

National Integrity Systems

Country Study Report

Mongolia 2001

Report Author

Ms. J. Oyuntuya, Researcher, National Project Coordinator, Democratic Governing Institutions Capacity Building project, Mongolia.

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Ms. S. Oyun, Member of Parliament. Mr. B. Enebish, Secretary General, Parliament's Chancellery Office.

Mongolia

Overview

Mongolia has a population of 2.4 million and a total area of 1.5 m. sq.km. It is a large land-locked country that lies in a high Asian plateau and is sandwiched between China and Russia.

With the break up of the socialist system, deep political and economic reforms were launched in Mongolia to mark the beginning of the country's transition from a centrally-planned system to a market economy. Mongolia adopted democratic norms and principles through introduction of multi-party, parliamentary system. In the 1990s, for the first time in the country's history, democratically elected government approved the program for transition towards the market. Privatization of the state-owned property and the policy of liberalization were launched. Mongolia declared the policy of open doors. Since 1991, the Government of Mongolia has been pursuing on a program of economic stabilization.

The first Constitution of Mongolia was enacted in 1924. The newest Constitution became effective on 12 February, 1992. Today, Mongolia is undergoing a process of transition from one social structure to a new system with new socio-economic values and principles. These new values and principles were set up by the Constitution of Mongolia of 1992, which is regarded as the first Constitution of democratic Mongolia. Separate laws concerning the legislative, executive and judicial branches of the state power were enacted in conformity with the new Constitution. Of the three branches of the state power, the Parliament is allotted greater powers. Therefore, by definition Mongolia is a Parliamentary Republic.

The State Great Hural consists of 76 members that are elected every four years by citizens qualified to vote, on the basis of universal, free, direct suffrage by secret ballot. The State Great Hural now has a speaker and a vice-speaker. A member of the State Great Hural is envoy of the people and must represent and uphold the interests of all citizens and the State. The Parliament appoints the Prime Minister and approves the cabinet on the basis of the nominations by the majority party. In today's structure, Mongolian Prime Minister has the real executive powers (amendments to the Constitution made in 2000 further endorsed his powers).

The President is the Head of State and is directly elected by the people during the elections held every 4 years. According to the interests of ensuring the independence and sovereignty of Mongolia, as the Head of State, the President in the frame of his right indicated in the Constitution and other laws, renders support to various organizations exercising the legislative, executive and judicial powers in cooperation with each other. In comparison with some other countries, Mongolian President has much less powers than those in Presidential states such as USA or Russia, but has more powers than the symbolic powers of Presidents in Parliamentary states.

For about seventy years between 1920's and 1990's, Mongolia was under a big political and economic influence of Russia and member of COMECON. In the past ten years of transition, dramatic changes in political, economic and social spheres took place. The most difficult task is however making changes in mentality of people. Nostalgia for "happy old days" is still prevalent in older generation and analysts say that reforms take place in the mid of the conflict 'old vs new' mentality.

During the socialist times, Mongolian People's Revolutionary party was the core of all the decisions and politics. One-party rule of course did not allow any freedom of speech, press or pluralism. Too much socialist ideology and propaganda, too much isolation from the rest of the world are things that we inherited from the socialist times.

Introduction

Perception about corruption and notion of national integrity was in principle different before 1990s - during the socialist system. As in the socialist system people did not have property rights, no major conflict of economic interest groups, no political democracy and the existence of dictatorship of one party made the perception about corruption through the prism of the social norms and socialist ethics. Perception of corruption among people of that time was limited to offering of articles of everyday use as gifts to feather one's own nest and employment to and promotion of cronies and friends. But within the privileged few (upper echelon of communist party) abuse of power and social status for personal

purposes was widespread, but people remained unaware about this due to absence of freedom of press and speech.

Since the 1990s or the start of transition into market-oriented economy and political democracy perception of corruption and national integrity came to conform present world's perception and indicators.

Mr. Bertrand de Speville, an international, independent consultant from Britain who visited Mongolia in 1998, 1999 and 2000 to make findings and consult on situation of corruption for last decade and fighting the corruption indicated in his working report on current situation of corruption in Mongolia:

- Corruption in Mongolia has thrived in recent years on the opportunities presented by the move to a market economy, by democratization and by privatization.
- Since the start of the transition, corruption has spread in the community, is growing and has reached worrying proportions, although the exact extent of it is not known.
- Corruption is evident in the disciplined services, particularly the policy and the customs service, in the public service generally, in the administration of justice, in the electoral process, and in the relations between politicians and the world of business. In that connection the financial and banking sectors received special mention.
- The population being small, Mongolians have many family links and all seem to know each other. Family loyalties might impede the reduction of corruption.
- The fine tradition of gift-giving is strong. However, the line between exchanging gifts among close family and friends on special occasions and giving inducements and rewards to public officials in connection with their official duties has become blurred almost to extinction.
- Mongolia is vulnerable to corruption imported from its two large and corrupt neighbors. There is evidence of organized crime having come to Mongolia.
- Corruption is becoming organized and systemic in some services.
- Allegations of corruption are frequently made and publicized but no effective investigation or prosecution ever seems to follow.
- The laws against corruption do not seem to be enforced: indeed they seem to be flouted. The penalties are insufficient.
- Corruption in daily life is becoming accepted as normal.
- If effective action is not taken soon, the problem will become steadily worse with dire consequences for Mongolia's progress. Some believe that there is a real possibility of revolution in the hope of radical change.

The Law of Mongolia Against Corruption, adopted in 1996, defined corruption as "an act of receiving bribes, abuse of official position and power for personal material and other gains, offering of commission or preferential terms and advantageous position by individual, legal person for that purpose". The new draft of anti-corruption law to be considered by the Parliament during this coming spring session (2001) states that: "corruption is violation of law and abuse of official power by an official to offer the others privileged treatment for the purpose of personal gain." Those who actually bribe are also to be punished. Those are the legal definitions. However, ordinary people gave differing answers to what actually corruption and bribery mean. In many cases, perception of corruption for some people is not corruption in the eyes of others. Inconsistent view of corruption among ordinary citizens hinders fighting corruption. Mongolian researchers are making endeavors reach a consensus on definition of corruption. They stress the importance of the national strategy of corruption should be applied not only to the public sector, but to the private sector as well.

The existing law against corruption is an ineffective legislation with insufficient penalties and unclear enforcement rules. Therefore, since the beginning of 1999, a political consensus was reached to draft a new legislation that proposes to establish an independent commission against corruption. A number of small workshops and educational projects have been carried out since including the first-ever study on public attitudes on corruption (August 1999). However, the unfortunate timing of submitting the draft legislation before the Parliamentary elections postponed the discussion of the legislation until after the new Parliament and Government were formed. Also National Action Plan against corruption that was drafted and submitted to the Parliament at the end of 1999 has not been discussed in the legislature for more than a year. It is hoped that the law will be discussed and approved sometime during the

spring session of the Parliament. Meanwhile, a couple of NGOs have been undertaking educational workshops and roundtable discussions during the last year.

