



SECURITY SECTOR GOVERNANCE IN MONGOLIA

ALMANAC 2017



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The Ulaanbaatar Center for Policy Studies gratefully acknowledge the support of the Geneva Centre for the Democratic Control of Armed Forces (DCAF) in the development and printing of this Almanac.

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FOREWORD



Dear readers,

The Standing Committee on Security and Foreign Policy of the State Great Hural (Parliament) of Mongolia jointly with the Geneva Centre for the Democratic Control of Armed Forces (DCAF) and the Ulaanbaatar Center for Policy Studies is pleased to present you the first-ever Almanac on Security Sector Governance in Mongolia.

Article eleven of the Constitution of Mongolia stipulates that the duty of the State is to secure the country's independence and ensure national security. With this in mind, the State Great Hural (Parliament) of Mongolia enacted several laws on security and foreign policy issues.

The experience we have gained throughout the democratic transformation period since the adoption of the new democratic Constitution of Mongolia 26 years ago, as well as the emerging global and domestic challenges and developments we witness today, undoubtedly require us to revisit and modernize the existing laws and regulations.

In this rapidly changing environment the importance of ensuring the continuity of national security policy by modernizing and updating it through comprehensive research and studies, identifying possible risks, challenges, and threats, as well as developing measures to address them is of utmost importance. It is obvious that the expert views, analysis and conclusions by representatives from academia, researchers, scholars and other experts are of great value in this process. The publication of this almanac is undoubtedly very timely and of great value.

The "Security Sector Governance in Mongolia-Almanac 2017" covers the role and functions as well as addresses the challenges the legislative body, presidency, National Security Council, government, and the special agencies and law enforcement agencies responsible for ensuring the national security confront. The Almanac also addresses the importance of ensuring

human rights and freedoms, the role of the ombudspersons and media in security sector governance.

In my capacity as the Chairperson of the Standing Committee on Security and Foreign Policy of the State Great Hural (Parliament) of Mongolia I shall wholeheartedly support activities and initiatives intended to strengthen the national security of the academic institutions and non-partisan research centers.

I am convinced that publication of this almanac on a yearly or biannual basis shall make a valuable contribution to the strengthening of the national security of Mongolia, and an improvement of the security sector legal environment.

May the academic research path be rich.

Sincerely yours,

J.ENKHBAYAR

Member of State Great Hural (Parliament) of Mongolia
Chairperson of the Standing Committee on Security and Foreign Policy

FOREWORD



For any new democratic state, reforming the security sector, whose duty is to ensure national security, safeguard constitutional institutions, maintain public order and protect public security, is as important as social and economic transformation. The delivery of effective and efficient security and justice services by security sector institutions within a framework of democratic governance, without discrimination and with full respect for human rights and the rule of law is of utmost importance. The aim of the reform process is to create conditions for these institutions to deliver coordinated and comprehensive services under democratic principles and values.

Substantial steps were taken since the 1990s to reform the security, defense, and law enforcement sectors and to cement the achievements made; however, expert evaluation and analysis conducted on the reform process and its outcomes reveal they remain insufficient. Not only is public understanding of the purpose of the reform and reform process inadequate, but even decision makers and the sector itself lack substantial and comprehensive information on the reform outcomes, lessons learned, and the subsequent steps to take.

The Ulaanbaatar Center for Policy Studies jointly with the Geneva Centre for the Democratic Control of Armed Forces (DCAF), the Standing Committee on Security and Foreign Policy of the State Great Hural (Parliament) of Mongolia have compiled the first-ever handbook on security sector reform and governance process in Mongolia. We are pleased to present you the first-ever “Security Sector Governance in Mongolia-2017 Almanac,” where we intended to provide you with insights into the reform processes. The Almanac chapters cover security sector institutions such as the armed forces, national police agency, the border protection agency’s functions, legislature, historical development and future tendencies, and much more. Last, but not least, the Almanac covers the functions and role of the security sector oversight bodies such as parliament, human rights commission, the private security sector and

the media. We truly believe that not only policymakers but also security sector experts, scholars and the public will benefit from it.

The “Security Sector Governance in Mongolia-2017 Almanac” is the first-ever attempt to comprehensively review past developments in the Mongolia’s security sector, present achievement and future trends. Though in this edition we did not manage to cover the special security institutions with specific functions such as the emergency and intelligence agencies, we project to have substantive chapters dedicated to these institutions in the next edition.

