



**OPEN SOCIETY FORUM**

# **CASE STUDY OF ART AND CULTURE PRIVATIZATION** \_\_\_\_\_

**Ulaanbaatar, 2004**

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## **OPEN SOCIETY FORUM**

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Case study of art and culture privatization  
Case: “Legal basis for reforms, innovation and privatization of arts and cultural organisations and its enforcement in rural areas”

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# PILOT PRIVATIZATION IN THE SOCIAL SECTOR: \_\_\_\_\_

## “LEGAL BASIS FOR REFORMS, INNOVATION AND PRIVITIZATION OF ARTS AND CULTURAL ORGANIZATIONS AND ITS ENFORCMENT IN RURAL AREAS”

### Goal of the survey:

The goal of this case study is to review the legal environment or basis of arts and cultural organizations in the framework of reforms, innovation and privatization in the social sector and examine the consistency of the legal environment with other legislation. The secondary goal of the study is to explore the implementation process of reforms, innovation and privatization in rural arts and cultural areas along with outcomes on practical examples of certain aimags and areas.

### Survey methodology and coverage

This survey has been carried out in particular phases with a series of goals through reviewing or the exploratory method of a case study. The specific goals of this survey are to examine the legal environment for reforms, renovation and privatization of arts and cultural organizations, to reveal the underlying problems and discrepancies thus to approve them through the current state of rural cultural organizations and eventually to raise some issues based on facts and viewpoints of interest groups.

In particular, the methods including the comparative analysis of relevant legislation, reviewing orders by the central and local executive bodies along with their implementation, interviewing order implementing organs, observing public opinions, being exposed to the reality, analyzing reports of rural arts and cultural organizations, studying theoretical books and works on culture and discussion with specialists were used in the survey.

Through the survey, efforts have been made to demonstrate the current activities of art and cultural organizations, the quality and access of their works in Selenge, Tov, Darkhan-Uul, Dornod and Baganuur aimags and towns, the implementation process of local decisions and policies on culture and to reveal the accumulated problems or issues consistent with the national policy.

## Preview of modern cultural approaches and theories and the current state of Mongolian culture

*It is crucial to properly define culture from the perspective of philosophy and cultural studies for the development and adoption of policies on the art and cultural sector. This actually means determining the object or functioning scope of the policy to be developed and implemented. In our country, "culture" has been perceived as arts or cultural-entertaining organizations and the imprint of this misconception has still been preserved.*

*/" Scientific rationale for policies on art and culture", J. Dolgorsuren, N. Sarantuya, B. Sumya, Ulaanbaatar-2003, Page 5./*

The 1982 Declaration following the "World conference on cultural policies" of UNESCO defines culture as;

***Culture is a complex whole of social material entities, human mentality, knowledge and common emotional feelings and it includes not only various arts but also ways of living, basic principles of human life, values, traditions and beliefs.***

A high emphasis on the importance of culture in social development exists thus, a great focus on it has been a special feature of modern social, political and theoretical approaches. UNESCO and its partner international organisations have already reached a common understanding that culture is a vital measurement defining social development.

As accepted in the modern cultural studies, culture performs :

1. social memory functioning ,
2. transmitting social expertise,
3. civilizing or developing human beings.. ...

Interactions, politics, jurisdiction and the ideology of society hinder or foster the development of culture. They are as follows;

1. In case the social structure is less progressive than the culture, it hinders cultural progress and development, destructs values created by previous generations or at least limits complete utilization of those values, meeting the social needs and demands.
2. With rapid progressive reforms in the social structure, a culture that is greatly dominated by traditions ignores reforms or innovations and thus, is no longer a stimulating factor for social development.
3. When the society and culture are enhanced in balance, individual growth is facilitated without conflicts , the society promotes comprehensive cultural prosperity and the culture is a powerful internal engine, speeding social development .

*/" Scientific rationale for policies on art and culture", J. Dolgorsuren, N. Sarantuya, B. Sumya, Ulaanbaatar-2003, Page 38-39./*





As of recent years, the changes in the social sphere of cultural interactions can be seen in the following areas;

- Mentality is liberated upon abolishment of old ideology thus, a free, multiple system is legally guaranteed.
- New mental demands among the population, especially youth, are derived in connection with the rapid changes in the external environment of arts and culture.
- As Mongolians have reformed their passion for traditional entities, there has been stronger enthusiasm and willingness to restore the traditional religion. Consequently, a large number of monasteries and temples have been built and restored in a short time, increasing the role of religion in the lives of people. Furthermore, foreign religions and various religious streams have penetrated society and have been adopted by certain social groups.
- Decentralization of art and culture management is reached, thus facilitating the independence of local organisations, individuals and artists.
- Foreign relations of the art and cultural sector have been opened and cultures from other countries and nations are freely transmitted.
- Culture Management and administration is not completely innovated but still maintains the old management style in a period when all social spheres are transforming to the market economy.
- Since national approaches and strategies on running arts and cultural organisations in the market economy are not clearly defined, these organisations lack the capacity to exist independently and constantly encounter financial obstacles.
- Transition to a completely different social relation has caused fundamental changes in people's viewpoints, life philosophy, goals, directions, way of living and values. However, new viewpoints and value systems have not yet been formed.

Although the majority of these changes have positive features that meet goals and peculiarities of the new society, it is inevitable to accept their negative consequences. From them, morality failure is the most destructive consequence for human existence and social life. This has resulted from the negative changes in the life philosophy of many people, abolishment of collaborativeness, friendliness and helpfulness that had been preserved for thousands of years by Mongolians and reformulation of cooperative living, the basis of nomadic life style, due to deep social and economic crisis and widespread poverty. So, the selfish "ego-centered" viewpoint has turned out to be the main life philosophy at normal consciousness level.<sup>1</sup>

One negative phenomena popular in our society in recent years, is the strong internal decay of society. Besides the positive phenomena such as democracy and transition to the market economy, the decay in society is deepening with people separating from each other according to their age, gender, religion, ethnic background, viewpoints, party or political philosophy and a destructive atmosphere is penetrating every single particle of the society. This is a quite dangerous phenomenon. That's why, it is necessary to encourage the arts and cultural organisations to mobilize society in a positive way, to unite the people and guide the art

<sup>1</sup> The Arts Council of Mongolia, ACM, "Cultural policies, funding of art and cultural organisations". Ulaanbaatar – 2003, Page 7 – 8.

organisations and values towards human energy, capacity and creative activities rather than entertaining function focusing on sensation or adventures.<sup>2</sup>

According to some researchers, current international trends of policies on culture focus on the following areas;

- *Enabling every individual to take part in cultural activities,*
- *Protecting, preserving and advertising national and ethnic cultural heritage,*
- *Maintaining the purity of the native language,*
- *Decentralization in the cultural management system and facilitating independent functioning of a local and particular organisation,*
- *Wide engagement of public and private sector in cultural funding and motivating private sector investment in the art and culture through favourable policies on state loans and taxation,*
- *Keeping the cultural interaction as open as possible.*

In addition to adopting global trends as Mongolia's general guideline, it is essential to consider the national cultural peculiarities in order to develop a proper policy on culture based on scientific basis and research. From the cultural studies perspective, our country has the following historical peculiarities;

1. Mongolia is a country with ancient culture.
2. Mongolia belongs to the Oriental culture, one of several cultural styles in the world.
3. It is a country with Buddhist culture.
4. Mongolia has numerous clans or tribes.
5. A significance of the current cultural interaction in our country is the coexistence of nomadic and urban civilizations.

## **Policies and the current legal environment/basis of the cultural sector of Mongolia**

The Constitution of Mongolia adopted in 1992 proclaims that "Historical, cultural, scientific and intellectual heritages of Mongolian people shall be under the state protection", "Intellectual values produced by the citizens are the property of their authors and the national wealth of Mongolia". It also declares and ensures the equal rights for every citizen "to conduct art, cultural and scientific activities, create works, and benefit from his works". Furthermore, some acts and laws such as "Mongolian State Policies on

Culture "approved by the State Great Khural" in 1996, "Law on Copyright" /1993/, "Law on Patent" /1993/, "Law on Culture" /1996/, "Law on Protection of Cultural Heritage" /2001/ define principles and guidelines of cultural policies to be pursued by the state. Arts and cultural organisations have been operating according to the law on management and funding of budgetary organisations since 2003.

<sup>2</sup> There , Page 10.



As researchers propose, the legal environment of the arts and cultural sector is defined as a complex system consisting of the willingness of arts and cultural organizations along with artists, the public and the society to conduct cultural activities besides the fixed norms and management of conducting the activities.<sup>3</sup> Based on the definition, “Jurisdiction is a system consisting of agreed willingness of persons participating in social interactions, individuals and their group measurement of rights and freedom, devices to meet various social interests and needs and limits guaranteed by the state authority” (Ch. Nyamsuren, 2001,75). The jurisdiction of arts and cultural activities is defined as, “a mechanism to deal with the norms of producing, preserving, protecting, disseminating, utilizing, inheriting, studying and advertising cultural values based on the interests of various social groups.”

In any country, this system includes internal and external features of the legal environment. Therefore, the legal environment of Mongolian art and culture can be considered as a system comprising of social, political, economic, moral and foreign relation norms with a structure of four basic levels and internal and external features.<sup>4</sup>

Legal documents and recourses for reforms, renovation and privatization process of arts and cultural organizations include the laws and acts on policies, directions and principles of art and cultural organizations at various levels and main guideline on reform, renovations and privatization of the social sector, the law on state and local properties, the government resolution approving the list of organizations to be reformed, renovated and privatized, relevant provisions by the Ministry of Education, Culture and Science and the State Property Committee and international conventions, treaties and memorandum on art and culture. The laws and acts at various levels consist of government programs, orders, and resolutions by the central administrative agency in charge of art and culture, directives, decisions and resolutions by local governors, rules, decisions and procedure by the heads of grassroots art and cultural organizations.

The goal was to evaluate how the legal environment that determines the policies, social role, principles, authorities, and financial system of the art and cultural sector has been formed and how this legal environment is applied in rural areas. Thus revealing the needs and demands to integrate with other laws and regulations. In this framework, the legal environment of art and culture will be examined and evaluated.

Let us see how the quintessence of culture and its social role is reflected in the above mentioned policy papers and laws in a chronological order.

<sup>3</sup> “Scientific rationale for policies on art and culture”, J. Dolgorsuren, N. Sarantuya, B. Sumya, Ulaanbaatar-2003, Page 96

<sup>4</sup> there, Page 97

Resolution # 20 by the Property Privatization Commission of the Mongolian Government, September 10, 1994 "Privatization of arts and cultural organizations"					
Definition of culture and its social role	Definition of the main principles of cultural policy and backgrounds	Main guidance on advancing management of cultural sector	Main principles of funding of arts and cultural organizations	Main guidelines on strengthening arts and cultural organizations in rural areas	Implementation, integration with other laws and regulations, fundraising issues
<p>"To use most effectively art and cultural forms /devices in preserving and developing national intellectual values, and forming the trends based on the common values of humankind as the mental nucleus of the people.</p>	<p>"The main goal lies in forming the structure of culture that is consistent with the market economy conditions and creating the economic basis of culture."</p> <p>"The activities of privatization and management structure will focus on the adequate combination of state, public and private organizations in the art and culture sector."</p> <p>"Granting individuals the opportunity to express their viewpoints freely"</p>	<p>"The following arts and culture organizations will remain as the state-owned;                      The Central Cultural Palace, The National Museums, local museums, Restoration department of museum entities, Art gallery, the central, city and local libraries, documentary and archive organizations, Mongol Film production, central and local film funds, The State Ensemble of National Folk Song and Dance, The National Philomorony, The Academic Theatre of Opera and Ballet, The National Academic Drama Theatre, UKZT, film institution, Soyombo printing house, company of bonds"</p> <p>The following provisions will exist; The privatization commission shall sign a contract with the ministry of culture and local governor's offices to ensure that the activities and directions of an arts and cultural organization remain the same. It is allowed to run other subsidiary service with the main areas of activities active. Facilitating competition for better quality of artistic work and service shall enhance art and cultural activities. In case, there is no agreement over these conditions or breach of them, the contract with the owner shall be terminated and the damage incurred shall be reimbursed.</p>	<p>"State or state-owned arts and cultural organizations are allowed to run activities and service for the purpose of gaining additional revenue if the law does not restrict.</p>	<p>"A decision to privatize cultural centers, clubs or mobile cinemas in soums or the districts or the capital shall be made upon the agreement and compromise with the governor's office of a particular aimag, soum or district.</p> <p>"Music and drama theatres or ensembles in aimags shall remain as state-owned organizations and further measures to categorize, develop on a regional basis, expand their scope and adopt more appropriate organizational forms"</p>	<p>"The issue of property belonging to the arts and cultural organizations founded at the initiative of the public shall be reviewed and solved in accordance with relevant legislation.</p> <p>The revenues from the privatization of arts and cultural organizations shall be accumulated in the privatization fund and a part of it shall be spent on funding projects in the art and culture sector.</p> <p>Financial and other appropriate assistance for the privatized arts and cultural organizations shall be sought and rendered in accordance with the current legislation for the national and public interests.</p>
<p><i>This was the first attempt to implement structural reforms in the art and culture sector. This resolution is important for stating that national and global intellectual values shall be formed as a nucleus of the people's mentality. However, it is inadequate for not providing any details on the social role, effects of art and culture. This resolution was not implemented due to the lack of legal environment. Yet, this resolution is significant for including the first essential ideas that arts and cultural organizations can be "state, public and private", and establishment of "a fund for art and cultural projects", and "financial and other assistance for arts and cultural organizations from the state shall be reviewed and rendered in accordance with the relevant legislation" not considering the status of ownership status</i></p>					

Mongolian State Policies on culture

Definition of culture and its social role	Definition of the main principles of cultural policy and backgrounds	Main guidance on advancing management of cultural sector	Main principles of funding of arts and cultural organizations	Main guidelines on strengthening arts and cultural organizations in rural areas	Implementation, integration with other laws and regulations, fundraising issues
<p>- Recognising the importance of culture in developing a humane, democratic and civil society in our country,                      - Emphasising that the national culture is not only a guarantee of the country's independence, security, but also the national pride, resource of the unity and a lever of development,                      - Aiming to expand cultural service for the people, develop all forms of arts, transmit the national cultural heritage to the descendants, to comprehend culture in a broader term and integrate it into social and economic sectors,                      the state is adopting the policies on culture that will be sustainably pursued.</p>	<p>- To ensure comprehensive prevention from the loss of the national culture due to social crisis and other circumstances, negative acculturation, extinction of heritage and traditions and failure of mental life,                      -to develop the national culture in combination with the achievements of world culture,                      - to maintain the ancient and present historical and cultural heritage under the state protection considering them as national wealth,                      - to provide the opportunities to treat the culture and heritage of Mongolian various tribes and clans equally with dignity and protect as well as develop them,                      - to protect the rights and freedom of citizens to produce work and benefit from their work, to provide the citizens with adequate support to discover and develop their talents.                      - to take the creators of cultural values or keepers under the state protection and care,                      - to encourage the artists to choose their viewpoints, approaches, streams, school freely,                      - to encourage anyone and artists to establish professional unions or associations and to conduct effective cultural activities,                      -to promote multiple forms of property in culture sector thus facilitate just and free competition in the sector and enhance fruitful foreign relations.</p>	<p>3.1. To accomplish a series of work to teach the citizens cultural awareness and upbringing from young age as a part of education system.                      3.7. The state is to monitor the spreading of works advertising war, terrorism, violence, and pornography and to take measures to pass certain restrictions if necessary.                      3.8. To <u>upgrade the role of media</u> in provision of people's cultural needs, to implement a complex measures to advance technology and equipments of publishing houses and film studios.                      3.9. To increase the production of children's books and artistic work and improve their quality.                      3.11. To strengthen basic and subsidiary research into culture extensively and to apply their findings and results in general or professional training.                      3.15. To set and apply quality criteria of cultural service considering the international standards and national peculiar characteristics through improving the network of arts and cultural organizations.                      3.17. To pay <u>attention</u> to improving the <u>management and marketing</u> of the culture sector.                      3.18. To encourage all forms, especially tutoring and student –based learning of training professionals, teachers and researchers specialized in culture.                      3.21. To promote foreign relations and cooperation with all interested countries and international organizations and expand the opportunity for non-governmental organizations and citizens to take part in the relations independently.</p>	<p>3.5. To develop all forms and genres of arts, and to keep national, traditional and classical arts as well as arts and documentaries for children <u>under the auspices of the state</u>.                      3.6. <u>to select and fund</u> leading artistic work and projects that are necessary to meet the intellectual needs of the people.                      3.22. to make joint formation of cultural values, spreading intellectual achievements, training professional personnel, introducing new technology and equipments, exchanging cultural expertise and implementing joint projects and programs in the cultural sector as the important areas of foreign relations of culture.                      3.25. The state is to <u>establish and operate a special fund</u> designated to support cultural activities and work.</p>	<p>3.16 To <u>find a series of solution</u> for providing rural people with arts and culture, upgrade their cultural awareness and to improve the cultural environment in rural areas.                      3.19. to ensure the social protection of workers employed in the cultural sector through a law and to properly assist them with social welfare care.                      3.28. To <u>allocate and spend</u> certain amount in the annual state budget or local budgets on funding of cultural activities in order to accumulate guaranteed resource.</p>	<p>3.2. To <u>fully encourage</u> organizations, ventures and individuals to produce cultural values, study, advertise, preserve and protect historical and cultural heritage                      3.3. To strengthen the role of organizations, ventures and citizens in introducing traditional and modern technology in production and service industry and improving production esthetics, business and living culture and design                      3.4. To <u>adopt policies</u> on city planning and architecture reflecting national peculiar characteristics while preserving peculiarities of traditional way of life.                      3.12. To <u>encourage any initiative and creative activities</u> of citizens to spread culture.                      3.13. To <u>regulate</u> status of cultural organizations.                      3.26. To create favorable conditions for attracting foreign investment in cultural sector through appropriate policies on customs, financial issues, loan and taxation.                      3.29. To ensure implementation strategies of state policies and principles on culture in laws and regulations.                      4.2. The Mongolian State Policy on Culture is to refer to the responsibilities of the government, the relevant ministry and local agencies and to be implemented through the activities of these organs.</p>
<p><i>This was a complex document that focuses on promoting the rights, freedom and norms declared in the Constitution of Mongolia regarding culture. This was a document that meets international standards of policies on culture for it addresses preservation, protection and advertisement of Mongolian national and ethnic cultural heritage, keeping the cultural interaction as transparent as possible, provision of opportunities for every person to participate in cultural activities, engagement of state and private sector in funding of culture, decentralization of cultural management, and establishment of a mechanism to implement, monitor these issues. This document is significant because the legislative power or the State Great Khural of Mongolia declares its sustainable approach, recognising the national culture as a guarantee of independence, security, national pride and resource of the unity and development factor.</i></p>					

