

PART II. Key Aspects of the Mongolian Country Context¹⁵

2.1 OVERVIEW OF MONGOLIA'S POLITICAL, ECONOMIC, LEGAL, AND SOCIOCULTURAL CONTEXT

Since 1990, Mongolia has undergone a rapid economic and political transition from being an authoritarian socialist regime with a centrally planned economy to a democracy with a market-based economy. However, corruption in key sectors has undermined its economic performance and political reforms. In addition, economic and environmental factors, combined with relaxation in state control of internal migration, have contributed to a dramatic increase in urban migration, particularly to the capital city, which now constitutes approximately half of the Mongolian population. Although Mongolia's legal regime is relatively conducive to civic engagement and social accountability, there remain problematic areas within its legal and regulatory codes as well as inefficiencies in implementation, some resulting from Mongolia's socialist legacy.

2.1.1 *Political Institutions*

Mongolia fares well across several governance indicators. At a global as well as regional level, World Bank indicators suggest that Mongolia has above-average levels of political stability; slightly above-average levels of voice, accountability and rule of law; though only average levels of government effectiveness, regulatory quality, and corruption control (Kaufman 2003). Moreover, the annual Freedom House survey ranking political freedom and civil liberties in countries throughout the world, classifies Mongolia as "free." Mongolians currently enjoy most civil and political freedoms: dissenting views are regularly expressed and tolerated, and government intervention is largely absent from everyday personal life (Freedom House 2005). The indicator on which Mongolia is comparatively weak is the Corruption Perception Index of Transparency International, which currently ranks Mongolia eighty-fifth out of 147 countries, on par with Romania and the Dominican Republic (Transparency International 2005).

Since its initial transition, the country has moved toward the establishment of democratic laws and institutions. The 1992 Constitution created a semi-parliamentary system with a unicameral parliament and a prime minister-led dual executive branch. The president exercises little power other than an advisory veto over legislation. Nonetheless, this provision has resulted in revisions to pending legislation in recent years such as the public broadcast law adopted in 2005 (see part 3.2 and annex 5 on the media). In addition to the dual executive, the Mongolian Constitution promotes a balance of power among the executive, legislative, and judicial branches of government. The Constitution also recognizes the "supreme objective of building a humane, civil, and democratic society in the country," and explicitly guarantees basic civil rights, including freedom of expression, assembly, and association, as well as the right to own property.¹⁶

Following the transition to a multiparty democracy in 1992, Mongolia has held relatively free and fair elections regularly, with several peaceful transfers of political power between parties. However, according to a preliminary draft of the CIVICUS report on civil society in Mongolia (2006), "the 2004

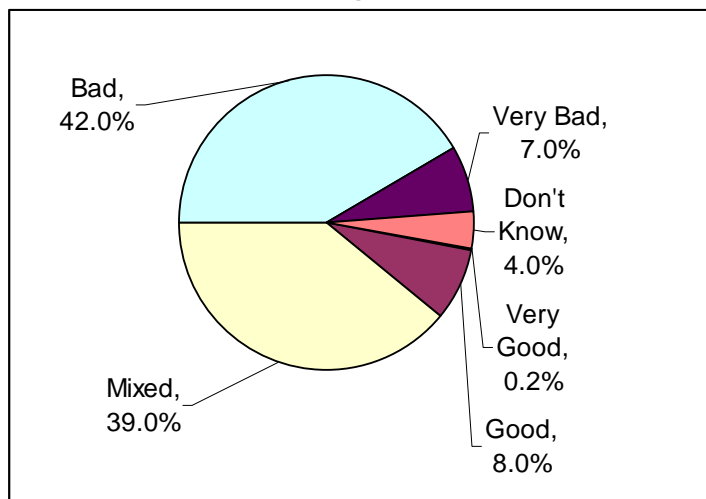
¹⁵ The overview of the country context and Mongolian civil society draws heavily on two academic sources (Kaplonski 2004 and Rossabi 2005) and the preliminary CIVICUS report (2006), as well as several reports by the international donor community. See inter alia reports by Asian Development Bank (2004a), UNDP (2000), and the World Bank (2003b, 2005a).

¹⁶ Mongolian political and economic institutions have weathered recent changes in land tenure laws that initially created a great deal of popular dissatisfaction and political instability.

parliamentary elections demonstrated an alarming trend of increasing corruption of election management and campaign practices at all levels,” including voter list manipulation and the misuse of public servants and state property by the ruling party. According to the report, some of these practices were repeated during the 2005 presidential election.

While researchers have emphasized Mongolia’s exceptional success in consolidating its democratic transition (Fish 1998 and 2001; Fritz 2002), an opinion poll conducted for the study by Mongolian NGO, Sant Maral, in May 2005 shows that there is growing concern about the political situation. Nearly half the respondents indicated that the current political situation in Mongolia is bad or very bad, with another 39 percent describing it as mixed (see figure 2.1.1).¹⁷

Figure 2.1.1 Popular View of Political Situation in Mongolia



Source: Opinion Poll (Annex 7, Question B).

