

DeFacto **REVIEW**

- IS MONGOLIA-US RELATIONS AT A NEXT LEVEL?

- WHY WAS THE VIDEO OF CORRUPT OFFICIALS LEAKED?

- IS THE POLICY REFORM BEING IMPLEMENTED EFFECTIVELY?

VII PAGE



DeFacto **ARTICLE**

*Jargalsaikhan Dambadarjaa,
Mongolian political and
economic observer, columnist*

WHO REALLY OWNS NATURAL RESOURCES?

II PAGE



DeFacto **INTERVIEW**

*Nuno Delicado
Lecturer at the Lee Kuan Yew school of
Public Policy, Negotiation trainer*

“ **SOCIAL ENTREPRENEURSHIP IS ABOUT USING BUSINESS MODELS, IDEAS, PROCESSES, TOOLS TO ADDRESS SOCIAL PROBLEMS** ”

IV PAGE

WEEKLY

The DeFacto Gazette

INFORMING | INSPIRING | EMPOWERING

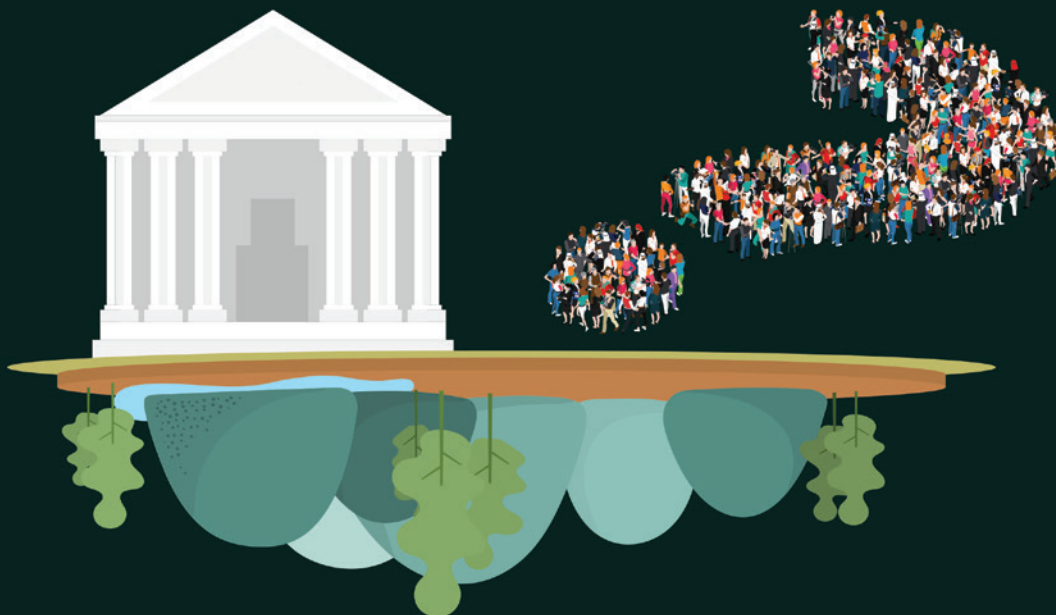
A WEEKLY GLOBAL, NATIONAL, INDEPENDENT, ANALYTICAL NEWSPAPER COVERING THE POLITICS AND ECONOMICS OF MONGOLIA

Thursday, 2019.08.08 №5 (105)

(IN ENGLISH, JAPANESE, RUSSIAN AND MONGOLIAN)

www.jargaldefacto.com

WHO REALLY OWNS NATURAL RESOURCES?





№ 492

JARGALSAIKHAN Dambadarjaa

For weekly articles,
visit <http://jargaldefacto.com/category/23>

WHO REALLY OWNS NATURAL RESOURCES?

