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MONGOLIA'S THREE WEAK PILLARS



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**JARGALSAIKHAN Dambadarjaa***For weekly articles,
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MONGOLIA'S **THREE WEAK PILLARS**

Democratic governance, free market, and justice are three pillars that need to be well developed to enable a nation to achieve development and improve livelihoods. During the last 30 years Mongolia has been controlling its own destiny. How is it going with the development of these three pillars? Which issues need to be resolved, and what challenges are we facing today?

RULE OF LAW

In higher developed countries, governments are formed through democratic elections and their performance assessed at the following election. If political parties deliver what they promised, they get re-elected. If not, there will be another political force who assumes the ruling power.

The political parties, having obtained the ruling power, craft legislation, which should then be effectively implemented by the executive branch. This system positively contributes to economic development. In Mongolia, the law-making process is currently defective, and the ruling political parties have been passing laws that suit their election term only and lack a long-term vision. This becomes evident with the ruling parties' punctual delivery of amendment to the election law before every election.

Furthermore, laws are now created to serve and protect specific interests of individuals and groups who yield political power in Mongolia. For example, a law was enacted that allows embezzlement cases to be closed

if a set period of investigation expires. Individuals were allowed to steal from public funds via state-owned companies and banks, and then get off scot-free because of the law on pardons. The law on transparency was passed in 2016, pardoning those who stole from public funds after Mongolia raised its largest ever loan from abroad. This law also uncovered capital worth 33 trillion MNT, which is bigger than our entire economy, and allowed the construction of hundreds of buildings in the southern skirts of Ulaanbaatar.

The two largest political parties – the Mongolian People's Party (MPP) and the Democratic Party (DP) – have never accurately reported their financial dealings, despite being required to do so by law. Because their financing remains hidden, the Mongolian government is in the grip of oligarchs. Positions in the government are now commodified and traded with.

THE RULE OF LAW IS WEAK IN MONGOLIA.

FREE MARKET

Throughout the history of mankind, free market is the only system that has created so much material value. The free market system is based entirely on private ownership. Under communism, private ownership is prohibited and public ownership is the only form of ownership, which is why communist economies fully collapse.

Since our separation from communism, Mongolia continues its efforts to fully form private ownership. Within the 30 years under a market economy, Mongolians have amassed the most private ownership ever in our history. Our economy has grown, livelihoods improved, and life expectancy increased by 10 years. Our population has grown by 50 per cent, and our livestock by 250 per cent.

Table 1: Mongolia's socio-economic statistics (1990 and 2018)

		1990	2018
GDP (billion USD)		2.56	13.01
GDP per capita (USD)		1,172,443	4,103,697
Population	National	2,153,466	3,238,479
	Capital city	586,228	1,491,375
Number of cars	National	43,792	585,363
	Capital city	13,578	401,725

Source: World Bank, National Statistical Office of Mongolia

State-owned factories and facilities were privatized, and state-owned livestock was sold to herders. Within 30 years, the livestock headcount increased 2.5 times to 66 million. The number of sheep increased twofold to 30 million and the number of goats increased 5.3 times to 27 million. Apartment units were also privatized, benefitting whoever was living in them, and so was land. People had been given the freedom to engage in business, which resulted in more factories and facilities that were run privately.

However, most of state-owned facilities and land were stolen by the authorities in local governments and ministries at that time. A striking example is provided by how the land in mountain passes was granted to the south of Ulaanbaatar, Yarmag, and the center of the city.

**ILLEGALLY OBTAINING PRIVATE OWNERSHIP
HAS BEEN NORMALIZED IN MONGOLIA.**

JUSTICE

The judiciary has the duty to ensure justice. The aforementioned challenges in the rule of law and free market also demonstrate that our judiciary is dysfunctional today. Justice starts with holding those who violate the law accountable for their actions. The Mongolian judiciary is unable to hold corrupt officials accountable, which is why the Financial Action Task Force (FATF), combatting money laundering and terrorism financing, is about to put Mongolia back on their grey list.

Our judiciary has become overly dependent on one individual – the President, therefore the governing structure is about to be changed. Due to sinking in corruption, Mongolia is preparing to make the first ever changes to the constitution in this century. Notwithstanding the amendments, we won't be able to eliminate absolute poverty unless the laws are effectively implemented.

Most importantly, Mongolia's poverty traces back to political crises, not economic declines. Those who obtain political power have been becoming wealthy, which steered people increasingly into aiming for those

positions by means of politicizing and taking sides. This has seeped into every level of society, causing even the separation of families along political lines.

In this sense, there is a connection to personal development. Our current education system aims to give more knowledge to students, rather than helping them become ethical people. Mongolians don't have a strong desire to work together towards a common goal or protect shared interests.

INJUSTICE IS DOMINANT IN MONGOLIA TODAY.

In short, because we're not able to strengthen the three key pillars of development, Mongolia is unable to reap the benefits of its achievements equally and effectively. Our biggest challenge today is to make these three pillars stronger and more stable.

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PRESIDENT'S CONSTITUTION AMENDMENT DRAFT

With legal experts asserting that the amendments to the constitution the President proposed could potentially dilute the power of the Parliament, in essence creating a dictatorship and it is understandable why the amendments may be construed in this manner. Regarding the amendments, the first proposal is to elevate the status of aimags and districts in Ulaanbaatar to a city. Secondly, the proposal puts soum and district administrators at the same level.