These popular attitudes are largely a reflection of what the Economist Intelligence Unit (EIU) describes as the current “volatile” political scene in Mongolia (EIU March 2006). Following the 2004 parliamentary elections, opposition parties and the Mongolian People’s Revolutionary Party (MPRP)—the socialist party that ruled Mongolia for most of the twentieth century—formed a coalition. The coalition collapsed later that year, leading some members of parliament (MPs) from the Mongolian Democratic Party (MDP), Mongolia’s largest opposition party, to “cross over” to the MPRP parliamentary group. This new coalition governed until January 2006 when the MPRP withdrew its support and, in February 2006, formed a new government with several smaller parties. Since then the MDP and the Civil Will Party have been attempting to create a “shadow government.”¹⁸

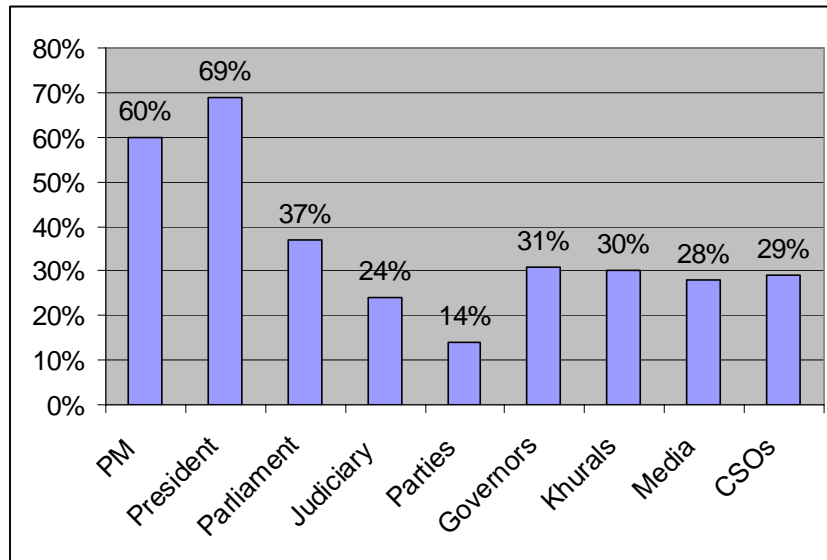
Leadership struggles within both the MDP and the MPRP have intensified the volatility of the political environment and reinforced popular perception of Mongolia’s political parties as institutionally weak. An opinion poll conducted in May 2005 (see figure 2.1.2) and various other independent polls conducted by

¹⁷ Subsequent independent polling by Sant Maral in November 2005, January 2006, and April-May 2006, indicates a high level of dissatisfaction with the current political system. The data from the frequently conducted Sant Maral opinion polls are largely available online via the Open Society Forum portal at www.soros.org.mn.

¹⁸ There have also been persistent calls for the dissolution of parliament by leaders of civil society, some of whom have been demonstrating outside the Government House, where a group of protestors went on a hunger strike in April 2006, demanding that issues of corruption be immediately addressed by the dismissal of various prominent public officials.

Sant Maral show an extreme lack of confidence in political parties. In January 2006, for example, respondents once again gave political parties the lowest confidence rating (13.7 percent) among Mongolia’s various sociopolitical institutions, while 18 percent of the respondents indicated that they preferred no party rather than any of the existing choices. Moreover, 31.5 percent believed that Mongolia does not need parties but should instead have a strong presidency.

Figure 2.1.2 Level of Confidence in Social and Political Institutions (percent)



Source: Opinion Poll (Annex 7, Question I).

As public confidence in Mongolia’s political parties has waned, popular support for a presidential system has intensified.¹⁹ In the January 2006 Sant Maral poll, 36.9 percent of respondents reported that a presidential system is “more suitable for Mongolia.” A Mongolian political scientist cited newspaper speculation on the need for a presidential system just prior to this study’s dissemination in February 2006, observing that some politicians are playing to a populist desire for strong leadership in a time of political crisis.²⁰ Various observers expressed concern that a presidential system would undermine Mongolian democracy as it has in other former socialist countries, most notably the Russian Republic.

Other stakeholders, including several prominent CSO leaders, have also voiced concern that the potential rise of a dominant party in Mongolia could erode its democratic institutions. Research conducted by the Political Education Alliance (PEA) indicates that the MPRP has increased its spending on campaigns as a percentage of total spending by political parties from 25 percent in 2000 to 75 percent in 2004. Although this raises the issue of “where the money is coming from,” a question rhetorically posed by a PEA leader, it is also noteworthy that in spite of increased campaign spending, the MPRP received a mere plurality of votes in the 2004 elections. Moreover, an opposition MP noted during a dissemination interview that opposition parties have introduced some important legislative reforms, including campaign finance reform and a 30 percent quota for women candidates.

¹⁹ This study’s analysis includes political parties, but does not define them as part of civil society as does the recent CIVICUS study. Parties are nevertheless an important part of political society. As such, parties are a potential target for demands for social accountability as well as one of its potential promoters.

²⁰ An MP also speculated about who was “paying” for this press coverage and financing the push for the dissolution of parliament so that this alternative political system may be proposed.