The Mongolian Law on Culture. June 15, 1996, Ulaanbaatar city					
Definition of culture and its social role	Definition of the main principles of cultural policy and backgrounds	Main guidance on advancing management of cultural sector	Main principles of funding of arts and cultural organizations	Main guidelines on strengthening arts and cultural organizations in rural areas	Implementation, integration with other laws and regulations, fundraising issues
<p>1. "Cultural activities" refers to the following actions in connection with producing, owning, utilizing, preserving, studying and spreading cultural values. They are;</p> <p>A/ production and dissemination of art forms including fiction, music, fine arts, theatre, circus, filming, architecture, design</p> <p>B/Manufacturing and service of cultural values and spreading them among the public</p> <p>C/Preservation, protection and restoration of Mongolian language and ethnic dialects as well as verbal and written cultural heritage.</p> <p>D/ Increasing general cultural awareness of the citizens, providing artistic and esthetic education and knowledge.</p> <p>E/ Cultural activities and events conducted through media.</p> <p>F/ Development of cultural studies and research.</p> <p>G/ Promotion of foreign relations and cooperation in the cultural sector.</p> <p>2/ "Cultural values" refer to artistic approaches, mother tongue, national scripts, dialects, traditional technology, place and river names, traditions, symbols, folk arts, books, sutras, family tree, seals, rock painting, inscriptions, handicrafts, artistic and cultural work, work of cultural studies, research techniques.</p>	<p><i>Article 4. Citizens' cultural rights,</i></p> <p>- to be introduced to the items of national and universal value, to conduct cultural activities, and benefit from them</p> <p>- to make free choice of art work, to have confidentiality of their ideas and skills protected</p> <p>- ... to conduct all cultural activities abroad except the ones prohibited</p> <p>- ... inherit and develop cultural traditions and heritage</p> <p>- ... to establish an artistic union, association or join them</p> <p><i>Article5. Cultural duties and responsibilities</i></p> <p>- ... to protect and develop cultural heritage,</p> <p>- to study the mother tongue, script and inherit or transmit them</p> <p>-to respect the heritage of family culture and upbringing, to know family background, and to keep family tree</p> <p>- to protect cultural values from any destruction and attacks</p> <p><i>Chapter 3. Cultural organizations</i></p> <p>6.1. Cultural organizations shall be classified as national and local not depending on the ownership status...</p> <p>7.1. Ventures, organizations and citizens have the right to establish and run profit or nonprofit cultural organizations.</p>	<p>Article 7. Establishment of cultural organizations,</p> <p>Article 8. Granting a certificate of permission,</p> <p>Article 9. Inclusion in the state registration,</p> <p>Article10. Cancellation of a certificate of permission,</p> <p>Article 11 regulates the <i>procedure to abolish a cultural organization</i></p> <p>Article12. Management structure of culture.</p> <p>The management structure of culture shall consist of the state administrative body responsible for cultural issues and administration of local cultural organizations and municipalities.</p> <p>Article 13. Power of the state administrative body responsible for cultural issues.</p> <p>Article14. Power of Local Citizens' Representatives' Khural and governors,</p> <p>Article15. Management structure of cultural organizations,</p> <p>Article 16. Duties of the state administrative bodies,</p> <p>Article17. Duties and responsibilities of cultural organizations,</p> <p>Article 18. Rights and duties of ventures are regulated.</p> <p>Article 23. <i>Accountability and penalties for actions of breach of laws and regulations on culture.</i> In case there are no grounds for criminal penalties for the breach of cultural laws and regulations, the following administrative liabilities shall be imposed;</p> <p>À/ Imposition of fine of 10.000-50.000 tugrugs on a citizen and 80.000-250.000 tugrugs on an organization for conducting cultural activities without a permission,</p> <p>B/ Imposition of fine of 25.000-50.000 tugrugs on a citizen and 70.000-250.000 tugrugs on an organization found guilty of conducting cultural activities to spread and advertise war and violence.</p>	<p>Article21. Financing of cultural organizations /COs/,</p> <p>1. It allows COs to have <i>all financing resources permitted.</i></p> <p>2.<i>State owned, nonprofit leading cultural organizations, centers and local organizations should be financed from the state and local budgets, and revenues from their s performance.</i></p> <p>3. <i>The non-profit cultural organizations other than state owned may be financed by the state, based on project proposals. The government shall pass the procedure on project selection process.</i></p> <p>4. <i>The budget for the cultural sector shall be approved as a separate category in the state and local budgets.</i></p> <p>5. <i>A special fund may be established and ran with an aim to develop the culture.</i></p> <p><i>/A relevant procedure shall be passed by the government /</i></p> <p>6. <i>A procedure on granting taxes concession for bodies and citizens who donated contribution and investment to the Fund for Cultural Development.</i></p> <p>7. <i>...National lottery tickets can be released. /Government/</i></p> <p>8. <i>It is prohibited to utilize the fund for cultural activities for other purposes.</i></p>	<p>Article 6.</p> <p>6.3. Regional cultural organizations that have duties to provide several aims with arts and cultural service may be established.</p> <p>6.4. The organizations aimed to provide the people in aimags, the capital, soums, districts, and regions with arts and cultural events should belong to local cultural organizations.</p> <p>Article 22.</p> <p>22. Cultural workers shall be provided with the following social guarantees.</p> <p>A/ At the beginning of old age pension, an employment organization shall grant the salary used in determining pension as well as the amount of money equal to one year salary to the newly pensioned worker.</p> <p>B/ rise in pay, bonus salary, and additional salary for academic degrees, titles and qualifications shall be provided, considering working conditions, and professional characteristics.</p> <p>B/ In conformity with Article 20 of the Law on Social Insurance, in case a cultural worker loses her/his professional working ability in the course of his or her work, the state shall pay for re-training that person upon the person's requests and consent.</p>	

**Law on amendments to the law on culture. June 20, 2002, Ulaanbaatar city.**

	<p>Article 22 //1/                  1. Cultural monitoring shall be carried out by the national auditory and monitoring department of culture, national inspectors, and governors of all level.                  2.The national auditory and monitoring department of culture shall monitor the enforcement of relevant regulations, norms, normative, rules and procedure and activities of cultural organizations.                  Article 20 paragraph 2                  "2. Utilizing or leasing the state owned buildings, complex and land for cultural activities as a whole for the purposes that contradict the main function of that cultural organization shall be prohibited.</p>	<p>Article 21.                  "9. Masterpieces of music, fine arts, film production, books and printed materials may be purchased for the state treasure. The government shall pass the procedure on selection and purchase of masterpieces.                  "10. Production of documentaries about specific historical events of Mongolia and chronological history shall be financed by the state budget.                  "11. Financial assistance shall be rendered to production of traditional and classic works and artistic works for children and movies or documentaries by the state order. The government shall pass the procedure on financial assistance.                  "12. The amount of funding allocated in the state and local budgets for cultural organizations shall not be planned less than the normal amount considering revenues from performance and donations from bodies and individuals.                  Article 22                  17. Not less than two copies of newly published books and printed products shall be purchased for the national, capital and aimag libraries upon the selection. The government shall complete the selection procedure.</p>		
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**Comparative analysis of current legislation of culture in Mongolia**

Definition of culture and its social role	Definition of the main principles of cultural policy and backgrounds	Main guidance on advancing management of cultural sector	Main principles of funding of arts and cultural organizations	Main guidelines on strengthening arts and cultural organizations in rural areas	Implementation, integration with other laws and regulations, fundraising issues
<p>"Culture", "Cultural heritage and values ", "Cultural activities " are defined in a detailed way, making them consistent with the state sustainable policies on culture.</p>	<p>Rights and duties of the citizens, the main subjects taking part in culture and cultural interactions, and other cultural organizations are defined clearly.</p> <p>This has facilitated rights of anyone to take part in cultural activities. However, in terms of duties, <u>declarative attitude such as "noble duties" might have weakened the implementation.</u></p>	<p>Structure of culture and norms of cultural relations are thoroughly determined.</p> <p>The rights and duties of the state administrative or local bodies in charge of cultural issues, and rights and duties of cultural organizations and ventures are defined.</p> <p>However, <u>the accountability system is not formed.</u> In particular, developing cultural sector is not perceived as one of the state duties. Thus, this issue is not reflected in the responsibilities of heads and workers employed in the state administrative and local bodies in charge of culture. This fails to instruct that state policies on culture shall be applied through the responsibilities of those employed in the cultural sector. This all reduced the power and living capacity of the law.</p>	<p>Major forms of financing arts and cultural organizations are regulated and guaranteed. Nevertheless, there are no sufficient measures taken to motivate financing art and cultural activities through customs and taxation policies, this issue is not integrated into the laws on financing budgetary organizations, no provision regarding this is included in the law. Because of these reasons, most forms of financing have not been practiced until today.</p>	<p>General principles of regulation, structure, and organization of cultural organizations in the rural areas are determined. Yet, it does not have any provisions on forms and devices that would strengthen rural cultural organizations.</p> <p>Appreciatively, many provisions on social protection for cultural and art workers are included with strong background to be implemented.</p>	<p>The given law is the main law to coordinate cultural interactions as a whole, and it is successfully enforced achieving its goals.</p> <p>Accountability structure of culture and cultural interactions, and financial assistance for the art and cultural sector are not really reflected in most laws and acts including, <i>Law on administrative units and their management, Law on the government, Law on Management and Financing of Budgetary organizations, Package Law on taxation and customs. This has hindered promoting a mechanism to develop art and culture.</i></p>



The National program on protection and restoration of immovable historical and cultural heritage. Annex of the government resolution # 51 of 1998					
Definition of culture and its social role	Definition of the main principles of cultural policy and backgrounds	Main guidance on advancing management of cultural sector	Main principles of funding of arts and cultural organizations	Main guidelines on strengthening arts and cultural organizations in rural areas	Implementation, integration with other laws and regulations, fundraising issues
Mongolian people have created the nomadic civilization and produced unique artistic and cultural heritage derived from the nomadic style of life throughout history. It is vital to study, conserve and protect the historical and cultural heritage and transmit it to the next generation in order to play an important role in the world civilization besides cognitive, historical, cultural and scientific importance.	<u>Two. Goal of the program</u> The goals of the national program are to protect, restore or reconstruct historical and cultural heritage based on certain policies and orders, to identify the current state and future trends of historical and cultural heritage, to include them in tourism routes, and to utilize the state budget, loans and donations from international organizations and donor countries for protection and restoration of cultural heritage with a plan and goal set out in advance and effectively.	<u>3.a. Ways of protecting the heritage</u> 1. Registration - ...to register the heritage in the state registration- database and to gather complex materials and facts - ... "to organize work to get the heritage included in the "World Heritage List". 2. To keep the heritage under protection, 3. To advertise 4. To conserve 5. To restore	The total budget for the implementation of the program - 1 880.3 million tugrugs Out of them: a/ For restoration of historical and cultural heritage -1 624.0 million tugrugs b/ For conservation of the heritage - 171.8 million tugrugs c/ Building yards and protection and lightning rod for the heritage - 57.5 million tugrugs d/ For keeping replica and forms of the heritage in the state registration and database - 23.2 million tugrugs e/ For production of replicas of historical and cultural heritage - 11.0 million tugrugs	<i>/The list of historical and cultural heritage that need protection, preservation, conservation, and restoration in each aimag, soum with specific location, types of replicas to be kept in aimag and soum museums, timeframe and the bodies responsible for conducting the activities are included in the program /</i>	<u>Four. Action plan of the program</u> There is a plan to implement the program on protection, preservation and restoration of heritage in 7 phases. In planning the phases, the amount of funding required to accomplish the tasks are estimated in relation to the timeframe of accomplishment and criteria of the subscriber organization. Depending on the potential economic circumstances, the plan may be altered.
National Program on Supporting the traditional folk arts. Annex 1 of the government resolution No68 of 1999					
Definition of culture and its social role	Definition of the main principles of cultural policy and backgrounds	Main guidance on advancing management of cultural sector	Main principles of funding of arts and cultural organizations	Main guidelines on strengthening arts and cultural organizations in rural areas	Implementation, integration with other laws and regulations, fundraising issues
Traditional and folk arts of any country are a manifestation of life characteristics, customs and the development of the nation and ethnic groups. In a broader scope, a traditional art of a country has an impact on the security of the country. So, many countries in the world are paying a considerable attention to inheriting and supporting their traditional arts.	2.1. The goal of the program is to recognize the issues included in the state policies on culture and the achievements of Mongolian traditions and culture and to develop the traditions and customs in combination with cultural heritage of the mankind. 2.2. To achieve the goal, the following objectives are set out: - to support the activities of talented artists who have inherited traditional arts and	3.1 Within the objective 1 of the program activities, the following measures will be taken. - ... to carry out research and study, include them in the information database, ... to advance the database - ... to hold promotion and transmission - ... to provide with professional and organizational assistance and support ... to preserve the artistic works in audio and video forms, and promote them - to take measures to evaluate works, efforts, talents of gifted people and	6. Planning activities to implement the program. To assess the current situation of the traditional arts by considering ethnic arts and culture, location, infrastructure, forms of arts in danger of extinction, and to estimate the necessary budget, implementing agency and subscriber	4.3. Sub councils designated to coordinate and monitor the implementation of the program at the local level will be operating in aimags, the capital, soums and districts. The sub-program to implement the national program at the local level, the composition of the sub council, and its	The program activities are planned in 3 phases. 1. Organization of national and local cultural events 2. Strengthening research and studies into forms of the traditional arts, the gifted artists who are skilled in those forms. 3. Expansion of promotion activities.



<p>culture, protect and transmit their talents, skills and schools.                  - To promote scientific research and studies into traditional arts and their characteristics and improve the organization of national and local contents and festivals in order to transmit the traditional arts to the future generation.                  - to create an environment to support the transmission of traditional arts and promotion of folk arts, to identify the duties of government agencies, NGOs, ventures, and citizens and create a new accountability system.                  - to enhance the registration, information, training, promotion, audio and video resource of traditional arts.</p>	<p>handicraftsmen by awarding them with state and other prizes, advertise their works.                  3.2. Within the objective 2 of the program activities, the following measures will be taken                  - ... to extend research work,                  - ... to organize a range of contests, festivals, exhibitions by allocating funding for the events in the budget.                  - to strengthen promotion of the traditional arts ... / all necessary steps will be made/                  -to develop a course on the traditional arts for curricula of all level schools, implement distance education programs in order to transmit the traditional arts heritage.                  - to train researchers and professionals and support them to work at home and abroad on a contractual basis.                  - ... cooperate /in all areas/                  - ... <i>to promote and advertise traditional arts through all means /</i>                  3.3. To achieve the objective 3 of the program, governmental agencies, NGOs, ventures, families and citizens shall bear the following duties and responsibilities.                  1. The Government of Mongolia                  ...                  2. The State Administrative Body in charge of cultural issues                  ...                  3. Public organizations                  ...                  4. Media                  ...                  5. NGOs, Ventures                  ...                  6. Engagement of families and citizens                  ...                  3.4. Directions of activities to achieve the objective 4 of the program;                  - ... expanding and improving research work....                  - ... studying in linkage                  - ... research and studies shall be conducted in association with research and higher educational institutions ....                  - ... to organize research expedition,                  - ... to support the professionals to take part in international events,                  - ... to approve research regions ... , collecting factual materials, to release research definition, to appoint and employ</p>	<p>organizations in advance. The funding for the program activities shall be installed through the Arts and Culture Fund and depending on funding circumstances and events, the action plan made by the National Council to coordinate the implementation of the national program to support the traditional arts may be reviewed.                  The financial resource for the implementation of the program will come from the following:                  -State and local budgets.                  - The Fund to Support the Arts and Culture                  - Capital of foreign countries and international organizations.                  - Grants and donations from local and foreign organizations and individuals.                  The total funding required for the implementation of the program: 296,8 million tugrugs . From them;                  - 261.9 million for national and regional festivals, contests, exhibitions of traditional arts,                  - 34, 9 million for organizing scientific research conferences, symposium, conducting research and research activities.</p>	<p>responsibilities will be approved by the governor of the area. 4.5.The professional and, methodological guidelines on the implementation of the program at aimags, the capital, soums and districts will be provided by the metropolitan cultural department, education and cultural departments in aimags. Promotion of research, training, and advertisement will be done by local arts and cultural organizations.                  The Annex of the order No 120 by the Minister of Enlightenment in 1999.                  "List of cultural events such as contests, festivals, training and research activities to be held in the framework of the national program to support the traditional arts, timeframe, budgets and responsible bodies are approved.</p>
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Mongolian Law on Protection of Cultural Heritage. June 8, 2001. Ulaanbaatar city					
Definition of culture and its social role	Definition of the main principles of cultural policy and backgrounds	Main guidance on advancing management of cultural sector	Main principles of funding of arts and cultural organizations	Main guidelines on strengthening arts and cultural organizations in rural areas	Implementation, integration with other laws and regulations, fundraising issues
<p>3.1. The items and entities capable of representing certain historical events and period and are of historical, scientific values shall belong to the cultural heritage, not depending on their ownership status.</p> <p>4.1. Intellectual and cultural intangible works or products that are expressions of the people's talents, knowledge, expertise and skills and are of historical, ethnological, ritualistic, methodological, artistic and scientific values shall belong to the literary cultural heritage.</p> <p>5.1. Items belonging to the historical and cultural heritage shall be classified as outstanding and normal for their historical, cultural and scientific importance.</p>	<p>The mechanism to preserve, protect and transmit the cultural heritage.</p> <p>17.1. The preservation, protection and conservation of historical and cultural heritage shall be reviewed and monitored by the state administrative body in charge of education and culture, and a governor of a particular aimag, city, soum or district.</p> <p>17.2. The principle to conserve the entities of historical and cultural in the local areas shall be followed. With the permission of the ministry, entities of the heritage may be transformed to the national museum.</p> <p>17.3" Legal protection of the intangible historical and cultural heritage may be classified as national, local and organizational. The government shall approve the list based on the recommendations.</p> <p>17.10. Before granting a land license to ventures for the purposes of building settlements, houses, roads, establishment of a hydro electronic station, mining exploration etc that particular land or site shall be excavated and explored by historical and archeological institutions in advance and their permission shall be released first. The venture or individuals applying for the license shall cover the expenses for protecting or restoring the historical or cultural heritage discovered by the exploration and excavation.</p> <p>17.14. An owner of outstanding entities belonging to the historical and cultural heritage is responsible for the maintenance of the entities. If the owner is unable to maintain the entities, they can be kept and preserved in the state treasure or the national museum. In this case,</p>	<p>1.1. The goal of this law is to handle relations and interactions occurring during searching, registering, studying, classifying, evaluating, preserving, protecting, promoting, restoring, transmitting, owning, possessing and utilizing historical and cultural heritage.</p> <p>8.1. Historical and cultural heritage owned by the state shall be registered in the central database.</p> <p>8.2. Private historical and cultural heritage may be registered in the central database as requested by the owner.</p> <p>9.1. A professional research institution shall be allowed to conduct exploration, excavation and analysis of historical and cultural heritage in conformity of a relevant procedure /an authorized minister shall adopt the procedure. /</p> <p>9.2. A professional research institution or a citizen shall be allowed to conduct exploration, excavation and analysis of literary cultural heritage in conformity with a relevant procedure /a n authorized minister shall adopt the procedure.</p> <p>10.1. Historical and cultural heritage owned by the state may be utilized for the purposes of promotion, research, analysis, and training</p> <p>11.1. Exploration and excavation of historical and cultural heritage shall fall under one of the two categories; scientific, research and protection or preservation.</p> <p>11.2. Exploration and excavation of historical and cultural heritage shall be only carried out by a professional research institution.</p> <p>11.5. An owner of a particular land shall allow the organization to carry out exploration and excavation of historical and cultural heritage upon checking permission.</p> <p>14.2. The citizen holding or owning entities perceived as the historical and cultural heritage shall have the following duties;</p>	<p>10.6. ... An authorized cultural organization may display or use any of cultural heritage registered in the central database in domestic or foreign exhibitions or performance upon signing a contract with the owner. The contract shall have the provision on the fee for the owner.</p> <p>13.1. The areas and territory where the heritage of historical, cultural or scientific values are located shall be under the state protection and the heritage is the state property.</p> <p>17.9. The state administrative body in charge of culture and science and governors of a particular area shall develop measures to protect and restore the historical and cultural heritage in danger of destruction, and extinction and adopt the measures based on the recourses from the state or local budget, fund and donations.</p> <p>21.2. The financial resource for the restoration of historical and cultural heritage shall be accumulated from the state and local budgets, donations from organizations and citizens, investment and revenue obtained by the activities of the owners.</p>	<p><i>/All the provisions on seeking, registering, researching, preserving, promoting, restoring, owning and utilizing the historical, literary and cultural heritage are directed at increasing the power of municipalities and local cultural organizations. /</i></p>	<p><i>/The rights and duties of those involved in searching, registering, researching, classifying, assessing, preserving, restoring, transmitting, owning and utilizing the historical and cultural heritage are clear-cut. There is no monitoring and accountability mechanism for the authorized organizations, officials, state administrative bodies and their heads that fail to perform their duties set out in the law. This has decreased the enforcement probability of the law. The law and relevant regulations lack appropriate mechanisms regarding land or property relations, accumulation of financial resource. /</i></p>