National Integrity System

Executive Branch

According to the Constitution of Mongolia the State Great Hural (the Parliament) forms a government for the term of 4 years. Cabinet has 13 members headed by the Prime Minister. Current cabinet was formed in July, 2000. Now it has 11 ministries and 39 agencies.

Powers, responsibilities and mission of the cabinet and its members are governed by the Constitution of Mongolia and the Law on Government. Cabinet members are obliged to report on their assets and income according to provisions of the Law against corruption and the Law on Government. But there are no regulations and requirements to make known them to the public. Also there are no follow-ups and checks as to the honesty of income declarations and disparities between the consecutive declarations. In accordance with the provision of the Law Against Corruption (provision 1 of article 12) cabinet members are also obliged to register gifts and souvenirs, given to them as a sign of respect for their official position with the Cabinet Secretariat.

The cabinet and its ministers are accountable to the Parliament and required to provide members of parliament with information on implementation of the cabinet's action program and matters of the moment in line with provisions of the Law on Government and the Law on Parliament. The cabinet makes annual report on implementation of its action program, quarterly report on implementation of duties assigned by the Parliament and weekly report¹ on matters of the moment to the Parliament, answers inquiries and questions of members of parliament and justifies their decisions made.

The practice of granting special permissions and licenses in the field of their competence by a member of the cabinet - minister is common. For example: Special permissions are awarded in some business activities, export licences and rare game hunting. In reality, there are many complaints related to special permissions awarded by a cabinet member-minister and these are often objects of press criticism.

There are 39 government agencies with heads appointed by the Government. These agencies are in charge of awarding special permissions and licenses within their competence and professional monitoring of their respective sectors. One of major corruption practices in Mongolia (according to the survey) such as tender, privatization, licensing and land permission operations actually occur within the implementing agencies of the executive branch such as local administration and self-governing bodies. Researchers believe that corruption and bribery became widespread in the middle level of executive branch institutions. As the results of the 1999 public survey about corruption show:

On prevalence of corruption in Mongolia, 49.6 % of respondents think that "corruption is widespread"; on the question of which sector is most affected by corruption, 33% and 56 % of the respondents believe that "in public and private sector", respectively. Respondents think that the forms of corruption which cause greatest material and moral damage to society occur around disbursement of tax money and use of public property.

Legislature

The Parliament of Mongolia (the State Ikh Hural) is a unicameral parliament with 76 members. According to the Constitution, parliamentary elections are held every 4 years. The last elections were held in July, 2000. Speaker and Vice-speakers are elected by members of parliament through open votes. 76 members of parliament are elected from 76 election districts by direct votes, on the first-passed-the-post system.

Parliament approves the state budget annually. Fiscal year starts on the 1st January. The Government submits the budget to the Parliament. Parliament examines and approves the budget by every item. If necessary, it may make amendments to the state budget in the middle of the year (usually in April).

The Government and Ministry of Finance submit budget report to the Parliament. But there are shortfalls in improving budget control. For example: there is no proper parliamentary body to analyze the budget and control its spending, in most cases budget spending is approved as submitted by the Government and Ministry of Finance. Though the state budget goes through 4 rounds of panel hearings, it could be said that there is no regular control of budget spending on the part of the

Parliament and mechanism of financial control through auditing institutions. The Parliamentary sub-committee on checking the budget spending is headed in the current Parliament by the majority party MP. In order to improve parliamentary control of budget spending it is necessary to:

- Elaborate the Budget Law and other related legal instruments, especially those of the Budget Law, Law on Parliament, provisions of budget examination and approval as well as regular control of budget spending of the Law on Procedure of the Parliament.
- Cultivate the consistent view of parliamentary control over budget spending or change the perception of members of parliament on this issue (moving away from the socialist type old perception).
- Improve cooperation with financial auditing institutions, in other words to create a system that places an order of financial control through the State Auditing Board and makes an accurate analysis over the results.

Members of parliament should register gifts and souvenirs given to them in relation with their official capacity, exceeding their monthly salary. The administration office should file and store those gifts and souvenirs, unless an MP wants to buy the gift by paying back the difference. In reality, registering and giving the gifts does never happen. The Anti-Corruption Law and the Law on the Status of Member of Parliament give detailed provisions on this issue. However, members of parliament are usually reluctant to register gifts and souvenirs given to them and there is no definite regulation on how to register and store. Ethics code of MPs does not exist as such, although there are some provisions on ethical standards in the Law on the status of member of Parliament. At the beginning of March, 2001, draft legislation on ethics of public servants and draft legislation on ethics of parliamentarians were submitted to the Parliament for discussions in the coming spring session.

Members of parliament provide annual disclosure report on their assets and income according to the Anti-corruption Law and the Law on the Status of Members of Parliament. An officer of the Administration Department, in charge of classified documents files and keeps them. There have not been any cases of public disclosure of incomes, and law does not require public disclosure,

Conflict of interests among members of parliament do exist (e.g. for an MP that has major stake in cashmere industry, initiating a bill on cashmere tax). Friction of interest groups exists along with political controversy. Groups based on similar professional background, election district and home province are visible. Some analysts think that there are groups representing interests of businesses and those who oppose them. Serious cases of involvement of members of parliament in business interests while making decisions are known. For example: three members of parliament, including a former Minister for Justice were sentenced to 2-5 years in jail in 1999 and suspended their immunity due to the bribes taken to award a casino license in a tender that took place in 1998.

As the results of the survey indicate, the top five corruption-prone organizations in Mongolia are:

- Banks
- Customs office
- Courts
- Parliament
- Taxation office

The view of respondents seeing the Parliament as a corruption-prone organization suggests the presence of the fact that businesses covertly or openly influence and urge decision-makers to have favorable decisions, made by the Parliament and the Government in return of their bribes.

Mr. de Speville, the UNDP consultant in his recommendation made the following points:

- Inefficient execution of disclosure of incomes of high level officials provided for in the Mongolian law is due to underdeveloped “sense of property ownership” on one hand and low level of formulation of legal provisions and contents on the other.
- The issue of “gifts” is a controversial one in terms of its coordination. It depends on cultural background of a given society and other factors. High level officials usually make a pile by means of “gifts”. Mongolia may be not an exemption. Two major methods are applied to tackle gift related corruption. First, creation of ceiling price for gifts, second, decline of any gifts without ordinary or special permissions. We think these findings are accurate to the point.

Funding of Political Parties

Articles 10, 11 of the Law on Political Parties provide that a political party shall conduct its activities on a self-funding principles. However, it also states that for every seat in the Parliament, each political party will receive 1 m. Tugriks (c. USD 1,000) per year per seat.

Donation is the main source of funding for political parties in Mongolia. Donations (from companies and businessmen) are on increase during the pre-election campaigns. As for political parties with higher probability of success, donations higher and they allow to cover all their expenses of election campaign and fund activities of the party for some time. It recently became customary for politicians to receive donations, for business circle to make donations for a nominee or a political party. Mongolian People's Revolutionary Party, that is now in power has recently become an object of mass criticism over assignment of its sponsors or their protégés in high and middle level positions of the executive branch (deputy ministers, head and deputy of agencies etc.).

Rental income from owned buildings constitutes a larger funding source for the ruling Mongolian People's Revolutionary Party, that inherited a few nice buildings from the socialist times and that are leased out and generate substantial amount of party income.

