

# The Defacto Gazette

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WEEKLY



DeFacto **ARTICLE**

№509

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## At the CROSSROAD

DeFacto **REVIEW**

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## At the **CROSSROAD**



Only seven days left before we enter 2020, a year that marks the 30th anniversary of the Democratic Revolution. Mongolia has come to a crossroad with several paths to choose from: to be governed by the rule of law or live under politicians who are misusing the law; whether we will gain economic freedom or will continue the path of *Erdenebilegism*; whether the capital's residents are deciding to live in a smoky cement jungle or in a healthy green environment. General elections will also be held this year...

### WILL THE LAW BE USED FOR PRIVATE PURPOSES OR ITS INTENDED PURPOSE?

In September 2019, Mongolia participated in a meeting of the Asian/Pacific Group (APG) of the Financial Action Task Force (FATF) in Bangkok, where the economy of Mongolia was evaluated. Mongolia was ranked "satisfactory" and included for the second time in the "Grey list" because it has implemented 15 of the 20 FATF Recommendations and failed to fulfill 4 of the 11 evaluation criteria. In search for a scapegoat, the chairperson of the Financial Regulatory Commission and Bank of Mongolia was removed from office. We here refer to our [series of articles](#) on why Mongolia was placed on the Grey list and how to be removed from it.



- ▶ Recently, the State Great Khural (Parliament) made amendments to the Constitution. Only time can tell the effects of these changes. Above all, we have failed to change the semi-presidential "*MONGOLIANIZED*" system which causes the biggest problems in governing. Hopefully, the changes in the juridical system will represent another step in the right direction of establishing an independent court. However, in addition to the amendment to the Constitution and other laws, a plethora of issues needs to be dealt with. You can watch a series of *Defacto debates* on constitutional amendments.

This year we have witnessed just how politically

dependent our judiciary system has become especially from President. In June 2019, the President suspended 17 judges on the Salkhit silver mine issue, which until now have not been replaced and the court, including the Supreme Court's Citizen Chamber, has failed to rule.

Also, a law was passed that allows the National Security Council to appoint or change judges, prosecutors and the Head of IAAC, thus creating a precedence for executive branch's intervention into judiciary power. Citizens are waiting for the implementation of the rule of law. Will the impeachment of the President be initiated in 2020 if the rule of law cannot be established?

## ECONOMIC FREEDOM OR ERDENEBILEGISM?

There are two major projects that have been influencing the Mongolian economy for the last 100 years. The first one was the Erdenet copper ore, which was founded during the socialist era. This corporation has for long been a mainstay of our political and economic life. 2019 was no different as the controversies around the 49% shares became a focal point of social and media attention. D. Erdenebileg, the Chairman of Trade and Development Bank, was arrested and released for this charge. Reasons are still obscure and disputable for public. During his arrest, the government continued to monitor and inspect emergency situations in the Erdenet mining corporation. Read more on this in the article "*ERDENEBILEGISM II – MONGOLIA'S NEXT CORRUPTION EPISODE*" about the case of conspiracy with the public administration in public money. This case is an accurate reflection of the current political and economic state of Mongolia.

The second one is the Oyu Tolgoi project, which coined a new century. This year marks the 10th anniversary for signing the agreement of the largest economic project in Mongolia. Since its launch, there have been many controversies around the signing process and execution of this agreement. The Mongolian Court has ruled that the state's decision to enter into the Dubai agreement is a violation. The Parliament has passed a law on "Enforcing Mongolian Interests in Oyu Tolgoi Production". However, changes to the Oyu Tolgoi agreement are expected to happen in 2020. You may read *here* about it if and which shortcomings the agreement entails. It is however doubtful if and which improvements we can make in this agreement, as we did not yet train our specialists for dealing with contracts of such large extent. Inevitably, the fate of foreign direct investment will depend on the direction Oyu Tolgoi will be heading towards in the year 2020.

## A CLEAN ENVIRONMENT OR A SMOKY CEMENT JUNGLE?

The government headed by U. Khurelsukh banned the use of raw coal in Ulaanbaatar city. Instead, they began supplying coal briquettes to local residents and as a result, the emission of the capital's toxic fumes has been reduced. Although the visible area was reduced significantly, much work is left to reduce the amount of particulate matter and sulfur in the air.

