all areas of society	na	na	na

Source: www.undp.mn

The Right to Food

According to the Food and Agriculture Organisation (FAO) of the United Nations and the UN Special Rapporteur on the Right to Food, Mongolia has the highest level of under nourishment in Asia and is the most 'food insecure' country in the region apart from Cambodia. In his 2005 report, The Special Rapporteur notes that the daily per capita intake of calories falls well below international standards where more than 35% of the Mongolian population officially lives below the poverty line, while 20% of children are stunted, 6.4% are underweight, and a 13% die before reaching the age of five owing to malnutrition and related diseases. There are additional problems with micronutrient deficiencies, access to fresh water, gender inequality in land and asset ownership, greater severity of under nourishment in urban areas, and a disproportionate amount of household income (upwards of 70%) is spent on food.⁶ Despite a new orientation of International Financial Institutions (IFIs) and UN agencies towards poverty reduction, the UN Special Rapporteur notes that there is still 'little focus' on food insecurity and chronic under nourishment.

The 1995 Law of Food (amended in 1999) seeks to 'ensure food necessities of the population, food safety and to regulate relations that arise between the government, individuals and legal entities in connection with the food production and services'. The law actually focuses more narrowly on food safety standards and less on food supply, and remains 'silent' on the question of access to food. The 1998 Social Welfare Law is directed at extremely poor people who earn incomes that are 40 percent below the poverty line and covers people who are not entitled otherwise to pensions or benefits, but the actual sums paid out are less than the minimum living standard in Ulaanbaatar.

The 2002 Law on Land and 2002 Law on Allocation of Land to Mongolian Citizens have implemented a programme for privatisation and re-allocation of land, which can have significant implications for food security and other socio and economic rights. For example the privatisation of land creates a new demand for labour, which may be filled by children, who necessarily are withdrawn from formal education to work the land. The Special Rapporteur was informed that a 'good number' of corporations had possession of 'large areas' of agricultural land, raising concerns about inequalities in the allocation process. Furthermore, the process of granting licences for possession and use of land by companies and individuals 'may not have adequate transparency and accountability mechanisms'.

The Right to Health

There are significant problems in the provision of basic healthcare and differential access to healthcare facilities. In its 2003 Report, the Human Rights Commission of Mongolia notes hospitals are ill equipped with personnel often lacking in key skills and technical capacity, while patients experience long delays in being admitted for reasons of geography, skills, bureaucracy, and or infrastructure. There are complex pricing mechanisms for medical care and rising levels of maternal mortality, which tend to be higher in the rural areas. Fees are collected in both public and private hospitals for services such as opening medical records, undertaking analysis, giving injections, gaining appointments, visiting or nursing patients and using the toilet.

⁶ UN Doc. E/CN.4/2005/47/Add.2: pp. 7-9

There were 1,868 hospitals in 1990 and 1,434 in 2000. The number of hospital beds in the same period fell from 26,400 to 17,900. While the number of medical practitioners has been stable since 1990, the numbers of nurses and support staff has decreased by nearly 61 percent between 1995 and 1999. Health expenditure among higher income groups is 9 times higher than that of 'the poor'. Medical services, medication and facilities are 'insufficient and are of a poor quality' for the poor, livestock breeders and rural people. Facilities are inadequate, ambulances reach livestock breeders only when they pay for fuel and patients are forced to pay for medication without reimbursement. In rural areas professional skills and facilities are poor, test equipment is inadequate and people are forced to travel to urban areas, which they can ill-afford.

In its June 2005 Concluding Observations, the Committee on the Rights of the Child notes that there is regional disparity with regard to access to health services, high rates of infant and maternal mortality and malnutrition among children, while poor knowledge about the use or effects of medicines and limited access to affordable children's pharmaceuticals give cause for serious concern.⁷ The Mongolian Ministry of Health reports that the proportion of underweight children remained constant between 1992 and 2000 at just over 12%, while it has decreased to 6.4% in 2004. The proportion of stunted children has declined from 26% in 1992 to 25% in 2000, to 19% in 2004.

Right to education

For the right to education, equitable access to schooling remains a problem with the introduction of private schooling, although there has been considerable progress in restructuring the public education system. According to data from 2000 for the Mongolian Government's report to the Committee for the Rights of the Child, there were 683 secondary schools with a capacity for 280,000 pupils, teaching 494,500 pupils, which means there are between 40 and 50 pupils in each class who are taught across 3 shifts per day (Government CRC periodic report). Private schools have begun to ease the burden, but tuition fees at some schools are three times more than higher education facilities. The insufficient number of schools makes them enormously overcrowded, which has an impact on the quality of education and leisure activities. Boarding schools are essential in the rural areas.

The State-run boarding system collapsed after the transition, while an attempt to charge fees also collapsed due to an inability to pay. The enrolment of rural students fell from 14.5 percent of total pupils to 4.1 percent by 1996. In the period since 1997, the situation has seen improvements. In 2001-2002, 27,978 children were boarding out of a total of 41,448 applications, but services remain 'very poor' with no heating in winter in most of the boarding houses. The State is to subsidize tuition fees for one student from each herder family with 500 livestock and extremely poor households earning less than 60 percent of the amount necessary for the minimum living standard, according to government resolutions No. 158 (2000) and 195 (2001). Government decree No. 195 (2001) provides that eligible students from extremely poor families are entitled to public education grants for third-level education. But the grants do not

⁷ UN Doc. CRC/C/15/Add.263.

cover the full amount required and there is no monitoring of those (currently 6,000) being given grants to ensure that they are extremely poor.

The Committee on the Rights of the Child notes that despite the implementation of the revised Law on Education (1995), there are still a high number of primary school-aged children that do not attend any school at all, growing illiteracy and a high rate of drop-outs, especially in the rural areas. In addition, the Committee notes that fees, violence in schools, defective schooling facilities including insufficient classroom seats and low quality text books are areas of concern.⁸ The Mongolian Ministry of Education, Culture, and Science reports that completion rates in primary education have increased from 80.8% in 2000-2001 to 88.4% in 2003-2004, while completion rates for secondary education rose from 68.4% to 80% over the same period. Those who do not finish school come primarily from herder families in the rural areas.

The Right to Adequate Housing

Accommodation among Mongolians is equally split between 'conventional housing' and traditional *ger* housing. There are wide disparities between the two in terms of access to sanitation, water, heating and waste disposal. *Gers* comprise about a quarter of total urban housing and are often found in areas of concentrated poverty. A 2000 Census reported that almost 18,000 households shared accommodation with other households. 4,300 people were found to be homeless, about one third of whom were under 19. Most of the urban poor lack central heating⁹, where sixty percent of urban residents, 32 percent in *aimags* and virtually no one living in *soums* and *baghs* have central heating or bathrooms with showers. 65 percent of urban dwellers have indoor toilets, 39 percent in *aimags* and scarcely anyone in *soums* or *baghs*. Of *ger* dwellers in urban centres, 90 percent have electricity, 80 percent in *aimags* and settlements, 25 percent in *soums* and *baghs*. Four percent of *ger* dwellers in urban areas have telephones, 10 percent in *aimags* and 2 percent in *soums* and *baghs*. The Construction of apartments was halted during the democratic transition and has begun to recover. The cost of property is prohibitive for many urban residents, leading to more settlements in *ger* districts. Land for *ger* settlements is scarce near the centre of cities, forcing migrants to live on the outskirts and to pitch their tents in flood plains, on steep slopes and near power lines and dams.

A 1996 privatisation programme has privatised housing and as by 2000, 90%-95% of housing in Ulaanbaatar had been privatised (Severinghaus 2001: 66), a process which brought differential gains to urban and rural dwellers. For the 'extremely poor' (a term that has remained ambiguous), Article 3.1.7 of the Social Welfare Law provides for 'services that feed citizens on a temporary basis or provide them with primary clothes, food and other supplies'. Such services include the provision of shelter, heating and training, but the Human Rights Commission of Mongolia see these measures as one-off emergency services and therefore inadequate. The public distribution of *gers* also takes place but is of an inadequate standard, lacking flooring or proper felt covering, and is not done equitably or on the basis of need, where favouritism and a lack of monitoring play a role. Coal is supplied by the bag to households, rather than according to weight, which leads to problems of theft. The

⁸ UN Doc. CRC/C/15/Add.263.