	<p>the entities shall be covered by the state insurance upon the agreement and contract with the owner.</p> <p>18.1. The state administrative body in charge of culture and science and governors of all levels shall be in charge of studying, promoting, transmitting and protecting the heritage that is included in the 5.5 of the law in connection with ethnological history, traditions, customs and surrounding circumstances.</p> <p>18.2. The state administrative body in charge of culture and science shall organize a national art and cultural festival every five years in order to develop, spread and identify the gifted artists who have</p>	<p>14.2.1. ... to register the entity in the data base of an aimag or the capital</p> <p>14.2.2. ...to inform the registration or database officials in case the owner transmits his or her ownership of the entity to others by selling, presenting and inheriting to others.</p> <p>16.3. The owner shall not transmit his or her ownership of the outstanding entity to a foreigner or anyone without asylum status by selling, presenting or inheriting to a foreigner or anyone without asylum.</p> <p>22.1. The state administrative body in charge of culture and science shall organize activities to advertise and reward the citizens, ventures or organizations for seeking and obtaining lost or smuggled heritage.</p>			
<p><b>Ī Classical Art Ī program. Annex 1 of the government resolution No 266 of 2001, December 05, 2001. Ulaanbaatar city</b></p>					
<p>Definition of culture and its social role</p>	<p>Definition of the main principles of cultural policy and backgrounds</p>	<p>Main guidance on advancing management of cultural sector</p>	<p>Main principles of funding of arts and cultural organizations</p>	<p>Main guidelines on strengthening arts and cultural organizations in rural areas</p>	<p>Implementation, integration with other laws and regulations, fundraising issues</p>
<p>One. Rationale of the program.</p> <p>One of indicators of development or prosperity of any country is that country's arts and culture, in particular growth of classical art, its heritage and its inheritance process.</p> <p>In the framework of supporting the classical art, it is important for our country to integrate the national cultural heritage with the achievements of the world heritage, to upgrade the quality of artistic work and cultural awareness of the general public, to develop programs that would provide the youth and children with esthetic awareness and their esthetic sensitiveness.</p>	<p>2.1. The goal of the program is to build favorable conditions for developing the national cultural heritage and the state policies on policy in combination with the world heritage and culture. to sustain esthetic knowledge of the population and to reach the development of world, western or oriental classical arts through production of new works</p> <p>2.2.1. The classic arts to be under the state care and supported, and to improve the quality of artistic works, integrating the national culture with the world culture.</p> <p>2.2.2. to organize contests of classical arts in order to promote classical arts, improve the skills and qualification of professional actors, to learn from foreign colleagues and to learn from the world classical arts,</p> <p>2.2.3. To advance the educational programs on the classical arts, and promotion of public awareness.</p>	<p>3.1. the following measures shall be taken in the framework of the objective 1 in the program;</p> <ul style="list-style-type: none"> <li>- Classical arts shall be financed by the state, increase the repertoire and to evaluate the work and talents of actors and artists in the classical arts.</li> <li>- ... to train necessary specialized professionals in developed countries.</li> <li>- to make the citizens and ventures who support the classical arts famous and advertise them.</li> </ul> <p>... In the framework of the objective 2</p> <ul style="list-style-type: none"> <li>- ... to host international contests, and to find financial resource for the organizational work,</li> <li>- ... to support actors to take part in the world, regional contests,</li> <li>- to advertise the classical arts and improve the esthetic level of the population....</li> <li>3.3.1. to include topics that would contribute to awareness rising in curricula of all level educational institutions.</li> <li>3.3.2 to invite foreign experts and</li> </ul>	<p>3.1.4. to re-stock costumes, musical instruments, and other necessary items for the performance and rehearsal and certain amount of budget shall be spent on producing note recording.</p> <p>Seven. <u>Financing of the program</u></p> <p>The funding for annual activities shall be installed through the Fund for Arts and Culture. The total budget for implementing the program shall come from the following resources;</p> <ul style="list-style-type: none"> <li>-the state budget</li> <li>- a fund to support</li> </ul>	<p>3.2.3. ... capacity building of the personnel in local theatres and ensembles.,</p> <p>4.1. The metropolitan cultural department and aimag education and cultural offices will coordinate organize and facilitate the implementation of the program at the local level. Professional arts institutions should have the duty to promote and deliver training on the classical arts.</p>	<p>3.5. ...Government agencies, NGOs and ventures shall have the following duties;</p> <p><u>The government</u> ;</p> <ul style="list-style-type: none"> <li>- ...to integrate into the fundamental trends of economic and social development;</li> <li>-... to facilitate cooperation with international organizations and donor countries;</li> <li>-... to encourage engagement and initiative of governmental and non-governmental organizations and citizens.</li> </ul> <p>The state administrative body in charge of cultural issues has the duties;</p> <ul style="list-style-type: none"> <li>- ... to implement the state policies on research and studies, transmission, production and protection of the classical arts;</li> <li>- ... to strengthen activities</li> <li>- ... to define development strategies and implement them in order;</li> <li>- ... to create an environment to cooperate with unions,</li> </ul>

	2.2.4. registration of classical operas, ballets, music production, and concerts, compiling audio and video database, to advance the advertisement and educational activities.	specialists for training. 3.3.4. to strengthen training material resources of universities and colleges, ... 3.3.5. to take a measure to enable the actors who get pension at young age due to some professional characteristics to work as a music or art history teacher. 3.4.1. to protect costumes, stage, records, clefs, of classic works and to compile a fund of them 3.4.2 to promote publication and printing of classical works; 3.4.3. to include the world classical arts in planning of radio and TV programs and keep them in the state treasure or fund; 3.4.4. to advertise our classical art abroad, touring, and cooperate with foreign organizations and individuals. ;3.4.5.to extend promotion of the classical arts, the cultural heritage of the world, and to organize events.	the arts and culture; - capital of foreign countries and international organizations; - donations and grants from domestic and foreign organizations and citizens.		associations and artists and support them. - ... to take active part in events organized by other organizations and support them; <u>Local offices in charge of cultural issues have the duties:</u> - ...to implement, promote and monitor the implementation; - ...to coordinate and facilitate engagement of organizations, citizens and their coordination. <u>Media have the following duties:</u> - ...to increase coverage, the number of advertisement, programs and improve their quality and vary their organization; - to support artists and talented people through the advertisement of their works and introductions. <u>Four. Management and organization of implementing the program</u> - ... The state administrative body and its local branch offices shall have the duties to organize the implementation of the program throughout the country. 4.4. The national council of the program to support the classical arts shall plan its activities on an annual basis in connection with economic and social development and report to the government within the 4 <sup>th</sup> quarterly every year. <u>Six. Planning the implementation phases of the program</u> - to organize national contests and festivals of the classical arts among professional organizations and artists;
<i>These programs are comprehensive measures directed at facilitating the practical implementation of the sustainable cultural policies by the state and the law on culture.</i>					
<b>Law on Amendments to the Law on state and local property. July 4, 2002. Ulaanbaatar</b>					
Definition of culture and its social role	Definition of the main principles of cultural policy and backgrounds	Main guidance on advancing management of cultural sector		Main principles of funding of arts and cultural organizations	Implementation, integration with other laws and regulations, fundraising issues
65.1.1. To transform the service and activities conducted by the state owned legal entities to the	65.1.4. The following principles shall be applied in reforms, renovation and privatization process of the	65.2.1. Management of legal entities functioning in the social sector may be performed by legal entities and legal persons free from state ownership on a management contract upon the selection of qualified legal persons and entities. 65.2.5. The management contract shall cover not only the provisions on job			

responsibilities of the legal entities free from the state ownership, permit utilization of state property on a lease agreement. These may be understood in the framework of reforms, renovation and privatization process.	social sector; 1. Keeping the main areas of activities and purpose of capital the same 2. Not to decrease the level and standards of the service and activities of a particular organization. 3. To expand the scope of the service offered by a particular organization. 4. To promote openness and transparency, 5. To reduce risks for the employees.	performance in the Civil Law but also the following conditions; 2/ Upgrading quality and efficiency already obtained, the amount, phases and timeframe of state handouts to the particular organization. 65.3.1. The service and activities offered by the state owned legal entities in the social sector could be conducted by legal entities and persons free from state ownership on a basis of performance contract. 65.3.2. The legal entities and persons shall be selected through a tender to perform the certain activities. 65.3.5 The performance contract shall cover not only the provisions on job performance in the Civil Law but also the following conditions; 2/ Performance shall meeting professional standards and requirements set up for the service and activities. 65.3.6 In case there is a need to utilize the state property and property license in the course of the performance contract, the State Property Committee shall sign separate contract with the legal entities or persons regarding the utilization of the state property. 65.4.1 The state property in the social sector can be utilized by legal entities and persons free from state ownership on a basis of lease contract. 65.4.2 Legal entities and persons free from state ownership applying to utilize the state properties shall be selected through a tender announcement and competition. 65.5.1. Activities and service offered by fully or partly state owned legal entities in the social sector can be performed on a contractual basis and the legal entities can be privatized upon the decrease of state ownership in accordance with funding that replaced state handouts. 65.5.3 ... The legal entities and persons who will own the state property or organizations will be selected through a tender procedure. 65.5.5 ... The privatization contract with the legal entities or persons shall cover the percent by which the state ownership is reduced. " "The list of organizations to be reformed, renovated and privatized, timeframe and methods will be approved annually by the government upon the discussions with the Parliamentary standing committees of social policy and economy.			
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**Resolution No 65 on approving guideliness on reforms and privatization in the social sector. July 12, 2002, Ulaanbaatar city**

Resolution No 65 on approving guidelines on reforms and privatization in the social sector. July 12, 2002, Ulaanbaatar city.					
Definition of culture and its social role	Definition of the main principles of cultural policy and backgrounds	Main guidance on advancing management of cultural sector	Main principles of funding of arts and cultural organizations	Main guidelines on strengthening arts and cultural organizations in rural areas	Implementation, integration with other laws and regulations, fundraising issues
1.1. The main goals of facilitating reforms and privatization in the social sector are to increase participation of private sector in the social sector, to encourage competition and improve the quality, efficiency and access of the service as well as meeting the needs of the people.	1.2.1 to facilitate decentralization and capacity building. 1.2.2 to promote engagement of private sector in the social sector service. 1.2.3 to enhance independence of organizations. 1.2.4 to introduce scientific achievements, advanced technology and equipment in the service. 1.2.5 to implement appropriate mechanism of state coordination while facilitating free competition 1.2.6 to implement appropriate forms and types of reforms, renovation and privatization 1.3.1 to promote openness and transparency				1.4. Besides the forms spelt out in the provisions in the article 34 of the Law on State and Local Properties, appropriate forms including management contract, performance contract, lease agreements, partial privatization shall be applied depending on the characteristics of a particular organization and venture. The state property committee shall approve the procedures on management, performance, and lease agreements based on recommendations by the state administrative body. Further monitoring shall be conducted. 1.5 Scope of reforms, renovation and privatization.

	1.3.2 to keep the service standards and level acquired and to improve them, 1.3.3 to keep the main areas of activities and purposes. 1.3.4 to expand the scope of service 1.3.5 to reduce the risks facing employees.				1.5.1. 3/ All arts and cultural organizations. 2.1.1. 5/ management of arts and cultural organizations is performed on a contractual basis. 2.1.1. 9/ to set up a national arts gallery combining the fine arts museum and national gallery.
<p><i>Main directions of reforms, renovation and privatization in the social sector, are seen to be quite sustainable in terms of implementation of the state policies on culture. However, the tendency "the more forms of implementation the better" makes the policies and activities less sustainable and less clear. If forms of reforms, renovation and privatization are allowed, how and in which situations should be spelt out. In other words, the principles and policies on making which organizations more independent, or selling the property of what organizations are not reflected or identified. Due to this, there might be hardly any best practice of reforms, renovation and privatization in the social sector.</i></p>					

## Review of public opinions

Now to review the viewpoints and thoughts of researchers, professionals of cultural organizations regarding the current state of arts and culture, legal environment, and difficulties in Mongolia.<sup>5</sup>

### *N. Jantsannorov, board member, the Arts Council of Mongolia:*

...Today we are not aware of our values....

In this time when the cultural organisations’ capacity to stay independently is weak, we have gratefully received the Master Plan to develop the arts and cultural sector until 2010 released by the policy department in the Ministry of Culture and Science as a strategically important paper. If the Mongolian government successfully accomplishes analysis and studies of the cultural policies, the implementation of the plan could be practical. However, other issues should have been considered and reflected in this master plan. In particular, financial recourse:

1. State financing,
2. self-funding through its performance,
3. establishment of a fund ,
4. Supporting some active NGOs etc... many other ways can not be denied.

The steering council of the Mongolian Arts Council has developed recommendations and suggestions regarding the cultural policies and financing. These include;

1. Tax exemption. This should be done not by hidden economic ways that negatively influence the state budget but increasing the state handouts (Instead of stating how it should not be done state how it should be done and why, the result.
2. One issue not reflected in the master plan is cultural tourism. Tourists come to Mongolia to see the beautiful nature and national civilization of nomadism. In my opinion (it is not recommended to use 1<sup>st</sup> person in an academic writing. Instead state, “it could be assumed” or something similar.), although the state administrative body pursues policies on the sector, no mechanism to implement the policies have been created.
3. Establishment of a fund for arts. Establishment of a fund is essential. There is a wrong attitude to turn arts into show and show- into arts (It is not clear what is being said here, please reword, don’t assume that the reader knows what is meant by “show –into arts”). During the Traditional New Year Holiday and election campaigns, arts are sold. The issue of lottery and relevant directions are not reflected in the plan.
4. It is time to emphasize strong critical analysis, professional evaluation and scientific research into the arts and culture sector.
5. It is vital to undertake special research into integrated traditions of Mongolian religion and culture.
6. Learning from the international expertise and applying the best practice with adaptation to the characteristics of the country.

<sup>5</sup> Protocol of the international symposium “Cultural policies and financing” Ulaanbaatar, June 10-11, 2003



*L. Erdenechimeg /Head, Policy Department, The Ministry of Education, Culture and Science/*

Currently, only 8 staff members at the Policy Department of the ministry bear all the burdens and workload of cultural life in Mongolia so, our efforts are not efficient.

There are 21 theatres and ensembles and 157 local museums in operation in 21 aimags. According to study results cultural centers of 29 soums need urgent reconstruction. For the past period (state the amount of time in the past period), cultural centers of over 140 soums with musical instruments and equipments have been supplied.

A concept paper for the future development of arts and cultural organizations based on regional development approaches has been developed.

Recently, we have received extensive book donations and project (what project? Unclear). Last 4 large book networks were implemented (This sentence is also unclear). The goal of the network is to facilitate, promote and provide the efficient delivery of books and media to clients. This network will be directed at preparatory work for converting libraries into information and resource centers.

*Dashdavaa.Ch /The dean of the Faculty of Art and Culture Management/:*

Direct budgetary funding remains the same as the basic form of government funding in the cultural sector. It is notable to say that arts organizations are to recover a certain percent of the total cost by their revenues.

Government funds are distributed to arts organizations indirectly, through forms such as exempting non-profit arts organizations from tax revenues and establishing separate funds to support arts development. Particularly, we can mention the forms such as purchasing the outstanding art works in the state fund, monetary award given to artists who achieved a great success in international art competitions, and rendering financial assistance to artists and art workers to be involved in re-training.

As Mongolia transferred to democracy, a large number of non-government organizations in cultural sectors have been established. However, few among them operate constantly. It reasons that they lack stable fund raising, qualified managers, and marketing departments. ... *There is no legal environment to grant tax concession to the companies that have given financial support in the cultural sector. It hinders the ability to stimulate the activities.*

The Open Society Institute of Mongolia /Soros Foundation/ has been making great contributions in Mongolian Arts and Culture Development. The Soros Foundation with the support of the Mongolian Arts Council has promoted the activities of Mongolian arts organizations and artists. As Mongolia has transferred to a new structure of financing and management since 2003, it gave a new meaning to the accountability system. *Governance accountability means that it is open who is accountable for what. (Sentence unclear, what is open and who is accountable? Rephrase, clarify). Additionally,* each public organization's production is to be paid more attention and be accountable (it is unclear what they are to be accountable for, clarify this in the sentence. Be accountable for the use of funding?) for it as well. The main indicators of the productions are quantity, quality, time, and expenditure.

**Arts organizations are not able to draw up the outcome-based contract according to its module and determine the quality indicators accurately, and exhaustively calculate unit cost of each product. This is the common weakness existing in the art organizations.** *However, it is certain that this reform would intensify the activities of arts organizations and cheapen product cost, and improve inefficient activities.*



The crucial issue is that measurements should be taken immediately to increase the investments in Mongolian arts organizations. These measurements must be taken by Mongolian arts organizations themselves.

**Mastering fund raising methods is of crucial importance** to all public and non-government, non-profit organizations.

Today, Mongolian managers often turn to bigger companies, firms, and bank authorities.

Appropriate methods suitable to Mongolian (peculiar often implies that something is "weird" or "strange" instead it is recommended to use "unique" characteristics should be used when considering **private individuals' financial support issues** in arts organizations. For instance, donations can be collected through non-monetary forms. If herders generously contribute one sheep or 1 kilogram of cashmere or sheepskin, these non-monetary products can be supplied into the market to support funds for the arts. This will be a bigger contribution in regional arts development.

...the arts organizations should make the company and firm authorities believe that they can help increase the image of their company, and firm.

*...do not "use" the funding bodies only once, but maintain the cooperation and relation with them and give them a favorable condition to consider themselves as one of the creators as they have funded the cultural events.*

Arts organizations need to draw up marketing strategies professionally.

...in order to attract more audiences in cultural a variety of forms should be used to grant price concessions of tickets. To derive profit, it is recommended to use a variety of advertising and promotional forms and skillfully organize the serial performances.

Mongolia is facing the need to intensively develop cultural economy, a separate science.

Making the cultural events and performances available throughout the nation especially, the rural population is the pressing issue. *One out of five people involved in the survey said there are no arts and cultural services in the area where they live.* The survey shows they see entertainments when they rarely come to province centers or cities. Research about wide access of update equipments and technologies should be conducted in order to make arts accessible to the nation.

The results of the survey among artists and arts professionals repeatedly surround the issues of **proper budget spending, systematic policy on arts and culture, financial problem solving, proper management policy, providing with equipments and technology.**

47.8% of artists involved in the survey said professional theater and arts organizations should have a large number of permanent artists, whereas 41.0% prefer to have a few number of permanent artists and let the majority of artists work on contract and 11.2% preferred to have full-time staff. Additionally, *11.0% said the professional arts organizations should finance themselves, whereas 50% said they should be allocated a specific budget and form the majority of fund raising on their own, and 37.6% think the government should administer it. 27.6% supported the privatization of professional arts organizations, whereas 72.4% was against it.*

**The survey was conducted among the heads of the arts organizations. It aimed to make financial analysis. 65.4% said the state budget allocated is insufficient and the remaining 34.6% gave no answer to the question.**

**Sanen Dragojevich /The Lecturer at Zagreb University, Georgia/;**

How can the government form an accountability system to conduct a policy on arts and culture?

1. A framework to assist the government. It has an emphasis on the arts and cultural productions. Here, the cultural management plays the important role. This framework is directed to the necessity and used in the US and Britain. Its feature is that no stable arts organization exists. It has an advantage that gives opportunities to implement effective management. It can be considered that the government can charge others with being responsible for the decrease of financing for the arts. Financing and human resource is the common issue for every country (Unclear, issue for what?).
2. The framework of government policy to support arts and culture. It is a pure European module and is widespread throughout European countries. It is popularly used in Britain. This is the framework to isolate the arts and culture from politics. The arts professionals administer all the activities regarding arts and culture issues. *On the one hand, the professional arts organizations are paid attention, on the other hand public opinion is paid heed of (This sentence is unclear. Do not use "on the one hand" in academic writing, and clarify).* Here, the art works play an important role, thus similar to the first framework.
3. Civil sector/Professional Community Alliance/ the public organization independent from government. It is financed by the government but carries out activities independent from government. These organizations are registered as non-governmental organizations and it gives opportunities to carry out non-profit activities. The number of associations and alliances has increased in the last few years.
4. Architect module. It is adhered to in France and shaped as pyramid and administrative. It makes easy to coordinate policy. The weakness is too administrative (This is unclear, why tell the shape without explaining what the shape means? Poor sentence structure.).