In relation to intended amendments to the constitution, Mongolians are currently having a multilateral discussion involving the state, private sector, and civil society. A separate working group was established to align and combine the two draft legislations under review – one proposed by the Mongolian People’s Party, who currently holds the majority in the Parliament, and one initiated by the President. Somewhere along the way, the discussion morphed into the topic of who exactly owns natural resources, which is arguably a bigger subject than the constitution. This important question has never received a clear answer in Mongolia, and we finally have the opportunity to have a broad, public discussion about where the ownership of natural resources sits. Given we have already touched on this subject, we should use the opportunity to create clarity and alignment on concepts and terms with regards to ‘ownership’, ‘state’, and ‘government’.

DIFFERENCE IN PRINCIPLE

The constitution currently states “The land, its subsoil, forests, water, fauna, flora, and other natural resources in Mongolia shall belong exclusively to the people and be under state protection” in its Clause 1, Article 6.

Clause 2, Article 6 currently reads “The land, except given to the citizen of Mongolia for private possession, as well as the subsoil with its mineral wealth, forest, water resources and game shall be the property of the state”. This clause is proposed to be amended by both the Parliament and the President as follows:

- The Parliament has proposed to add “when utilizing natural resources, the state will follow the principles of equality, fairness, national security, and sustainable development” into the existing language.
- The President, on the other hand, proposed that the clause should read “The land, except given to the citizen of Mongolia for private possession, as well as the subsoil with its mineral wealth, forest, water resources and game shall be the property of the public. When utilizing natural resources, the principles of equality, fairness, national security, and sustainable development will be followed.”

In other words, the Parliament is saying that the state owns natural resources, while the President argues it is the property of the public. This is a difference in principle. Depending on how this difference is resolved, we will need to amend not only the constitution but a number of other laws.

DIFFERENCE IN UNDERSTANDING

Mongolia has been using the terms ‘state’ and ‘government’ incorrectly in our laws, and there has not been a clear alignment on the understanding of these two terms. ‘State’ refers to a political entity that does not change, whereas the ‘government’ is replaced through democratic elections. An elected government governs the state, and a government consists of well-balanced three branches – the legislative, executive, and judiciary – that keep oversight over each other.

Starting from the era of monarchy, Mongolia has called its executive branch alone ‘government’. The current constitution accurately defines government as ‘the supreme executive power’ but uses the wrong terminology. The government, in this sense, should be called either ‘Ministerial Council’ or ‘the Cabinet’.



- ▶ In a democracy, the government is elected by the people, therefore it is the people's government. When we say 'public property or ownership', it conveys the meaning that it belongs to all people, which is prone to be interpreted as 'it belongs to no one'. Therefore, it would be wiser to say that the land, its subsoil, and natural resources are the property of the people, instead of the state. In accordance with relevant laws, the state and the government have the right to manage the property of the Mongolian people. Since it is impossible to accommodate everyone's opinion, we have no choice but to give that right to a government set up in a democratic process that is based on the majority of people's votes. This is the key difference between democracy and other forms of governance.

FORM OF OWNERSHIP

A law will need to be passed on how the State and government can manage the property of the people. Many countries have never had an opportunity to organize the ownership of resources in a fair, equitable manner. For example, the Guardian reported that half of England's land is owned by 1 per cent of the population. In the United States, more than half of the land in most states is owned by the federal government. Also, many countries oppose the concept of 'state ownership' because the state as such has not created anything, especially not nature. Therefore, they view that natural resources fall under the public or the people's ownership. The state and the government receive payments from those who use these resources and spend the revenue on what is needed in the country, including saving up for future generations.

Some countries, including China, Kazakhstan, South Korea, Qatar, and Saudi Arabia, state in their constitution that natural resources are the property of the State, whereas the United States, Australia, Canada, Sweden, Finland, New Zealand, Austria, France, India, Singapore, and Japan do not have any clauses that refer to the ownership of natural resources.

Therefore, we should use terms 'private ownership' (pertaining to individuals or legal entities), 'shared' or 'community ownership' (pertaining to a group of people who reside in the same location), and people's ownership (pertaining to the ownership of all Mongolians), instead of using 'citizens' or public ownership', in our constitution, so that our language is aligned with international practice.