⁹ UNDP 2003 Human Development report.

National Programme of Household Livelihood Assistance, introduced by decree No. 108 in 2001, has found that people (over 30 percent) are unaware about benefits they are entitled to or lack awareness of how to access them. The government has set up a Poverty Survey Unit at the Ministry of Finance and Economy in November 2001. In Ulaanbaatar there are people living underground in city canal shafts and digging through garbage to make a living. Among 30 people from around a garbage disposal in Songino-Khairkhan, the majority lack documentation, making any services or benefits for them largely inaccessible. Some officials have issued temporary residence documents without reporting to superiors and free of charge to at least one member of large, extremely poor families, allowing that member to search for a job.

Worker Rights

There is both *de jure* and *de facto* protection of the right to association among workers, where less than half of the Mongolian workforce (400,000 people) are members of trade unions or professional associations (US State Department 2004).

Forced over-time is common within the workforce. An inspection by the Human Rights Commission, the Trade Unions Confederation of Mongolia and State Labour Inspection Board found that employees in 30 companies are forced to work 2-4 hours overtime daily, sometimes 8-12 hour at weekends, overnight and on-call. This violates article 74 of the Labour Law which provides for forced over-time only for national defence and in emergencies and disasters. In some instances over-time is not paid at all.

The laws on labour, cooperatives, and enterprises set occupational health and safety standards for places of work. But the near-total reliance on outmoded machinery and problems with maintenance and management has led to frequent industrial accidents, particularly in the mining, power, and construction sectors. The enforcement of occupational health and safety standards, provided by the Ministry of Social Welfare and Labour, has been inadequate and according to the law, workers have the right to remove themselves from dangerous work situations and still retain their jobs (US State Department 2002). The Mongolian Human Rights Commission notes that safety standards and hygiene are wanting in work-places with inferior ventilation, dangerous electric wiring, unclean toilets and a lack of workplace inspections, hygiene commissions or guidelines for employees. Preliminary data from the National Statistics Board shows that there were 343 industrial accidents in 2002, in which 47 people died, 34 become permanently disabled, and 281 temporarily lost work. The 2002 Industrial Accident Report reports that 34.5 percent of casualties were women and 5.8 percent minors.

Mongolia has ratified the ILO Convention on Minimum Age for Industrial Employment, the Convention on Minimum Age for Employment in Mining and the Convention for Banning and Eradication of Child Labour. A chapter on child labour has been included in the 1999 Labour Law, establishing the minimum age for employment as 16 and approving a list of jobs that are prohibited. Children of a young age (under 16) are involved in some form of paid or unpaid work, including scavenging, coal mining, and herding (US State Department 2002). There is an increasing tendency among herders to remove their children from school. According to a survey conducted in four *aimags* by the Social Development Centre, among 291

children working at home as herders, 53.8 percent had run away from schools and 8.3 percent had never attended. Despite the problem, ‘the local administration does not pay serious attention or take adequate measures to remedy the situation’ (Mongolian Human Rights Commission 2003). Finally, on an annual basis, there are between 40-50 traditional horse-racing celebrations, which engage about 2,000 child jockeys. It is debated whether this should be considered child labour, but does involve children being isolated from families, working day and night in preparation, riding 15-30 km on rough roads and injuries from being thrown off horses. A survey conducted by the Mongolians Women Lawyers’ Association among 50 jockeys found that 68 percent were children aged 10-16 and 32 percent were between 6 and 9.

3.1.5 Areas in need of further analysis

There is a large amount of public information available on the main subcategories used in this section of the desk study. Extant quantitative indicators on the protection of civil and political rights provide a general picture of the main trends in these rights, while the qualitative reporting begins to substantiate the observed decline in the trends for civil rights protection, particularly in the areas of conditions of detention and the use of torture. More information is needed on the full nature and extent of pre-trial detentions, access to legal assistance by those on remand, and the conditions under which juvenile detainees are held. There ought to be a full study into the nature, extent, as well as procedures surrounding the use of the death penalty. There also needs to be an examination of the degree to which corruption undermines the rule of law and differentiates access to justice.

There appears to be limited availability of main socio-economic indicators, where many such trends stop in the late 1990s. There is a need to find more evidence on the incidence of *de facto* discrimination in health, education, and welfare, and an examination of the empirical linkages between denial of social and economic rights on the one hand and the undermining of civil and political on the other. What are the links between social exclusion and the quality of democracy? Between 40% and 50% of the population live on less than 2 dollars a day, but voter turnout has been around 80%, so do the harsh economic conditions of a large proportion of the population limit the exercise of their democratic rights? How does the relative access to health, education, and welfare affect the democratic quality of citizens’ lives? Finally, what measures is the Mongolian government taking to redress the main problems identified through the variety of official reports from UN agencies and mechanisms?

3.2 Representative and accountable government

3.2.1 Free and fair elections

Since the transition, Mongolia has had five Parliamentary Elections (in 1992 the Hural was changed to a smaller unicameral body), and four Presidential Elections. Elections in Mongolia have been dominated by the Mongolian People’s Revolutionary Party (MPRP) and a variety of opposition coalitions, which has led to a ‘pendular swing’ in political control of both branches (Sevenringhaus 2001: 62). Each of these elections has been contested under different electoral rules (Fish 1998: 134) including a block vote system (1992), a party list and candidate list system (1996), and a first-past-the-post system (2000). The MPRP has won significant majorities in

the 1992 and 2000 Parliamentary Elections, lost their majority to the Democratic Union Coalition in 1996, and have split the Parliament with the Democracy Coalition in the 2004 elections (see Table 3.2). The MPRP have won the 1997, 2001, and 2005 Presidential Elections, while the opposition has won only the 1993 Presidential Election (see Table 3.3). The semi-presidential system means that there have been two periods of ‘co-habitation’: 1993-1996 (MPRP controls the Parliament and the opposition controls the Presidency) and 1997-2000 (opposition controls the Parliament and the MPRP controls the Presidency). Indeed, in 1998 President Bagabandi rejected numerous candidates for Prime Minister nominated by the Democratic Union (Fish 2001: 332). Currently, neither party dominates the Parliament, but the MPRP controls the presidency.

The 2004 Parliamentary elections were hotly contested with the MPRP performing worse than expected and both sides charging one another with voter fraud, allegations that were corroborated further by the General Electoral Committee citing polling irregularities and ordering re-votes in two Coalition districts (Tuya 2005: 67-68). The 2004 US State Department *Country Report* on human rights makes some critical observations about the June 2004 Parliamentary Elections. The campaign and balloting were ‘marred by violations and inconsistencies’. President Bagabandi, the major political forces, and domestic and foreign observers complained of ‘numerous irregularities and violations committed by political parties, individual candidates and members of the appointed district election committees’. Widespread illegal use of state property and civil service workers, primarily by the MPRP, was reported in the campaigns. An estimated 10 percent of the population moved from one district to another during the final two weeks of the campaign to exploit so-called ‘transfer voter’ provisions’ in the law, which resulted in many disputes and in at least one precinct resulted in the disenfranchising of resident voters. Abuses were also reported regarding control of mobile ballot boxes, police intimidation, fraudulent ballots, multiple voting, the ejection of political party and foreign observers from polling stations and ballot-box stuffing. Many results were challenged in the courts.