*Is privatization an important part of the arts organizations or not Do not use this sentence structure, change from a question)? We (Would not recommend using first person. Instead say, "It would have to be considered." have to think about it. Attempts to privatize a lot of cultural centers have been made in Harvat. A large number of cultural centers completely changed their directions a year after privatization. One theater turned into a Camera Theater a year after being privatized. The legal basis is vital to privatization. **There should be a well-formed legal basis not to change the direction of cultural centers. Certain part of arts organizations can be owned privately. It is right to give government loans to private sectors but the methods for giving such loans remains the problem to solve. Supporting investments is important!***

What to make as a priority in cultural sector? How to reach an agreement? (I would recommend changing this format. Instead of questions place statements as the headings. For example, "Priorities of the cultural sector."

- *To make a choice considering what is agreeable and what is not agreeable among the existing experiments in the way dissecting /policies/.*
- To determine the policy on arts and culture without holding public discussion is impossible. *The public discussion should be held within a wide range from parliament to the individual.*
- To create an action plan, to define strategy and to implement it. *To define the priority art form in each field.* The films have been given priorities in Horvat.

I think the second framework, the government policy to support arts and culture among the above modules is important for your country. It has been drawn up into the following three levels:

- I. Nationwide policy on arts and culture /government, nation/
- II. The policy on arts and culture carried out regionally.
- III. Local. Local policy on arts and culture.

The policy on arts and culture carried out regionally is becoming the most important. Its advantage is possibility to mobilize local resources.

It was carried out well in Spain.

There can be mixed forms to identify priority issues. The development can be done as the coherence and coordination between the social sectors /between the ministries/ is made strong.

- ***The policy should be open and enriched and revised by professionals. The policy should be catalytic, in other words should be able to be innovative. To develop the activities of cultural sector co-ordinating with other social sectors. For instance,***

- ▶ Education
- ▶ Tourism
- ▶ Science
- ▶ Museum
- ▶ Library
- ▶ Archive
- ▶ Information, etc within the framework of academic and other activities needs to be coordinated with other social sectors.

***The commission between the sectors /committee/ is appointed by the government. There are even ways to implement by organizing competition in considering the most interesting and optimum opinions of local people. Nowadays, underdeveloped countries are achieving success by means of administering the cultural sector with flexible coordination between the sectors.***

Developing arts and culture unilaterally is short-sighted. ***The cooperation between the sectors should not be coordinated at the low level but it has to be carried by the top.***

Here, I have to note down a lot of things that we should not strive to develop the arts and culture unilaterally. We could not compete with the sectors such as education and health. It is not a secret culture and arts is placed at the last of all state policies.

***L. Dasnyam, Dr. Professor, the Rector at University of Mongolian Knowledge.***

The state should not leave intellects after liberating it, but must coordinate the development of liberated intellects using state policy.

There are basic 5-6 directions followed by the state. I think only three elements among them need to be adhered to Mongolia.

1. Personnel and human resources. Since human is the source that creates artwork and its quality, the state has to formulate its policy focusing on it (Unclear, rephrase, and more content).
2. Considering the current situation, the state is not able to form a favorable legal environment for the arts and culture sectors.

The economic mechanism and finance. It is noticed there is less budget in the cultural sector and its rarely allocated fund is not completely spent for its target

***Sanen Dragojevich, Georgia.***

Art management- the modules of art management are as follows;

1. Administrative
2. Public organization

The basic financing forms

1. Financing organizations
2. Financing programs
3. Self-financing. It is directed to the activities relevant to culture industries, services and information technologies.
4. Mixed module. It combines all the above mentioned modules.

There is a variety of support (clarify what kind of support. Do you mean financial, social, what?) in foreign countries, such as supporting art works or artists. It is very good for artists (Not a good sentence, add more content or remove). But it is opposite in England (Many of the sentences in this paragraph are too short, combine) . If an artist is to carry out locally effective activities, he is granted funding. This is a more pragmatic attitude. There are also grant aids to fund international conventions on arts and culture. Also, there is a variety of means such as working in international networks, creating artwork in the particular art form, and being evaluated by showing their own art works to the state, and foundations networks. The scholarship is also one of the important parts (include in previous sentence).

Indirect funding is a primary action that encourages some sectors within society. *Cultural activities are non-profit activities (This is not always true and thus should not be stated as fact). Therefore, it belongs to indirect investment forms and in return gives great benefits to its social members.* In many countries, particularly in the Czech Republic, a tax is imposed on any foreign films on their national television. This tax revenue goes to the cultural fund and television development fund.

***Yuree Volcovskii;***

How to lobby (This box does not explain how to lobby)?

Talking about how to implement the National Park Program.

- ▶ Politics
- ▶ Arts organizations and professionals
- ▶ Business people
- ▶ Public media
- ▶ Community
- ▶ Scientific workers have been involved.

***Vesna Chopic, Cultural Policy Coordinator in Soros Foundation and the Ministry of Art and Culture in Slovenia.***

***Bulgaria:***

Government funds and indirect funds are vital. Generally, there are several ways (several ways to what, this must be clarified).

1. Normative To determine accountability by means of forming /legal documents/. Respecting and protecting arts and culture.

2. Structural. In other words (Don't use "in other words" in an academic writing) it means how to organize cultural service. This is a way to determine the appropriate structure considering how to organize cultural activities in the market economical society.

3. Establishment of an information fund

... Law helps draw the publics attention to arts and culture.

Law not only serves for good things (too general use more clarifying words. But also can lead to negative consequences. Jurisdiction is only the means not the aim (Clarify, the means for . . . not the aim for. . .) .

International affairs are coordinated by a variety of conventions. Cultural activities are primarily organized by conventions.

... The cultural law is ... ***the legal act to obey, and the legal statement written for protecting and developing the culture and nations internationally.*** It contains the protection of the right to speech, liberty of the press, meeting etc (do not use etc, state what is meant), and freedoms considered the foundation of democracy.

The legal environment of arts and culture:

- ▶ Copyright law
- ▶ The law of protection of cultural heritage
- ▶ Library laws
- ▶ The law of public media etc, the laws are involved.

The library law most influences the propagation of democracy.

How to draw up a good law (you state only the people, which is highly inclusive, but not explain how it occurs, by what process)? (More details and specifics need to be included throughout)

1. Administrative
2. Government
3. Citizens

The good law can be drawn up based on the agreement with these three sides.

The law I spend the most of my time on is the library law and it is a lever to develop democracy.

***Yuree Vulkovske, Cultural Policy Coordinator of Soros Foundation, Sophia:***

Cultural roles had to be defined again due to the current social development process.

We had to determine the role of arts and culture again as we researched its affect on society, politics, economy and social and human development. The cultural sector is not the same as other sectors and has a dramatic affect on social development.

*If the cultural sector development is coordinated coherently with other sector developments, then it will be the source of social development.* The local cultural funds have been established in our country. *As we inform the pressing issues (pressing issues are a concept and cannot be informed, rephrase) about the local arts and culture to public, the bigger businessmen began to understand it thus, giving them an opportunity to help (how are they helping other then through funding? If not than only state funding is so then say in what way they are helping) and offer funding.*

The pressing issue of arts and culture comes up depending on multiple factors such as government system, political situation, economy, legal acts, business organizations, nations and customers, arts organizations, and artists (Unclear, are those the pressing issues or do they cause the pressing issues, rephrase). Therefore, the solution to the problem should be searched from the above factors.



After the local authorities and business raised the pressing issue through media and press, the businessmen provided support and the local cultural sectors were established. The citizens have realized that they need to develop their culture and arts.  
The law drawn up in a hierarchical way has a proper enforcement. It has a significance to bring further nationwide development.

***Lydia Barbanova, The Cultural Networks Program Director of Open Society. Hungary /Bulgaria/***

Now let's discuss ways to support and donate (This is repeated in the next line, remove one). There are two basic ways such as:

- ▶ Sponsoring
- ▶ Donations

Tax policy plays the most important role in sponsoring. The law in Latvia states that no more than 20% of tax revenues can be spent on arts and culture. This 20% can be given to education, science, charity activities, and sports. The law in Latvia supports giving donations to the following three non-profit organizations:

- ▶ Cultural foundation
- ▶ Olympic Committee
- ▶ Children's foundation

But (Don't begin a new section with "but") the law in Macedonia is different. The particular organization can donate no more than 3% of its own annual circulating capital. Organizations such as the Red Cross, or non-governmental and non-profit organizations can be donated. The health, arts and educational organizations can be donated by no more than 15% of total revenues. In the Czech Republic, this kind of donation should not be more than 5%. However, in the Czech Republic and Hungary, individuals can donate (donate what, need more clarifiers). The above-mentioned things belong to organizations. In Czech, no more than 10% of an individual's tax can be spent on the above-mentioned sectors and organizations. But in Hungary, more than 1% of the tax paid in the state budget must be spent. In some countries, law states a certain percent of gross income whereas some organizations state a certain percent of sum imposed on tax

***Milena Dragovich Sheshich, The Rector at University of Arts and Culture, Belgradia, the Head of Executive Board of Open Society***

The law of films states that no more than 40% of TV movies must be national movies to prevent television from being occupied by a lot of bad and cheap (poor statement, change wording, clarify, bad is subjective) movies. Every time when the movie is on TV, the authors must pay the authorial premium.

***D.Sosorbaram, The State Honored Artist.***

It is not very important to privatize arts organizations in Mongolia, because people will not come to the private museums. People have a basic understanding that the state should pay attention to arts

***Sannen Dragojevich, The Lecturer at Zagreb University, Georgia.***

The privatized arts organizations adhere to the principle to be beneficial (Does not make sense, use more specifics, and greater explanation). That is why they do not create the real art works. The private theater and exhibition go for only profit. Therefore, they are not able to produce proper art productions according to its target. It is seen from the privatization of many printing houses that the owner who purchased it only needs the building. The bookshops were the same. The privatization of arts organizations has stopped in Georgia. The privatization did not give a pleasant impression, but anyway it has some positive outcomes. It formed the legal basis to newly establish arts organizations in 1990. As a result of it, the first private museum was established in Georgia.

***Lydia Barbanova***

"Privatization", the terminology is **very abstract and requires multifaceted understanding**. It forms:

- ▶ Autonomy
- ▶ Commercial opportunity

We have to consider well why and what to privatize? There are three forms of privatization.

1. Financing privatization
2. Management privatization /non-profit, it is the privatization to make the management effective / We can understand this kind of privatization as autonomous.

Forming effectiveness and profit by purchasing the real estate. The last one among them is a real privatization. (Where is the 3<sup>rd</sup> form?)

***Vesna Chopic:***

**We have reached the conclusion that the management privatization is the most optimum in the cultural sector. It has an advantage that gives a right to spend the money flexibly and the state stays the same as a financier.** It is more significant to solve the problem by the proper correlation of state financing and management privatization than the single privatization.

***D.Tserensambuu, The Head of the Academic Theater of Drama.***

In Mongolia, the more we derive profit, the less budget is allocated. The state should stop the policy that imposes a fine the more we work!

***S.Idshinnorov, The Director of The National History Museum.***

The allocated budget can afford only heating and electricity. The government does not support the arts organization to perform its own duties and activities. The National History Museum is allocated the budget of only 3 million tugrugs per year to buy museum exhibits. Due to these situations the arts organizations are not able to perform its own basic duties.

**G.Mend-Ooyo:**

The cultural tourism is developing. We need to put forward a proposal to the government on how to fund arts and culture with the revenue derived from cultural tourism. The state should be active and capable and conduct policy to support arts and culture in a way of giving rights and duties to non-government organizations and individuals. Isn't it optimum the state conducts the policy and draw up laws?

**D. Enkhstetseg, The Director of The Art Gallery.**

The provisions of the law of culture contradict the provisions of management and financing law. 98 tugrugs of every 100 tugrugs that is used for organizing an exhibition goes back to the state for heating, building rent, and salary. It is ridiculous that the remaining 2% is spent on organizing the exhibition and other activities.

The letter to the political and cultural figures, businessmen, arts workers and citizens

1. Establishing the committee of ministries to plan, develop, coordinate, and monitor the cultural tourism with the involvement of representations of the Ministry of Education, Culture and Science, the Ministry of Infrastructure, the Ministry of Agriculture, Industry and Environment and implementing a certain project as well as reflecting the necessary financing into the state budget.
2. Supporting the local arts organizations according to the government regional development policy. The Ministry of Education, Culture and Science must implement a project by creating proposals to increase human resource, and improve financing and structure and allocate the necessary budget.
3. Complying with the Law of Culture in financing the particular arts organization and giving the favorable condition to the particular sector to carry out activities independently with its own revenue.

To reform the secondary school education program of arts and aesthetics and expand it and improve the teacher training for the purpose to improve the cultural education.

Based on the above-mentioned comparative analysis, and the opinions of art researchers, arts organizations workers, the legal environment of Mongolian Art and Culture can be evaluated as follow:

1. *The legal system that reflects the world standard, international development tendency, globalization as well as the national peculiar characteristics has been formed for the past 10 years. This legal system has determined the culture and its role in the society, the state policy on culture and art, its basic principles, the rights and laws of the state, citizens and arts organizations, how to support and develop art and culture, its flexibility to survive in the market economy.*
2. *However, the law enforcement mechanism is unclear and the monitoring and enforcement provisions are not stated in other laws and regulations. Generally, it is very declarative (what is wrong with declarative, this is how laws are written. Your point is not quite understood). Even though the rights and duties of organizations,*





*citizens and the executive governance are stated in laws it is still declarative and how does the monitoring system work, how and when to use the monitoring result is vague, thus it has decreased the survival capacity of legal environment (the inclusion of questions within this sentence is not a good sentence structure, work on rewording it). Although the legal system that has built the legal general environment of culture and art has been formed, the system to provide and monitor its enforcement could not be formed.*

3. *The legal acts regarding culture, cultural activities, and its reform, privatization is being approved without public discussion and the agreement of sides (fragmented sentence). That is why there is no mechanism of coherent coordination between sectors, ministries, and agencies. Thus, the legal environment that is not capable to be enforced and survive has been formed.*
4. *Due to the fact that the cultural sector development strategy has not only been given priority but also has not been defined for what forms and ways to use and when and where to use, the legal environment is likely to cause an infringement of the "government sustainable policy".*
5. *Even though the law that reflects arts organization reform, privatization, general aim, and principles has been passed, it has an emphasis on decreasing the state budget loads. The levers to strengthen arts organizations financially still have not been reflected in the relevant laws so the majority of arts organizations; especially local arts organizations are faced with difficulties.*
6. *The strategy to reform and privatize arts organizations is unclear and each ministry and agency turns to it from different perspectives thus they are contradictory,. There is a legal environment that creates a stronger emphasis on saving the state budget than forming the levers to support arts organizations.*
7. *There is a lack of systematic policy to increase the capacity of Cultural and Art organizations up to the market demand level and a mechanism of its implementation about.*

Results of the researches on the legal environment status of the Culture and Art in Mongolia  
"Research was conducted among 6000 people from four districts of Ulaanbaatar, from the centers and sums of Uvs and Bayan Ulgee in April, 2004. The question considered was "How do you evaluate the legal environment status of culture and art development in the present social structure?"  
" 34,1 percent of those answered that although there was a certain legal environment, there were no mechanisms of implementing those provisions, where as 31, 2 percent thought that there was a favorable legal environment if the Culture and Art organizations and artists could work, 25,9 percent answered that there was nothing except the basic provisions of law about culture and art, while the other 8,8 percent answered that there was no legal environment. To the question – "Fundamental rights and duties of a Mongolian citizen have been declared in the "Law about Culture". Do you know about that?" -36,3 percent of those people answered that they knew and the other 63,7 percent answered, they didn't.

Evaluating the present status of the development of culture and art in Mongolia, 26,5 percent of the artists assessed it as developing, 47,9 said that it hadn't been able to develop although there was an opportunity to, 8,4 percent said that there was not an environment for the cultural organizations to develop, where as 17,2 percent said that it was difficult to answer the question.

... 59,6 percent of those people, who were involved in the survey considered financial capacity as the main factor of cultural development, while 31,7 percent connected that with management development and the remaining 29,8 percent with government policy and legal environment.

Policy on culture, Financing the Cultural and Art organizations, Ulaanbaatar 2003, side 46,48.

## Enforcement of cultural policies and legislation in rural areas —

The public and civil opinion about how the Cultural organizations were operating in provinces, what steps the local authorities took in terms of development of culture and art and what the outcomes were of their operation was reconnoitered during the research.. The provinces - Selenge, Tuv, Darkhan-Uul, Dornod and Baganuur, the remote District of Ulaanbaatar were selected for conducting the research in. The result of the survey and interview about how Civil Rules and regulations, the governor's directives and decisions in Selenge province were made and the state of their enforcement has been unified as a sample.

Mongolia  
Directive of the Selenge Aimag Governor

March 31, 1997

No 138

Sukhbaatar

Re; The structure and activities of the education and cultural center of the province.

4. To assign the education and cultural center/R. Nyamsuren / in charge of measures of implementing the government policy on education and culture... showing technical and professional assistance to the cultural and art organizations as well as the teachers and workers of those organizations, enhancing their competency and knowledge, conducting trainings and providing them with information.

Appendix to the directive of the Province Governor  
Structural and organizational charts of the education and cultural center of the aimag

Education and cultural center of aimag.

Soum office

- ▶ Culture center, club, library of the sum
- ▶ Ensemble "Selenge dolgion"
- ▶ The local museum
- ▶ The museum of revolution in Altanbulag
- ▶ Altanbulag cinema

Mongolia  
 Directive of the Selenge Aimag Governor

December 18, 2000 No 75 Sukhbaatar

Concerning the reforms of the administration agencies' structure and personnel.

Seven (What is the seven?). Education and cultural center

▶	Director of the center	1
▶	Methodologist	5
▶	Accountant	1
▶	Cleaner	1
	Total	9

Mongolia  
 Directive of the Selenge Aimag Governor

January 25, 2001 No 29 Sukhbaatar

Establishing a Province cultural and information center.

Directives:

One. To reestablish the house of "Selenge ripple" folk song and dance ensemble as an art, culture and press center, new structure, consisting of "Selenge ripple" ensemble, culture and children's art complex and press office and start its activities on 24-th of January, 2001.

...four. To charge the chairman of the governor's office with the task to transfer the "Selenge" television studio to the culture and information center where it is ultimately required for running its activities and to transfer one of the UAZ-469 automobiles in the Governor's office balance sheet to the balance of the organization in accordance with the need to get on with its activities... to have financial organizations to make a plan and build up the required budgets for the building restoration and decoration of the culture and information center prior to the 80<sup>th</sup> anniversary of people's revolution and 70th anniversary of the Province.

1. To determine the aims, objectives and rules of the activities carried out by the cultural and information center of the province.
1. To conduct a standard assessment in order to recruit artistes and actors for the ensemble "Selenge dolgion".
2. To take measures of improving the culture, art and information activities by consulting with the sum governors and providing sum culture centers with professional leadership and management.
3. To meet the needs of the population in art and culture, to increase the role of media, to introduce new methods and ideas into steps of programs, publishing, art works and cultural measures and to conduct regular trainings and courses for the children and youth. ...