As figure 2.1.2 clearly illustrates, Mongolian society also lacks confidence in the country's judiciary. During the dissemination CSO forum, several CSO leaders concurred that the judicial system was "the most corrupt institution in Mongolia." Criticisms included allegations of high levels of corruption and low levels of professionalism among judges, a lack of transparency within the legal system, and cronyism between the judiciary and politicians.

2.1.2 Intergovernmental Relations

Mongolia's intergovernmental structure is a mixture of decentralization and deconcentration (World Bank 2005c). At the subnational level, the structure consists of three levels of government outside of Ulaanbaatar: aimags (provinces), soums (districts), and bags (rural communities).²¹ At each of these levels, there is a khural (assembly) and a governor who serves as an executive administrator. The aimag governor is nominated by the local khural and appointed by the prime minister, while soum and bag governors are nominated by their khurals but appointed by the governor at the next highest level of government. Citizens directly elect their aimag and soum khurals. Although the local election of khurals indicates a certain level of political decentralization, critics claim that this structure of authority undermines the autonomy of the governors in relation to the central government, their horizontal accountability to the local khurals, and their vertical accountability to the local citizenry (see part III, Finding 3.4.1, annexes 3 and 4, and Findings ORM 6 and EDU 6, respectively).

At each level of the three-tiered structure, khurals serve as governing bodies that pass laws. However, neither the 1992 Constitution nor the Administrative and Territorial Units and their Management Law (ATUTML) clearly defines the functional jurisdiction of the khural, which appears to be more a voice for local views than a body for pivotal decision making. Members of the local khurals were described by a CSO leader at the dissemination forum as acting like "apparatchiks looking for instructions from their superiors."

Among the three subnational levels of government, soums and bags are the basic administrative and territorial units for consolidating communal services. Indeed, Mongolians have expressed that bag governors are the most visible and accessible government officials (McClellan 2001). According to the ATUTML, however, bags have no independent budget. The salary and expenditures of bag governors are included in the soum budget (Center for Mongol Management 2004).²² This scenario clearly restricts the scope for citizen engagement in local governance at the lowest level.

Although public administration and sector policy making in Mongolia are formally deconcentrated, local governments at the aimag and soum levels have little effective input in sector policy formulation (McClellan 2001). The 2002 Public Sector Management and Finance Law (PSMFL) significantly centralized fiscal management, including most of the revenues that were previously shared with local governments, leaving these with limited power to institute new taxes. The PSMFL also shifted most of the expenditure assignments from local governments to central government, and curtailed local governments' responsibility for service delivery (World Bank 2005a). At present, local governments do not have adequate resources to fulfill even their limited service-delivery responsibilities as mandated by Article 52 of the PSMFL (see part III, Finding 3.4.1).

²¹ The capital itself is divided into similar levels of administration, referred to as *duuregs* and *hooros*.

²² The CIVICUS report gave Mongolia a score of zero for decentralization because the "sub-national share of government expenditure is less than 20 percent" (CIVICUS 2006:29).

2.1.3 Economic Context

Immediately after its political transition, Mongolia suffered from rapid economic contraction and the breakdown of its trade and economic relations with the Soviet-led Council for Mutual Economic Assistance (COMECON). However, Mongolia moved rapidly to establish a framework of market-based laws, policies, and institutions. In 2004, it had the world's highest growth rate of 10 percent. Despite relative macroeconomic stability, however, the sources of its record economic growth have remained narrow, and the economy remains vulnerable to external shocks.

Similarly, Mongolia has mixed results in social sector development. Since its transition, Mongolia has preserved the relatively high levels of human development that characterized the socialist period and recovered from sharp drops in key indicators such as infant mortality and school enrollment (see annex 4). However, progress toward several key Millennium Development Goals has been weak. For example, more than one-third of the population remains below the poverty line, and rural-urban disparities in economic activity and social services have widened, contributing to further rural-urban migration (HIES/LSMS 2004).²³

In particular, Mongolia's economy remains highly dependent on the mining sector. According to a background paper on "Mineral Wealth and Equitable Development" prepared for the 2004 World Development Report by UCLA Professor Michael Ross, Mongolia's mineral dependence is twenty-third highest in the world; this is due to its sizable deposits of copper, gold, and various other minerals and its relatively narrow economic base. On the positive side, rapidly rising mineral prices in recent years have fueled economic growth, improved Mongolia's trade balance, contributed to Mongolia's first budget surplus in 2005, and attracted significant foreign interest and investment by large multinational mining companies.²⁴ This mining boom has catalyzed an intense debate over whether Mongolia is receiving a fair share of the benefits from its mineral resources. Some politicians have urged greater governmental participation in new mining ventures, while the mining industry remains opposed to amending the country's 1997 Mining Law.²⁵ In addition, parliament recently passed a windfall tax on copper and gold revenues when prices exceed set levels. The current boom has also prompted discussions on how Mongolia can utilize mineral windfalls accrued during boom years to compensate for future price downturns; the GoM is discussing various options, including the establishment of a stabilization fund. The GoM's decision late last year to join the global Extractive Industries Transparency Initiative, an initiative promoting good governance, transparency, and balanced development in resource-rich countries such as Mongolia, has been well received by civil society and international partners.