Table 3.2. Mongolian Parliamentary Elections

Year	Political Party	Seats
1992	MPRP	71
	MSDP	1
	Alliance	4
	Independents	1
1996	MPRP	25
	DU	50
	MCUP	1
2000	MPRP	72
	DU	1
	MDNSP	1
	PCC	1
	Independents	1
2004	MPRP	36
	Democracy Coalition	36
	Republican Party	1
	Non-Partisans	3

Table 3.3. Mongolian Presidential Elections

Year	Candidate and Party	Popular Votes
1993	P. Ochirbat (MNDP/MSDP)	59.9
	L. Tudev (MPRP)	40.1
1997	N. Bagabandi (MPRP)	62.5
	P. Ochirbat (DU)	30.6
	J. Gombojav (MCUP)	6.8
2001	Bagabandi (MPRP)	59.2
	R. Gonchigdorj (DP)	37.2
	L. Dashnyam (PCC)	3.6
2005	Nambariin Enkhbayar (MPRP)	53.4
	Mendsayhany Enkhsaikhan (DP)	19.7
	Bazarsad Jargalsaikhan (RP)	13.9
	Badarch Erdenebat (MP)	11.4

3.2.2 Democratic role of political parties

There are 18 political parties registered in Mongolia, the most notable of which are listed in Table 3.4. As noted above, elections have been dominated by the successes of the Mongolian People's Revolutionary Party (MPRP), while the opposition has formed a variety of coalitions to contest elections. In the 1992 and 2000 elections, the MPRP won over 70 out of the 76 total seats in the Hural, making those periods of government much like other one-party dominant regimes such as the Institutional Revolutionary Party (PRI) in Mexico, the Kuomintang Party (KMT) in Taiwan, and the Liberal Democratic Party (LDP) in Japan. But unlike these countries, its dominance has not lasted long, since it lost to the Democratic Union Coalition in 1996 and now shares power as result of the 2004 Parliamentary Elections. The MPRP comprises many of the political elements that dominated the Communist period, while the main opposition coalition was initially formed by Mongolian intellectuals influenced by political changes in the former Soviet Union (Lee 2002: 834).

At the time of the transition, the MPRP won 357 out of 430 total seats in the former Great Hural and until 1993 remained the only major political force (Fish 1998: 135). Opposition groups thus had to start from scratch in building viable party organisations that would challenge the hegemony of the MPRP (Fritz 2002: 79). Between 1993 and 1996, they established their presence throughout the 21 *aimags*, and amalgamated their organizations to build a small set of stronger parties, which came together in the Democratic Union Coalition and defeated the MPRP in the 1996 Parliamentary elections (Fish 1998: 135). Mongolia now has 'remarkably strong and representative' political parties that range across the ideological spectrum and have become deeply rooted in Mongolian society, whose formation was due to 'resourceful leadership and dogged dedication to party-building by political entrepreneurs' (Fish 1998: 134).

Table 3.4. Mongolian Political Parties

Name of the party	Current leader
Democratic Union Coalition or DUC Independence Party	(includes the MNDP and the MSDP) [leader NA]
Mongolian Conservative Party or MCP	[JARGALSAIHAN]
Mongolian Democratic New Socialist Party or MDNSP	[B. ERDENEBAT, chairman]
Mongolian Democratic Renaissance Party or MDRP	[BYAMBASUREN, chairman]
Mongolian National Democratic Party or MNDP	[R. AMARJARGAL, chairman, B. DELGERMAA, general secretary]
Mongolian People's Revolutionary Party or MPRP	[N. ENKHBAYAR, chairman, L. ENEBISH, general secretary]
Mongolian Republican Party or MRP	[B. JARGALSAIHAN]
Mongolian Social Democratic Party or MSDP	[Radnaasumbereliyn GONCHIGDORJ, chairman *N. ALTANKHUYAG, general secretary]
Mongolian United Heritage Party or UHP	[B. JAMTSAI] (includes the United Party of Herdsman and Farmers, Independence Party, Traditional United Conservative Party, and Mongolian United Private Property Owners Party)
Mongolian United Private Property Owners Party	[leader NA]
United Party of Herdsman and Farmers	[leader NA]
Traditional United Conservative Party	[leader NA]
Workers' Party	[leader NA]

3.2.3 Government effectiveness and accountability

Despite the formal separation of powers laid out in the 1992 Constitution, there remains a dispute over whether members of Parliament can simultaneously hold posts in the Cabinet, a measure which has been passed, overturned by the Constitutional Court and then overturned by the MPRP government (Severinghaus 2001: 65). Allowing such dual office holders compromises horizontal accountability typical of systems with a separation of powers, where conflicts of interest may arise out of MPs also serving in the Executive branch. Mongolia does not have a freedom of information act, and its State Secrets Law inhibits freedom of information, transparency and accountability, where government and parliamentary decision-making are rarely open to public scrutiny.

In other areas of governance, Mongolia shows mixed results. For the World Bank Governance Indicators (www.worldbank.org), which range from 0 to 100 (high being good), Mongolia scores best on political stability, followed by voice and accountability, government effectiveness, regulatory quality and rule of law (see Figure 3.14). The political stability score declined sharply in 2004 due to the contested results of the Parliamentary Election. Across a series of public opinion surveys carried out by the Sant Maral Foundation in Mongolia between 1999 and

2005, respondents show high support for the transition to democracy and market economy in general, but much less support for the political system itself (see Figure 3.15). Respondents place greater trust in the president than either the parliament or the judiciary, and register relatively low support for state organisations and political parties. In a separate analysis using the East Asia Barometer Survey for 2002-2003, Shin and Wells (2005) show that support for democracy is high, while support for the democratic process itself is quite low (see Figure 3.16), leading them to suggest that democracy is not yet ‘the only game in town’ (Ibid, 99 après Linz and Stepan 1996).

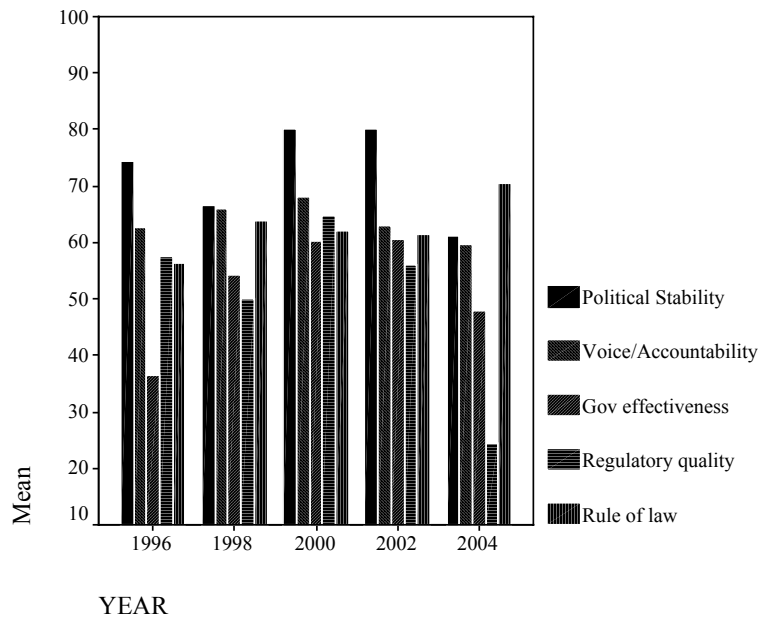


Figure 3.14. Quality of governance, 1996-2004 (World Bank)