Total vacancy - 48

Aimag governor's directive No 364, 2001  
Appendix No2

#### Policy on culture in Selenge Aimag.

##### *One. Present situation and burning issue.*

- ▶ Due to the lack of prospects agreeable to the market relations, there is a tendency of development slow down in cultural and art organizations, their activity level, below the standard of cultural needs of the population.
- ▶ Utilization of the buildings of cultural organizations for other purposes is disturbing the basic cultural activities and act as a reason of organizations' disbandment and squander of material basis.
- ▶ Museum exhibitions and library funds have been remaining poor owing to poor investment in cultural organizations and lack of equipment and technical tools of modern standard.
- ▶ Buildings of the local study museum and the museum of revolution in Altanbulag do not meet the requirements of running activities because of long-term utilization.
- ▶ Casualty has been dominating in shows and services of cinemas, which have transferred to mainly videotape style due to the lack of a unified movie policy.
- ▶ Sums, bags, khoroos and government organizations are not taking enough steps to consider the citizens' artistic and intellectual development and make extended decisions and implementations in the framework of certain laws and regulations.
- ▶ Number of professionals' in the culture field has decreased due to the fact that there is not a system of training the personnel in the cultural field. A favorable environment to work permanently in the culture field is not present for them since the salary does not meet basic needs.
- ▶ Value of historical monuments is falling as no restoration work has been done due to financial difficulties.

##### *Two. The aim of the culture policy*

- ▶ Culture policy to be pursued by the Mongolian government, .... on the basis of other policies... the aim of the province culture policy is to implement the deed of civil culture

development with involvement of the government agencies and administrative organizations and entities at all levels.

*Three. Principle of culture policy*

- ▶ The province cultural policy should meet the main government policy of Mongolia.
- ▶ To refine the activities of cultural organizations and accommodate them with time requirements.

*Four. Sphere of the application of the policy*

- ▶ Province and sum government agencies and administrative organizations of all level, all the culture and art organizations of state property, running activities in the territory of the province, citizens living and working environment are to be involved in the framework of the policy implementation.

*Five. Management structure of Cultural organizations*

Cultural policy will be reflected in all the plans of the government agencies and administrative organizations of all levels and provided with the basics of a financial organization.

- ▶ To adhere both professional and administrative management methods in the culture field development and co-ordinate the sum culture with the civil intellectual needs.
- ▶ To involve all the government and non-government culture art organizations, running activities in the territory of the province in the public and cultural activities organized by sum governor's office and make a final outcome at the end of each year.
- ▶ To support the fair market competition of private sectors in culture field and set them professional requirements to yield wholesome influence on social intellection.
- ▶ To stabilize creative and cooperative activities of the government and non-governmental organizations.

*Six. Intensifying the activities of Cultural organizations*

- ....

- ▶ To increase the capacity of libraries, to automate them, to promote the "be a friend of book" movement among children, youth and general public, and solve the issue of distributing books and publishing to the people on the basis of public interest.
- ▶ To make current repairs and expansions to the buildings of the Province museums.  
To determine the priorities of the province culture organizations, to builds up a favorable environment of structuring and management, personnel and budgeting activities.

*Seven. Economy, material basis and human resource of the cultural organizations*

- ▶ /Provisions are the same as those of other fields. /

*Eight. Other*

- ▶ Every program on sum cultural development should be developed on the basis of that policy.
- ▶ Cultural policy to be pursued in provinces will be implemented through activities of government organizations and the Governor's office in province as part of their duty of implementing social development policies.
- ▶ The governor's office of the province and the department of social development policy will place a control on implementation of social policy.

Result of the survey, conducted among 50 people on their opinion of the activities of cultural centers in province.

Selenge province /result of the survey conducted about activities of the sum culture and art organizations /in percentage/					
Culture and art organizations	Good	Subnormal	Poor	Don't work	No
Theatre/musical ensembles	33,3%	33,3%	11,1%	11,1%	22,2%
Cinemas	20%	10%	10%	50%	10%
Museums	40%	30%	10%	0%	20%
Culture centers	40%	60%	0	0	0
Sport centers	90%	10%	0	0	0
Libraries	33,3%	55,5%	11,1%	0	0

The reasons and basis of their answers were explained as follows:

- ▶ Cinemas haven't worked properly since being privatized
- ▶ Culture centers work only in summer, since there is no heating
- ▶ Culture centers are more like bars and disco clubs rather than culturaleal organizations
- ▶ Most of the families do not have to go to the cinemas since they have satellite television access.
- ▶ Libraries are quite old
- ▶ There are few artists and actors
- ▶ Interest in reading decreased due to poor book choices and a lack of advanced technology.

As statistics of January 2004 shows, 909 cultural events were held in the cultural centers with the capacity of 3632 seats in soums of Selenge aimag. These events accumulated an income of 5,520,000 tugrugs enrolling or entertaining 128.498 people. According to the reports compiled by the aimag governor's office, the cultural center of Saikhan soum /independent status/ made 3 million tugrugs, the cultural center /independent status/ of Mandal soum made 1 million tugrugs while the cultural center in Shaamar soum made 500.000 tugrugs of the total income mentioned above. It was impossible to sum up the activity indicators of the libraries. Hereby, it should be noted that the relevant officials warned that the statistic data derived from the report summaries of soums is not fully valid.

**The cultural organisations in the Selenge aimag. 2004.02.15**

<b>Names of the organizations</b>	<b>Date of establishment</b>	<b>Regulations enforcing the establishment, date, number</b>	<b>Regulations or legal provisions on activities</b>	<b>Capacity</b>	<b>Positive and negative changes in the activities</b>
Information and cultural center	February 20, 1982	Resolution from the session of the Central Committee (CC) Secretaries of Mongolian People's Revolutionary Party (MPRP)	Directive No 29 of the aimag governor, January, 25, 2001	48	There are 5 units and it provides information besides arts and culture. For complete utilization of space, editor's office of the newspaper "Selenge News", the Citizen's Registration and Information Office, Children's Center, the In-service training center for civil servants, the center for agriculture development share the building. It has a lack of professional personnel so it does not have sustainable programs except touring, showing movies and giving concerts during anniversaries or holidays.
Public Library	September 20, 1948 /in Altanbulag town /	Order No 139 of September, 20, 1961 by the Aimag Executive Administration of People's Deputy Khural	Directive No 138 of the aimag governor, 1997	6	It organizes book fairs, discussions, and celebration of new books in association with secondary schools and other organizations in addition to provision of book and press service. It was providing internet service through a project of the Soros Foundation, but it stopped due to high costs of telephone line. One room is rented to a joint English Language course of the Peace Corpus of the USA and the "Professional Assistance" Co...Ltd.
Local Museum	October 14, 1967	Resolution No 269 of the Executive Administration of People's Deputy Khural, October 14, 1967	Directive No 138 of the aimag governor, 1997	23 /temporary basis/	It hosts many events and activities in cooperation with history and geography teachers at secondary schools and kindergarten teachers.

Summary of activities and functions conducted by the cultural centers and libraries in soums of Selenge aimag					
Name of organizations	Main activities and events	Service quality and access	Strategies to improve the service in the future	Respondents/citizens (officials)	
				Names	Occupation, age, sex
The Cultural Center in Bayangol soum	Regular organization of concerts of locals, karaoke and 'ta ta tunga' contests. It conducts song, music and dance clubs among children. The local TV prepares and broadcasts 4 hours of programs every two weeks.	Sustainable functioning. Equipments are good for which the locals appreciate.	To increase joint activities and events with other organizations and ventures, open a PC game center /privatization/	D. Gereltsetseg /Bayangol/	Unemployed, 32, female
Library	The library is located in the cultural center.	Sustainable functioning	To convert it into an information center for the locals and to start internet service	T. Davaadorj	Head of the soum governor's office, 55, Male
Cultural Center in "Khotol" town	It organizes numerous activities in accordance with standards set out for professional cultural organizations.	Sustainable functioning	To establish an information center and local museum.	Ts. Otgontuya	An official of aimag governor's office, 30, female
Cultural Center in Orkhontuul soum	Due to no heating system at the center, most activities and events are held in the sports hall of the secondary school	Unsatisfactory	To have heating at the center, to start internet service using the cable wires of the railway communication system	S. Erdenebayar	Head of the soum governor's office, 25 Male
Information Center for residents	The secretary of Citizens' Representative Khural is in charge of activities upon joint administration of Citizens' Representative Khural and the soum governor's office. Mostly locals come to read press and get legal counseling.	Satisfactory	To start typing and photocopying service.	Ts. Oyun	Head of the soum governor's office, 43 female

The above summary shows that there are discrepancies between the state policies, resolutions, laws aimed to develop arts and culture as well as decisions, directives approved by the ministry and local administration and their practical application and implementation. Reviews of measures taken by administration bodies of other aimags are quite similar and here is public opinions displayed under each aimag.



<b>Tov aimag/Results of questionnaire on activities and functions of the cultural organizations in soums/in percent/</b>					
<b>Arts and cultural organizations</b>	<b>Good</b>	<b>Poor</b>	<b>Not sustainable</b>	<b>No activities at all</b>	<b>No existence</b>
Theatre/ music and drama ensemble	0	37.5%	12.5%	0	50%
Cinema	0	12.5%	12.5%	25%	50%
Museum	12.5%	25%	25%	0	37.5%
Cultural center	28.6%	42.8%	28.6%	0	0
Sports center	50%	25%	0	12.5%	12.5%
Library	50%	37.5%	0	12.5%	0

The following rationales and reasons for respondents’ responses and opinions were as follows:

- ▶ Budget and funding are not sufficient.
- ▶ Although there is a theatre building, it is rented out to others for various purposes.
- ▶ Museum exhibitions have not been renovated for many years.
- ▶ There is a lack of modern and recent books.
- ▶ The reason why the arts and cultural organizations do not operate is because of low attendance.. Most young people do not return from urban areas.
- ▶ The organizers prefer profits over people
- ▶ The books are used, torn and no new books and materials are available.
- ▶ Lack of professional personnel
- ▶ Poor musical instruments and equipments.
- ▶ The sports hall was privatized and is used for different purposes.

<b>Darkhan-Uul aimag /Results of questionnaire on activities and functions of the cultural organizations in soums/in percent/</b>					
<b>Arts and cultural organizations</b>	<b>Good</b>	<b>Poor</b>	<b>Not sustainable</b>	<b>No activities at all</b>	<b>No existence</b>
Theatre/ music and drama ensemble	21.2%	51.5%	21.2%	3%	3%
Cinema	15.6%	40.6%	34.4%	0	9.4%
Museum	25.8%	35.5%	12.9%	19.4%	6.4%
Cultural center	18.5%	29.6%	14.8%	11.1%	25.9%
Sports center	81.8%	12.1%	3%	0	3%
Library	58.8%	32.3%	2.9%	2.9%	2.9%

The respondents provided the following rationales and reasons for their responses and opinions. They are as follows;

- ▶ The cinema has stopped functioning since its privatization
- ▶ The cultural center only operates in summer due to heating problems.
- ▶ The cultural center is more like a bar or nightclub than a cultural center.
- ▶ There is no need to go to the cinema since many families have cable TV.

- ▶ Books of the library are out of date.
- ▶ There are few arts and cultural professionals and workers.
- ▶ There is no choice of books and modern advanced technology is not applied. People have no interests in books and newspapers.

<b>Dornod aimag /Results of questionnaire on activities and functions of the cultural organizations in soums/in percent/</b>					
<b>Arts and cultural organizations</b>	<b>Good</b>	<b>Poor</b>	<b>Not sustainable</b>	<b>No activities at all</b>	<b>No existence</b>
Theatre/ music and drama ensemble	0	66%	33%	0	0
Cinema	66%	33%	0	0	0
Museum	0	33%	66%	0	0
Cultural center	16.6%	50%	33.3%	0	0
Sports center	83.3%	16.6%	0	0	0
Library	100%	0	0	0	0

The respondents provided the following rationales and reasons for their responses and opinions. They are as follows;

- ▶ The theatre is unable to do anything due to a budget deficit also; people are not interested in the theatre because it is far from the center.
- ▶ The library organizes various activities and events, which enrol many people. The Internet center is a positive aspect.
- ▶ The theatre is in a remote place and it has a lack of personnel and funding.
- ▶ Many service organizations are rent space in the cultural center building.
- ▶ Many contests and competitions are held in the cultural center, but there is a lack of teachers due to low salary so there are few circles and clubs.
- ▶ All the arts and cultural events take place in the new wrestling palace.

<b>Baganuur district /Results of questionnaire on activities and functions of the cultural organizations in soums/in percent/</b>					
<b>Arts and cultural organizations</b>	<b>Good</b>	<b>Poor</b>	<b>Not sustainable</b>	<b>No activities at all</b>	<b>No existence</b>
Theatre/ music and drama ensemble	12.5%	0	12.5%	25%	50%
Cinema	25%	62.5%	0	0	12.5%
Museum	0	25%	25%	12.5%	37.5%
Cultural center	37.5%	62.5%	0	0	0
Sports center	87.5%	12.5%	0	0	0
Library	37.5%	50%	12.5%	0	0

The respondents provided the following rationales and reasons for their responses and opinions. They are as follows;

- ▶ Due to the small population, there is little audience in arts and cultural events. So,

there is no profit, may be, that is why, there is a lack of arts and cultural events.

- ▶ There is no public library except the libraries in the schools. However, school libraries are only accessible for their own pupils.
- ▶ There are not enough cultural organizations such as the cinema, museums due to no budget and initiative of authorities.

Comparative analysis of public opinions and evaluation of cultural organizations in aimags and districts involved in the questionnaire							
Arts and cultural organizations	Aimags involved in the survey	Theatre/music and drama ensemble	Cinema	Museum	Cultural center	Sports center	Library
Good	Dornod	0	66	0	16.6	83.3	100
	Tov	0	0	12.5	28.6	50	50
	Baganuur	12.5	25	0	37.5	87.5	37.5
	Selenge	<b>33.3</b>	20	40	40	90	33.3
	Darkhan-Uul	<b>21.2</b>	15.6	25.8	18.5	81.8	58.8
	<b>Average</b>	<b>13.3</b>	<b>25.3</b>	<b>15.6</b>	<b>28.2</b>	<b>78.5</b>	<b>55.9</b>
Poor	Dornod	66	33	33	50	16.6	0
	Tov	37.5	12.5	25	42.8	25	37.5
	Baganuur	0	62.5	25	62.5	12.5	50
	Selenge	33.3	10	30	60	10	55.5
	Darkhan-Uul	51.5	40.6	35.5	29.6	12.1	32.3
	<b>Average</b>	<b>37.6</b>	<b>31.7</b>	<b>29.7</b>	<b>48.9</b>	<b>15.2</b>	<b>35</b>
Not sustainable	Dornod	33	0	66	33	0	0
	Tov	12.5	12.5	25	28.6	0	0
	Baganuur	12.5	0	50	0	0	12.5
	Selenge	11.1	10	10	0	0	11.1
	Darkhan-Uul	21.2	34.4	12.9	14.8	3	2.9
	<b>Average</b>	<b>18</b>	<b>11.4</b>	<b>14.6</b>	<b>15.3</b>	<b>0.6</b>	<b>5.3</b>
No functions at all	Dornod	0	0	0	0	0	0
	Tov	0	25	0	0	12.5	12.5
	Baganuur	25	0	12.5	0	0	0
	Selenge	11.1	50	0	0	0	0
	Darkhan-Uul	3	0	19.4	11.1	0	2.9
	<b>Average</b>	<b>7.8</b>	<b>15</b>	<b>6.4</b>	<b>2.2</b>	<b>2.5</b>	<b>3</b>
No existence	Dornod	0	0	0	0	0	0
	Tov	50	50	37.5	0	12.5	0
	Baganuur	50	12.5	37.5	0	0	0
	Selenge	22.2	10	20	0	0	0
	Darkhan-Uul	3	9.4	6.4	25.9	3	2.9
	<b>Average</b>	<b>15</b>	<b>16.4</b>	<b>20.3</b>	<b>5.2</b>	<b>3.1</b>	<b>0.6</b>

The aimags, which have better infrastructure and economic capacity, were selected for the survey. There is a list of arts and cultural organizations with the best ones at the top;

1. Sports centers
2. Libraries
3. Cultural centers

4. Museums
5. Theatres/ensembles
6. Cinemas

Generally, the respondents evaluated sports organizations better than arts and cultural organizations. This evaluation was made based on the regular organization of public contests and various clubs. Poor functioning of theatres and ensembles is resulted from professional artists and lack of budget and funding. Good operation of libraries and cultural centers is based on the intellectual needs of people on one hand and less dependence on the professional artists. Also they have been affected by project activities. In terms of cinemas, the privatization of cinema buildings and the replacement of cinema with cable TV and video at home, has contributed to the current situation.

As a whole, the activities and functioning of rural arts and cultural organizations are dependent on the following factors (listed in terms of importance.). They include;

- a. Insufficient financial resources and material base.
- b. Lack of professional personnel
- c. Poor management skills
- d. Lack of initiative and efforts of local administration bodies

Tendency to link everything with financial and human resource is quite dominant in many places. However, it is noticeable that there is a lack of capacity to use available resource among the personnel in the arts and cultural organizations and officials at municipalities. With general indicators Selenge and Dornod aimags, where the local administration bodies put satisfactory initiative and efforts, rank first.

The arts and cultural organizations involved in the survey are under the direct supervision of the governor’s offices and operate as a budgetary organization. Here, there is no piloting or introduction of appropriate ways to facilitate renovation, reforms and the privatization process.

Summary of results of questionnaire on activities and functions of the cultural organizations /in percent/					
Arts and cultural organizations	Good	Poor	Not sustainable	No activities at all	No existence
Theatre/ music and drama ensemble	13.3	37.6%	18%	7.8%	15%
Cinema	15.6%	29.7%	14.6%	6.4%	20.3%
Museum	28.2%	48.9%	15.3%	2.2%	5.2%
Cultural center	78.5%	15.2%	0.6%	2.5%	3.1%
Sports center	55.9%	35%	5.3%	3%	0.6%
Library					



The respondents provided the following rationales and reasons for their responses and opinions. They are as follows;

- ▶ The theatre is unable to do anything due to lack of budget and financing. Also, people are uninterested in the theatre because it is far from the town center.
- ▶ The library organizes various activities and events, which enrol many people. Good thing is that there is an Internet center.
- ▶ The theatre is in a remote place, it has a lack of personnel and funding.
- ▶ Many service organizations are situated in the cultural center building by renting.
- ▶ Quite many contests and competitions are held in the cultural center, but there is a lack of teachers due to low salary so there are few circles and clubs.
- ▶ All the arts and cultural events take place in our new wrestling palace.
- ▶ Although there is a theatre building, it is rented out to others for various purposes.
- ▶ Museum exhibitions have not been renovated for many years.
- ▶ There is a lack of modern and recent books.
- ▶ The reason why the arts and cultural organizations do not operate is connected to the few audience. Most young people hardly return back from urban areas.
- ▶ The organizers prefer profits to the people and audience
- ▶ Poor musical instruments and equipments.
- ▶ Sports hall was privatized and is used for different purposes
- ▶ Due to the small population, there is little audience in arts and cultural events. So, there is no profit, may be, that is why, there is a lack of arts and cultural events.
- ▶ There is no public library except the libraries in the schools. However, school libraries are only accessible for their own pupils.
- ▶ There are not enough cultural organizations such as the cinema, museums due to no budget and initiative of authorities.
- ▶ There are few arts and cultural professionals and workers.
- ▶ There is no choice of books and modern advanced technology is not applied. People have no interests in books and newspapers.
- ▶ The cinema has stopped functioning since its privatization
- ▶ The cultural center only operates in summer due to heating problem.
- ▶ The cultural center is more like a bar or nightclub than a cultural center.
- ▶ There is no need to go to the cinema since many families have cable TV.

## **Analysis and accumulated problems** \_\_\_\_\_

Culture includes not only various forms of art but also a way of life, basic customs and norms of human life, values, traditions and beliefs.

Culture has not accomplished its role in facilitating development and progress, being too much obsessed with old styles, ways and structure but neglecting reforms, since the 1990s when the Mongolian social system experienced rapid progressive changes.

This is why, recognising the importance of culture in creating a humane, democratic civil society, recognising the Mongolian culture as guarantee of the national independence, pride, resource of unity and a vital lever of prosperity, the **state adopted its sustainable policy** on culture in 1996 with an aim to expand cultural service for the people, to develop all arts forms, to transmit the traditional culture to the descendents, to perceive culture in a broader term and to integrate culture into social and economic fields.