Law on political party provides that "political parties shall submit annual financial report to the Government", so far no party has done so and the Government never requires execution of this provision.

Political party accounts are closed to the public. No cases of checking their accounts took place during the last decade (the multi-party system in Mongolia was introduced only in 1990).

Political parties are leading the list of corruption-prone organizations as the results of survey showed. On prevalence of corruption in political parties 37.4 % of respondents think "prevailing", 27.0% "average".

Supreme Audit Institution

The State Auditing Committee was established following the adoption of the Law on State Auditing by the Parliament in 1995. The main mission of the committee is to undertake financial auditing in organizations financed by state and local budgets. According to the law, the head of the committee (Auditor General) is appointed by the parliament for the term of 6 years. The law has provisions on appointment of the head of the committee based on professional experience and guarantees against groundless dismissal. It is legally possible for the Auditor General to be independent. As the appointment of the Auditor General is decided by the majority votes of the parliament and recommended by the speaker, the probability that a ruling party's protégé would be appointed on this position is somewhat high.

The State Auditing Committee makes annual reports on its activities to the Parliament, which are considered by relevant standing committees (Standing Committees on Budget and State System), and if necessary, it may be heard at a plenary session of the Parliament. Passive hearing of the State Auditing Committee's report on the part of members of parliament, political parties and associations, lack of 'follow-up' approach to results of financial auditing of organizations while on the other hand making attempts to blow out some of the findings of auditing for own political purpose.

There is a need for creation of a new mechanism of closer cooperation between the parliament, its budget standing committee, members of parliament and the State Auditing Committee. Accordingly, amendments in related legal instruments are under preparation.

The State Auditing Committee does not undertake auditing of incomes and expenditures of the government itself, although there are no legal restrictions to do so. The Committee mainly conducts financial auditing of government agencies and organizations.

The State Auditing Committee submitted proposals to the Parliament to make amendments in relevant laws with the view to strengthen the State Auditing Committee with capable auditors and decrease the influence of local authorities over local auditors.

There are important recommendations of local and foreign experts that emphasize the need of the State Auditing Committee to get rid of its old socialist fashion of undertaking its tasks, to transform its activities to audit government spending and revenue, to make audits in response to requests from MPs and the Parliament itself.

Judiciary

The new Constitution of Mongolia adopted in 1992 prepared the basis for leaving the old socialist court system and creating of independent and impartial judicial system. The court system of Mongolia is three-tiered comprising the State

Supreme Court, provincial and municipal courts, county and district courts. The Constitutional Court exists to oversee whether laws and decisions made by the Parliament, the President and the Government are in conformity with the Constitution. The Constitutional Court has 9 members.

The articles (49, 50, 51) of the Constitution stipulate that the judges shall be independent, and be solely subject to law, nobody shall interfere with or influence activities of judges. The Law on Courts and other related laws also ensure appointment and promotion of judges based on their professional skills, avoidance of groundless removal of judges. In this sense, at least on the paper, Mongolia scores well in ensuring independence and impartiality of courts by stipulating them in its legal instruments.

Real Situation

From the beginning of 1990s, Mongolia launched the transition to political democracy and market-oriented economy. Last decade witnessed major reforms in political, economic and social sectors. Despite the fact that the legal reform is carried out in accordance with certain strategy and schedule and that many new laws have been passed in the last decade, lawyers, politicians, citizens and the whole society are very dissatisfied and point out delays in legal reform, especially those of court system. Though many new basic laws have been passed in conformity with the new Constitution, the lack of knowledge and accurate information on legal coordination of new relations emerged in the course of transition to market-oriented economy is becoming more and more visible. As Chingghis Khan, the Great Mongol Emperor and Conqueror said: "It is easy to conquer half of the world on a horseback, but, once dismounted from the horse, it is hard to rule and make order in a country." Mongolia has been successfully formulating its main principles of shifting towards democracy and market-oriented economy for the last decade but now she is faced with the challenge of formulation of detailed and efficient legal environment.

Reform of court system is vital to legal reform. But creation of independent and impartial courts encounters with many problems in real life. Cases of bribery and partiality for cronies tend to be widespread.

The public opinion survey of 1999 indicated that:

- 44.6% of respondents see courts as one of the most corrupt institutions only after customs office.
- Asked about the equality before the law, 15.2% of respondents think "equality does not exist", 53.4 % replied: "unsatisfactory" and only 8.9% replied "satisfactory".
- Asked about performance of courts, only 3.1% of respondents regard the courts as performing "excellent", while 33.5% mark their performance as "average", 12% believe their performance is "very bad" and 47.6% regard it as "bad".

I think this unfavorable attitude of Mongolian society towards performance of court system is mirrored by real situation. The current situation of court system is driven by the following factors:

- Economic hardships of transition have direct impact. Low income of judges leads to susceptibility to bribes
- Both the small limited amount of the courts budget combined with the difficulties in receiving the budget from the government due to budget deficits mean dependency of courts on the government and the Ministry of Finance.
- Judges are overloaded with cases: a judge annually settles on average 350 criminal and civil cases which far exceeds the international average. This often causes a superficial approach in settling cases and disputes.
- Weak knowledge and professional skills of judges, especially in rural courts are commonplace. In settling civil disputes and economic crime cases, judges fail to keep up with the pace of society's transformation, fail to understand the essence of the process and emerging new relations and resort to old fashioned socialist perception and ways of doing things.

It is good that the state, government, politicians, lawyers and citizens at least understood the current situation with the Mongolia's court system, and started paying much attention to its reform. Implementation of an action plan and ten years' strategy to ensure independence of court system has been approved by the parliament in is now underway.

The core of just, open and accountable government is independent and impartial court. It is commonly accepted that the following actions should be given priority in order to have such court system. They are:

- Removal of budget constraints, review of court's budget to reflect the needs of real life. It is important to approve the budget sufficient for creation of impartial court system
- Increase salary of judges (currently at 50-90 US\$ on average) to protect them from outside influence when settling cases. Corresponding to salary increases the accountability and moral requirements should be heightened.
- Amend the Law on Courts, Civil and Criminal Laws, make changes in the Civil and Criminal Procedural Laws (the Ministry of Justice is in charge of amendment of relevant laws and it is planned that the parliament will consider amendments of these laws in 2001 and 2002).

Civil Service

The new civil service system was created since 1992. According to the article 46 of the Constitution that states: "A civil servant shall strictly follow the law, work for the benefit of the people and in the interest of state as a citizen. A civil servant is provided with working condition and guarantees ensured by Law". The Law on Civil Service gives detailed provisions on classification, positions, grades, working conditions and guarantees of civil servants.

Civil servants of Mongolia divided into political, administrative, special and technical categories of which administrative civil servants are professional cadre who took an oath. Status, working conditions and guarantees of political and special service servants are regulated by their respective laws. For example, the status of members of parliament and members of cabinet are governed by the Law of Parliament, Law on Government; the status of judges, prosecutors are governed by the Law on Courts and Law on Prosecutors respectively and the status of police officers is regulated by the Law on Police Service.