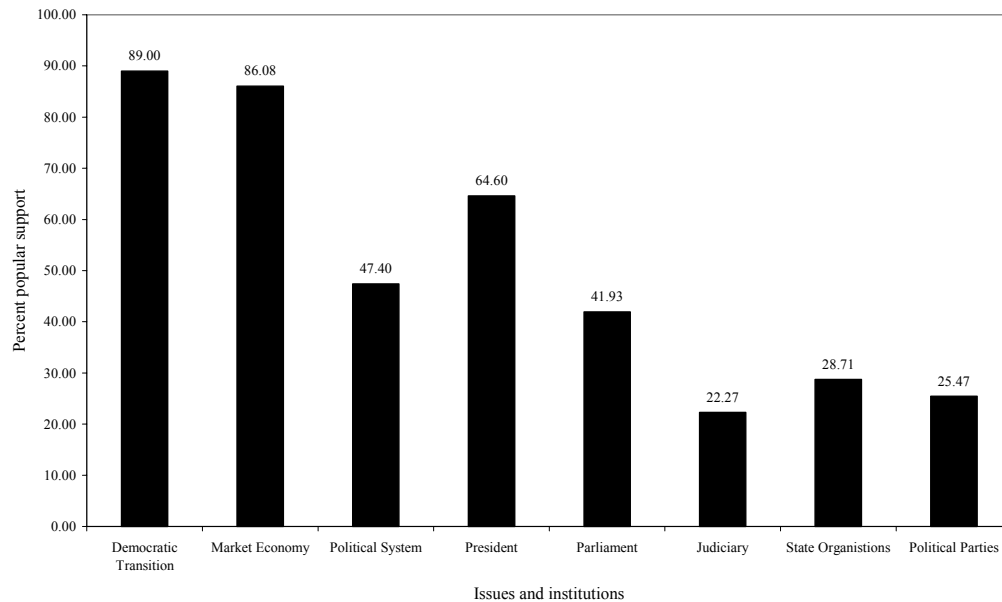


Figure 3.15. Popular attitudes to the transition and political institutions, 1999-2005
Source: Sant maral Foundation – Open Society Forum (www.forum.mn)

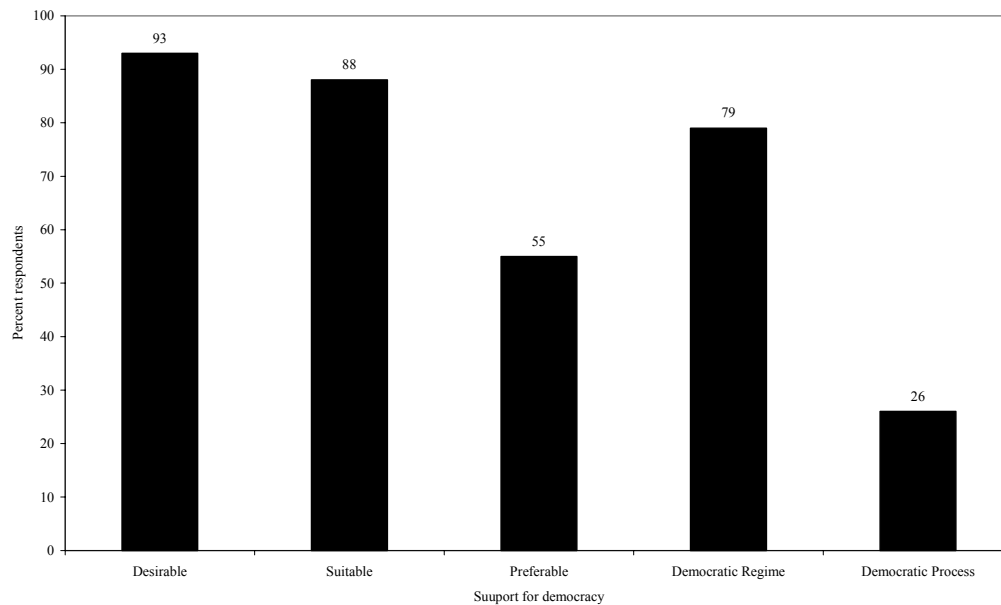


Figure 3.16. Popular support for democracy in Mongolia
 Source: East Asia Barometer 2002-2003 as reported in Shin and Wells (2005: 91-95).

3.2.4 Civilian control of military and police

Mongolia is a secular and civilian democratic state where civilians have formal control over the military and the police forces throughout the country. Since the transition, the Mongolian government has downsized the military (particularly since 1998) and forces stationed there during the Soviet period have returned home. The downsizing was forced due to cuts in military expenditure, which has decreased throughout the period (see Figure 3.17). Mongolia has signed agreements on defence co-operation with seven countries and it now takes an active part in UN peacekeeping activities and has sent troops to Iraq and Afghanistan. The military comprises the Mongolian People's Army (Ground Forces, Air Defence Forces), Border Guards, Internal Security Forces, Construction Corps Forces, and the Civil Defence Authority. Military service is compulsory for all 18 to 25 year olds for a minimum of 12 months.

In May 2003, the General Intelligence Agency abducted Enkhbat Damiran from France, where he had been resident between 1998 and 2003. Damiran was ordered to serve the rest of a previous 12-year sentence for assault handed down before he left for France. He was paroled in 1998 due to his long-term ill-health; however, the authorities alleged that the hospital reports which led to his release were forged, and he was returned to prison in May 2003. He is now a prisoner at Abdarant Prison, 140km from Ulaanbaatar, and is being denied access medical treatment for a damaged liver and pancreas, and has been denied access to his lawyer.

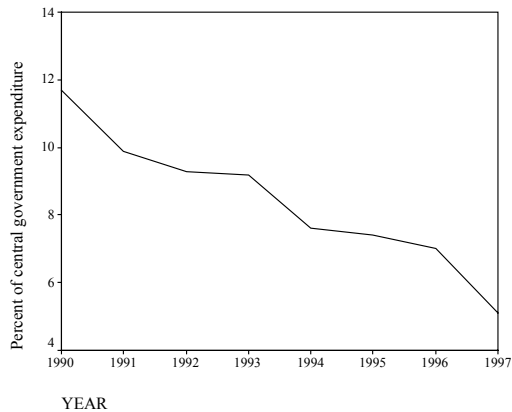


Figure 3.17. Military expenditure, 1990-1997

Until 1994, the Chief Director of the Police came from the MPRP, but the police are now under civilian control. Police officers continue to commit human rights abuses, mostly relating to situations of arrest, detention, and questioning, as well as the use of prisons and place of detention for the detoxification of drunken individuals. Corruption continues to undermine the notion of the equality of individuals before the law. There were numerous instances of arbitrary detention during the wave of protests surrounding the 1996 Parliamentary Elections, the June 2004 Parliamentary elections and the March 2005 protests against the government leading up to the May Presidential Elections.

3.2.5 Minimizing corruption

Corruption has become an important problem for Mongolian politics and democratic governance. Its appearance is partly due to Mongolia's small and integrated population, influences from Russia and China, from the process of liberalisation, and from currently weak enforcement mechanisms. The US State Department notes:

Foreign investors, the international donor community and many Mongolians believe corruption is a significant and growing problem in Mongolia. The USG's first-hand experience with public sector corruption has included Cabinet-level officials directing donor funds to their personal property, refusing to account for donor funds, providing donor sub-contracts to close friends and relatives, and interfering with the court system when prosecution of such acts is initiated.¹⁰

There have been several *de jure* developments with respect to corruption, including the 1990 Law on Political Parties, the 1996 Law on Anti-Corruption, the 2000 Public Procurement Law, and the 2002 National Programme for Combating Corruption. A new anti-corruption law is currently being drafted. Mongolia has also endorsed the Anti-Corruption Action Plan for Asia and the Pacific at the Tokyo Conference in

¹⁰ www.state.gov/e/eb/afd/2005/42091.htm

November 2001 and has signed the UN Convention against Corruption, on April 29, 2005.

In general, there are five main types and/or forms of corruption: (1) *political lobbying*, including obtaining special permits, getting Government decrees issued and contracts; (2) *business related*, including obtaining land permits, getting advantageous conditions in privatization bids, obtaining illegal loans and nepotism; (3) *crime*, including importing and exporting large amounts of goods or heavily taxed items (e.g. cars, tobacco, alcohol) without taxation; (4) *social status*, including gaining government scholarships illicitly, entering schools without exams and avoiding military service; and (5) *election and political party related corruption*, including buying candidate nominations for Parliamentary elections or buying government positions.