2.1.4 Legal Context

All stakeholders, including CSOs, concur that Mongolia's legal framework is relatively conducive to civic engagement and social accountability. Nevertheless, there remain some problematic areas. For example, although the Mongolian Constitution and the 1998 Law on Freedom of Media guarantee freedom of expression, certain legal codes such as criminal defamation laws and media registration and licensing systems may constrain the exercise of this right (see part III, Findings 3.2.2 and 3.2.3).

²³ The Bank-supported Participatory Living Standards Assessment documented the emergence of multiple sources of vulnerability.

²⁴ Copper and gold prices increased by 28 and 8.6 percent, respectively, in 2005.

²⁵ An opinion poll taken by Sant Maral in November 2005 showed that when the parliament debated the existing mining laws, 41 percent of the respondents indicated that foreigners or multinational corporations benefited a lot from these laws; and 30 percent indicated that the GoM and politicians did as well. However, only 5 percent thought that ordinary citizens benefit a great deal from the current legal regime, with 36 percent indicating that they do not benefit at all.

The Constitution also guarantees the “right to seek and receive information from public bodies; but in practice, this right is limited by the State Secrecy Law and the absence of an Access to Information Law (see part III, Findings 3.3.1 and 3.3.2; and annex 5, Findings MEDIA 5 and 6). According to the 2006 CIVICUS study, this “political culture of nontransparency” is largely responsible for the ineffectiveness of the Mongolian bureaucracy, which is ranked in the World Bank Governance data set as slightly below average with a score of -0.46.

Over the last year a parliamentary working group has considered revisions to Mongolia’s 1997 Law on Non-Governmental Organizations, which prompted the proliferation of NGOs. Although there are more than 5,300 NGOs at present, observers estimate that there are only between fifty to a few hundred active NGOs. Under the current law, there are two types of NGOs: mutual benefit NGOs, which serve the interests of their members; and public benefit NGOs, which promote public interests in specific areas. Regardless of their mission and activities, most NGOs are registered as public benefit NGOs as this designation offers more favorable tax status. Consequently, individuals misuse this tax “loophole” to register their enterprise as an NGO.

According to the CIVICUS study, “many government officials as well as conservative NGO representatives express concern over the ‘excessive’ number of NGOs and stress the need to ‘bring order to the NGO field’ by restricting their numbers, imposing hierarchical umbrella structures, and heightening state supervision” (CIVICUS 2006:40). These issues, combined with the desire to “remove NGOs from politics,” were an impetus for the proposed Non-Profit Law. Although its enactment would prohibit the registration of politically affiliated associations, such as the women’s group of a political party, which is currently registered as an NGO, a broad interpretation of this provision could prevent the registration of NGOs explicitly involved in civic engagement/social accountability (Finding 2.1). Healthy Society, for example, alleges that the Ministry of Justice and Home Affairs (MoJHA) has refused its registration on the basis of its political activism against corruption, requiring instead that it register as a political party.

Corruption is one of Mongolia’s most serious challenges as it seeks to maintain high levels of economic growth and ensure equitable development for all citizens (see annex 7, Question C).²⁶ In October 2005, Mongolia ratified the UN Convention on Anti-Corruption. A new Anti-Corruption Law is on the parliamentary agenda for the Spring 2006 session, but key provisions of the law, including provisions on asset and income disclosure of public officials, are still under debate (see box 2.1.1 and Finding 2.2).

Box 2.1.1 Proposed Changes to the Anti-Corruption Law

The 1996 Law of Mongolia on Anti-Corruption lacked implementation measures, relying primarily on a system of confidential asset declarations. Importantly, the new draft Anti-Corruption Law, which was put to parliament in December 2005, includes some recognition that the fight against corruption will depend on mobilizing the support of civil society. The draft establishes an independent central Anti-Corruption Agency with broad powers to enforce the Law. It proposes a range of educational, informational, and promotional roles for NGOs and citizens. A key issue is the extent to which the new law will require officials to provide public asset declarations; such information is key in civil society investigations in order to expose corruption. The document Ten Steps to Intensity: The Implementation of the National Program to Combat Corruption, published by the government late in 2005, only calls for income declarations. It also proposes that the media be educated about these declarations. However, as of 15 December, 2005, the draft Anti-Corruption Law provided that asset declarations were protected by private secrecy rules and that only the total sum of assets and income for senior officials would be made public (Articles 10 and 12). Such general declarations are of limited use in tracking corruption.

²⁶ On corruption in Mongolia, see Quah (2003), as well as reports by UNDP (2002), and the Zorig Foundation (2004). The Zorig Foundation is an NGO that focuses on anticorruption, headed by MP S. Oyun whose brother was assassinated on the eve of his appointment as prime minister.

The new disciplinary committee for judges has found extensive corruption. During the first two years of the committee's operation (2003–2004), 31 judges—an astounding 7 percent of all judges—were subject to disciplinary measures. Given that many judgments were not enforced, there are significant issues regarding the enforcement of legal decisions against public authorities such as these justices.