The constitutional amendments cannot be a tool for politicians to beat one another or make political gains. What these amendments should do is clarifying the ownership of all types of properties, which is the basis of our economic advancement. If we manage to achieve clear alignment on terminology regarding 'state' and 'government', declare natural resources are owned by the people and not by the state, and make it clear how the government can manage these resources, we can say that we have fixed our previous mistakes and have made the necessary amendments to our constitution.

2019.07.31 ■



The Defacto Gazette

12 WEEKS FOR ONLY
30.000₮

SUBSCRIBE NOW
7007-8916

**NUNO DELICADO**

Lecturer at the Lee Kuan Yew
school of Public Policy,
Negotiation trainer

“SOCIAL ENTREPRENEURSHIP IS ABOUT USING BUSINESS MODELS, IDEAS, PROCESSES, TOOLS TO ADDRESS SOCIAL PROBLEMS”

NUNO DELICADO earned his Executive Master in Sport Organizations Management at the Université Claude Bernard, and his MBA from the renowned French business school INSEAD. He currently teaches negotiation and social entrepreneurship at INSEAD and the Lee Kuan Yew School of Public Policy in Singapore.

Defacto: Let's begin with social entrepreneurship. What is it all about?

Nuno Delicado: Social entrepreneurship is about using business models, ideas, processes, tools to address social problems. Some describe it as a mixture of Mother Theresa and Richard Branson. For example, I have a social enterprise with a mission of human development through sport called Sport Impact. We define human development as the empowerment of people to take charge of their lives and create the futures they want. To make that happen and be able to scale, you need to find a sustainable business model, where it is sustainable in human and financial terms.

Defacto: And you feel the best way to achieve human development is through sport?

Nuno Delicado: I don't know if it's the best way, but we are testing it. In fact, that is the mindset of an entrepreneur: to test, learn, adjust, improve, test again, see how it works, adjust, and so on. We are working with youth between 15 and 25 years old, and we teach them leadership, management skills, facilitation skills, so they can become youth leaders.

Defacto: How do you select them? I mean, you have been doing it in Singapore and several other

countries very successfully. But how does it all work?

Nuno Delicado: Actually, we started in Timor Leste, a very small country of 1.2 million people, but with big problems in terms of poor education and health care, poor access to clean water and proper sanitation, and so on. But how do we get these youths to work with us? Well, we advertise the program: youth leadership camps, "sport for life" workshops, etc. They have to sign up. And as a way to test their commitment, they have to pay for it. That helps with the sustainability. But they pay something like \$1 for a one-week workshop, or \$25 dollars for a facilitation skills training workshop.

Defacto: Surely you cannot cover the cost with \$1?

Nuno Delicado: Well, in Timor Leste that can cover many costs. It won't cover, for instance, my time—actually, I volunteer with the project, and mentor the local team in order for them to develop the project. My costs might be difficult to cover because I am a foreigner there and I live under certain living standards that maybe the locals would not require.

Defacto: So it's basically a combination of volunteerism and business. Why would you do this? You are so busy; you have so many other

projects. You go there, unpaid, volunteering your time.

Nuno Delicado: That's a great question. I have asked that myself, "Why do I do this?"

I do it for other rewards, not financial rewards. It's not altruism in the sense that I do it for the sake of others. It's an "enlightened selfishness". I feel that by doing that, I'm getting the reward of meaningful work by impacting the world.

Defacto: And you have self-fulfillment and satisfaction—bringing certain value to other people, and watching young people change and grow. I think that is very interesting, and a very important part of society. You have yourself been a sportsman, a pentathlete. And you speak many languages including English, Portuguese, Spanish, Italian, and Tetum (the language of Timor Leste). Please tell us more.

Nuno Delicado: That's right. The pentathlon involves five disciplines: shooting, fencing, swimming, horse riding, and running. The shooting distance is ten meters, and nowadays it's done with a laser pistol—we can't kill anybody with it. It's environmentally friendly, actually. Fencing uses an épée. Horse riding is on a show jumping course—about 400 meters with 12 obstacles in a circle. Swimming is 200-meter freestyle. And running is 3.2 kilometers, and it's mixed with the shooting, so shoot-and-run together.