Despite the legal provisions stating apolitical nature of civil service there have been repeated cases of removal of civil servants by the party that came into power as a result of election. For example: there are complaints that the Mongolian Revolutionary Party which won the 2000 election is removing many civil servants, especially well-experienced administrative civil servants. The democratic coalition which won the 1996 election was also criticized for the same reason.

Provisions of law require enrolment and promotion of administrative civil servants based on skills, education, professional training and experience. Each year civil servants and interested persons may take a civil service examination which is publicly announced. Successful examinees are selected to fill state service vacancies, these requirements of law, in general, is carried out in real life. Cases when heads of agencies are trying to recruit his or her fiends and friends are not rare.

According to the law, civil servants should file gifts and souvenirs given to them as a sign of respect for their official position, but this provision does not function in reality.

The Law on Claims against Illegal actions of State Administrative Organs or Officials for Infringement upon Civil Rights and the Law Resolving Claims against State Organs or Officials have been approved in 1992. According to these laws every citizen of Mongolia may submit their claims against an organ or official to a higher organ or official directly supervising the former. If the citizen is not satisfied with decision of the higher organ or official they may appeal to a court. The system of responding to citizens' claims in a timely manner is created.

The Parliament of Mongolia included creation of an independent administrative court system (specialized administrative court) where citizens can appeal over any administrative decisions as an item in its agenda for 2001. As current courts are overloaded with civil and criminal cases they attach less importance and time for claims over administrative decisions and labor disputes. Therefore scholars, researchers and lawyers view creation of new administrative court system as a great progress in ensuring rights of civil servants and resolving citizens' claims over illegal decisions made by administrative organ or official.

The results of public survey on corruption conducted in 2000 reveals the most corrupt organizations where taxation office was ranked the third by 31.5%, education institutions took the sixth place by 20.2% and state administrative organizations was at the 7th place by 16.4%. As the survey tells us that the main factor behind corruption is irresponsibility of officials. 54.8% of respondents of the above survey see it as a main factor.

Mr. G. Jamiyan, journalist who writes extensively on corruption, in his article published in the "Mongol News" (18 September, 2000), one of major dailies of Mongolia wrote that: "Civil servants are more and more involved in a syndicated corruption, the most harmful, but common type of corruption in our country. Involvement of civil servants in such illegal acts as writing off bank loans as bad debts, trafficking and illegal trade of spirits, working hand in glove with customs and tax officers in smuggling cars is an indication of the fact that they are ganging up with criminal elements". The journalist may be overstating the facts, but it does reflect attitude of the masses.

Improving efficiency of government services, making civil service more compact, accountable and efficient are becoming issues of the moment in Mongolia society today. The government of Mongolia has actively been looking for new principles of budget management and efficient functioning of state organizations since 1998. As a result it was decided to introduce new principles of state budget management (after New Zealand). Though related draft laws were submitted to the Parliament in 1999, they provoked heated arguments around its compatibility with classical model of civil service and current Law on Civil Service and till present they are pending consideration by the Parliament. However, gradual introduction of this principle to activities of the civil service through implementation of a pilot project is included in the governments action plan. 2-3 ministries and agencies are implementing pilot projects to introduce new principles of financial management. It could be noted that research and pilot projects in this regard are carried out with the assistance and loan of the Asian Development Bank.

Police and Prosecutors

Police

The police department should play a major role in fighting corruption, but the masses perceive police department as one of the most corrupt organization. 30.7 % of respondents think "police is most corrupt in all levels".

People are very critical about activities of police. Results of a survey conducted by us earlier showed that "criminal cases with the lowest detection rate" was stealing (53.4%) followed by "corruption and bribery" (31.9%). Police involvement in concealment and invalidation of organized crimes, unlawful custody, soliciting petty bribes, especially in traffic police reached to a level when it became a customary topic of press, mass media and the people. However, it does not mean that police department is corrupt to a degree when it could not properly execute its duties. Still 53.9% of respondents support the establishment of an independent body to fight corruption which indicate reduced trust of people in police.

The head of the Police Department is appointed and dismissed by the government as recommended by the Prime Minister. It is more likely that the head of the General police Department would be reshuffled with changes of cabinets. The head of General police Department has been reshuffled twice for last three years. Absence of detailed legal provisions on recruitment of policemen and low wages cause spread of corruption.

Though all understand working condition, current situation of guarantees of policemen and their susceptibility of corruption, there is still no integrated strategy to improve the situation. In addition, a task force of the government is working to amend the Law on Police.

Prosecutors

As stipulated in the article 56 of the Constitution prosecutors shall exercise control over inquiry, investigation, sentencing and participate in court proceedings in the name of the State. The prosecutor general and its deputy are appointed the President in consultation with the Parliament for the term of 6 years. The Prosecutor system of Mongolia is three-tiered comprising the State General Prosecutor's Office, municipal and provincial prosecutor's office and district and inter-county prosecutors.

In general, people see the prosecutors as relatively free from corruption and executing their duties well. There are no reported cases of corruption within the prosecutor's offices and among prosecutors for last years. However, some corruption-related survey reveals that the prosecutor's office functions

not well enough to meet its requirements. 52.6% of respondents of that survey marked the prosecutors office functions “as average and weak” which may mean that though prosecutor’s office does not receive bribes, but it does aid and abet corruption.

It is a widely accepted to strengthen and improve prosecutor’s control over illegal activities of the police, participation and control over inquiry, investigation and sentencing proceedings. 49.15 of respondents think “the prosecutor’s office should play an important role in fighting corruption”. If independent anti-corruption body is to be established, lawyers support the proposal of affiliating with the prosecutor’s office.

Government Procurement

The Parliament of Mongolia adopted the Law on Public procurement on April, 2000. This law has been effective for less than one year. The government adopted a detailed procedure for the implementation of this law on June, 2000. According to this law and procedure procurement should be done through competitive bidding. Bidding could be either open or restricted depending on the price. Bidding is open to both domestic and foreign participants.

Before the adoption of the above law government procurement through competitive bidding was absent which enabled authorities of a given organization to make decisions as they please. The law on Public Procurement is on its first stage of implementation. Detailed procedures of establishment of bidding committees, identification of pricing criteria have been formulated. Authorities of public organizations start to announce competitive bidding for procurement of goods and services commencing from 2001, but due to lack of experience in many cases they break the procedure.

Competitive bidding for government procurement is open to the public and announced via press and media. The results of the bidding is also made known to the public.

The law and the procedure approved by the government have detailed procedure of examination and settlement of complaints related to competitive bidding. Any participant may appeal to the chairman of the bidding committee or to a higher authority. If participant does not accept the decision made it may appeal to a court.

To take an example: According to the Law on Casino a competitive bidding for establishment of a casino in Mongolia was announced in 1998. The defeated party appealed over illegality of the bidding results. As result of examination a head of the competitive committee, a former Minister for Justice and three members of parliament were tried, convicted and sentenced to imprisonment for bribery offences. As a matter of fact, this case provoked heated vibration in the society that the member of parliament had no choice but to invalidate the law they approved earlier.