The frequency and magnitude of such practices is almost by definition difficult to measure, but a number of organisations have sought to use systematic methods to gauge the level of corruption in Mongolia, including Transparency International and the Zorig Foundation, named after Sanjaasurengin Zorig, a member of the Mongolian Parliament and then Minister for Infrastructure Development, a founder of Mongolia's democracy movement who was assassinated in 1998 (Severinghaus 2001: 61; Fritz 2002: 93).¹¹ In the global work carried out by Transparency International, Mongolia ranked 85 out of 145 in the corruption perception index in 2004 (Finland is 1 and Senegal is 145). Mongolia scored an overall average of 3 out of 10, where 10 denotes no perceived corruption at all. The Zorig foundation has been more systematic and rigorous than Transparency International in interviewing many more respondents. Between 1999 and 2004, the general perception that there is widespread corruption has declined (see Figure 3.18), while the institutions perceived to be most corrupt include the courts, customs offices, prosecutors, police, and tax officials (see Figure 3.19). In addition, the Zorig Foundation found that there are widespread instances of corruption among the professional classes, where the worst forms of corruption (i.e. large sums of money being accepted) take place primarily among the police, judges, and tax officials (see Figure 3.20).

¹¹ http://www.zorigfoundation.org.mn/intro_e.html

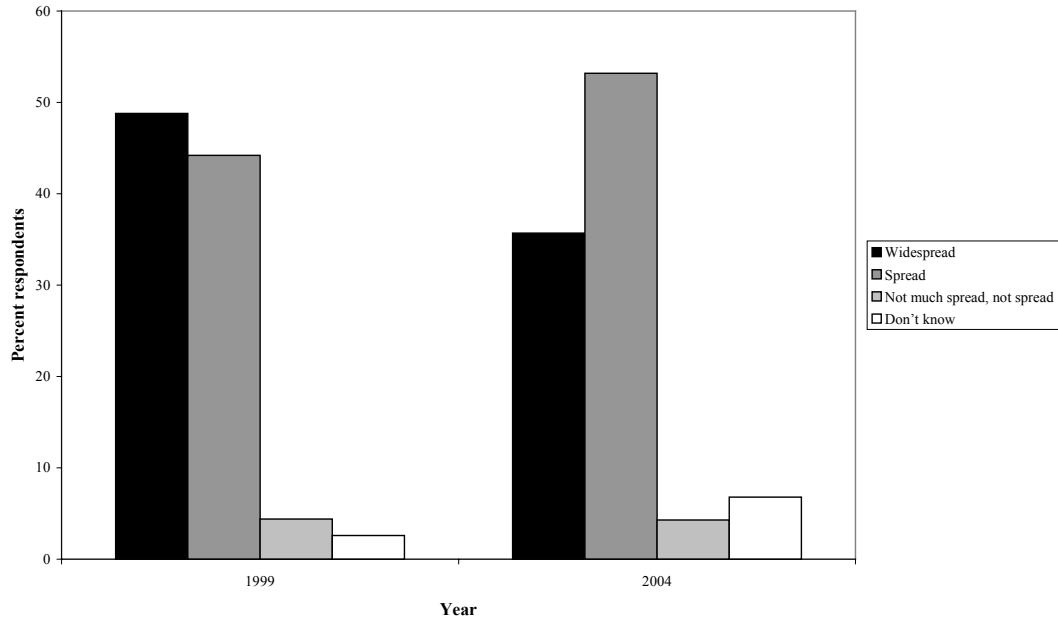


Figure 3.18. Perception on the scale of corruption 1999-2004
Source: Zorig Foundation

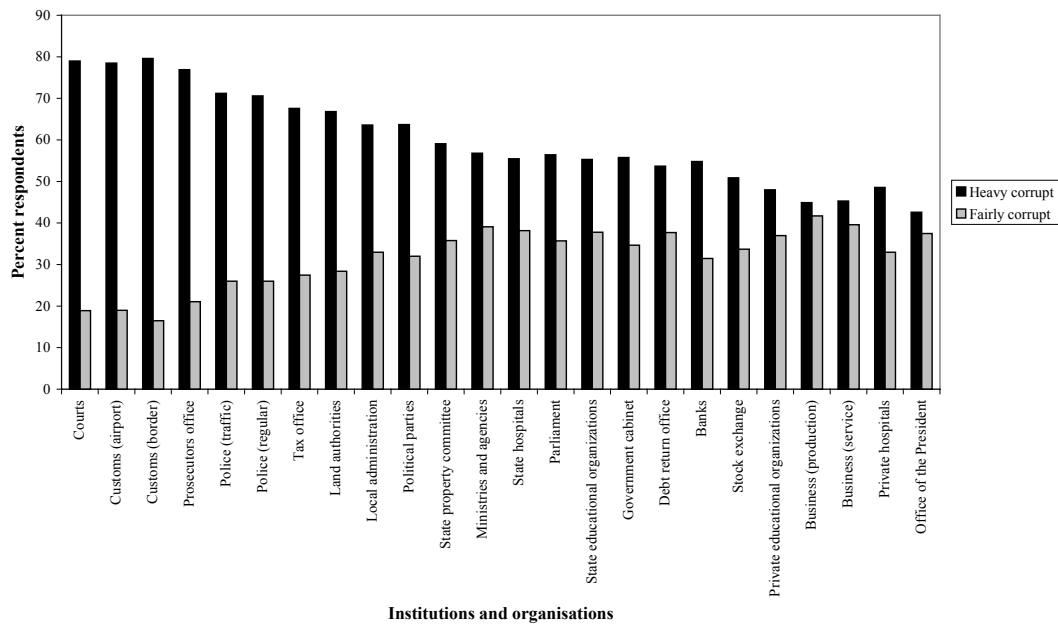


Figure 3.19. Perceptions of corruption: institutions and organizations, 2004
Source: Zorig Foundation

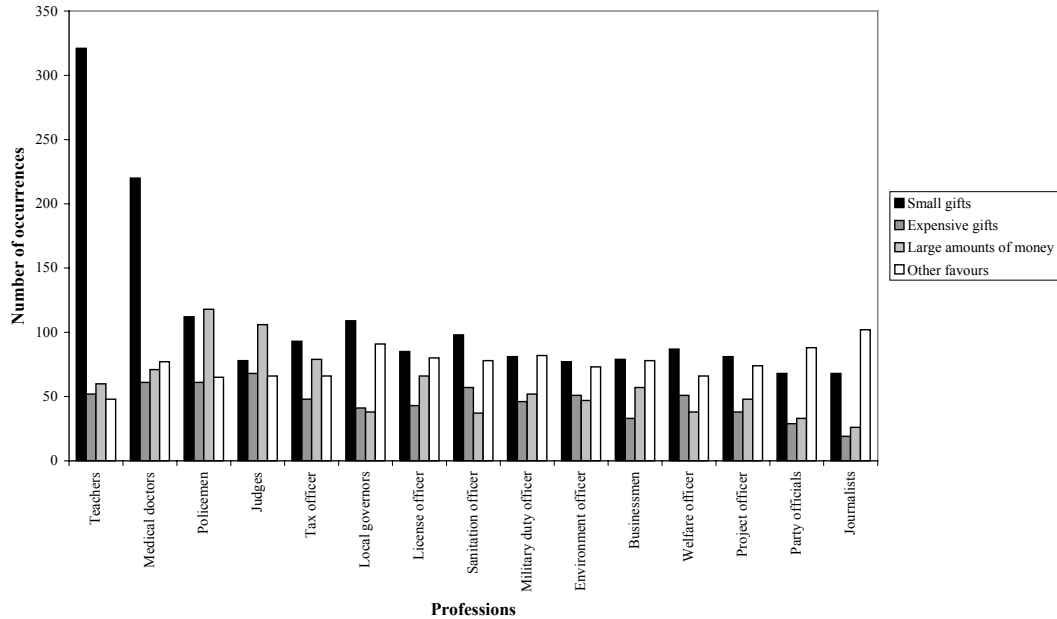


Figure 3.20. Corrupt practices among the professions, 2004
Source: Zorig Foundation

3.2.6 Areas in need of further analysis

This section has illustrated the many achievements made with respect to political society in Mongolia, where regular elections for the Parliament and the President have taken place since the transition, and a real alternation of power between civilians is evident. There was a natural base for the establishment of the MPRP, but not one for opposition parties, which have drawn on the democratic fervour of the transition to establish and organise political parties that have challenged the dominance of the MPRP. The political party system offers a wide range of representation and difference in policy stance, philosophy, and ideology to which and for which Mongolian citizens are free to identify and vote. The semi-presidential system means that there is always the possibility for ‘co-habitation’, or ‘divided government’, while the electoral rules have been changed with each election, thereby shifting the structure of incentives for voters and parties alike.