2.1.5 Sociocultural Context

In sociopolitical terms, Mongolian civil society continues to be marked by legacies of the old socialist regime. Under this system voluntary citizen association was highly restricted and state-society relations were strictly a top-down affair. The high level of political deference and passivity among stakeholders and the general population undermined civic engagement and social accountability.

The socialist period was also characterized by large state-controlled mass organizations affiliated with the ruling MPRP. These “legacy associations”—such as trade unions, the Red Cross, and associations for women, youths, and the elderly—continue to exist and typically enjoy privileged access to state resources, reinforcing upward accountability toward public officials rather than downward accountability to Mongolian civil society.

Religious-based components of civil society among Mongolia's overwhelming Buddhist majority have also been constrained by the socialist legacy. Buddhist leaders and institutions were severely repressed for decades by the socialist state. Although Buddhism is now experiencing a strong resurgence, along with other minority religions, Buddhism has not served as a focal point of social activism or civic engagement in Mongolia.²⁷ Rather, a prominent lama in Ulaanbaator (UB) acknowledged that “politicians use the monks to gain support from the population” by associating themselves with the monasteries. He noted that they do not support a political party but rather individuals who they believe to be honest and trustworthy and who provide them with access to political resources, quickly adding that after the elections they never hear from the politicians again.

In contrast to the historical legacy of socialism, Mongolia's nomadic culture has reinforced the need for and value of mutual assistance. However, the vast expanse of the Mongolian countryside has constrained the development of communal associations, presenting a geographic obstacle that explains the limited number of community-based organizations in Mongolia compared to the multitude of “national” NGOs based in Ulaanbaatar (see annex 3, Finding ORM 8).

2.2 OVERVIEW OF CIVIL SOCIETY IN MONGOLIA

In a relatively short time, Mongolia's civil society has made notable strides in supporting economic, political, and social development, although there remain some significant challenges and obstacles to their participation in civic engagement and social accountability.

2.2.1 Civil Society-State Relations

Although state-society relations have been influenced by each of the external factors discussed above, the characteristic political deference and passivity associated with the socialist legacy in Mongolia did not prevent the

²⁷ Christian missionary groups have found post-socialist Mongolia to be a fertile ground for conversion, which they promote through INGOs and the English-language-instruction programs.

rise of mass pro-democracy movements that played a critical role in the transition to democracy in 1989–90 nor the creation of more than 5,300 registered NGOs that have formed largely since the transition.²⁸

Post-transition relations between CSOs and public officials have been marked by the state’s acceptance of an independent civil society. The transition is not unqualified, however; the CIVICUS report notes that CSOs continue to be “subject to occasional unwarranted government interference” (CIVICUS 2006:39). Methods of state control include the NGO registration process; control of information dissemination through state-owned mass media; and restrictions on public protests and demonstration; as well as intimidation, interrogation, and surveillance at the local level. The CIVICUS report also criticizes the state’s discriminatory dialogue with a small set of CSOs and selective legitimization of CSOs by hand-picking “friendly” organizations for collaboration, a practice that leads to self-censorship by some civil society leaders (CIVICUS 2006:39–41).

As a result, civil society is susceptible to politicization by public officials and political party leaders. This is clearly a double-edged sword for CSOs pursuing social accountability. On the one hand, the more politically well-connected CSOs enjoy better access to public officials, information, and other resources (see part III, Finding 3.4.4; and annexes 1 and 2, Findings NCAV 4 and WSP 1, respectively). On the other hand, close affiliation with government officials or political parties undermines CSO autonomy and, therefore, its effectiveness at civic engagement/social accountability (see box 2.2.1 and annex 3, Finding ORM 2).

Box 2.2.1 MACNE and UMENGO: A Tale of Two Environment Networks

In the late 1990s, the Mongolian branch of the World Wildlife Fund facilitated the establishment of the Union of Environmental NGOs (UMENGO). The Union served as an umbrella organization with 30 members, including the Mongolian Association for Conservation, Nature and the Environment (MACNE), the biggest environmental NGO in Mongolia. MACNE is a “legacy” NGO that was established in the socialist era as a governmental NGO (referred to as a GONGO) that still has strong ties to government. UMENGO initially benefited from this close relationship with the Ministry of Nature and Environment (MoNE). After the 2000 elections, however, UMENGO’s relationship with both MACNE and the Ministry deteriorated. MACNE withdrew from UMENGO over “differences of opinion,” while the new Environment Ministry shifted emphasis from protection of the environment to the exploitation of natural resources to balance its budget. For instance, hunting licenses became easier to obtain, causing an increase in trophy hunting of endangered species.

Over the last few years, the environmental NGO community under the leadership of UMENGO has been active in pressuring the government about protected areas. According to a leading environment NGO, “the Ministry of Environment’s reaction is that we are enemies, and those NGOs who are not criticizing them, like MACNE, are friends.” The tension has mounted to the point where “enemy” NGOs claim they are not invited to high-level workshops and meetings. This partisan approach has made it difficult for environmental NGOs to work with the government and influence public policy while MACNE, as a legacy NGO, continues to receive government funding. Meanwhile, the government accuses UMENGO and some of its members of not being willing to work with it. This partisan approach has made it difficult for environmental NGOs to work with the government and influence public policy. Given the challenges of working with this Ministry, the environmental NGOs would be more effective were they to work together as a united front.