Ombudsman

There are no ombudsman system nor related laws in Mongolia. Extensive research, public discussion have been conducted to have an ombudsman system and now we are learning lessons of other countries. The parliament of Mongolia adopted a Law on a National Commission for Human Rights three months ago in December, 2000, In case of violations of human rights the members of the commission shall act as ombudsman do. In other words, the commission’s activities are based on the same principles as those of ombudsman.

Investigative / Watchdog Agencies

At present, there are no special investigative or watchdog agencies against corruption. A national anti-corruption program and a draft law on an independent anti-corruption agency have been tabled to the Parliament. The parliament plans to consider these documents during its spring session or May-July.

We hope that with approval of the new anti-corruption law the independent anti-corruption body may be established. The new draft anti-corruption law included in the agenda of the parliament provides that the independent anti-corruption commission will have one chief commissioner, three deputy commissioners and other commissioners appointed for the term of 6 years. The draft has two alternatives of appointing chief commissioner: either by the President or by the Parliament. The draft law states that “the commission is a state organization with the mission to prevent from and detection of corruption and its investigation”. (Please note the draft is pending approval by the parliament and on its first stage of consideration).

As the survey conducted in 2000 shows on necessity of establishment of an independent anti-corruption body 80.5% of respondents think “it is necessary”, 12.4% see “it is not necessary” and 7.1% say “they do not know”. On what kind of organization it should be:

- 53.9 % of respondents think “ it should be an independent body governed by its own laws:
- 32.7% see it as a “state organization”
- 8.6% say “it should be a non-governmental organization”

The views of politicians, lawyers and experts on establishment of an independent and autonomous body subject to its legislations are differing. Ones believe that only establishment of such independent body will facilitate independent, efficient fight against corruption. They argue that the enforcement of the 1996 Anti-corruption Law is weak, corruption cases’ detection rate is very low (almost no reported cases), the police and judges are corrupt which require establishment of an independent body.

The others maintain that such an organization could not sustain its independence in the current environment and prone to political and other influence from outside, therefore the anti-corruption could be included in the mission of the Prosecutor’s Office or State Auditing Committee or an anti – corruption body could be established affiliated to these organizations.

Some people are cautious as heads and other officials of an independent anti-corruption body will be appointed by the parliament it could not sustain its independence against the influence of the ruling majority. Echoed by critics against police over unlawful detention and interrogation some people worry that an anti-corruption body would exercise the same practices under the political influence.

Mongolia was not an exemption of mass repression executed by Stalin in communist Russia during 1930-1960. The bitter experience of political repression, execution and detention is still kept in minds of people. Therefore, the fear of re-emergence of repression using anti-corruption as a pretext is still there.

Press and Media

People say: “we have the right to access information”. But do they fully enjoy this right or shall they have such a right? If they shall, is this right guaranteed, how to perform this right? Which are asked frequently. Freedom of press and media is measured by how does it perform its duties to protect people from the control of administration. It is perceived “No freedom of media, no democracy”.

The Constitution of Mongolia (the article 16) promulgates the freedom of belief, expression, speech, press and peaceful march. The Law on Press Freedom approved on January, 1999 provides that: the purpose of this law is to ensure freedom of expression, speech and press promulgated in the Constitution of Mongolia. The media shall be responsible for its publications and broadcasting. The State shall not control or monitor the content of such publications and broadcasting.

In the Constitution, Law on Freedom of the Press and Media and other related laws there are plenty of provisions guaranteeing freedom of publication and speech.

In 1999 a law was adopted to prohibit state ownership over media and to establish a publicly owned media. However, the National Television and Radio are still under government control, as parliament have not still adopted the necessary law on this matter.

There is a common anxiety against censorship in this democratic society as it was customary during the socialist times (Mongolia was a member of a socialist camp and under political influence of the former USSR for more than 70 years during 1921-1990). There are detailed provisions preventing State control over publications and broadcasting.

However, due to absence of related laws to be passed in conformity with the Law on Freedom of Press and Media the issue of transforming national major TV and Radio stations into a public ones or privatize them is pending final resolution. The Mongol TV and Mongol Radio are funded from the state budget and their managers are appointed by the prime minister, which enables direct censorship of the ruling party which in turn evoke greater criticism.

The media is being heavily influenced by political and financial groups and there is a censorship of the owner of the TV stations and press. Appeal to own press and media is on rise. All government daily newspapers have been privatized. Political parties, major companies, economic groups are apt to have their own TV and press. The increasing censorship of owners over press and media is notable. The largest TV and Radio stations of Mongolia always represent the position of the government.

In the light of advice of Mr.de.Speville stating that: "Promotion of investigative journalism is a component of the integrated anti-corruption program" I would like to stress the importance of creation of a system where press workers have access to government information and sources of information provide factual and correct information.

Civil Society

Mongolia launched democratic reforms and promulgated the principles of democracy in its 1992 Constitution. In the general provision of the Constitution it is stated that: " We, the people of Mongolia shall cherish the goal creating and development of humane, democratic civil society".

Mongols made a substantial achievements in ensuring human rights and freedoms, rights of citizens to seek and access information from the State and its organs, representative governance through democratic election for last decade. The number of non-governmental organizations, an important part of civil society is increasing for last 5-6 years and their scope of activities are expanding. Especially NGOs to protect the right of the child and women NGOs are very active. Citizens' watch group over execution of government services and activities of NGO groups are in their infant stage of development. Tax payers' and consumers' associations are developing.

The Law on Government (the article 19) provides that: " the Government may have its own tasks fulfilled by non-governmental organizations and perform of certain tasks on a contractual basis, using their services and labor". Favorable environment conducive for cooperation between the state and non-governmental organizations, assignment of some duties to NGOs on a contractual basis has been created. For example: in their attempts to make the parliament more open for the public and the electorate and improve their education, the Parliament and its Administration Office have successfully been cooperating with non-governmental organizations under contract for last four years.

I fully support the position of Mr. D.Lamjav, an independent researcher, expressed in his presentation made at the international forum against corruption (held on January, 2000) emphasizing the importance of peoples' participation in fighting corruption which goes as: " Broad participation of citizens in fighting negative phenomenon of a society. In any 'participation' a participant should have profound self-confidence and keen desire for reform. Unfortunately, the masses have no trust in near term outcomes of state actions against corruption. Pessimism prevails. As a survey shows 3 out of every 4 people (75.5%) do not believe in 'complete healing' of corruption. Cherishing the human rights as a valuable component of a civil society it is necessary to ensure all rights of every Mongolian citizen to make claims, request and report against corruption, accept initiatives proposed by them without any hindrance. It is impossible to fight corruption with no support from the people. There it is necessary to increase participation of people in fighting corruption, have a precise picture of present day corruption and identify proper means in fighting corruption".

Local Government

Mongolia's administrative division consist of the city of Ulaanbaatar and 21 provinces. The capital city is divided into 9 districts. Districts are divided into khoroods. Provinces are divided into counties, counties into baghs. The capital and provinces have Citizens' Representative Meeting (Local parliament) elected in every 4 years. Governors exercise executive power in the capital and provinces and appointed by the Prime-Minister as recommended by Citizens' Representative Meetings. Local administrations provide support for Governors.