A national state of democracy assessment needs to collect the best available disaggregated electoral data, and then carry out ecological analysis of socio-economic and demographic indicators to determine relationship between social status and voting behaviour. If exit polls do exist, it may be possible to carry out similar analysis on individual level data. Such an examination would link up well with the suggested analysis in the previous section on the link between social and economic rights and civil and political rights.

More evidence is needed on the overall level of government effectiveness, which could examine the passage and implementation of legislative bills, the implementation of social, economic, and fiscal policies. It is also clear that there is a need to conduct further research on the nature and extent of corruption throughout state institutions,

recognising that corruption is in many ways a ‘latent’ phenomenon and constitutes a universe of clandestine practices and ‘ways of doing’ politics and economics that make it very difficult to measure and combat. Finally, and related, more evidence is needed on the degree to which police and internal security forces are accountable for their actions and the degree which corruption and impunity exist throughout the forces.

3.3 Civil society and popular participation

3.3.1 The media in a democratic society

Media censorship has been banned by the 1998 media law and most of the media is considered free from governmental control, apart from the national radio and television (Severinghaus 2001: 61). Despite a programme of privatisation, the government and ruling party control four out of seven television stations and numerous radio stations (www.freedomhouse.org). Freedom House rated Mongolia’s press as free between 1999 and 2002, after which its ratings suggest that the media are partially free (see Figure 3.21). In its 2005 Report, it continues to rate Mongolia as having a partly free media. There are still concerns about the relative freedom that journalists have in writing critically about leading politicians and government figures. In a 2003 statement to the UN Commission for Human Rights, the Asian Legal Resource Centre claims that journalists ‘live in fear of criminal prosecution and imprisonment for writing about public officials’.¹² World Press Freedom Day (On May 3, 2004) saw protests and debate over libel laws that many perceive as inhibiting freedom and worrisome practices of government officials, ‘who have questioned journalists about information sources and conducted investigations about media ownership, broadcast reach and circulation figures, editorial perspectives, and sources of financing’.¹³ Such accounts are further corroborated in the annual reports on press freedom published by the International Press Institute (www.freemedia.at). The new consensus government has launched a plan to decentralize the media.

¹² UN Doc. E/CN.4/2003/NGO/91

¹³ <http://www.freedomhouse.org/research/pressurvey/pfs2005.pdf>

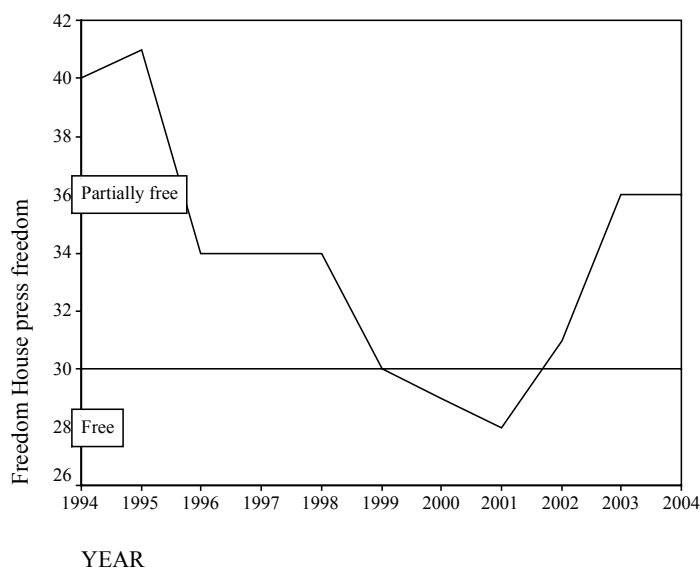


Figure 3.21. Press Freedom, 1994-2004 (www.freedomhouse.org)

3.3.2 Political participation

Political participation is remarkably high in Mongolia, where levels of voter turnout across all the elections since the transition are well above 80% (see Table 3.5 and Table 3.6). Such turnout rates have not been seen in developed Western democracies for years and they are a healthy indication of the commitment of Mongolians to democracy. In addition, the participation of women in parliament has grown since the transition (see Table 3.1 on MDGs), but is still far from parity in representation.

Table 3.5 Voter Turnout in Parliamentary Elections

Year	Total Vote	Registration	Vote/Reg	VAP	Vote/VAP	Invalid	Pop. Size
1990	1,006,460	1,027,000	98.0%	1,153,810	87.2%	n/a	2,177,000
1992	1,037,392	1,085,120	95.6%	1,204,690	86.1%	n/a	2,273,000
1996	1,014,031	1,147,260	88.4%	1,377,040	73.6%	0.4%	2,459,000
2000	1,027,859	1,247,033	82.4%	1,448,576	71.0%	n/a	2,501,041

Source: www.idea.int

Table 3.6 Voter Turnout in Presidential Elections

Year	Total Vote	Registration	Vote/Reg	VAP	Vote/VAP	Invalid	Pop. Size
1993	1,250,000	1,348,000	92.7%	1,298,080	96.3%	n/a	2,318,000
1997	1,403,204	n/a	n/a	1,403,204	100.0%	n/a	2,515,721
2001	n/a	n/a	n/a	1,472,477	0.0%	n/a	2,542,308

Source: www.idea.int

The number of civil society organisations has increased dramatically through the period after the transition. By 2000, there were over 1800 NGOs registered with the Ministry of Justice and Internal Affairs (MJIA), and commentators consider the 1997 NGO law as particularly 'enlightened' and favourable to the growth of civil society (Severinghaus 2001: 64). Within civil society, journalist and women's organisations are the most vigorous and well-developed. The Union of Mongolian Journalists has been active in lobbying for less state control of the media (see section 3.3.1), while

the Press Institute of Mongolia has been active in educating and professionalizing young journalists (Fish 1998: 136-137). The Women for Social Progress, The Women's Lawyers Association and the Liberal Women's Brain Pool (LWBP) are exemplars of strong women's NGOs (Fish 1998: 137). In addition, some of these groups received foreign support, including funding from the Soros Foundation for the Press Institute and the Asia Foundation and National Endowment for Democracy for the LWBP.

3.3.3 Government responsiveness

Despite the vibrancy of civil society and high levels of participation in the electoral process, there remains a significant degree of separation between the demands and activities of Mongolian citizens and the response of government. There has not been the establishment of a culture or process of public consultation on government policy and legislation and Mongolia has yet to enact freedom of information legislation. As Section 3.2.3 showed, the general public have more confidence in the President than in Parliament, and have they low levels of trust in political party organisations, which may reflect some lack of connection between party leaders, party representatives and party member and supporters.

3.3.4 Decentralisation

Because of its small population (2.8 million), vast territory (three times the size of France and twice the size of Texas), and history, Mongolia remains a highly centralised country with the primary political, economic, and social activities concentrated in Ulaanbaatar, where over half the population lives. Some commentators suggest that Mongolia is more like a democratic 'city state' than a democratic country. Semi nomadic continues to predominate in the countryside, which limits the notion of decentralised governmental structures with settled population over who they govern. There are 21 provinces each with local authority, and Ulaanbaatar has municipal status. The provinces (and their capitals) include: Arhangay (Tsetserleg), Bayan-Ölgiy (Ölgiy), Bayanhongor (Bayanhongor), Bulgan (Bulgan), Darhan-Uul (Darhan), Dornod (Choybalsan), Dornogovi (Saynshand), Dundgovi (Mandalgovi), Govi-Altay (Altay), Govisumber (Choyr), Hentiy (Öndörhaan), Hovd (Hovd), Hövsgöl (Mörön), Ömnögovi (Dalanzadgad), Orhon (Erdenet), Övörhangay (Arvayheer), Selenge (Sühbaatar), Sühbaatar (Baruun-Urt), Töv (Zuunmod), Uvs (Ulaangom), and Zavhan (Uliastay).