I got interested in it through crazy friends who said, "Nuno, you want to try this?" I went to do a biathlon, just swimming and running, and I saw them doing all these other things. I thought, "This is great. I want to experiment with the whole thing."

My parents always supported me, but they always said, "Nuno, make sure your grades are good." I was very involved in sports, dedicating many hours—sometimes 30 hours per week—to sports training.

I feel very grateful and privileged for having been able to travel the world, and for having people, like my friends here in Mongolia, who invite me to travel to new countries and experience new cultures. I've been here for only a week; it's all very new to me. I came here to run an executive program on negotiation skills as well as the social entrepreneur boot camp. Two different programs with two different target audiences.

The boot camp is 2 ½ days, and we had 21 participants. Most of them were young people in high school or early years of university. They were super excited. They were very committed to learning, to working on their ventures.

The purpose of the boot camp is for them to work on their own ideas about how to solve social problems with business models.

We take them through ten different tasks or exercises, where they clarify what they want to do. At the end, they have to pitch their idea to a jury, and explain what their project is. It was all in Mongolian, so I confess I didn't understand a lot of it, but the feedback I got from my colleagues was that they were all very committed with several of them actually wanting to work on their project even after the program ended.

The main purpose was raising awareness of social entrepreneurship as an empowerment tool. A young person, and old person, any age, gender, or qualification can take responsibility for their lives and their community.

The Mongolian students looked at skill development for youth, for example. How can they get internships and job opportunities earlier in their lives, so that when they finish their undergraduate degree they can be fully employed and use their skills to the fullest potential? Other students were working on younger kids issues in the ger districts. For instance, about access to safe and affordable transportation to get to school or elsewhere.

As I mentioned, my other work here involved negotiation skills, which I think are the most important skills that we should learn in primary school. After all, it's about getting what we want in life—ideally in a way that we can meet the interests of all parties involved. So if I am negotiating with you, I would like you to achieve your objectives, while I can also achieve my objectives at the same time.

This negotiation skills program was brought to Mongolia by Educated Initiatives, a local NGO, who invited me to come and facilitate this program. Basically, it involves translating these negotiating skills into practical tools—systematic structures where you can analyze a negotiation, prepare for it, negotiate, and then analyze how it when so you can keep learning over time. The idea is to get a deeper understanding of what people really want from a negotiation, which is something we often miss. We often stay at the surface. We listen to the demands, and then we get stuck because we cannot find common ground. The idea is to find what you really care about, what I really care about.

I would say the most powerful weapon in negotiation is asking good questions.

"Why do you want that?" "What do you want that for?" or "What do you want to do with that?" These are powerful questions that will help us to dig deeper into what people really want, and therefore, what could be solutions or options to meet those interests.

Defacto: Very interesting you have created a program for negotiation skills at the Lee Kuan Yew School of Public Policy. How come?

Nuno Delicado: They were doing some work in that area a few years ago. I was friends with the person who was previously teaching negotiation skills there, but he went back to Canada where he is from. I thought, "So who is going to teach negotiation now? As a negotiator myself, why don't I just take a proactive stance on this?" So I offered my services to build, or rather rebuild, the negotiation course.

It is a 39-hour course over one semester, or about 2 ½ months. There is a lot of homework. Students have to practice a lot in real life. They actually have to go out and negotiate real projects with real stakeholders in the real world.

Defacto: The Lee Kuan School is becoming a rather strong university in Southeast Asia. What do you think is the reason behind its success? And how did you get connected to it?

Nuno Delicado: Well, the name certainly. Lee Kuan Yew was the first prime minister and father of the nation. But more than his name, the school benefits from being in Singapore, and all of the public policy experiments happening in Singapore. Singapore is a small place, which in some ways helps in making experiments; they are easier to control, test, and measure.

Actually, my wife was a student there in the Masters in Public Administration program. So that made me connect more with the school. And then the friend of mine who was the previous negotiation consultant and teacher. One day they needed someone to cover for a negotiations professor who was gone. I showed up at the last minute, did a good job, and have been working there for the last four years.