Corruption is more common in the capital city of Ulaanbaatar, cities of Erdenet and Darkhan. As foreign experts concluded there are few cases of corruption on provincial county levels. Forms of local corruption are bureaucracy of local administrative officials in granting business and service licenses receiving of small amount of bribery. Especially in granting special permission of production and services (there are many special permissions in Mongolia) the multi-layered bureaucratic mechanism exists.

Progress of Government Strategy

Execution of Anti-corruption law adopted in 1996 was inadequate and the Government has not its strategy against corruption. As a result of active measures taken to analyze the pattern of corruption in Mongolian society since 1998 the new draft anti-corruption law and national anti-corruption program have been formulated and submitted to the Parliament. It is planned to formulate the government strategy against corruption upon approval of the new draft law and national programme.

It is essential to identify the presence of political will to resolve this issue to fight corruption. Mr.de Speville, an independent consultant who was mentioned earlier states in his findings: “ Fighting corruption require political will. Higher level of state officials is concerned with the problem of corruption. They realize without taking efficient and expedient measures the situation may worsen. Fighting corruption require integrated and clear-cut strategy which consists of three components. They are:

- Execution of law
- Decreasing the risk of corruption in large and small systems
- Improving public awareness, advocating the need to fight corruption.”

The following points have been made by Mr.de Speville, an international independent consultant on corruption with regard to formulation and implementation of anti-corruption strategy:

I should now say something more about a strategy that could be adopted by Mongolians to deal with their corruption problem – a strategy whose objective will be to reduce corruption in Mongolia to the point where it no longer undermines what Mongolians are trying to build and the people will see corruption for the destructive menace that it is and guard against it.

Mongolians will first want to decide whether their standards about ethical conduct and corruption should apply to everyone or only to public officials, whether they should apply equally in the private sector as in the public sector or whether different standards of morality should apply in different sectors.

As to the strategy itself, it is self-evident that one of its elements has to be the effective enforcement of the national laws against corruption. But it must be recognized that enforcement of the laws alone can never bring corruption under control. That lesson has been learned many times in different countries which have tried to deal with a growing problem by making a nd enforcing harsher laws, only to find that the problem gets worse. Prosecution and conviction do not in themselves provide a solution. While it is essential that there should be effective action in making corruption a crime that carries a high risk of being caught, convicted and punished, it is now generally recognized that there are two other elements equally essential to success. They are the product of two commonsensible thoughts.

The first is that all of us live and work in and with systems– systems large and small. As members of an orderly society we function within them. These systems present us with the opportunities to take improper advantage of them. We are only human; sooner or later most of us will yield to the temptation presented by the system we work in. It is rightly said that a system is only as good ad the people who make it work. But the converse is equally true; people are only as good as the systems they have to work with. If a system is bad because it offers opportunities for corruption. The people who operate the system are likely themselves to become bad. So it makes sense to examine each of these systems, larger or small, and make some changes to the system, or even replace it or remove it altogether, so as to minimize or eliminate the opportunities for corruption that currently exist in it.

The second line of thought concerns people – all of us in the community. If we are to turn against corruption, we must first learn about corruption – what it does to our community, how it spreads like dry rot. Then we have to realize that it can be beaten, but only if each of us is ready to play our part. Finally, we must shun corruption and determine that we will not allow it to be part of our daily lives, as it is now in so many countries including Mongolia. So, for the whole community there must be education and there must be developed the willingness to help in the fight.

But people have an ambivalent attitude to corruption – an attitude of uncertainty compounded by tolerance, indifference or resignation, a feeling that corruption is so pervasive that nothing can be done about it and we might as well learn to live with it. There seems little point in helping the authorities to combat corruption - they themselves are corrupt!

That attitude must be changed for two reasons. First, if the laws against corruption are to be enforced, the allegations and suspicions of corruption have to be investigated. But, corruption being secretive and complicitous, there is nothing to investigate unless those who know that something is going on are prepared to say so. It is particularly difficult to develop the willingness to help in this way, especially in countries where denunciation to the authorities is anathema or where the authorities are deeply distrusted. But it must be done, for unless the authorities are given good information about what is happening, they will be powerless to do anything about corruption.

People must therefore be brought to feel that corruption has to be resisted, thatthe information they have is essential in the fight and that in giving information they will be protected and respected.

The second reason why people's attitude to corruption must change is the practical recognition that in the long term success can come only with the development of intolerance of corruption in the hearts and minds of every one of us. The effectiveness of enforcement is limited – you can investigate and prosecute for ever; without a change of attitude throughout the community, enforcement will not overcome corruption. Eliminating the opportunities for corruption is limited – you can go on improving the systems for ever; without a change of heart and mind in the people who operate the systems, the corrupt will always find a way round them.

These three elements of the strategy – enforcement, prevention and education – must move forward together and complement each other, for when they are made interdependent; any success in one of them enhances the other two. Now the strategy is more powerful than the sum of its parts – truly an effective weapon, reminiscent of the Chingsiin tug.

Implementation of the strategy against corruption may be assigned to a particular ministry, department and unit. This facilitates execution of control and accountability. If a part of strategy is trusted upon any of present government agency, units it may be unnecessary to establish an independent anti-corruption body. If trust in police department is weakened and it could not sustain proper functioning an independent investigative unit may be assigned under the coordinator. This will allow creation of double accountability system where a police officer should be accountable to police authorities for his work on one hand and also accountable to the coordinator for his activities on the other.

Anti-corruption campaign should be carried out on a step by step basis. Firstly, approval of strategy and executing mechanisms, identification of policy issues that will influence the campaign process, creation of comparative model to prospect the future trends through analyzing current situation of corruption and bribery, public attitude, formulation of legal instruments necessary for creation of implementing mechanisms, assurance of necessary enforcement and protective mechanisms, assignment of a person and an organization in charge of coordination, provision of necessary financial and technical support, selection and training of staff, improvement of public awareness, formulation of long term plan and lastly assurance of proper implementation of campaign and efficient outcome. It is important to ensure consensus on every step mentioned above with the view to create a nation-wide consensus by strengthening and expanding consensus with the advance of campaign activities.

Conclusion

Corruption in Mongolia became a tangible phenomenon of society. On prevalence of corruption in present day Mongolian society 48.8% of respondents think "customary", 44.2% think "widespread", 4.4% "random" and 1.5% found it difficult to answer. This indicates the prevalence of corruption in Mongolia. Dr. John Qua, PhD, professor of the National University of Singapore, who visited Mongolia in 1998 as an UN expert wrote on this subject: "Economic and social transition is a main condition for growth of corruption". And mentioned economic hardships, low wages in civil service and lack of resources to fight corruption. He further elaborates that: "if we compare situation of corruption in Mongolia with those of other countries, for example with Niger, the situation better than in Niger, but whether Mongolia will follow Niger in the future depends of recognition of responsibilities to fight corruption on the part political leaders and population." He also observed Mongolian State organizations' will to fight corruption and to formulate comprehensive strategy to decrease corruption.