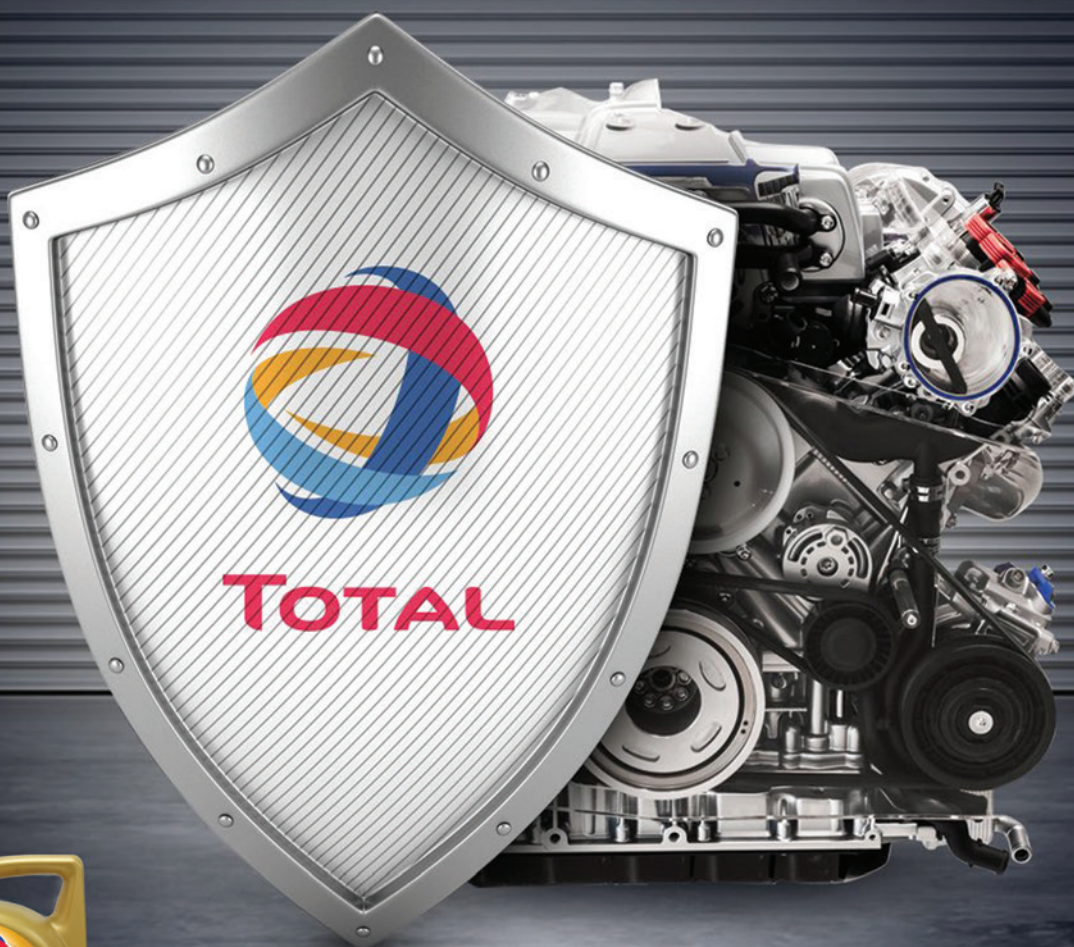
According to the United Nation 2019 survey, air pollution is one of the 10 leading causes of mortality in Mongolia. A total of \$ 4.1 billion is needed to reduce air pollution, however it is unclear where to get 80% of this amount. We should just keep in mind, no matter the size of investment, it should not become an embezzling money action such as the "Clean Air Fund of Mongolia" history.

One act that marked 2019 was the demolition of the Natural History Museum. Citizens fought in various forms, only to be outmuscled. Citizens stood up against both the destruction of cultural heritage and in the prospect of its replacement by another 'cement jungle'. Furthermore, some suspect land commerce to be the reason behind this demolition. The story of Ulaanbaatar's corruption is written in the article "*THREE PECULIAR THEFTS*". In fact, almost every building in Ulaanbaatar is a 'historic monument of corruption'. Now, it looks like the next statue will be erected on the Natural History Museum's land.

2019.12.25 ■



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## DeFacto **REVIEW**

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Battseren Namshir

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## PRESIDENT BATTULGA'S COMMITMENT TO WRITING OFF LOANS OF PENSIONERS

The statement caused significant debate in the country since it was made during the President's New Year Greetings which encompassed the writing off of loans of all retirees from commercial banks. These loans would comprise 776 billion MNT as 80% of retirees have pension loans. This raises an interesting question as Mongolian income is not adequate to support an individual as people receive an insignificant amount of pension following 30 – 40 years of dedication and effort due to issues such as inflation.