In addition to this, the proposal seeks to increase the membership of the Parliament from 76 to 108. The proposal would see half of the members elected by a majoritarian system and the other half through a proportional system (party list). It would also see parliamentary terms increased from 4 years to 5. Moreover, the amendments would establish a Judicial Disciplinary Committee dealing with judicial ethics.

Another substantial change that the amendment would bring about is in regards to the ownership of mineral resources. Mongolia's mineral resources would be established as common property rather than state owned and this would in essence mean a referendum or public discourse being held regarding any significant decisions involving mineral resources. The amendments would also erase the 1945 Referendum on Independence from our records.

However, people have taken exception to an

increase in the power of the National Security Council comprised of the President, Prime Minister and Speaker of Parliament that the amendment would also bring about.

Amendments to the constitution in some countries can be made at the prerogative of the Parliament. In 1992, during the drafting of the constitution, the general public was encouraged to make their contributions. Given that amendments to the constitution and not a new constitution is being discussed in Parliament, they can approve them without public discourse.

According to a researcher, O.Mashbat, the Prime Minister's program needs to be supported by the National Security Council and the Mongolian Development Agency. This has raised concerns of both those institutions having more influence than the Prime Minister, diminishing the authority of the Office of the Prime Minister.

The President has also made it clear that the Parliament should carry out three activities upon approving the constitution. Firstly, the law on Mongolian Political Parties needs to be renewed in order to raise the minimum membership of political parties from 800 to 50,000. Secondly, the Election Law needs to be amended, allowing for equal promotion of campaign by candidates. Finally, the President called for the dismissal of Parliament following the adoption of the amendments and the relevant revisions to the legislations.

UNDERGROUND MINE OF OYU TOLGOI

The cost for Oyu Tolgoi's underground mine came out more than expected with current investment in the project at approximately 5.3 billion USD. It turned out that an additional investment of 1.5 – 1.9 billion USD was necessary. The 15 banks that invested into Oyu Tolgoi are not happy and I believe that its management is looking to explain the causes of the issue to investors.

The issue was that the ore body density was inconsistent with what was expected from testing.

Subsequently, there is now a need to reinforce the ore body in order to construct the tunnels. We have to remember that we are talking about the third largest copper mining operation with 70% of the ore 1.5 km underground. Despite careful estimation and analysis, the inconsistency emerged.

The Mongolian government may have had foreknowledge of the issue due to a leak of information a year prior to this discovery hinting at potential delays to the operation due to this exact

issue. This is a technical issue for which no one is at fault but proper measures have to be taken once this information has come to light. There is little that can be done but we do need to accelerate the construction of power stations as Oyu Tolgoi is paying around 200 million USD per annum for power from Inner Mongolia.

There are discussions happening about Mongolia potentially selling its shares in Oyu Tolgoi and increasing royalties. This however requires a change in the investment contract that Rio Tinto is reluctant to consider. If the decision was made to sell Mongolian shares without a renewed agreement on royalties, the prices are extremely low. Mongolian legislators are divided as to whether or not to sell their shares. Currently, the 34% of investment Mongolia is responsible for was borrowed from Rio Tinto.

In the West, governments don't have a part in large scale mining projects but receive appropriate taxes and royalties. In the eyes of many, the decision to own 34% of shares was a risky one that was not thought through. Moreover, the Stability Agreement with Oyu Tolgoi provides them with immunity from any tax increases that the government may implement. Our last attempt to do so brought the project to a standstill for 2 years. The impact of this on the economy was disastrous as 14-16 thousand people worked for them at the time. It is therefore in the best interests of Mongolia that the project proceeds on time with agreed upon activities being carried out. The underground project has however been delayed for 30 months.

REAL ESTATE AUCTION IN ULAANBAATAR

In a country where corruption is so rampant, it is promising that the real estate auction to be held on 31st July will be held online. However, live auctions would probably have called for in premium real estate such as the area surrounding Sukhbaatar square.

There is little information on what the proceeds of the auction will be used on but all international standards and common sense dictates that a portion of it should be devoted to increasing the value of the property through sanitation and infrastructure improvements which has a tendency to get neglected in Mongolia. This form of allocation of funds would also entice property owners in surrounding areas to sell.

The lands that are going for auction are in remote areas with unclear zoning much like in the rest of the city. Occasionally, the thought occurs to me that politicians purposefully keep zoning issues murky in order to increase their wealth. For example, the land on the south bank of the Tuul river until the valleys of Bogd Mountain are being sold by the Ministry of Environment and Nature Protection. This raises the issue of individuals having to protect their land from the nature protection ministry. Worse still the lands are being sold secretly and ownership of the lands cannot be properly established. There is no information on to whom the Yarmag lands were sold to but it is certain that the proceeds from the sales are funding the campaign and political activities of the two ruling parties.

Those proceeds could have been devoted to improving the infrastructure of Ulaanbaatar or the living conditions of the 500,000 people living in inhospitable living conditions. It is up to civic society to demand transparency on the issue as this is a significant aspect of democracy. Failure to act will mean a continuation of the corruption that mars the country that has led to a possibility of Mongolia being placed in the FATF grey list.

This review has been edited here for space and clarity. You can watch the full 30-minute review on the Defacto website [HERE](#).

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