Although the majority of respondents to the CSO Survey indicated that there is some possibility for a cooperative relationship with the GoM (annex 6, Question P), CSO leaders in interviews and focus groups frequently described their relationship with the GoM and public officials in general as adversarial. For example, participants at the dissemination forum raised concerns that this study’s findings could be interpreted as critical of CSOs, such as their politicization, and would allow public officials and politicians to denounce civil society and undermine their efforts at social accountability. Although there was consensus that some CSOs do succumb to political pressure, CSO leaders emphasized that the fundamental problem was that politicians and political parties create CSOs to capture donor funding.

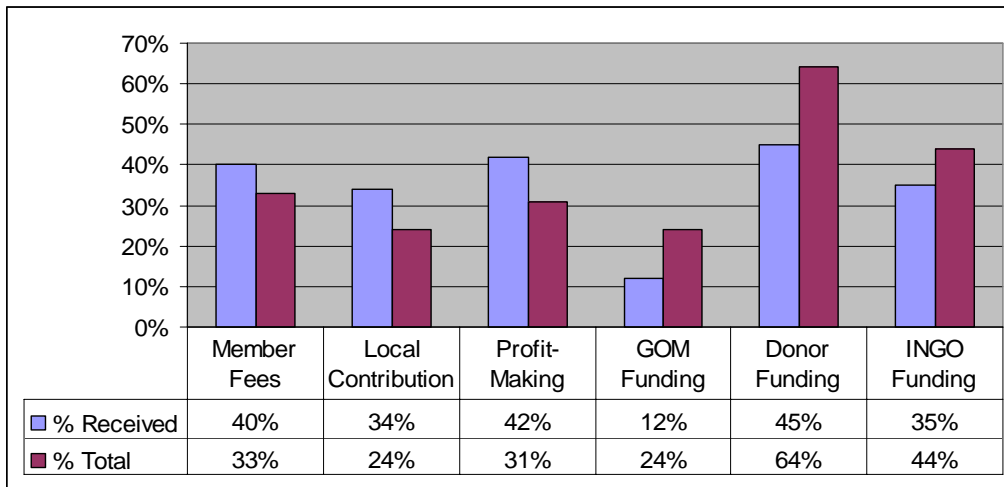
²⁸ In contrast with business associations and trade unions, women are well represented in most professional associations and NGOs. In fact, they dominate certain areas such as health, education, poverty alleviation, and human as well as women’s rights, leading some observers to refer to Mongolian civil society as “matriarchal” (CIVICUS 2006:19).

Therefore, it is incumbent upon “donors to be careful about what sort of CSO is receiving (donor) funding” (Finding 2.3).

2.2.2 CSO Capital

Mongolian CSOs are particularly sensitive to funding issues as they suffer from a chronic lack of financial resources. As a result, the few CSOs who have access to foreign funding are highly dependent upon it (see figure 2.2.1).²⁹

Figure 2.2.1 Sources of Funding and Mean Percentage of Budget (percent)



Source: CSO Survey (Annex 6, Question U).

The three case studies on Mongolian CSOs with impressive records of civic engagement and social accountability illustrate CSOs’ critical need for financial resources. CSO successes in social accountability were attributable to significant and diverse international funding sources. Similarly, failures arose from their vulnerability to a limited and precarious resource base. In several instances, CSOs were forced to halt successful social accountability initiatives due to a cessation of funding (see annexes 1-3, Findings NCAV 1, WSP 2, and ORM 1).

Furthermore, during interviews and focus groups as well as in the survey, CSO leaders repeatedly complained that donor funding was short term and did not cover administrative costs (see annex 6, Questions Y and Z).³⁰ CSOs also criticized the lack of significant GoM tenders or philanthropic contributions from the private sector. While the scarcity of GoM tenders was attributed to GoM’s favoritism toward certain CSOs, some stakeholders tied the lack of private donations to the shortcomings in the current tax code (see Finding 2.2).³¹

Although there are few opportunities for local funding at present, a few CSOs have striven for greater financial self-sufficiency. The lack of fiscal autonomy makes CSOs vulnerable to the vagaries and

²⁹ Whereas the CIVICUS study scored CSO human and technical resources at a moderate- to low-level of capacity (2 and 1 respectively on a 3-point scale), the financial capacity of CSOs was rated a zero (CIVICUS 2006:24-25).

³⁰ Donors were also criticized at the dissemination forum for perceiving “CSOs as [a] cheap labor force to implement their projects.”

³¹ The CIVICUS study also noted that there were no tax benefits available to individuals or corporations for charitable giving and that “the level of state resources channeled through CSOs is insignificant” (CIVICUS 2006:36, 41).

preferences of funders. This has led some organizations to pursue funding for activities that divert them from their self-identified mission and objectives.