As a result of the efforts and willingness of the state to implement and enforce its sustainable policy through the Mongolian law on culture and other regulations and programs, a progressive legal system comprising of universal norms, international development trends, globalization and national characteristics has been formed for the past decade. Nevertheless, the implementation mechanism is inadequate, relevant provisions on implementation process are not amended into other legislation and the resources are rather declarative. Although the duties and responsibilities of the executive power, citizens and organisations regarding culture are defined, they are also declarative. Furthermore, organisation of monitoring system and application of monitoring results are blurry. These all have decreased the lifespan of the state policy on culture.

Due to the fact that the mechanism to strengthen financial ability of cultural organizations is still not reflected or integrated into other relevant laws, majority of them, especially, the ones in rural areas encounter financial difficulties. Moreover, because there are no clear strategies towards reforms, renovation and privatization of cultural organizations, ministries deal with situations from their perspective or contradict with each other. They put “keeping expenses down” first rather than creating mechanisms to support arts and cultural organizations.

There is neither systematic policy on improving the capacity of the cultural organizations to meet the market needs and demands nor a mechanism to implement such a policy.

The current situation is caused by several acts. First of all, the laws and regulations on reforms, renovation and privatization of cultural organizations were approved without recommendations from public discussion or agreements of parties. Secondly, development strategies and priorities of the arts and culture sector were not determined, so application of certain methods, forms and timeframe are not transparent which might cause breach of the state sustainable policy on culture.

We have to find a solution for the questions or issues like how to ensure independence and security of the country when culture is unable to contribute to the social development and progress and will the few Mongolians exist in this globalization era?.

The survey team has developed the following recommendations in order to motivate activities that would find solutions for these issues.

1. A mechanism to implement the declarative laws, regulations and programs should be defined. Monitoring system over the implementation mechanism and findings of the monitoring should be regulated to be performance indicator of the executive branch and



- be notified to the public.
2. A mechanism to financially support the arts and cultural organizations shall be amended in the tax law. In particular, there could be some provisions requiring companies or ventures to make certain contribution to developing culture as a part of their total expenditures or allowing them to donate a certain percent of their total expenditures to the fund for arts and culture.
  3. Presentation of objectives to promote access to the arts and culture among the people and reporting the achievements by municipalities at beginning and end of their term shall be regulated.
  4. The local or grassroots level shall be the essence of policy implementation process. There should be formed legal backgrounds for the engagement of financial and human resources, municipalities, local media, all organizations and community in the implementation of the policy.
  5. It is recommended that a national committee /sub committees/ be set up to pursue the state sustainable policy on culture and its enforcement and to initiate reforms in the legal environment by holding public discussion about arts and culture development.
  6. A policy based on strategies to develop the arts and culture sector through the integrated or combined approach of direct or indirect financing from the state and the management level privatization should be adopted.

Case study of art and culture privatization  
Case: “Legal basis for reforms, innovation and privatization of arts and cultural organisations and its enforcement in rural areas”

OSF





# Pilot Privatization of the Social Sector

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## Introduction to the case study “Lessons from the management privatization of the Youth and Children’s Theatre and outcomes“

### 1. Brief Introduction to the Youth and Children’s Theatre

The Youth and Children’s Theatre of Mongolia was first established under the National Theatre of Music and Drama in accordance with resolution No 74/117 passed on December 1, 1950 by the Political Bureau of MPRP’s Central Committee. It was restructured to become the Youth and Children’s Theatre- Film Institution upon its merger with the children’s film studio *with an aim to expand productions for youth and children* on July 4, 1993.

Since its establishment, the theatre has worked primarily on plays based on fairy tales or youth and children’s themes for different groups like pre-school children, primary school or senior pupils and students from vocational schools or other higher educational institutions. The repertoire of the theatre that had its first play on May 14, 1951 has been enriched from year to year to include over 140 plays written by classical and domestic writers. Performers of the theatre have toured not only in all the aimags, soums of Mongolia but also other countries such as Russia, Germany, and Bulgaria, playing over 5528 times. In addition, it was awarded with the medal “Polestar” on its 30<sup>th</sup> anniversary in 1980 and was named after the Mongolian Youth Revolutionary Union on the occasion of the 60<sup>th</sup> of anniversary of the union in 1981.

The theatre employs 93 artists and workers on a contractual basis. As the balance sheet of the first half of 1998 before the privatization, the theatre had a total equity of tg 29.2 million, capital worth tg 14.6 million, 526 seats and 42% of seat utilization.

The Youth and Children’s Theatre is located in the Sukhbaatar District territory. It occupies a total of 8586.36 square meter space from which 1859.65 square meter space is under the building, utilization space is 5106.7 square meter, the total space of the building takes 62016 square meter. It had 41 rooms and auditoriums.

***Reference 1 (not sure this is necessary, much of this content is already stated. I’d recommend including this in the text)***

The word ‘theater’ comes from a Greek word meaning a place for seeing. As defined, ‘Theater is a live performance before an audience’ or an art form in which the performers, usually with the assistance of a director, interpret the characters and situations created by a playwright in a space designated for the performance’ It includes every form of entertainment from the circus to plays.

One type of theater, the youth and children’s theater presents productions to youth and children in order to develop their artistic sense and awareness. In the framework of this goal, almost all secondary schools, higher educational institutions and colleges run theater circles in which pupils and students direct plays themselves and perform in them. The directions of the plays to be performed in this min-theater are reflected in the school curriculum as directed by the state policy and mostly it presents classics or plays representing national values, and traditional customs.

*Source; world Book 7-19*

Government resolution No 20 adopted on September 10, 1994 initially determined the major goal of the social sector privatization.

***Reference 2***

It states “The privatization shall be based on the principles of preservation of intellectual values during the establishment of cultural system and its funding basis suitable for the market economy, formation of approaches or viewpoints consistent with universal values, full effective use of art forms and means and provision of the opportunity for every one to express his/her opinion or viewpoints freely “

*Source; From the government resolution no 20 of September 10, 1994 regarding privatization*

**Annex to the resolution no 20 of September 10, 1994**

The Youth and Children’s theater is included in the list of the arts and cultural organizations to remain as the state-owned organizations that will serve for the national and people’s interests in this market economy system.

The resolution calls the Ministry of Culture, Local Governor’s Offices and the State Property Committee to a sign an agreement that covers the following principal issues. They are as follows;

1. Main areas of activities of an organization should not be modified. It is allowed to conduct subsidiary service with the main areas being dominant.
2. Rendering financial assistance to the privatized arts and cultural organizations can be sought, reviewed and rendered from the state for the national and public interests.

### Reference 3

#### *Mongolia State Policy on Culture*

**Mongolian state** has adopted its sustainable policy on culture, recognising the importance of culture in creating a humane, democratic civil society, recognising the Mongolian culture as guarantee of the national independence, pride, resource of unity and a vital lever of prosperity, with an aim to expand cultural service for the people, to develop all art forms of arts, to transmit the traditional culture to the descendants, to perceive culture in a broader term and to integrate culture into social and economic fields.

In the ways of implementing the state policy on culture,

5 states that to develop all forms of arts and to keep the traditional, classical and children’s art productions and documentaries under the auspices of the state,

9 states that to increase production of books, printed materials and works for children and improve their quality.

The purpose of the Law on Culture approved on April 11, 1996 is to define the legal basis for conducting cultural activities, rights and duties persons involved in cultural activities, management system of culture, social welfare protection for people of the cultural sector, property of cultural organizations, financing ways and principles and to coordinate relations occurring among the ones involved in cultural activities.

- *Content of the request submitted to the government session from the State Property Committee is: Based on the official notes delivered to us from the Parliamentary Standing Committee of Social Policy, The Ministry of Enlightenment and the Youth and Children’s Theater in the framework of creating multiple property forms, competition, balanced property proportion and non-governmental arts and cultural organizations in the cultural sector, we are supportive to the suggestion to carry pilot privatization of the Youth and Children’s Theater on a management agreement. It submitted the draft resolution on privatizing the Youth and Children’s Theater through a management agreement to the government session in accordance with 5 in Article 9, and Article 58 of the Law on State and Local Properties.*

I. Nyamgavaa made an official written request to carry out privatization of the Youth and Children’s Theater, where he was working, to Khulan, the head of the Parliamentary Standing Committee on Social Policy, Lkhagvajav, the minister of Education, Culture and Science and Enkhbold, the director of the State Property Committee within the framework of the privatization program of state property between 1997-2000 approved on February 2, 1997. Following this, Kh. Khulan, the head of the Parliamentary Standing Committee on Social Policy sent an official note No 5/3215 of June 26, 1997 to Lkhagvajav, the minister of Education, Culture and Science. With this note, senior members of the Mongolian Traditional Arts Academy submitted their supportive opinion about privatizing the Youth and Children’s Theater, confirming with their signatures.

- ▶ Ch. Saikhanbileg, the minister of Education, Culture and Science submitted an official note No 1A/1655 supporting the pilot project to privatize the Youth and Children’s Theater to the State Property Committee.
- ▶ D. Torbat, head of Tender and Management Privatization Department, State Property Committee; If we privatize the Youth and Children’s Theater, the only theater aimed to meet the esthetic and intellectual needs of the children and youth, as a nonprofit organization in conditions not to decrease the current level of professional service and main areas, upon the completion of a management agreement, it will reduce the state budget loads and facilitate sustainable activities in the theater.
- ▶ Therefore, the suggestion to privatize the Youth and Children’s Theater by announcing a tender and selecting proposal plans through a management agreement on the basis of the government resolution No 140 of August 5, 1998 in conformity with 5 in Article 9, and Article 58 of the Law on State and Local Properties was submitted.

**Reference 4**

**RESOLUTION BY THE STATE PROPERTY COMMITTEE OF MONGOLIA**

1999-01-28

No 57

Ulaanbaatar

*Re; Approval of conclusion of the experts who selected a project*

Based on the resolution No 140 of August 5, 1998 in conformity with 5 in Article 9, and Article 58 of the Law on State and Local Properties, hereby the State Property Committee is

1. to approve the conclusion drawn by the experts on selecting the eligible project submitted by the management team of the Youth and Children’s Theater .
2. to assign the Department of Tender and Privatization /D. Torbat/ to sign a three year term lease agreement with the management team from the Youth and Children’s Theater and conduct monitoring over their compliance of the agreement.
3. to appoint Ts. Otgonbayar, head of the Tender and Management Department as a member representing the State Property Committee in the Non-governmental Steering Committee that is to be set up by the management team of the theater.

Director of the Committee  
Head of the Office

Z. Enkhbold  
B. Shinebaatar

### **Reference 5**

#### **MANAGEMENT AGREEMENT OF THE YOUTH AND CHILDREN’S THEATER**

*This agreement is established between the following two parties.*

1. The Ministry of Enlightenment /hereinafter ‘the ministry’/  
Address: Government Building 3, Sukhbaatar District, Ulaanbaatar
2. The Youth and Children’s Theater /YCT/, non-governmental organization.  
Address: Khoroo 3, Seoul Street, Sukhbaatar District, Ulaanbaatar

#### **Content**

1. The non-governmental organization that won the tender of effective management project to manage the Youth and Children’s Theater announced by the State Property Committee and the Ministry of Enlightenment is the contractor.
2. The purpose of the management agreement is:
  - *To enhance the efficiency of the theater management and to facilitate its financial self-reliance.*
  - *To meet the needs of the art market thus to improve the production quality of YCT and expand a range of art service.*
3. *The Ministry and the contractor have agreed that the contractor will manage the YCT from the day of signing the agreement to December 31,2001, complying with the provisions set out in the agreement. The state administrative body in charge of culture shall allocate the amount of handouts speculated in the agreement.*
4. The contractor shall manage the YCT in accordance with the agreed management system and project plan.
5. The contractor shall utilize the budget of the YCT, saving the expenditures with the revenues coming from the state handouts, performance, service revenues and other resources.

*This contract was signed on February 05, 1999*

Representing the Ministry  
State Secretary  
R. Bat-Erdene

Representing the NGO “YCT”  
Director,  
I. Nyamgavaa

**Reference 6**

**ORDER BY THE MINISTER OF ENLIGHTENMENT OF MONGOLIA**

1999-02-15

No 24

Ulaanbaatar

*Re; Establishment of an agreement  
and appointment of a member*

Based on the resolution No 140 of August 5, 1998, orders No 57 of 1999 by the State Property Committee in conformity with 5 in Article 9, and Article 58 of the Law on State and Local Properties, hereby this is;

1. to order G. Mend-Ooyo, director of Culture and Arts Office, the government implementing agency, to establish a management agreement with the management team from the Youth and Children’s Theater and to carry monitoring over its compliance.
2. to appoint K. Japakhan, senior specialist of the Culture and Art Office as a representing member in the Steering Committee to be set up by the management team of the theater.

Minister

A. Battor

- ▶ The Mongolian Youth and Children’s Theater-Film Institution was privatized through a tender selection by the joint order by the Minister of Enlightenment and the Director of the State Property Committee based on the government resolution No 140 of 1998 in the framework of “The privatization program of July 2, 1997 between 1997-2000 of the government.

## **Duties of the contractor of the management agreement \_\_\_\_\_**

### **The management team has the duties to**

- ▶ To develop and take measures to maintain regular functioning, improve production quality and expand the scope of audience while not decreasing the types and number of new plays.
- ▶ To adopt a new procedure on performance evaluation and an encouragement system in order to enhance the independent productivity.
- ▶ To begin organizing various activities such as discussions and shows or new forms of performance regarding plays to increase the aesthetic awareness of youth.
- ▶ To develop a program to enroll directors and actors in an in-service training for improving their qualifications.
- ▶ To train actors for theatre and films, light and technical workers, and performers in the framework of the theatre activities.

### **Regarding the personnel;**

- ▶ The employees of the YCT shall remain as civil servants. The contractor shall be obliged



to ensure the power of civil servants during the contract period.

- ▶ During the contract period the contractor shall have an authority to recruit new employees who shall exercise the legitimate power of civil servants.
- ▶ The contractor shall comply with any laws and regulations on termination of a labor contract.

**Within 3 months from the day the authority of the UCT signs the contract, the contractor shall;**

- ▶ Develop and take measures to maintain regular functioning, improve production quality and expand the scope of audience while not decreasing the types and number of new plays.
- ▶ Adopt a new procedure on performance evaluation and encouragement system in order to enhance the independent productivity.
- ▶ Begin to organize various activities such as discussions and shows or new forms of performance regarding plays to increase the aesthetic awareness of youth.
- ▶ Develop a program to enroll directors and actors in in-service training for improving their qualifications.
- ▶ Train actors for theatre and films, light and technical workers, and performers in the framework of the theatre activities.

**Within 6 months from the day when the contract is signed, the contractor shall;**

- ▶ Develop and implement a scheme directed at accumulating capital, increasing revenues and adopt a sophisticated form.
- ▶ Reduce unnecessary expenses and thus save the budget by taking a series of measures to reduce extra costs.
- ▶ Establish a contract or agreement on modernization of theater and film equipments with respective foreign organizations.
- ▶ Have a capital reconstruction in the theater, making rooms and halls comfortable for seeing performance by changing their locations and start construction work in the surrounding areas.
- ▶ Set up an internal mechanism of receiving suggestions and requests from audience and clients and of assessing production and quality service.

**Bidding money**

- ▶ The contractor shall place guaranteed savings of the management agreement in a bank besides the guaranteed savings of the lease agreement. The amount of guaranteed savings of the management agreement is 5 million tugrugs /5.000.000/.
- ▶ During the management contract, the guaranteed savings shall be kept in a bank. The savings interests for the contract term will be handed to the contractor at the end of the contract term. In case, the management team has not fulfilled its contractual duties, a part or all of the guaranteed savings along with the interest earned will be confiscated to the state revenue. In a non-compliance case, the fine imposed on the contractor shall be not be more than the sum of guaranteed savings and its interest.

**Application for official permission.**

- ▶ The contractor shall apply for an official permission from the ministry in the following



circumstances;

- ▶ A. Intention for redundancy of more than 10 % of the original personnel.
- ▶ B. Renting out space or equipments for performance to be used for other purposes than performance./no necessity of a ministry’s permission for renting out a room or space for subsidiary service such as canteen etc../
- ▶ The minister shall reply to the application for permission within one month. If the intended act meets the interests of employees and the theater, the ministry shall not reject the application without sufficient grounds. If the ministry has not sent an official response regarding the application for permission, the contractor shall understand it as no rejection from the ministry.

#### **Availability of documents**

- ▶ A range of information and documents related to the authority, inventory, financial matters and assets of the theater should be available to the ministry.

#### **Reimbursement and insurance**

- ▶ During the agreement term, the following damage, loss, breakage, fine, expenses, and court costs shall be covered by the contractor;
- ▶ A. Breakage and loss to the state properties in the theater building
- ▶ B. Any claim for costs incurred due to personal injury or death during the actions or performance conducted in conformity with the contract provisions.
- ▶ The contractors shall be covered by insurance popularly used in the arts and cultural sector of Mongolia.

#### **Reporting**

As administrating the UCT, the contractor shall submit all the relevant updates and reports to the State Property Committee, the Ministry of Enlightenment and other NGOs as required by respective procedures. Besides this, it shall provide the additional information spelt out in the Annex 1 regularly.

#### **Payment for the authorities and Reimbursement for the Steering Committee**

- ▶ Authorities
- ▶ The Steering Committee shall define the salary for authorities considering the revenues of the UCT but;
- ▶ A. The salary of the UCT authorities shall not be 30% more than that of their counterparts in organizations with similar functions.
- ▶ B. The salary of the UCT authorities shall not be 150 % more than the average salary of artistes at the theater.

#### **Members of the Steering Committee**

- ▶ The members of the Steering Committee shall not receive any fee, payment, and bonus for serving in the Committee. However, any expenses the members of the Steering Committee made in activities organized on the behalf of the UCT shall be reimbursed.

#### **Duties of the Ministry of Enlightenment**

- ▶ Direct funding from the state budget
- ▶ The Ministry shall install the handouts of .....allocated for the agreement term to





the contractor in accordance with respective procedures.

- ▶ The Ministry shall install the funding from the state budget in the following scheme;

1999	Second year of the contract term	Third year of the contract term	The last year of the contract term
Tugrugs	.....tugrugs / less than the amount of 1 <sup>st</sup> year	Tugrugs/ less than the amount of previous year	0 tugrugs

**Indirect funding from the state budget**

- ▶ The UCT has a right to receive financial assistance from the Fund for Arts and Culture if its project proposals are approved.

**Political actions**

- ▶ The Ministry shall be liable for any additional costs incurred by adoption of new resolutions and orders on arts and culture by the state or government during the agreement term.

**Amendment to the Law**

- ▶ The Ministry shall be liable for any additional costs incurred by amendments to laws on arts and culture during the agreement term.

**Auditory inspection**

- ▶ Officials of the Ministry of Enlightenment have the authority to inspect activities, administrative and inventory records, financial reports, updates and other documents of the UCT on their own expenses.

**Power of the Ministry**

- ▶ Upon the breach of the agreement provisions, the Ministry shall take the following measures against the contractor;
  - a. Warning
  - b. Suspending the state handouts or direct funding as a whole or part
  - c. Confiscating of the contractor’s guaranteed savings as a whole or part.
  - d. Terminating the agreement
  - e. Filing a lawsuit to the court
  - f. Imposing combined penalties above.

**Conveying property**

- ▶ The Auditing Commission will inspect the performance of the contractor not less than 2 times a year during the agreement term as speculated in 2.2.2 of this document. This inspection will check if the performance of the contractor meets the criteria defined in Annex 2. The final inspection of the Auditing Commission shall be conducted 3 months ahead the agreement end.
- ▶ According to the Auditing Commission, if the contractor has proved to have accomplished its contractual duties and its activities have reached the criteria in Annex 2 of this document, a recommendation to convey real estate and other properties of the UCT to the contractor will be released by the Auditing Commission and presented to

the State Property Committee. As the State Property Committee makes an order, fixed assets like land, building, stock and equipments of the UCT may be conveyed to the ownership of the contractor free of charge. However, the contractor is obliged to comply with restrictions indicated in the conveyance paper.