3.3.5 Areas in need of further analysis

This section has shown that political participation is high and civil society has become well developed and organised. More evidence is needed on government responsiveness to the demands of citizens. More evidence is needed on the constituency work of MPs to determine the degree to which citizens feel their concerns are being addressed by government and represented by the political parties. The national state of democracy assessment needs to figure out why popular trust in the political parties is relatively low even though political participation remains high. Finally, the assessment needs to find more evidence on local government and the

concerns of the different provinces, and whether these concerns are being probably channelled through to central government.

3.4 Democracy beyond the state

The Ministry of Foreign Affairs declares that Mongolia's foreign policy objectives are: ensuring its independence and sovereignty by following the trends of human society's advancement; maintaining friendly relations with all countries; strengthening its position in the international community; and forming a network of relationships with influential countries in the region and in the world based on the interdependence of political, economic and other interests. 'While following a policy of creating realistic interest of the developed countries in Mongolia, it will seek to avoid becoming overly reliant or dependent on any particular country.' Since Mongolia is 'sandwiched' between Russia and China, 'All Mongolian governments since 1990 have therefore pursued pro-Western foreign policy since external support is regarded as essential to ensure continued independence' (Fritz 2001: 91). Despite popular attachment to Russia and the Society experience, Mongolia has sought closer ties with the United States, Japan, and Germany, and economic relations have increased with China. But what can be said about the democratic nature of this foreign policy stance?

3.4.1 International dimensions of democracy

Clearly, the whole impetus for carrying out a democracy assessment comes from Mongolia's leadership of INCRD-5 and its term as Chair for the Community of Democracies. This activity and its follow-up activities in Central Asia, as well as those in preparation for INCRD-6 in Doha demonstrate that Mongolia wants to share its democratic experiences and best practices with other countries undergoing difficult periods of transition or political stasis.

3.4.2 External dependence

Mongolia is still highly dependent on foreign aid and assistance, which in many ways have simply replaced the large subsidies enjoyed during the Soviet period. Such external dependence has had an influence on domestic economic policy, where the combination of market liberalization and privatisation on the one hand and Western aid on the other has 'undermined the social security system and the relative economic equality that had been previously created by Soviet development aid' (Fritz 2002: 93). Mongolia's primary donor is the United States, whose pattern of aid over the period since the transition has been substantial (see Figure 3.22). There have been concerns expressed over the misuse of donor funds.

US Economic Assistance to Mongolia

From 1994 to 2003
(In millions of US Dollars)

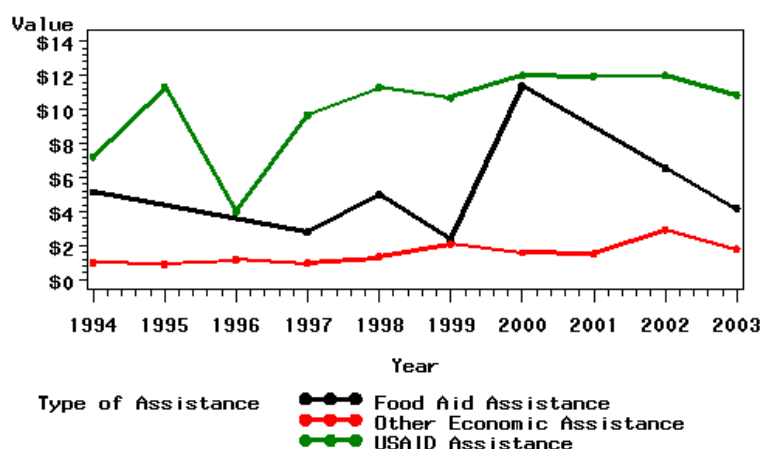


Figure 3.22. US Overseas Loans and Grants

NOTE: Does not include \$10 million in military assistance for the period 1994 to 2003

Source: USAID overseas loans and grants (greenbook) www.qesdb.cdie.org/gbk/

3.4.3 International human rights treaty obligations

Mongolia has ratified most of the major human rights treaties (see Table 3.7), the Rome Statute on the International Criminal Court, and numerous ILO Conventions; however, it has not ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), which obliges states parties to abolish the death penalty. As mentioned Section 3.1.1, Mongolia has not ratified the 1951 Refugee Convention, but there is some *de facto* support for refugees through a policy of non-refoulement.

Table 3.7. Mongolia's Record of International Human Rights Treaty Ratification

Treaty	Ratification ¹	Entry into force	Declaration ²
CERD	06-Aug-69	05-Sep-69	
CERD - Article 14			
CERD - amendment re: Article 8			
CCPR	18-Nov-74	23-Mar-76	
CCPR - Article 41			
CCPR - OPT	16-Apr-91	16-Jul-91	
CCPR - OPT2			

CESCR	18-Nov-74	03-Jan-76	
CEDAW	20-Jul-81	03-Sep-81	
CEDAW - amendment re: Article 20(1)	a: 19-Dec-97 ³		
CEDAW – OPT	28-Mar-02	28-Jun-02	
CEDAW - OPT - Article 10 (Re: Articles 8 and 9)			
CAT	24-Jan-02	23-Feb-02	
CAT - Article 21			
CAT - Article 22			
CAT - Article 28 (Re: Article 20)			
CAT - amendment re: Articles 17(7) and 18(5)			
Treaty	Ratification ¹	Entry into force	Declaration ²
CAT – OPT			
CAT - OPT - Article 24 (Re: Parts III and IV)			
CRC	05-Jul-90	02-Sep-90	
CRC - amendment re: Article 43(2)	a: 19-Dec-97 ³		
CRC - OPT – AC	06-Oct-04	06-Nov-04	
CRC - OPT – SC	27-Jun-03	27-Jul-03	
CMW			
CMW - Article 76			
CMW - Article 77			

Source: http://www.bayefsky.com/html/mongolia_t1_ratifications.php (Info. As of March 24, 2005)

¹ “Ratification” includes ratification, accession or succession. ² In the case of CERD - Article 14, CCPR - Article 41, CEDAW OPT - Article 10 (Re: Articles 8 and 9), CAT - Article 21, CAT - Article 22, CAT - Article 28 (re: Article 20), CAT OPT - Article 24 (Re: Parts III and IV), CMW - Article 76 and CMW - Article 77, the State has the option of making a “declaration” in accordance with the terms of the respective Convention. ³ “a” means acceptance of the amendment.

3.4.4 Areas in need of further analysis

There is a need to find more analysis of state reporting to the various UN Human Rights Treaty bodies and whether domestic NGOs have been preparing shadow reports, and/or how engaged Mongolian NGOs are with the UN Human Rights Commission and INGOs operating in significant international fora concerned with human rights, democracy, and good governance.

4 Conclusions and Recommendations

4.1 Conclusions

The desk study primarily serves as a diagnostic tool that summarises the publicly available information on Mongolian democracy and identifies significant gaps in knowledge that can be researched further in the full democracy assessment to be carried out by Mongolians. Mongolia appears to meet all the criteria for democratic consolidation specified by Linz and Stepan (1996), namely, no significant group or organisation seeks to overthrow the democratic rules of the game; those in power follow constitutional rules; and citizens support democracy even in the face of economic hardship. Two academic analysts of Mongolian politics agree that Mongolia meet these criteria (Fish 1998; 2001; Fritz 2001), while two analysts argue that Mongolia does not meet these criteria (Shin and Wells 2005). The difference between these two sets of analysts is explained by the degree of citizen support for the democratic *system* as opposed to the democratic *process*. The former set of analysts concentrate more on general levels of public support for the democratic system, while the latter analysts concentrate on the support for both the system and the process. They argue that less than two-fifths of Mongolian population support both the democratic system and the democratic process, suggesting that there are reasons to be concerned about faith in Mongolian democracy.