Mindful of this, the President stated that the National Security Council reached a decision to write off loans of pensioners, but this comes at a time when the state budget has a big deficit and the government has significant debts totaling approximately 7 billion USD. Moreover, 3 billion USD in debt is to be paid across the upcoming four years. It also can not be forgotten that Mongolia is in the Financial Action Task Force "Grey list" and that the pension fund itself is in deficit with the government owing 14 trillion MNT to the fund.

It is a lofty promise under these circumstances but the President claims that the funds to cover writing off of these loans will be generated from the Salkhit Silver Deposit in Dundgovi aimag which was recently confiscated due to a large corruption scandal. Erdenes Silver Resources, a public company that currently operates the mine produced 500 kilos of gold over the last 6 months with its CEO claiming that up to 700 tons of silver will be produced from the deposit.

Provisions 2 and 7 the legislation on the National Security Council state respectively that the council should strive to develop the economy based on internal resources and that its economic recommendations are to be based on appropriate research. Economically, the decision is a perplexing one as a third party is going to pay the loan that an individual took out from banks. As the loans comprise a relatively significant amount, the state covering it will result in the depreciation of the Mongolian tugrik and stimulation of inflation.

From a legal standpoint, the National Security Council has no purview to make economic decisions, so this is simply a recommendation to the government. The government would then need to bring draft legislation to Parliament and only after its approval would it be enacted. This does



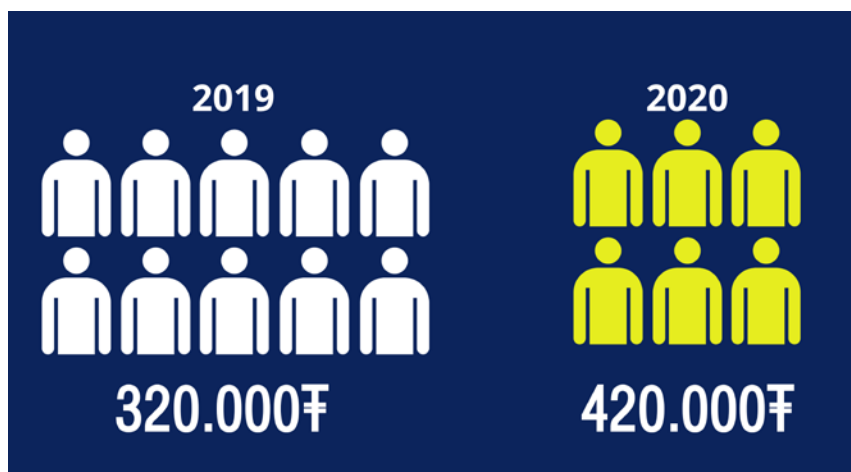
however serve as an example of the government jumping to decisions without adequate research into the area and it will not be easy to implement given our foreign debt and increasing domestic debt. 230,000 individuals have pension loans but there are also around a 100,000 individuals who have not taken out the loan. This has understandably raised significant concerns into the fairness of the practice and the governor of the Central Bank directed commercial banks to suspend the provision of loans to retirees.

In the immediate aftermath, individuals with loans would be happy that it is paid and those who have no loans will not be happy. It however raises issues around the pension system within the country as the pensions people receive after 30 – 40 years of work should be at the very least sufficient to cover monthly expenses. Comprehensive studies into the purpose for which individuals are taking out loans against their pension should be conducted. There is some indication that their children force them to take out loans and utilize them for their own consumption.

If writing off these loans is as easy as claimed, it could have been done last year but the fact that this is an election year has definitely contributed to the initiative. Given that pensioners comprise a significant part of the electorate, this initiative may have a significant influence on the election. However, this leads to individuals overlooking the long-term consequences of those decisions. I am not aware of any pension loans in any other countries. Pensions itself are a form of insurance and an individuals' own money so it should not be put as collateral for loans.

## INCREASE IN MINIMUM WAGE TO 420,000 MNT

Minimum wages impact the economy and employment in every country. There is an equilibrium between supply and demand of the workforce. Increasing the price brings a decrease in the employment level. Therefore, the increase in the minimum wage will play a significant role in decreasing jobs. There is a study conducted in the US by the Free Economic Institute which lays out certain outcomes such as minimum wage hikes decreasing employment, negatively affecting low paid workers and increasing the cost of goods and services.