- ▶ According to the Auditing Commission, if the contractor’s performance indicators reach more than .....but less than .....against the assessment system in Annex 2, a recommendation to prolong the management and lease agreement with similar conditions will be released by the Auditing Commission.
- ▶ According to the Auditing Commission, if the contractor has failed to accomplish its contractual duties recommendation to announce a new tender and select the authorities of the Auditing Commission will release the UCT.

<b>Dornod aimag /Results of questionnaire on activities and functions of the cultural organizations in soums/in percent/</b>					
<b>Arts and cultural organizations</b>	<b>Good</b>	<b>Poor</b>	<b>Not sustainable</b>	<b>No activities at all</b>	<b>No existence</b>
Theatre/ music and drama ensemble	0	66%	33%	0	0
Cinema	66%	33%	0	0	0
Museum	0	33%	66%	0	0
Cultural center	16.6%	50%	33.3%	0	0
Sports center	83.3%	16.6%	0	0	0
Library	100%	0	0	0	0

<b>2. Summary of the quarterly report of the Youth and Children's Theater, 2000 /January 1-July 1, 2000/</b>		
	<b>Activities to carry out</b>	<b>Work performances</b>
<b>1</b>	Discussing the theater report of 1999, and approving the budgets and plans	The work report of the previous year was discussed at the Steering Committee meeting held in April 27 <sup>th</sup> , 2000, and the budget for 2000 was approved
<b>2</b>	Producing new art works and perform in both city and rural areas and improving the quality of works	With the aim of establishing Drama Theater of children's plays, the theater recorded the newly produced plays and stored them in the archives. For example: "Goodbye my childhood", "The Children's Show". "The Comic Pictures" the comic program was performed in April and the separate five groups of artists performed in Khentii, Dornogobi, Bayankhongor, Ovorkhangai, aimags. Also we have successfully taken part in the performance "The Lucky Pilgrim"
<b>3</b>	Completing the annex blueprint, and getting it approved	The blueprint of the theater annexe modeled on theater buildings of Ulaanbaatar and Darkhan has started, as discussed with architect Sukhbaatar. 500.000 tugrugs were spent to make the first architectural blueprint and we were given the go-ahead by having it approved by Nyamsuren, the general architect of Ulaanbaatar. Now the blueprints are in the process of being made by architect Ganbaatar.
<b>4</b>	Receiving the permission of the construction and technical condition to begin theater annex	The technical condition was introduced to the relevant organizations to begin the construction and received the permission in May.
<b>5</b>	Determining the amount of the theater ownership land, and receiving the planning permission in June	According to the A/244 directive of the mayor of Ulaanbaatar dated July 28, 2000, the theater land ownership was approved.
<b>6</b>	To begin the annex and reconstruction work in May	The measurements to be attentive of fire and theft were taken. Around 500.0 million tugrugs are required for the annex and reconstruction work. 270.0 million tugrugs needed beforehand for digging and building the construction carcass. The Head of the Steering Committee M.Enkhtaivan ordered to install 270.0 million tugrugs urgently but now it has been delayed until August 15 <sup>th</sup> as the Head of the Steering Committee.
<b>7</b>	Taking part in the International Film Festivals held in Washington, Seattle, Australia, and New York	Our film "Amulet of Ferocious Reincarnated Darnata" participated in The Film Festivals held in May, June in New York, in August, Washington, in July Australia. It was selected from around the 100 films. Also this film was selected from around 100 films to be played in Fukouka and Tokyo.

Compiled by  
 Vice director of the YCT-Film Institution  
 Accountant

S. Tungalag  
 D. Erdenechimeg

### **3. The quarterly report of I. Nyamgavaa, the executive director of the Youth and Children’s Theater, 2000**

The theater artists released “Comic Pictures-2000” on April Fool’s Day, advertising it through the radio and television in 2000. Also the separate groups of artists performed in the countryside, aimags, and soums. Besides that, we have successfully taken part in the performance “Lucky Pilgrim”.

The blueprint of the theater annex modeled on theater buildings of Ulaanbaatar and Darkhan has started, as discussed with architect Sukhbaatar. 500.000 tugrugs were spent to make the first architectural blueprint and we were given the go-ahead by having it approved by Nyamsuren, the general architect of Ulaanbaatar. Now the blueprints are in the process of being made by architect Ganbaatar.

Also, the economic and financial accounts of the theater’s activities after the annex is implemented were sketched

The directive of Municipal Land Department of Ulaanbaatar has given the approval of the annex land of Youth and Children’s Theater.

The preparatory works due for the first two weeks of May, such as constructing a fence around the annex area and digging which are due for the first two weeks of May, are nearly completed. We need to urgently start the work such as putting up a fence around, and hiring a guard to beware of fire and theft.

So far, debts of film- making equipments worth over 500 million tugrugs is to be dealt with by the agreement of KHOTSH bank authorities and the help of M.Enkhtaivan.

Apart from this, we have started the preparation work of ordering documentaries from the organizations, Oyuntulkuur Foundation, and Japanese artists.

The film, “Amulet of Ferocious Reincarnated Darnata” has been invited to the International Film Festival taking place in New York and Seattle, in May and June 2000, Washington in April, and Australia in July. This film was selected from approximately 100 films to be played in Fukouka and Tokyo.

#### **▶ Quarterly financial statement of The Youth and Children’s Theater, 2000**

The theater’s requested funding amounted to 16305.6 thousand tugrugs and the expected revenue amounted to 23.686.8 tugrugs by the first half of 2000. The funding totaled 18305.6 tugrugs and obtained the revenue of 1648.1 thousand tugrugs.

The reason revenue’s fell short was because attendance was low due to the cold, uncomfortable auditorium with few seats. Even though performances were held, low attendance was not a



result of work quality. It was impossible to rent out the auditorium. That is why beforehand, we planned the work of annex and reconstruction for the theater building and had the annex blueprints made and received planning permission.

15.000.0 tugrugs was given by the director I. Nyamgavaa to recover the revenue plan for the new work and now the stage rehearsal is in progress.

We have planned to perform several of our works in our own theater building, secondary schools, and kindergartens until the construction work of annex starts.

When the reconstruction work is completed by 2001, September, the new building will allow performances to be played in both big and small auditorium halls, exhibitions, a sauna, and beauty saloon services for the workers and artists with services of sauna and beauty saloon. Thus we can recover the lost revenue and will be able to recover the further expenditure with the revenue.

#### **4. The conclusion of the management team**

##### *1. The conclusion on the material base of The Youth and Children's Theater*

In accordance with the management agreement to implement a project to reform the theater with up-to-date equipment and building by a stage-by-stage process, it is absolutely necessary to cooperate with both local and foreign investors. For this reason, a total of 30 meetings and talks were organized involving both foreign and Mongolian investors such as the German IGK Company, Japanese Tohten Enterprise Company, Agrotechimpex, Mongol Gazar, Narantuul, Simba, and Kekushuzan Development Foundation. 8765.1 tugrugs were spent on them.

Although The Youth and Children's Theater and Film Institution were privatized according to the management agreement, it has been going with partial status of a semi-budgetary organization as it is given certain budgetary financing. That is why it cannot be legally capable.

- Since the theater building is a state property, the management team is not able to give the necessary capital bid to investors.
- The above-mentioned meetings and talks could not be effective due to the fact that the legal environment threats (particularly, the privatization law of social sectors have not been approved, etc) were not reflected in the agreements. It has become certain that it will not be able to be legally effective, even in the future.

The project to reform the theater and filmmaking technology and equipment were well implemented within the framework of the management team. The most up-to-date comprehensive filming equipment of the German firms such as FGV, SCHMIDLE, GMBH, MOVIE TECH were brought and worth a total of 342.98 million tugrugs. This is a measure to contribute to the development of both documentary and feature films.

Even though the necessary legal environment was not formed, the management team of the

institution drew up a project with “Mongol Tusul” Co.Ltd. The project aims to establish a theater and service center complying with international standards and contemporary needs and requirements based on The Youth and Children’s Theater. Within the framework of the project, the comprehensive reconstruction and annex of the theater building will be built and “Temuujen Art” theater and service center” will be established for shows, theater plays and concerts. They have made a contract with the architect Sukhbaatar and ordered the blueprints modeled on theater buildings of Berlin, Dresden, Darkhan, and Ulaanbaatar. The general architect of Ulaanbaatar approved the first construction and architecture blueprints and they received the permission. Also they introduced the technical condition to begin the construction to relevant organizations, and received the permission as well. According to the A/244 directive of the mayor of Ulaanbaatar dated July 28, 2000, the theater land ownership was approved. 2.986 million tugrugs were spent for all these work.

“The Construction Law” of Mongolia was approved. Due to the fact that the 56<sup>th</sup> technical analysis of Construction and Technical Monitoring Inspector at the Mayor’s Office of UB dated in May 15, 2001 is being infringed, the following measurements should be taken such as the detailed engineering and geological analysis, structural research and comprehensive engineering plan, brace blueprint for the stability and reliability. The 8.1.1 provision of The Construction Law states that “A building and construction must form a favorable condition to live and work in for one, ensure the one’s security and must not have counter-influence on one’s health.” Therefore, we have made the conclusion that the building should be put into operation after ensuring the structural stability and load-bearing durability.

To complete the reconstruction of the theater building and engineering line and network according to the construction and technical legal acts, 1.15 billion tugrugs will be spent as it is estimated by the organization of the relevant specialization. If the privatization is delayed waiting for the approval of “Law on The Social Sector Privatization”, it might be required to close down the theater in order not to let the state property building worsen and become impossible to restore until the state budgets the certain amount of funds for the reconstruction work.

If the above mentioned situation is formed, the contractors might propose terminating the management or leasing agreement unilaterally to the Ministry of Education, Culture and Science or The State Property Committee and claim refund of the expenditure (totally 516.17 million tugrugs) paid by the management team within the contract process term. If it happens, this will be a serious problem.

In addition, if the theater turns back into the state budgetary organization, the additional load of 100-110 million tugrugs of budget come to the back of the state.

Due to these actual situations and reasons, the working group considers that selling the theater with a long-term lease is a proper way to solve the problem. Since the theater was built with a low quality, not according to the construction technology and used for 23-25 years and it is worn out as well, the management team of The Youth and Children’s Theater (I.Nyamgavaa) can carry out reconstruction work and sell at a certain amount of price in order to maintain the



basic service directions of theater art according to the terms and conditions stated in the agreement. The management team meets the conveyance conditions of property (the consolidated valuation 2.149) according to the terms and conditions stated in the agreement. Since a large amount of money /1.15 billion tugrugs/ will be required from the state to restore and reconstruct the building, selling it with a long-term lease is a proper way.

“The Property Valuation Center” Co.Ltd valued the building at the request of The Youth and Children’s Theater and Film Institution to determine the current market price of the construction. It was estimated as 204 656 400 (two hundred million, six hundred fifty six thousand and four hundred) in August 8, 2001.

During the agreement term, the Ministry of Enlightenment inspected the theater operations between February 5<sup>th</sup>, 1999 and July 1<sup>st</sup>, 2001 and Auditing Commission of the State Property Committee inspected in the last half of 1998, The State Financial Inspecting Office audited the financial records and economic activities of the first quarter in 1999, 2000, 2001 and gave evaluations such as “satisfactory” and “good”. Those above organizations made the conclusion that measurements are needed to be taken, such as urgently solving the property privatization issue, determining the legal status of the owner, forming the legal environment to attract both the foreign and Mongolian investors for the theater reconstruction, reform, and expansion work and also operating the theater as the complex theater complying with international standards.

## *2. The artistic work of The Youth and Children’s Theater*

The feature film “ Amulet of Ferocious Reincarnated Darnata” produced by the producer I.Nyamgavaa was invited to the following International Film Festivals and won the following awards. Thus it has made a certain contribution in advertising Mongolia in foreign countries.

1. The Film Festival held annually and took place in Sydney, Australia, May 4<sup>th</sup> –18<sup>th</sup> 1999.
2. The Film Festival took place in Friburg, Switzerland, November 21<sup>st</sup> –28<sup>th</sup>, 1999.
3. The Film Festival held in January 13<sup>th</sup> -14<sup>th</sup>, 2000, Palm Springs, California
4. The Film Festival, and Mongolian Film Days held in May 27<sup>th</sup> –28<sup>th</sup>, 2000, New York.
5. The International Film Festival took place in May 18<sup>th</sup> –June 11<sup>th</sup>, 2000 in Seatl, the USA
6. The International Film Festival held in July 21<sup>st</sup> –28<sup>th</sup>, 2000, Washington, the USA.
7. The International Film Festival held in August 13<sup>th</sup> –20<sup>th</sup>, 2000, Chicago, the USA
8. It was selected one of the top 10 outstanding films from around 500 films made in the last decades of the 20<sup>th</sup> century in Asia and the producer I.Nyamgavaa was invited with his movie to the film festival “The Best Asian Film” held in Tokyo, Japan in December 8<sup>th</sup>-14<sup>th</sup>, 2000. It was one of the bigger events in Mongolian Film Art.

Also the producer I.Nyamgavaa was awarded as the most outstanding producer in the

competition “Goo Maral” in 1999 for his movies such as “Amulet of Ferocious Reincarnated Darnata” and “Oh! My Earth and Ground”.

For the theater work, the producer I.Nyamgavaa produced the show programs during the agreement term such as “Comic Show” for children, “Comic Pictures-1999, 2000, 2001” and the plays “Spoilt Princess” by D.Garmaa, “Goodbye My Childhood” by D.Batbayar, “Expensive Child” by S.Mikhaikov, “White Night” by F.Dostoevskii and these were played in the theater for children and youth.

He produced the highly applauded play, “The Way to Heaven” by S.Jargalsaikhan and is soon taking part in the Theater Festival of The Mongol Race held in Ulaanbaatar for this play.

**Reference – 8**

“Amulet of Ferocious Reincarnated Darnata” was the producer’s own work so it made neither contribution in the theater work fund nor support financially.

“The Way to Heaven” by S.Jargalsaikhan was played in the theater during the agreement term. It was played totally four times and closed due to the less attended audiences. Also the comic show programs “Comic Pictures-1999, 2000” were staged in The Youth and Children’s Theater 3 or 4 times and closed down due to low attendance. Except those, no plays have been played in the theater since management privatization. Source of the information: The interview of the artist B.

**Regarding Revenues, and Financing**

The theater has received the state budget with the decrease of 20-80% each year as it is stated in the agreement and during the agreement term the total funding has been decreased by 68.4 million tugrugs . See the Table 1.

*3. Regarding Revenues and Financing*

The theater has received the state budget with the decrease of 20-80% each year as it is stated in the agreement and during the agreement term the total funding has been decreased by 68.4 million tugrugs. See the Table 1.

*Table 1*

Year	Requested funding	Received Funding	Saved / +, - /
1999	56 452 500	50 452 500	+ 6 000 000
2000	57 900 000	28 155 600	+ 29 744 400
2001	60 600 000	27 976 900	+ 32 623 100
Sum	174 952 500	106 585 000	+ 68 367 500





The price change of heating, electricity, and water supply caused some difficulties for the theater activities due to the fact that the calculation of macro environment influence of economy was not stated in the management agreement. The table 2 shows the price hike during the agreement term.

№	Indicators	1999	2000	2001	Growth		
					1999/2000	2000/2001	2001/1999
1	Heating	6778.1	10426.2	12145.7	53.8%	16.5%	79.2%
2	Electricity	3517,2	3605,8	3672,5	2,5%	1,8%	4,42%
3	Water supply	3640,8	4092,0	4272,0	12%	4,3%	17,3%

It was planned in the budget that the theater is not to receive any budgets from the state consolidated budget of 2002 beginning from April 2001.

### 5. The management agreement of The Youth and Children’s Theater, its conclusion, and further recommendations

“The Management Agreement “ was made between the Ministry of Enlightenment and The Youth and Children’s Theater in February 5<sup>th</sup>, 1999. The working group appointed by the joint order of the Minister of Education, Culture and Science and State Property Committee inspected the management agreement and ensured that the theater management team meets the conveyance conditions of property. The working group drew up a proposal that allows them to pay the value of the building until 2008 according to the 217<sup>th</sup> provision of Civil Law and reconstruct the theater building. Also, the proposal conveys the management team with the condition to maintain the basic direction and operations.

We were given a duty to make a conclusion on the above-mentioned proposal and determine whether it is legally possible. So, we have researched the management agreement made between the Ministry of Enlightenment and The Youth and Children’s Theater, the lease agreement made between The Youth and Children’s Theater and The State Property Committee, and the materials such as report on the outcomes that inspected the agreement fulfillments and the conclusion on them as well as the fulfillments of management agreement indicators. So, we have reached the following conclusions.

1. The article 11.4 of the state and local property law states that The State Property Committee organizes the property privatization work according to the list approved by the government. As we see The Youth and Children’s Theater privatization, the Ministry of Enlightenment made the agreement.

Therefore the ministry interfered in the affair that is irrespective of their own direction and duties and breached the above legal provision.

Since the management agreement is a way of privatization itself, and a privatization agreement, The State Property Committee should have made the agreement according to the law.

2. The article 58.1 of the state and local property law states that “A legal organization with the state property shall perform the administering activities.....A legal person with the private property can get performed by the individual on the basis of the agreement.”

The article 6 of the non-government organizations law states that the non-government organization shall exercise a legal right as the founder makes the decision to establish and get registered in the state registration. Also the article 15 of the law states that the Ministry of Justice registers the non-government organizations.

But “The Youth and Children’s Theater” was not registered in the Ministry of Justice as it is a non-government organization. In another words, no legally accepted organization named like this was established. Taking it into consideration, the agreement was not made by either “legal organization” and “individual”, in other words it was made by the organization that has no rights to make the agreement according to state and local property law. Since the agreement was made between the sides that have no rights to do so, it is considered as an invalid agreement. In this case, if the both sides are not able to refund the all property given through the agreement, they must pay the value.

3. The agreement did not cover the following specific terms and conditions clearly. They are as follows’ amount of the state privatization property, privatization form, and the price in case one of the sides fulfills the duties stated in the agreement, and responsibilities, the recompensing forms, the inflicted loss and amount of it, in case of not fulfilling the duties.

The above conditions should have been made specifically in the agreement. The building leasing agreement should not have been made. The construction leasing agreement that was made by The State Property Committee hinders the fulfillment of some conditions of the management agreement. The management agreement contractor must fulfill the right to own the property under certain limitations controls for certain period and then must be given the conveyance of the property as soon as the fixed period finishes. But according to the leasing agreement, the lease- holder acquires a right to own as well as use the property. Due to this, the privatization loses its senses in some ways.

4. The property conveyance agreement should be made again because the management agreement did not contain the terms and conditions such as the amount of the state privatization property, the privatization form, and the price, in case one of the sides fulfills the duties stated in the agreement. If the management agreement had contained the above terms and conditions, whether the contractor meets the conveyance requirements or not would have been clear.



In this case, civil law or the state and local property law, selling and purchasing contract of properties, as well as the purchasing and selling contract of properties with a loan can make the property conveyance agreement.

5. Although the social sector privatization law has not been passed, the privatization of the theater was made as an experiment on the basis of the government resolution, in the sphere of state and local property law. So, The State Property Committee can convey the property in the sphere of its full power according to the law. It is not contrary to laws.

“The state property privatization in 2001-2004”, the government order approved by the 10<sup>th</sup> resolution of The State Great Khural in 2001 stated that the property and capital right must not be conveyed at the end of the measurements to take in the sphere of social sector reform and privatization but this resolution will not be applicable.

The specialist of The Legal Department.....S.Enkhtuul

**Reference-9**

**TO MR. P.GANSUKH, THE HEAD OF THE ECONOMIC MONITORING, INSPECTION AND ASSESSMENT OFFICE, THE MINISTRY OF EDUCATION, CULTURE, AND SCIENCE.**

06.08.2001

Here is an auditing evaluation on fulfillment of the management agreement made according to the 117th resolution of the Minister of Enlightenment passed in 8 June 1999, and the recommendations for the property of the Youth and Children's Theater-Film Institution completed by the auditing commission.