Fighting corruption in Mongolia for last decade could not be marked as sufficient. There was no coherent perception of corruption (different from those of socialist era) in transition from command economy to a market-oriented one, despite of the Law Against Corruption provisions of this law and corruption related provisions of the Criminal Law are not enforced in reality, higher level officials fail to submit reports on their income, file gifts given to them and weak control is excised over them. Sociological survey carried out by independent researchers funded by the UNDP in 1999 on execution of provisions of the Anti-Corruption Law adopted few years ago respondents replied as follows:

- | | |
|------------------------|-------|
| • Not executed at all | 54.2% |
| • Incomplete execution | 33.1% |
| • Do not know | 11.2% |
| • Executed well | 1.5% |

From 1999 some higher level officials, press and media, non-governmental organizations began to pay more attention on fighting corruption. As a result people start to understand the importance of fighting

corruption. The Parliament of Mongolia also focussed on this issue, approved the National Anti-corruption program and consideration of a new anti-corruption draft law is planned.

On the causes of corruption, as a survey indicates, respondents replied as follows:

- Low wages and income 58.4%
- Bureaucracy 26.7%
- Weak economy 24.1%
- Moral degeneration of civil servants 13.2%
- Political instability 12.3%

This shows that the main cause of corruption is economic transition as indicated by Dr. John Qua. It also reveals the need to focus on bureaucracy and moral degeneration of civil servants to take actions aimed at eradication of this phenomenon.

It is appropriate to attach greater importance to and take expedient actions about the following issues to conduct successful corruption fighting:

- Improvement of national economic capability will narrow the environment for corruption, in other words it increases peoples' wages and income and funding of fighting corruption, with special emphasis on wage increases of judges, prosecutors and law enforcement offices.
- Cultivation of coherent perception of corruption, advocating the importance of fighting corruption among people, improvement of public awareness. The lack of the unified understanding of corruption causes obstacles in fighting corruption. There is a lot of difference of opinions to what corruption really encompasses. Greatest attention should be paid to changing the attitude of the public that corruption is inevitable.
- Adoption of the new draft of the Anti-Corruption Law, clarification of provisions related to corruption and bribery in the Criminal Law. One of the main reasons why the previous anti-corruption legislation did not function is that many provisions of the law are vague, it lacks clear mechanisms of implementing, the penalties are too small. The new draft legislation is much better in these respects and therefore adoption and implementation of the new law will become a big step towards fighting corruption in Mongolia. The provisions in the Criminal Code on corruption are out of date and also lack a clear definition. The Criminal Code still inherited many notions of the socialist times and therefore should be adapted to changing democracy – market times.
- Approval of National Anti-Corruption Program that is planned to be submitted to the Parliament will create a good environment for a long-term strategy and concrete steps towards
- Strengthening of non-governmental organization as a main component of a civil society with special focus on those non-governmental organization that take active action against corruption. Even if there is a certain political will to fight corruption, the fact that corruption is widely spread among middle-level officials will make it very difficult to be effective. Therefore, one of the most important things and tools will be to increase the public awareness and support educational and preventive work from NGOs.
- An independent anti-corruption body could be established. If it is unnecessary to establish such an organization it should be clarified which organization will be in charge of fighting corruption.
- Improvement of registration of disclosure and gifts of higher level public officials. It is important that professional ethics officers are trained in knowing what to do with the income disclosures, how to compare them and how to follow-up. Several new provisions are planned to be input in the laws on Government, on Status of Member of Parliament, on Public Service which will be important for making things more clear with regard to the ethics of Public Servants.
- Promotion of anti-corruption activities through press and media
- Press and media will be very important in implementing the Action Plan to fight corruption. Wide educational programmes and projects as well as investigative journalism will be very important. A long-term anti-corruption campaign on TV and radio as well as through newspapers should be encouraged. However, a good care should be taken in not blowing out some rumors and making political scandals out of unsubstantiated allegations.

- Creation of efficient screening and monitoring mechanism of political parties' funding and especially donations and make relevant amendments. A good step was taken making amendments to the law on Presidential Elections limiting the amount of donations to the Presidential candidate (\$5,000 from an individual and \$10,000 from a company). Similar and finer provisions should be added to the laws on Parliamentary elections and local elections.

I agree with Mr.D.Byambasuren, ex-Prime-Minister, who in his elaboration on launching fight against corruption at the Forum on National Anti-corruption program said: "As corruption is a kind of AIDS in Mongolian Government fighting corruption is directly related to core national interest. There fore anti-corruption program should be approved by the parliament not by the government. If not the government would be sacrificed. We should start from the President, Prime Minister, Speaker, Judge-General and Chief Prosecutor whether they are corrupt or not. We should also check funding of elections first".

The survey on execution of law and activities of law enforcement agencies conducted by the Research Center affiliated with the Parliament in 1999 asked respondents: What should be done with regard to legal institutions to fight corruption, cultivate social integrity? 64.4 % of respondents think "salary and income of employees of legal institutions should be increased", 34.6% think "present structure of law enforcement agencies should be changed" and 25.1% maintain that "ethical requirements for lawyers should be given priority".

Convergence and Divergence Among Main Components of National Integrity System

Courts have no sufficient budget for their proper functioning. It is necessary for them execute their budget independently from the Ministry of Finance. This will be a major step in reinforcing court independence. Although the financial independence of the courts is officially stipulated in the law on Courts, in reality it does not happen. So far, the courts have never had sufficient funding and could not even get all the funding that was approved by the Parliament. Although the collapse of the previous system created the well-known chronic budget deficit, and this deficit is the main reason for the above financial constraint for the courts, however, a priority funding as well the real financial independence should be given to the courts.

Frequent reshuffles of cabinet (3 times) by the Parliament during 1998-1999 caused political instability. As a result of the 2000 election one party (MPRP) won majority of seats in the Parliament which allows the ruling party to make decisions without delay. The frequent resignations of the government caused interruptions in implementations of anti-corruption steps (the major one being in mid 1999, when the then government of PM Narantsatsralt put together a solid foundation and consensus for anticorruption efforts. Unfortunately his early resignation caused replacements in many key positions such as Minister for Justice, Police Chief, Chief Prosecutor, Chief Attorney etc. that were part of the previous consensus group. It hindered the efforts of passing the new legislation and action plan by more than two years. The current Parliament has an overwhelming majority of MPRP members and therefore, if the government decides to go firm against corruption, then it is a very good timing to implement its programmes.

The views of state institutions and politicians on if an independent anti-corruption organization is established whom it would be accountable to differ. The Government wishes to affiliate it with the Justice Ministry, the President wants to have it under his supervision, but a great deal of people believe that it would be appropriate if this independent organization will be affiliated to the Parliament.

Press and media will be very important instruments in fighting corruption. Although there is a great attempt to uncover unjust behaviour and allegations of corruption in media, there is no practice for police and prosecutors to follow-up the information or complaints. On the other hand, because of low level of investigative journalism and professionalism, too many allegations lack substantiation or facts and therefore, people started getting fed up and ignoring articles of such nature. The tabloids in Mongolia are called 'yellow newspapers' and there are no proper regulations on libel acts and the judges are not experienced in solving the libel cases.

Perception of components of national integrity system is a new phenomenon in Mongolia. There was a different recognition in the socialist era which is mentioned in the preface of the report. Below is a list of notions that are different in NIS between the perceptions today and during the previous socialist regime.