Despite these differences in academic argument and use of survey evidence, this desk study has shown that Mongolia has made extraordinary progress in the development of democracy, while the current process of democratic reflection and assessment presents significant opportunities and challenges for Mongolians to mobilise for democratic reform and improvement. Since the transition, Mongolia has promulgated a liberal democratic constitution, developed a strong and competitive political party system, experienced true alternations of civilian power, provided the context in which a vibrant civil society has been able to flourish, and implemented significant free market reforms. Alongside these significant developments, Mongolia needs to confront important challenges associated with weaknesses in the full guarantee of civil and political rights, a decline in the basic provision of resources for the progressive realisation of economic and social rights, while not allowing the lingering antagonisms after the much disputed 2004 election to undermine its democratic achievements.

One way of summarising these democratic developments is to combine a popular measure of institutionalised democracy with a combined score for the protection of human rights. The democracy score is the Polity IV combined democracy measure, which ranges from -10 to +10 and represents the difference between autocratic and democratic institutional features. The combined rights score is the factor score of the five civil rights measures. The extant literature on human rights has repeatedly shown that democracies are better at protecting human rights (see Landman 2005b); an empirical finding that supports larger theoretical arguments (see Beetham 1999). Accordingly, using a global sample of countries from 1976 to 2003, the human rights factor score was regressed on the democracy score and then the residuals were saved. Residuals in regression analysis represent the difference between observed values and predicted values. In this case, the residuals represent the degree to which human rights

are protected given a certain level of institutionalised democracy. The combination of institutions and rights creates four types of possible outcomes:

- (1) highly authoritarian rights-abusive (low institutional score and negative residuals)
- (2) authoritarian 'overachievers' (low institutional score and positive residuals)
- (3) democratic 'underachievers' (high institutional score and negative residuals)
- (4) democratic 'overachievers' (high institutional scores and positive residuals)

But using these estimates, where does Mongolia stand? Figure 4.1 shows a scatter plot between the Polity IV measure of institutionalised democracy and the human rights residuals for 1985 and 2003. In 1985, Mongolia represented an 'over achieving' authoritarian regime (a combination of low institutional score with a positive rights residual), while in 2003 it is just above the threshold for democratic 'overachievers' (high institutional score and a slight positive rights residual). The democratic criteria used by Polity mean that Mongolia receives a perfect score of 10 (no autocratic features) and its rights protection are slightly higher than expected. The two key questions for this desk study are: (1) what is the quality of the democratic experience in Mongolia that produces this combination? And (2) will Mongolia remain in this position, or will it see a decline in rights protection that pushes it into the category of an underachieving democracy?

Clearly, these questions can only be answered by carrying out a systematic and locally-owned democracy assessment that takes into account the preliminary findings detailed in this desk study. To that end, the desk study concludes with a summary of recommendations for which particular areas of Mongolian democracy are in need of further research. The list is by no means exhaustive but key areas that need to be addressed in the democracy assessment.

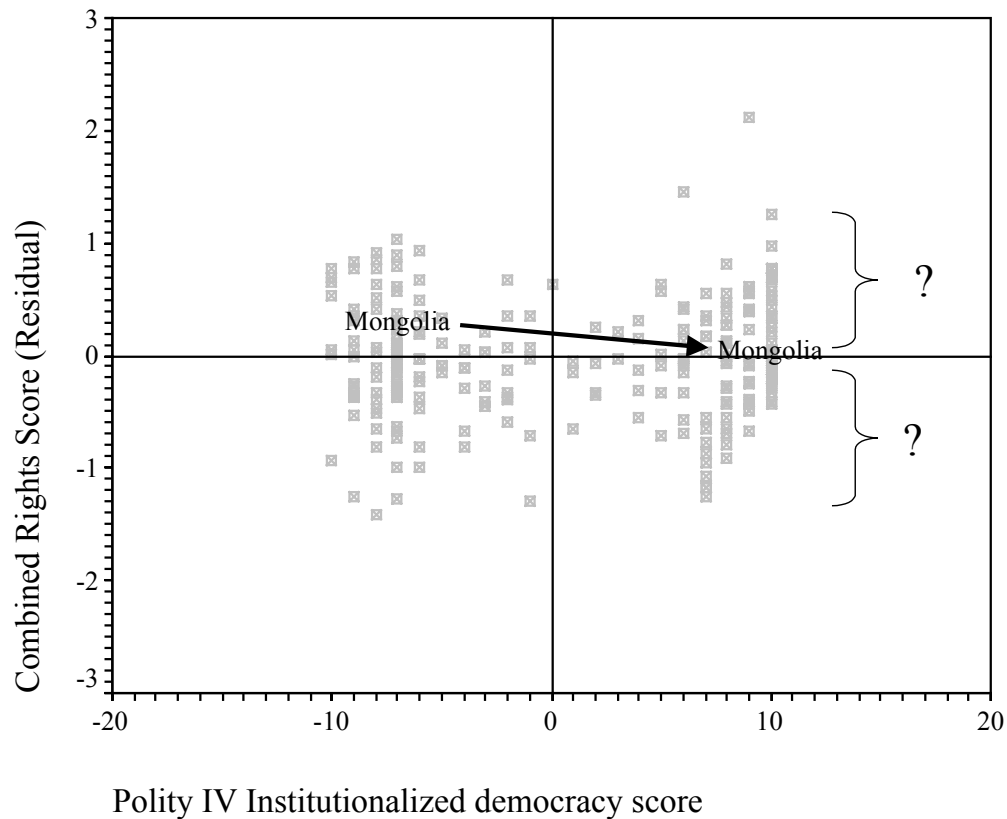


Figure 4.1. Democratic institutions and rights, 1985-2003

4.2 Recommendations

- 4.2.1 More information is needed on the full nature and extent of pre-trial detentions, access to legal assistance by those on remand, and the conditions under which juvenile detainees are held.
- 4.2.2 There ought to be a full study into the nature, extent, as well as procedures surrounding the use of the death penalty.
- 4.2.3 There needs to be an examination of the degree to which corruption undermines the rule of law and differentiates access to justice.
- 4.2.4 There is a need to find more evidence on the incidence of *de facto* discrimination in health, education, and welfare, and an examination of the empirical linkages between denial of social and economic rights on the one hand and the undermining of civil and political on the other.
- 4.2.5 There is a need to collect the best available disaggregated electoral data, and then carry out ecological analysis of socio-economic and demographic

indicators to determined relationship between social status and voting behaviour.

- 4.2.6** More evidence is needed on the overall level of government effectiveness, which could examine the passage and implementation of legislative bills, the implementation of social, economic, and fiscal policies.
- 4.2.7** There is a need to conduct further research on the nature and extent of corruption throughout state institutions, recognising that corruption is in many ways a 'latent' phenomenon and constitutes a universe of clandestine practices and 'ways of doing' politics and economics that make it very difficult to measure and combat.
- 4.2.8** More evidence is needed on the degree to which police and internal security forces are accountable for their actions and the degree which corruption and impunity exist throughout the forces.
- 4.2.9** More evidence in needed on government responsiveness to the demands of citizens.
- 4.2.10** More evidence is needed on the constituency work of MPs to determine the degree to which citizens feel their concerns are being addressed by government and represented by the political parties.
- 4.2.11** There is a need to explain why popular trust in the political parties is relatively low even though political participation remains high.
- 4.2.12** There is a need to find more evidence on local government and the concerns of the different provinces, and whether these concerns are being probably channelled through to central government.
- 4.2.13** There is a need to find more analysis of state reporting to the various UN Human Rights Treaty bodies and whether domestic NGOs have been preparing shadow reports, and/or how engaged Mongolian NGOs are with the UN Human Rights Commission and INGOs operating in significant international fora concerned with human rights, democracy, and good governance.

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