The task force appointed in July 19, 2001 by the joint resolution No 234/163 between the Ministry of Education, Culture, and Science and The State Property Committee, has released a report of its auditing work on the fulfillment of the both management and lease agreement of the Youth and Children's Theater.

The auditing commission worked in the theater between July 19-23, 2001 and gave the following evaluations.

Auditing evaluations:

- The first evaluation 2.328 scores
- The middle stage evaluation 2.185 scores
- The final stage evaluation 2.078 scores
- The total evaluation 2.149 scores / $2.38*0.2+2.185*0.2+2.078*0.6=2.149$ /

The above evaluations show there is a basis to say the fulfillment of the agreement with the Ministry of Education, Culture, and Science is fairly good, so the auditing commission recommends to solve the problem as it is stated in the 7<sup>th</sup> article of the agreement.

Head of the Auditing commission

B. Rentsenbat

**Reference-10**

**PROPERTY VALUATION CENTER, CO.LTD**

10.08.2001

№ 29

Ulaanbaatar

**To Mr. I.Nyamgavaa, the Director of the Youth and Children's Theater**

*Re; The valuation of assets*

As you requested, we have completed the building valuation of the theater and film institution. It was determined as worth of 204.656.4 million tugrugs /two hundred and four million and six hundred fifty six thousand and four hundred/ on August 9, 2001.

The Director

J.Chuluunbat



## **6. Fulfillment of the terms in the management and lease agreements piloted in the Youth and Children’s Theater and conclusions**

The Law on Social Sector Privatization, which was expected following the enforcement of the management agreement, was not passed due to the subsequent resignations of the Coalition Governments. Consequently, the management team that won the tender had less clear legitimate status thus, it was not legally capable of participating in business and investment activities at home and abroad. From another perspective, there was not legal guarantee that investors could take back their investment. Due to these obstacles, it was impossible to attract domestic and foreign investment to the theater, so this management agreement has not been fulfilled.

The management and lease agreements had quite risks from its enforcement within the Law on Local and State Budget. In other words, these agreements pulled the owner’s rights towards one direction, while not granting the ownership right, that is the legitimate guarantee for the contractor to act independently, on the contrary imposing restrictions through numerous additional conditions.

In addition, these agreements do not include specific provisions on considering macro economic factors, due to which, increase in price and liberation of heating and electricity prices have created more burdens on the activities of the contractor, causing financial obstacles.

Generally, within these management and lease agreements, “no domestic or foreign investment has been made in the state-owned or state shared factories or ventures and this model is unable to reduce state budget burdens”. This fact or main conclusion derived from the reality shall be taken into account in the further practice of social sector privatization.

According to the recent world trends, one should consider that arts and culture sector in even developed countries is thought to be a risky field. On the other hand, it has been quite a risky step to put everything on the shoulders of the management team upon the abolishment of state handouts during that time when there had not been a legal environment for the arts and cultural organizations with limited capacity. We think this way should not be piloted again.

At present, until the end of April 2001, there has not been allocated anything for this theater in the state budget of 2002. Therefore, the issue of privatization takes too long to be solved or a decision unlikely to make changes in the construction and investment is approved, the heating and other utilization conditions are in danger to stop which will lead to reduced worth of the building and the state will lose its profit from the privatization.

If we are to focus on the mental growth, formation and upbringing of our and young generation, the state or government must allocate some money for the arts and cultural organizations. If it is impossible, the state should bravely convey its properties to private sector and provide the contractor with an opportunity to run the main cultural activities through developing other forms of business. One important suggestion here is that the state should convey its properties to enterprises or ventures that are economically capable with a recognized status, but not entities legally incapable to bear any responsibility and with no recognized legal status. This would be the guarantee for the successful implementation of privatization and benefit to the society.

Unless the privatization of the UCT, further investment and funding issues are not urgently

and properly solved, the agreement might be terminated. Then the costs incurred by the management during the agreement term might be reimbursed.

Based on the current circumstances, the following suggestions and conclusions are to be introduced to the State Property Committee meeting, upon evaluating the fulfillment of the management and lease agreements with the management team of the UCT. They are;

1. The general evaluation of the fulfillment of the management agreement provisions is 8/1.4% or good.
2. It has been concluded that the contractor has gained 2.149 scores in accordance with the performance matrix so the contractor has met the criteria / 1.0-2.5 / to convey the property.
3. Aiming to enhance intellectual growth and formation of the youth and children of Mongolia, to convey the ownership of the building of the Youth and Children’s Theater-Film Institution to the management team of the theatre /I. Nyamgavaa/for 204.646.400 tugrugs /two hundred and four million, six hundred and forty six thousand, four hundred/ on conditions of paying until 2008 in accordance with the Article 217 of the Civil Law, having reconstruction in the building and keeping the main areas of work the same.
4. As the results and technical reports of the State Inspection Office in the Infrastructure, Ulaanbaatar Mayor’s office, Inspector of Construction Technical Inspection Office say that the building the Youth, Children’s Theater-Film Institution should not be used for public events. To reconstruct and extend the building to make it a production and technical center, releasing high quality works that would contribute to the modern youth, meeting the recent needs and demands.
5. To create a legal basis for implementing the investment and reconstruction scheme of the theater, to appoint a accredited representative of the state in order provide professional assistance.

To assign the accredited representative /I. Nyamdavaa/ to review the project “Temuujin Art Theater and service complex”, to implement the project and to introduce the project report to the Minister’s Council and the State Property Committee.

#### **Head of the task force**

D. Bayarsaikhan                      Head of the Bank, Finance and Social Sector  
Department, Property Privatization Division, The  
State Property Committee.

#### **Members:**

Ts. Enkhbat                              Deputy Head, Arts and Cultural Policy Department,  
The Ministry of Education, Culture and Science

K. Japakh                                 Senor Specialist, Economic Monitoring, Inspection  
and Evaluation Department. MECS.

Z. Oyunbileg                            Senor Specialist, Arts and Cultural Policy  
Department, MECS

B. Rentsenbazar                        Specialist of State Property Registration and  
Monitoring Department, The State Property  
Committee.

Ts. Otgonbayar                         Specialist of the Property Privatization Department,  
The State Property Committee



► % **Note to the State Property Committee from the Ministry of Education, Culture and  
Science /30.08.2001/**

*Number 1a/3964*

**To Mr.Purevdorj, the Head of the State Property Committee**

*Re: the privatization of  
The Youth and Children's Theater-Film Institution*

The task force appointed by the joint resolution No 234/163 passed in 2001 by the Minister of Education, Culture and Science and the State Property Committee inspected the fulfillment of the both management and lease agreements made between the management team of the Youth and Children's Theater, the Ministry of Enlightenment, and the State Property Committee in 1999. The both agreements had the term of three years. They have made the conclusion that 81.4% of the indicators stated in the management agreement have been fulfilled.

The management team of the theater has carried out activities as stated in the agreement. They are as follows: producing new art works, enriching the art work fund, improving the artistic level of works, advertising them overseas, training the art workers under the theater, opening a studio, adopting a contract-based procedure to link the performance number, quality, and the characters of plays that build the fees of artists. Thus, they have formed some opportunities that save the expenditure and reduce the staff but the number of performances has fallen dramatically.

The Youth and Children's Theater building was built in the 1970 and 1980s for twenty years. The building does not meet the requirements of the construction technology. Since its establishment of over 25 years, the building has not been reconstructed. The construction condition was no longer beneficial to carry out the effective management activities. Therefore, making reconstruction by the investments of both foreign and Mongolian companies was stated in the agreement. Due to the fact that no legal and economic favorable condition was formed, the duties to build the new effective service forms directed to support the cultural activities and work with procedures to recover the expenditure by its own revenue was not fulfilled as it is stated in the agreement.

Technical report No 171 saying that it was impossible to utilize the building for public events and necessary to start construction work urgently released by the Infrastructure Monitoring Office was made on August 1, 2001. The estimated calculation of a professional organization speculated the costs of 1.15 billion tugrugs for the complex reconstruction of the building, however the state budget is unable to finance this construction.

Since the privatization of the theater in 1999, the handouts from the state budget for it have been reduced from 20-80% year by year. During the term of the management agreement, 68.4 million tugrugs were economized by the state. Although the theater began to operate without any financial assistance in April 2001, the theater still has limited financial capability to run its activities at a normal rate and to produce new artistic works for the youth and children. There is no allocation in the budget of 2002 of our ministry for The Youth and Children's

Theater. If this theater becomes a budgetary organization, the state will have to spend 100-110 million tugrugs on this theater per year from 2002.

This is why, it is appropriate to solve the issue of privatizing the building and other assets under the respective legislation in force in accordance with the recognized standards of the social sector privatization in order to maintain the theater activities effectively as required by the market economy demands.

The Ministry of Education, Culture and Science has adopted a policy to privatize the theater on several conditions such as valuation of the theater building and assets then paying for the building in a subsequent order for a certain period as spelt out in Article 217 of the Civil Law and to convert the theater into a modern theater and service center that will provide artistic works meeting the current needs of youth and children while keeping the old area of activities. I hope that you will make a relevant decision to privatize the building and assets of The Youth and Children’s Theater-Film Institution in an appropriate way.

Minister

A. Chanjid

### **Protocol of a meeting held by the State Property Committee. September 13, 2001**

**Agenda;** Making amendments to the Management and Lease Agreement with the Youth and Children’s Theatre.

It is decided to;

1. “Assign B. Mishigjav, the State Secretary of the Ministry of Education, Culture and Science and B. Tsetseg-Ochir, head of property privatization department at the State Property Committee to make amendments to 2.5.1 in the agreement in connection to the purchasing conveyance of the capital of the Youth and Children’s Theater to the contractor /tenant /on the basis of advance agreement. “
2. Allow the contractor /tenant /to make investment in the building of the Youth and Children’s Theater-Film Institution.
3. Assign the property privatization office /B. Tsetseg- Ochir/ and the joint task force from the Ministry of Education, Culture and Science and the State Property Committee /D, Bayarsaikhan/ to review the conveyance issue of the complex capital of the Youth and Children’s Theater-Film Institution to the ownership of the contractor /tenant / according the respective procedure and present the issue in the meeting of the State Property Committee within September 20, 2001.

Head of the Office

G. Tsendsugar





## **The official request submitted to the State Property by I. Nyamgavaa on September 17, 2001;**

The technical report No 171 issued by the National Infrastructure Monitoring Office, the government-implementing agency of August 1, 2001 says, “It is necessary to design and implement a blueprint and scheme to brace the building upon the completion of geological engineering analysis in the underground soil and engineering estimation.

Therefore, the report recommended stopping the utilization of the building and starting urgently bracing process as required by the provision 8.1.1 of the Construction Law of Mongolia that says “comfortable living and working conditions must be created in a building that has no negative impacts on human health while ensuring the safety.

Based on the above conclusion regarding the state of the building, we made a request to the Property Valuation Center Co..Ltd to value the building of the Youth and Children’s Theater-Film Institution. Following the request the center valued that the building was worth 204 656 400 / two hundred and four million and six hundred fifty six thousand and four hundred / tugrugs as the state of August 8, 2001.

I, Nyamgavaa Ichinkhorloo, am making a request to purchase the complex asset of the Youth and Children’s Theater-Film Institution for 204.656.400 on a condition to pay off the price within 3 years and I will bear all the responsibilities and duties incurred from the purchase.

Yours faithfully, I. Nyamgavaa

## **Amendments to the lease agreement of the Youth and Children’s Theater**

*September 17, 2001*

- 1.1. In the agreement, “Youth and Children’s Theater“ has been changed into “I. Nyamgavaa”
- 1.2. Paragraph 5 of Article 1, which says “Non-governmental, nonprofit organizations “ shall mean “an organization founded in accordance with Article 6 of Mongolian Law on NGOs, operates its activities itself without any interference from the state and does not give dividends to its members” has been deleted.
- 1.3. The Third sentence in the paragraph 2 in article 2.3.1 in the contract has been deleted.
- 1.4. B section in 2.5 of the agreement has been deleted.
- 1.5. A section of 2.6.3 of the agreement has been deleted.
- 1.6. In the third sentence in paragraph 1, 7.1 of the agreement “...with restrictions set up in 7.2...” has been deleted.
- 1.7. The fourth sentence in the paragraph 1, 7.1, which says “to the ownership free of charge”, has been changed into “conveying with certain payment”.
- 1.8. The second sentence in paragraph 1, 7.2 which says “for possession.....” has been changed into “to the ownership”.

- 1.9. The second sentence in paragraph 1, 7.2 which says “conveying free of charge” has been changed into “conveying with particular payment”.
- 1.10. The end of the second sentence in paragraph 1, 7.2 has been deleted following “but”
- 1.11. The sentences 2.3.5, the continuation of the paragraph, in 7.2 have been deleted.

Agreement signed by

Director  
The State Property Committee  
L. Purevdorj

Citizen  
I. Nyamgavaa

### **Proposed Agenda for the State Property Committee Meeting**

It was necessary to convey the assets and properties of the Youth and Children’s Theater-Film Institution of Mongolia to private ownership based on the report written by the Auditory Commission which reviewed the fulfillment of the management agreement established between the Ministry of Enlightenment and the UCT, the report by the joint task force set up by the joint order 234/163 of the Minister of Enlightenment and Director of the State Property Committee and the note 1a/3964 by the Minister of Education, Culture and Science.

As indicated in the agreement the assets and properties were going to be conveyed to the nonprofit entity “Youth and Children’s Theater” free of charge with some restrictions. Yet, the Ministry of Justice refused to register this non-governmental organization on the ground that says certain legal basis had not been created.

Therefore, in conformity with the legislation and real circumstances, the complex assets of the Youth and Children’s Theater had to be conveyed into the ownership of I. Nyamgavaa for particular payment.

According to the note No 142 of September, 13, 2001 released by the State Property Committee, certain changes had been made in the Management and Lease agreements signed on February 5, 1999 in order to make them consistent with other laws in force.

Citizen I. Nyamgavaa submitted a note regarding the payment condition for the building and other properties of the Youth and Children’s Theater-Film Institution to the State Property Committee on September 17, 2001. In his note, he informed the total price 204.656.400 / / calculated by the “Property Evaluation Center Co..ltd” and agreed to pay off the price for 3 years and bear all the responsibilities resulted from this event.

Hereby, parties of the agreement the Ministry of Education, Culture and Science and the State Property Committee on one side, on the other side, citizen I. Nyamgavaa have come to agreement regarding conveyance of the Youth and Children’s Theater-Film Institution to I. Nyamgavaa for certain payment. That is why, this issue is proposed to be reviewed and solved by the State Property Committee meeting. Draft resolution of the State Property Committee is attached

*Reviewed by*  
Head of the Property Privatization Department

B. Tsetseg-Ochir

*Written by*  
Specialist of the Property Privatization Department

D. Bayarsaikhan

**Reference 11**

**MONGOLIAN GOVERNMENT REGULATING AGENCY  
INFRASTRUCTURE MONITORING OFFICE**

2001-09-18

No 1/618

Ulaanbaatar- 46  
Fax- 323867

**To the State Property Committee;**

This is to inform that we have reviewed the value of the building of the Youth and Children's Theater-Film Institution as you requested.

However, authorized organization and professionals did not make this value.

Therefore this value should not be considered as valid.

Head

N. Lkhagvaa

**Granting the ownership right based on the result of the fulfillment  
of the agreement.**

Based on Article 217 of the Civil Law, Article 61 in the Law on State and Local Policies, the conclusion drawn by the auditing commission, the report by the task force appointed by the joint resolution of the Minister of Education, Culture and Science and the head of the State Property Committee, the note No 1A/3964 of 2001 by the Minister of Education, Culture and Science, the official letter regarding the value of the Youth and Children's Theater Building submitted by I. Nyamgavaa, and the amendments to the management and lease agreements with the theater in accordance with the protocols of the State Property Committee, hereby, The State Property Committee is to resolute;

1. to convey the complex capital of the Youth and Children's Theater-Film Institution to the ownership of I. Nyamgavaa for the value of 204.656.400 tugrugs.
2. to assign the property privatization office /B. Tsetseg-Ochir/ to sign a contract to sell and purchase the complex asset of the Youth and Children's Theater-Film Institution with N. Nyamgavaa in accordance with Article 217 of the Civil Law of Mongolia on conditions to keep the main areas of activity and pay off the price within three years and monitor over the contract compliance.
3. To assign the Property Privatization Office /B. Tsetseg-Ochir /to inform the compliance state of the contract on a semi-annual basis.

Head  
Head of the Office

L. Purvedorj  
G. Tsendsugar

## 7. Conclusions of the privatization purpose and phases of the privatization

That the tender to privatize the Youth and Children’s Theater was conducted in unjust competition at individual’s initiative misled the main purpose of the privatization. In particular, when the management privatization of the theater was completed in the framework of the social sector privatization, insufficient preparatory work or analysis, vague policies, loose cooperation linkage among the government implementing agencies and irresponsible attitude of authorized officials resulted in improper tender proceeding.

Furthermore, it shows that they neither worked thoroughly on the issue and nor considered specific features of privatization of the concerned sector before the announcement of the tender. Consequently, the privatization process breached the principles of the Law on State and Local Properties, having a misperception of the management team as a NGO or a budgetary organization.

Inclusion of representatives from the Ministry of Enlightenment and the State Property Committee in the Steering Committee of the NGO created conflict of interests. Due to mixing the management agreement and funding issue, state budget and investment of the contractor was mixed and the contractor had extra expenses not indicated in the agreement then claimed for reimbursement from the Ministry of Enlightenment and the State Property Committee. This shows that there was no inspection, monitoring and clear policies in the privatization. The evaluations of the management agreement fulfillment were contradictory and the final conclusion 81% fulfillment when the main goal had not been achieved like decreased number of performance, lack of new productions, the principle to cover expenses with revenues was broken and no artists give an impression that someone’s interest was more in favor.

### *Some particular recommendations and suggestions*

- The privatization process in the social sector should commence upon the clear determination of policies, principles, orders, piloting and plans.
- The management agreement should clearly define goals, rights, duties, responsibilities, and scope of work, order and differences of parties from the beginning.
- The concept “management team” should be defined properly. According to regulations, “management agreement” is an agreement of with an organization headed by a specialized, qualified and gifted person or a group of people to perform certain intellectual work. It should be clarified that the contractor is obliged to reform management, structure, the organization, personnel policy of a particular organization except reconstruction and land work. Therefore, in selection of the tender, establishment of a management agreement and evaluation of fulfillment and performance, the above points must be taken into account. In other words, it is better to set up requirement to the management team not from financial capacity or legal status but from qualification and expertise.



- The management agreement and financial issues should be distinguished.
- The State Property Committee and a relevant ministry should avoid any relations that would result in conflict of interest with a management team but adopt a mechanism of auditory monitoring over the activities of the management team, not interfering in their composition and activities. The authorized bodies should consider quality indicators in appointing members of a task force or a commission to evaluate, monitor and release recommendations on the activities of the management team.
- Another vital component that should be reflected in the management agreement is that there is a need of ongoing monitoring mechanism that facilitates revelation of any misconduct and discrepancies on time and measures to correct them. /In particular, the 2000 semi-annual report of the report submitted by the management team made it clear that the management team was unable to fulfill its duties./ . Moreover, state bodies should be granted an authority to apply sanctions by modifying the composition of the management team, changes in the agreement etc..
- Evaluating fulfillment of the agreement should be conducted openly enrolling the parties, staff of the organization and community representatives against all the activities and outcomes one by one.
- The Ministry of Enlightenment, the Metropolitan Cultural Office and the State Property Committee shall provide the management team with necessary organizational and professional assistance as well as information in order to enhance their fulfillment of the agreement. /For example; information on how to carry out PR and build relations with domestic and foreign organizations./
- The bidding system must be improved. The bid of 5 million tugrugs did not give any benefits to the privatization of the theater or was reliable means of protection. Any possibility to introduce insurance system of accountability in relation to the purpose and key characteristics of the management agreement should be explored.
- Salary and bonus for the management team should be given to the members according to the contract upon the risk analysis by the state.

Case study of art and culture privatization  
Case: Introduction to the case study “Lessons and outcomes from the  
management privatization of the Youth and Children’s Theatre“

OSF