I would like to gratefully acknowledge the generous support of DCAF, the Standing Committee on Security and Foreign Policy of the State Great Hural (Parliament) of Mongolia, the authors and last but not least my team in the development and printing of this Almanac.

M. BATCHIMEG

Executive Director
Ulaanbaatar Centre for Policy Studies

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SECURITY SECTOR GOVERNANCE AND REFORM: ROLE OF THE LEGISLATURE

Overview

Historical documents mention the fact that the ancient tribes which existed on the vast lands of Mongolia held quraldai (council) to discuss and decide the important issues. All members of the tribe equally took part in the discussion, exercised great powers and decided on important issues such as the election or removal of the tribal leader. In the due course of history, the character of the assembly shifted from majority characteristics to minority. The gradual change in the assembly characteristics lessened the discussion and decision making role, turning it more into an advisory one.

With the establishment of the Great Mongol State in 1206, the independent small councils of nobles that existed in all clans, tribes and states were replaced by the creation of a distinctive system of governance, such as the special state consultative body known as “Yeke Quraldai.” It is believed that the most important decisions on state affairs in the Great Mongol State such as proclamation of the new khagans, wars, battles, etc. were made at the “Yeke Quraldai.” The most prominent people such as members of the royal family, military generals, and state ministers jointly discussed the most important state affairs and played distinctive roles in making the decisions to be accepted by the public.

It is recorded historically that up to 1911 the Mongolian Hural was known as “Yeke Quraldai,” which during the Mongolian empire fragmentation period was renamed the khanate assembly, or provincial assembly. Each of them had their distinctive functions and experiences.

With the national liberation revolution followed by the proclamation of independence in 1911, major political, economic and social developments began throughout Mongolia and concrete steps were taken to study, develop and introduce international models of governance. The most vivid example of this was the establishment of the “State Hural” with Upper and Lower houses after studying several countries’ constitutions.

By consent of the Bogd Khagan of Mongolia the State Hural was established in 1914 with rules of procedure stipulating functions of the Upper and Lower hurals. Article 2 of the rule stipulated that the Upper hural shall

develop policies on the most important state affairs, shall debate them and carry out decisions; the Lower hural shall initiate proposals beneficial to the state, debate and submit them to the Upper hural.

The Upper and Lower hurals debated the tri-party Treaty of Khyakhta in 1914-1915, as well as discussed in 1919 whether to accept or decline the Chinese aggressive policy that threatened the independence of Mongolia. Considering that the Bogd Khagan to some extent regarded the decisions of the State Hural it is clear that the Hural experienced the right to advise to the Khagan and the ministries and the right to carry out decision on some issues.

In accordance with the rules of procedure, the Upper and Lower hurals held weekly meetings and debated on different state affairs. For example, the following matters related to state security, foreign policy and defense matters were discussed at the Upper and Lower hurals:

Petition by the Ministry of Foreign Affairs officials containing proposals to secretly acquire tools and instruments to assemble guns and ammunition to protect independence, explore and use minerals such as silver, iron, brass and tin to improve the ammunition arsenal;

Petition by Southern province officials requesting instructions and consent from Khagan on proceeding over ruling by China to unify some of southern territories to China;

Petition by South East Border Minister and 12 military commanders expressing readiness to fight with the Chinese to protect the border and relieve the population;

Petition protesting against the tri-party Treaty of Khyakhta;

The Lower hural discussed the Letter on abolition of Mongolian Autonomy by China and expressed its objection.

We can conclude that the creation of the State Hural with Upper and Lower houses, which functioned from 1914-1919, exercised the right to advise to Bogd Khagan, the Cabinet, on matters of state security, foreign policy and defense and the right to carry decisions to some extent, was the initial step in creating the first parliamentary system in Mongolia. The main legal document of that time, the "Decree on Mongolian Law," was adopted by the State Hural.

The Military Ministry formed the first military units and regiments in 1912. In accordance with the 1913 Mongolia-Russia agreement on preparing and training army personnel, and the 1914 Mongolia-Russia agreement on

developing Mongolian armed forces' strategy and training of senior personnel, the Russian specialists started to train Mongolian army personnel. Moreover, at the end of 1912 the first Military school was established near the capital in Khujirbulan, and in 1913 the Code of Conduct of Mongolian soldiers with 23 articles was developed.