Whereas most CSOs leaders pointed out that scarce financial resources were one of the largest problems in pursuing social accountability, the survey also showed that NGOs are confronted with insufficient physical and human capital. For example, more than half of the CSOs indicated that their organization does not have a vehicle and that they rent rather than own their own office, whereas more than 10 percent operate without office space (annex 6, Questions Q and R). These statistics would be more dramatic if the survey had included more CSOs outside of Ulaanbaatar. Similarly, the human capital (particularly in terms of formal education and knowledge of technical issues such as legal and regulatory codes), which clearly was key to the social accountability successes of the CSO case studies, is undoubtedly higher among NGOs in Ulaanbaatar.

2.2.3 CSO Accountability and Internal Governance

The scarcity of funds also affects which CSOs are actually allowed to form and operate; and that, in turn, determines whose interests are represented by the CSO's civic engagement activities. For example, 90 percent of the registered NGOs are located in Ulaanbaatar, whose residents, therefore, benefit from better representation by and services from CSOs (Finding 2.4). However, even within the capital city, there are disparities, so that the largely poor inhabitants in the Ger District along the city's periphery are often marginalized.

Although many of the UB-based NGOs have branches in provincial centers (see annex 6, Question C), these branch organizations are typically established by the UB office and lack financial or programmatic autonomy from the UB leadership. A notable exception is the Women for Social Progress' Uvorkhang branch (see annex 2, Finding WSP 7). The overall lack of community-based organizations results in an under-representation of rural Mongolians. Some CSO leaders attribute the UB-focus to the centralization of resources in the capital and suggest that once effective decentralization occurs, CSOs will decentralize as well.

Although stakeholders were concerned that local branches of NGOs suffered from a lack of autonomy, they also criticized the lack of effective umbrella organizations (Finding 2.4). According to the CIVICUS report, Mongolians are averse to umbrella organizations due to CSO "efforts to confront and counteract the socialist tendency toward massive hierarchical structures" and continued "hypercentralization" in the post-socialist era (CIVICUS 2006:20). Notable exceptions include the Mongolian Women's NGO Coalition, which has successfully lobbied for more female candidates in the 2000 parliamentary elections, and the collaboration of the National Center Against Violence (NCAV) with other CSOs to advocate for the Law Against Domestic Violence (see Finding NCAV 2).

At the other end of the spectrum there are CSOs that depend upon the leadership and vision of a single individual; in such cases they are known as nongovernmental individuals (NGI) (see annex 2, Finding WSP 6). The NGI phenomenon makes it exceedingly difficult to ensure the durability of the organization or replicate its successes in other localities (Finding 2.4).

Although limited in number, the existence of NGIs raises the issue of CSO accountability. Although a full discussion of this issue is beyond the scope of this study, it is important to note that the perception of CSO accountability is critical to their capacity to promote social accountability. Public officials are unlikely to respond to an organization that is not seen as representative of a constituency, or one that is not accountable to the beneficiaries of its services. One measure to ensure the accountability of CSOs would be to make accounts public; unfortunately a preliminary CIVICUS report indicates that only a

minority of CSOs have done so (January 2006). CSOs are also typically confronted by multiple “constituencies” to whom they are accountable, including international actors and governmental agencies from which they receive funding. CSOs in many countries have addressed these concerns by developing voluntary codes of conduct and establishing mechanisms of self-regulation, which are currently being discussed in Mongolia as part of the agenda of regional consultations organized for the CIVICUS report.

The Bank’s study, “Civil Society in Mongolia’s Development and Governance,” notes that NGO internal governance systems to enable board members and constituents to monitor the use of resources are weak or, in many cases, completely lacking. Although there is generally stronger upward accountability to funders than to constituents and beneficiaries, “most NGO boards play a limited role in setting strategic priorities and objectives, monitoring organizational finances and implementation, contributing to fundraising, or reviewing the performance of the organization” (Finch 2005).

2.2.4 Lack of Visibility and Popular Support of Accountability Initiatives

Perhaps the two greatest obstacles to effective civic engagement and social accountability in Mongolia are a dearth of CSOs explicitly working in this area and a lack of knowledge among the public of those who are (Finding 2.5). Most of the registered NGOs do not define their missions as civic engagement activities that lead to social accountability.³² Moreover, the 2006 CIVICUS report also gives civil society a relatively low score of 1 out of 3 for its capacity to influence public policy, although some CSOs have played a high profile role in development-related activities, political advocacy, and legal reform. The CIVICUS report maintains, however, that there is a lack of broad-based support and visibility of such initiatives.

Indeed, one of the greatest challenges for Mongolian CSOs is a general lack of knowledge among the public about their role and function. Ninety-two percent of respondents to the opinion poll conducted in May 2005 indicated that they knew little to nothing about civil society organizations (annex 7, Question Q1), which may explain the low level of confidence in CSOs (see figure 2.1.2 above). Whereas the expectations of what a relatively young civil society can and should do may be high—a result of foreign-imposed expectations according to one observer—the achievements and potential of Mongolian civil society should not be minimized.³³

2.3 FINDINGS AND RECOMMENDATIONS

The external and internal factors influencing Mongolian CSOs outlined in this section have a significant impact on the capacity of CSOs to participate in civic engagement and social accountability initiatives. Although the implications of these factors will be discussed more fully in the subsequent analysis of the Mongolian Enabling Environment in part III, there are several findings in this section related to the structure, resources, and involvement of CSOs in social accountability initiatives that have prompted the following recommendations.