Executive Power

During the socialist regime, the head of the state was the Chairman of the Communist Party and all the country decisions were made by more or less the dozen of party politburo members. Although so-called Council of Ministers existed, most decisions were directed along the communist party lines.

Since 1992, President of Mongolia is the head of the state according to the new Constitution. The president is elected directly by people for the period of 4 years. Political parties with the seats in the Parliament could nominate their Presidential candidates and run for the elections. The cabinet consists of Prime Minister and 13 Ministers. The majority party in the Parliament creates the government.

Legislative Power

A symbolic Parliament of 430 deputies existed during the socialist times. It did not function properly, the deputies were elected from communist party members with no contest and it sat only a few days a year to symbolically approve the ready-prepared laws (similar to the People's Great assembly of China today).

The current constitution provides for one-chamber permanent Parliament consisting of 76 members that are elected by first-past-the-post electoral system. The Parliament is the supreme law and policy - making body and has similar functions as Parliaments in other parts of the world. The Parliamentary elections are held every four years.

Funding of Political Parties

During the socialist times, the only existing and ruling communist party used to be fully funded from the state budget. Only a fraction of the funding came as membership fees.

Since the 1990's the funding of political parties comes mainly from donations. There is a small funding for the political parties from the state budget, i.e. for every seat in the Parliament, party receives 1 m. tugriks (cca. USD 1,000). Party could also raise money by renting out their buildings (in the case of the MPRP), or other entrepreneurial activities.

Independent Auditing Institution

There were no checks and balances or any independent audits as such during the socialist times – its own audit of the Communist Party checked everything. Also the State Secret Service (so-called 'Organisation to protect society from dangers') had its grip on the whole society.

A form of an independent auditing body was formed for the first time in 1995 – State Auditing Committee. But it will take some time for the Committee to become truly independent both financially and professionally.

Judiciary

During the socialism, judges were appointed by the Communist Party on a symbolic election. The new Constitution of 1992 changed the Judicial system completely. Mongolian President appoints the judges on the basis of a fair selective process. The understanding of an independent and impartial judiciary came about only in the past ten years. Although there is a progress with making judiciary independent and professional there are still a lot of obstacles with the process.

Civil Service

The core of the decision making during the socialist times was the Communist Party and therefore all the higher and middle level public servants were either the party members or those who got screened through the party committees. A new law on Public Service was adopted in 1995 and made a principal change in the appointment of civil servants. Although there are legal clauses for the public servants to be selected and promoted on a professional basis, for some categories - to be non-partisan etc., still the mentality of appointing your party supporters or protégés is still widespread.

Investigative Bodies (e.g. anti-corruption)

During the socialism, investigative bodies had different objectives and functions. The political repressions of the Stalinist era also covered Mongolia and a large number of political opposition members as well as intelligentsia, monks and even many ordinary innocent people etc. were killed or repressed. Special investigative bodies as well as special courts undertook this black task. As late as

the 60's and 70's, people with alternative thinking and ideas were also followed by secret service and repressed. Obviously there was no organisation to fight corruption then.

Only in 1996, the first anti-corruption legislation was passed, albeit too vague and ineffective. The first idea about ICAC came at the end of 1998 which has now find its place in the draft proposal of the new law on anti-corruption. Hopefully, the law will be approved during this year and an independent body will be set up. A large proportion of people started understanding the necessity for such an organisation although the memories from the Stalinist repression times still evoke a lot of antipathy towards any 'special commissions' and opponents of an idea of ICAC remind people of the 1930's and ask them whether we need any special people with the special rights to follow, investigate, tap etc.

Press

There was no independent press in the socialist times, no freedom of press or freedom of speech. Party ideology was of course prevalent throughout all the media and there was a strong part censorship in media.

Civil Society

In March 1990, under the pressure of pro-democracy movement in Mongolia, the entire politburo of then Communist party resigned and gave way to a multi-party system. The new Constitution of 1992 declared that Mongolia is aiming to create "a humane civil democratic state". During the socialism, a number of centrally-organised women, youth and trade union organisations were present but created without any initiative from grass-roots and all the activities were directed by the communist party. Since 1994 a large number of NGOs have been created and they play bigger and bigger role in today's Mongolia.

As components of national integrity system in Mongolia is in its infant stage of development it is necessary to pay attention to each component. Assurance of independence of courts, fighting corruption in legal institutions, especially in the police is of a high priority. It is also important to increase public participation in fighting corruption, advocate evils of corruption and strengthen non-governmental organizations.

References

Note

¹ Each week, only one Minister faces "The Question Time" in the Parliament; overall, it comes to usually not more than 3 times a year per Minister.

Laws of Mongolia

Constitution of Mongolia, 1992

Law on Human Rights National Commission, 2000

Law on Government, 1993

Law on Anti-corruption, 1996

Law on Civil Service, 1995

Law on President, 1993

Law on State Great Hural, 1997

Law on Legal Status of Member of Parliament, 1997

Law on Parliament Session

Law on Parliament Election, 1992

Law on Political Parties, 1990

Law on State Budget, 1993

Law on State Auditing, 1995

Law on Courts, 1993

Law on Police Organization, 1992

Law on Prosecutors, 1992

Civil Law, 1963

Law on Civil case at the courts

Criminal Code, 1994

Penal Code

Law against infringement of human rights by public organizations and officials, 1990

Law on Public Procurement Contract, 2000

Law on Freedom of Press

Law on Personality, 1995

Law on NGO's, 1997

Law on Public Administrative Unit and its Management, 1992

Bibliography

Government Programme of Activities, 2000

Revised draft of the Anti-corruption (submitted to the Parliament in January 2001)

National Anti-corruption Programme draft (submitted to the Parliament in January 2000)

Recommendations by independent international consultant on corruption Mr. Bertrand de. Speville in 1998, 1999, 2000

Recommendations by Dr. John Qua, Professor of Singapore National University in 1998
Article by Mr. D.Lamjav, independent researcher on anti-corruption
Materials of National Conference on Anti-corruption held in Ulaanbaatar in January 1999
Materials of National Conference on Roles of Civil Society in Anti-corruption held in Ulaanbaatar in April, 1999
Materials of Round Table discussion held in Ulaanbaatar, in January 2000
Materials of round table discussion on National Integrity System indicators held in January 2001
Materials of meetings held on National Integrity System held in February 2001
Public Attitudes and Perception Survey Report, November 1999 (financed by UNDP and SOROS foundation)
Materials of Research conducted by Parliament Research Center on implementation of laws and law enforcement organizations, 1999
Research and Survey on Anti-corruption, June-July, 1999
"Corruption in Business Sector" Survey materials March, 2000
"Can corruption and bribery be defeated" handbook, February, 2001
Other materials and articles related to the corruption
Database on enacted laws and legislation in Mongolia (Library of Parliament of Mongolia)

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 - Criminal Code, 1994, 9, 15, 16, 20
 - Draft anti-corruption law, 4, 11, 13, 16, 19
 - Law against infringement of human rights by public organizations and officials, 1990, 20
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 - Law on Claims against Illegal actions of State Administrative Organs or Officials for Infringement upon Civil Rights, 1992, 9
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