A year ago I proposed a course on social entrepreneurship. It's a public policy school, but it was missing out on the opportunity to use business models to solve social problems. This week we will complete the second cohort in the social entrepreneurship elective. The course is not theoretical at all. It's very practical, very real-world oriented.

*This interview originally aired in November 2017.
It has been edited here for space and clarity.*

*You can watch the full 30-minute interview at
www.jargaldefacto.com*



DeFacto **REVIEW**

Every Sunday live at 7pm on MNB World television: 4th August, 2019
For weekly reviews, visit <http://jargaldefacto.com/category/12?lang=en>

Host:
Namsrai Tsend

Commentator:
Jargal Dambadarjaa

IS MONGOLIA-US RELATIONS AT A NEXT LEVEL?

Mongolian President Battulga Khaltmaa paid an official visit to Washington DC and held meetings with his counterpart, Donald Trump. This visit was utmost importance as it resulted in the relationship between Mongolia and USA being declared a strategic one as a result. President Battulga read a lecture at the Center for Strategic and International Studies prior to meeting President Trump in which he described the current relationship between the two countries as very good, particularly at the level of political, social and individual citizens. For example, Mongolians send peacekeepers to Iraq and Afghanistan and they work with US soldiers. The 17th edition of Khaan Quest a joint military exercise to support peace operations in certain countries was also recently held.

Despite this, the economic cooperation between the two countries needs to be increased. In 2018, trade between Mongolia and the US constituted less than 2% of the total volume of Mongolian trade. According to a document submitted to Congress, trade between the two countries reached 707 million USD in 2012 but had dropped to 82 million USD in 2017 with the US only importing 4.9 million USD in goods from Mongolia. There is potential for strong economic cooperation between the two countries and President Battulga even singled out a number of industries.



There is a Third Neighbor Trade Act submitted to Congress holding for preferential tariffs for Mongolian cashmere and wool products. This will facilitate the development of Mongolia's agriculture sector and stimulate employment, particularly for women. Mongolia currently produces half of the world's cashmere

but only 10% of this cashmere is processed domestically with 90% going to China as raw material. Processing more cashmere domestically will create more jobs. The President also eluded to the dominance of state-owned enterprises in our two neighboring countries making it difficult for the private industry to compete.

If the legislation is approved by Congress and Senate, it will create 50,000 new jobs in Mongolia's countryside. The term third neighbor is usually used in Mongolia to refer to countries other than our two neighbors. With the US in the midst of a trade war with China and experiencing issues with its two neighbors, the draft legislation was titled Third Neighbor Trade Act. Even if this legislation does not pass the two chambers, Mongolia will most likely still be encompassed in the Generalized System of Preferences. However, Mongolia has the same agreement with the European Union but has failed to fully utilize the preferential conditions.

WHY WAS THE VIDEO OF CORRUPT OFFICIALS LEAKED?

The Anti-Corruption agency placed two videos of their raids on social media which is a step towards transparency. However, the cases were over two years old and only one of the individuals, Mr. Bayarsaikhan, former head of the Professional Inspection Department received any form of punishment due to Statute of Limitations. This causes us to reflect on whether there is a need for us to change our methods for fighting corruption, perhaps taking an example from China who punished 1.5 million corrupt officials in the past 7 years.

Over the years only two Mongolian ministers from the non-ruling party were punished for corruption and are currently serving prison terms. There are also the occasional low-ranking officials that are used as scapegoats. The argument can even be made that politicians create legislation such as the Statute of Limitations that ensure that corrupted officials can carry out their activities without impunity. Another example

of such a legislation was the 2015 Amnesty law which held that if individuals who had previously failed to pay taxes reported their income and paid their outstanding taxes, the source of their income would not be questioned. This led to an infusion of 33 trillion MNT, a figure more than the total Mongolian economy entering the government budget.

The Organization for Economic Cooperation and Development (OECD) established an anti-corruption campaign in 2003 which Mongolia joined in 2012. As a result, Mongolia created the Independent Agency against corruption. Following a 5-year investigation, the OECD team made 19 recommendations to increase the efficacy of anti-corruption efforts but only one has been implemented to date. Last week, OECD investigators revisited Mongolia and 29 recommendations including the previous recommendations that were not implemented were compiled into two books.