Employers, labor unions and the government reached a tri-partite agreement to reconsider the minimum wage on two-year intervals based on inflation and other factors. The minimum wage last year was 320,000 MNT (120 UDS). Increases in the minimum wage over the last few years have brought about a constant decrease in jobs leading to Mongolians seeking employment in Korea.

Individuals pay 13% of their salary to social insurance on a voluntary basis with individuals whose careers have been interrupted for one reason or another being availed to the same benefits as those paying insurance. The wage increase will not have a significant amount on social insurance as those receiving minimum wage will most likely not pay social insurance.

## KH.ORGIL-ERDENE, HEAD OF THE ROAD POLICY IMPLEMENTATION DIVISION OF THE MINISTRY OF ROAD AND DEVELOPMENT WAS ARRESTED BY THE INDEPENDENT AUTHORITY AGAINST CORRUPTION (IAAC)

It is alleged that Mr. Orgil-Erdene accepted bribes from a Chinese company for the contract to improve the road between Ulaanbaatar and Darkhan. There is a divide between the IAAC and the judiciary on whether there is sufficient information to pursue charges against Mr.Oyun-Erdene. The fact that checks could have been carried out without an arrest being carried out further suggests that it was not an ideal action.

The Chinese model of the fight against corruption which it has pursued over the last 8 years is predicated on the idea that killing the tiger will instill fear in flies. China has had significant successes in the area with many tigers being imprisoned thereby instilling fear in flies. Mongolia operates in the opposite model that a few flies are arrested and the tigers move around freely domestically and abroad. In eradicating corruption, Singapore tackled the causes of corruption



rather than the symptoms which in Mongolia is political party financing from which all corruption originates. This is possible due to the secrecy of political party financing which allows party leaders to sell off government positions

leading to the 60 billion MNT case still pending. The second activity Singapore implemented to tackle corruption was the universal enforcement of anti-corruption legislation. Finally, Singapore demonstrates that the fight against corruption should not be used as a weapon against political opponents. Without implementing these activities, Mongolia can not hope to eradicate corruption.

There are currently around 200,000 public officials in Mongolia of whom 40,000 have to present Annual Personal Income Reports. It is however becoming increasingly clear that reporting income in of itself is not enough and that expense reports are also required. Expense reports are implemented in countries such as Australia and they go a long way to combat corruption. Until this is implemented in Mongolia issues such as half of the Parliament embezzling billions of MNT in funding from the SME support fund at an interest rate of 3% at a time where commercial interest rates approached 20% will continue to persist. Some are re-loaning those funds through non-banking financial institutions at rates reaching 30% with no one being held accountable to date.

It is understandable that the income of individuals will increase to a certain extent after becoming a member of Parliament but the incomes of their spouses and relatives also increase tenfold or so based on the Income Reports of politicians. No one is bothering to explain this phenomenon and whether it has anything to do with them becoming Parliament members.

Unfortunately, Mongolian media outlets are mostly owned by politicians and related companies. According to

Reporters without Borders, Mongolia has 500 or so media outlets, 75% of which are directly or indirectly owned by current and former politicians. According to the Freedom House Freedom and Media Index, the Mongolian media is partly free as it received 37 out of a possible 100 points (12/30 in legal environment, 12/40 in political environment, 12/30 in economic environment). The Reporters Without Borders Press Freedom Index ranks Mongolia 70th out of 118 countries in press freedom in 2019 despite ranking it 60th 3 years ago. This is not surprising as Mongolian media outlets have a tendency of raising a scandal before going completely silent on the issue. A clear example of this is the purchase of the 49% Russian shares in Erdenet by individuals with public funds but the issue has not been touched on lately following the arrest and subsequent release of those allegedly responsible.

For Mongolian media outlets to become free, it should not be owned by politicians and relevant regulations banning this practice should be implemented. I accept that in certain cases such as in Italy, Berlusconi has his own network, but this is not a good practice. There is also an abundance of media outlets such as the 100 or so TV channels which undermines advertising revenue as it is distributed among such a large number of outlets. This makes media outlets inefficient and politicians simply use them for their own purposes when it fits their needs. There needs to be a relicensing of all media outlets. In Japan for example, there are only four media outlets in each prefecture leading to quality media and reporting through increased human resource capacity.

*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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