Finding 2.1. The proposed Non-Profit Bill may undermine the capacity of CSOs for involvement in civic engagement and social accountability if current provisions prohibiting their political activism are broadly interpreted.

³² According to a survey done by UNDP in 2000, most registered NGOs that are involved in sports and cultural activities are less likely to become involved in CE/social accountability than NGOs involved in human rights or environmental issues, for example.

³³ Still optimistic about the future of Mongolian civil society, this CSO leader offered the counterexample of civil society in the Russian Republic, rhetorically asking “Why should we be any different?”

Recommendations:

- 1) The Ministry of Justice and Home Affairs and MPs should revise the definition of explicitly political organizations (for example, wings of political parties or lobbying firms) that would be excluded under the Non-Profit Bill.
- 2) CSOs should present a revised version of the Non-Profit Bill and pursue legal remedies if the revised provision is not adopted or is improperly implemented.

Finding 2.2. The Proposed Anti-Corruption Law only provides for disclosure of the total sum of assets and income for senior officials, undermining CSO capacity to track corruption.

Recommendations:

- 1) The MoJHA and MPs should revise the wording of the bill to stipulate that individual officials disclose asset and income declarations to strengthen the mechanisms for tracking corruption.
- 2) As proposed in the GoM document, *To Intensity: The Implementation of the National Program to Combat Corruption*, implementation of the law should include a provision for media training. Media-related CSOs could offer technical support, along with INGOs and donor agencies, which could also provide initial financial support.

Finding 2.3. Mongolian CSOs have limited and precarious access to financial resources owing to several factors. These include the lack of GoM tenders, limited philanthropic donations, and the creation of CSOs specifically to attract donor funding.

Recommendations:

- 1) Public officials and CSOs should seek technical support from the international community to reform the tax code affecting CSOs, particularly the absence of tax breaks for philanthropic donations.
- 2) The GoM should expand the number and amount of tenders available to CSOs and other private enterprises, based on a competitive system, to increase the capacity and efficiency of service delivery
- 3) CSOs should eschew “mission creep,” to lure donor funding. This detracts from their core mission and may undermine their reputation and that of civil society in general. Instead, their energies should be directed toward lobbying for greater access to GoM tenders, competitive donor funding, and the development of autonomous resources (membership fees or donations), as pursued by the Ongi River Movement (see annex 3).
- 4) Donors should consider longer term commitments and the need to finance institutional and administrative costs, while bearing in mind the origins, purpose, and sustainability of the CSOs they fund.

Finding 2.4. The capacity and effectiveness of CSO involvement in social accountability is adversely affected by CSO concentration in UB, the lack of CSO umbrella organizations, and the existence of de facto nongovernmental individuals.

Recommendation:

Donors should provide technical and financial support to expand current CSO efforts at institutionalization while targeting programs that assist in the creation and development of community-based organizations (CBOs) and CSO branches outside of UB. They should also promote CSO umbrella organizations that may be more efficient and effective at social accountability.

Finding 2.5. Two of the greatest obstacles to effective civic engagement/social accountability are a dearth of CSOs explicitly working in this area and a lack of public understanding of the importance of their accountability initiatives

Recommendations: Stakeholders should strive to inform and educate Mongolians about their rights to and opportunities for civic engagement with public officials, the importance of civic engagement, and the role of CSOs in promoting social accountability. The range of possibilities is broad. Some options include:

- 1) Public officials, monitored by CSOs and the media, should implement laws that promote direct citizen engagement. Focus should be on key sectors such as education, given its important role in economic and social development. The GoM, for example, should ensure that citizens are fully aware of their right to participate in school councils. GoM should ensure that citizens are informed about elections, meetings, and agendas as well as the importance of active civic participation (see annex 4, Finding 2). Moreover, training and awareness-raising activities should be promoted, such as seminars for parents who are newly appointed to a school council.
- 2) Stakeholders should collaborate to develop civic education programs to inform citizens of their rights to civic engagement and the key role of CSOs in social accountability initiatives. Activities may include: public service announcements and community theater projects for adults as well as innovative educational initiatives for youth (see related recommendation under Finding 3.2.1).
- 3) Given the importance of CSO-media relations, CSOs should redouble their efforts to develop strong relations with various media outlets and individual journalists. Sound media relations would ensure publicity of civic engagement/social accountability activities, as suggested by the example of the Ongi River Movement (see Finding ORM 5). CSOs should also enhance both outreach and accountability to instruct their constituents about their important roles and activities in social accountability.
- 4) The donor community should provide greater support to better publicize the CSO mandate and agenda. Donors should help CSOs and GoM build capacity and expertise in civic engagement and social accountability. For example, they may target activities that provide public officials and community leaders with a comparative perspective on the role of school boards in other democratic countries.