One of the main conclusions was that the Statute of Limitations was too short to carry out effective investigations, increasing the immunity of corrupt officials and ensuring that the punishment they received was disproportional to the damage caused. Another conclusion was that Mongolian prosecutors have a very unusual right to close cases prior to a judicial decision being rendered. A quarter of corruption cases are closed before it comes to the court. Last year this percentage was at 40%. High ranking officials and a significant number of low-ranking officials have the ability to close cases against them prior to it reaching the judicial process. The recommendations also suggest at the very least keeping the salaries of prosecutors the same and to confiscate all moneys that were utilized for corruption.

However, if we look at the mismanagement of the Chinggis Bond for which we are paying interest, those who have embezzled from the fund are still roaming free. Moreover, the courts seek every reason to postpone judicial proceedings against corrupt official so as to ensure that the statute of limitations expires.

IS THE POLICY REFORM BEING IMPLEMENTED EFFECTIVELY?

The 100 million USD pledged by the World Bank to facilitate policy reform is most likely a development loan. If the fund is managed correctly it will bring about significant changes but it is also possible that it will simply be embezzled by those in a position to do so. An economy is to be considered effective if it creates jobs. Currently jobs are not being created due to extortionate taxes, particularly social taxes, medical insurance and other fees. These taxes constitute almost a third of employer expenses in relation to their employee. This creates obstacles for the private sector and destroys any incentive to hire people full time. Moreover, the same taxes and fees are paid to the state for part time workers.

With the private sector reluctant to create jobs, the Mongolian job market is in a difficult state. This creates an exodus of Mongolians in search for better opportunities and there are currently approximately 50,000 Mongolians living in Korea. Despite the World Bank citing better macro-economic condition on the basis of the budget deficit dropping from 16% in 2016 to 2.7% in 2018 but this is mainly due to the fact that IMF and World Bank loans are cheaper than commercial loans whose interest rates were around 7-10%. The state was devoting almost a quarter of its revenue to the repayment of commercial bonds. On the domestic market, the government was issuing bonds with a higher interest rate than commercial rates leading to banks preferring to buy bonds rather than issue loans to commercial businesses.

The Mongolian economy is dependent on the mining of several commodities such as copper and coal. Given the erratic prices of those resources, Mongolia

needs to develop other sectors of the economy. In the countryside, herders are losing their livestock and homes forcing them to move to the city to find a job. More often than not, they buy an old Prius and become taxi drivers. The retainment of gainful employment in the countryside is tied to the health of livestock which the government acknowledges but does precious little to address.

A single commodity economy, poverty rate and lack of jobs are just some of the issues facing the economy. It does not help the private sector that the World Bank seems to be pushing the Mongolian government to increase taxes. There is also an issue of human capital in that there is a disconnect between the necessity for skilled workers and their training. Moreover, there is a reluctance from the government and the Bank of Mongolia to release the report on the independent investigation into the Trade and Development Bank, the Central Bank and other commercial banks as the World Bank suggests.

This issue of transparency along with corruption is a major bottleneck to development, progress in the country and the confidence of the people in the future. The 5 billion USD IMF loan is distributed in phases according to Mongolian compliance with the conditions they set forth. The next phase of funding for example is contingent on a timely equity capital investigation of commercial banks and dissemination of the report to the public. While the equity capital has been increased, there is some reluctance to divulge the source of the infusion of capital but this information should be divulged in order to receive the next phase of funding from the IMF.

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

Subscribe or renew your subscription at www.jargaldefacto.com and www.defacto.mn websites.

EDITORIAL BOARD

Jargalsaikhan Dambadarjaa
Christopher Melville

EXECUTIVE:

Editor-in-chief:
Team:

Javzmaa Ganbaatar
James E. Kaemmerer
Amar Batkhuu
Bilguun Otgonsuren
Munkhbold Badarch
Riya Tikku

CONTACT US:

✉ editor1@jargaldefacto.com
☎ +976 94109342
🌐 www.defacto.mn
www.jargaldefacto.com