After a successful People's revolution in 1921, the first Constitution of the Republic of Mongolia was adopted in 1924. Article 4 of the Constitution stipulated that the supreme power of the State shall be vested in the State Great Hural, in period of its recess the supreme power of the State shall be reserved with the Baga Hural, in period of the respective recess the supreme power of the State shall be reserved with the presiding members of the Baga Hural and the Cabinet. Article 5 of the 1924 Constitution also stipulated that the organs exercising the supreme power of the State shall accomplish relations with foreign states and represent the state in this regard, shall oversee border issues, declare state of war and establish peace, ratify treaties established with foreign states, form and regulate armed forces of the state. Though state affairs on security and defense were not specifically acknowledged in the 1924 Constitution, terms such as border delimitation, declaring war, establishing peace, and armed forces formation were widely used.

Subsequently, by the decision of the Government in 1922 the Military Council established the Special Unit for Internal Security Affairs, which laid the foundation for establishment of the intelligence service in Mongolia. Furthermore, in 1923 the Government adopted and implemented the Rules of Conduct of the Military Council, Rules of Conduct for Chief of all Armed Forces, Rules of Conduct for Chief of the General Staff of Armed Forces and Minister for Defense. In accordance with Article 12 of the Constitution of Mongolia the State Baga Hural initiated and adopted laws, regulations and resolutions, the Ministerial Council decided on some state security affairs. In 1934, by resolution of the People's Ministerial Council the rules of procedure of the State Internal Security Protection organization which stipulated that all security threat protection activities on the territory of the state shall be conducted by the aforementioned was adopted. The Internal Security Protection organization was extended and reorganized into the Ministry of Interior in 1936 by the resolution of the State Baga Hural Presiding officers and Ministerial Council. It is clear that the State Baga Hural members, its presiding officers and the Ministerial Council exercised the right to carry out decisions over the state security affairs.

Article 10 of the 1940 Constitution of the People's Republic of Mongolia for the first time reflected specifically security and defense matters. It stipulated that the organs exercising the supreme power shall be responsible for the organization of defense and administration of the armed forces to ensure the sovereignty of the state, and shall be responsible for state security affairs, protection of the people's rights and public order. Articles 13 and 17 stipulated that the supreme power of the state shall be vested to the State Great Hural, in its recess the supreme power shall be vested to the State Baga Hural; subsequently, during the respective recess the supreme power of the state shall be vested to the Presiding Officers of the State Baga Hural.

The Presiding Officers of the State Baga Hural adopted and implemented the Law on Military service in 1944. The Presiding Officers of the People's Great Hural adopted the Law on Airspace in 1958.

Since adoption in 1921 of the Rules of Conduct of the Military Council till the 1960s, over 50 laws and regulations related to matters of the armed forces and defense were adopted and subsequently approved by decisions and resolutions of the Government, State Baga Hural and its Presiding Officers, Military Council, and Ministry of Defense.

In 1960, the People's Republic of Mongolia adopted its Constitution for the third time. Article 18 of the Constitution stipulated that the supreme power of the state shall be vested in the People's Great Hural and that it shall exercise the right to adopt laws, develop principles for domestic and overseas political policies. The Presiding Officers of the People's Great Hural, while implementing their powers, had the right to declare a state of war and announce military mobilization. Article 37 of the 1960 Constitution stipulated that the Ministerial Council of the People's Republic of Mongolia shall be the supreme executive body and shall exercise the right to administer the state defense and armed forces as well as decide on the number of personnel to be mobilized for conscript military service.

Though in accordance with the 1960 Constitution the lawmaking right was vested to the People's Great Hural, its Presiding Officers were adopting and implementing laws by their resolutions. For example, in 1981 the Presiding Officers of the People's Great Hural approved the Law on Compulsory Military Service by Resolution 417.

In the period between the 1960s to the 1990s, when Mongolia became a United Nations member state, the foreign relations of Mongolia have greatly expanded, the state affairs related to the establishment of diplomatic relations as well as joining international treaties were decided by the resolutions of the Presiding Officers of the People's Great Hural.

The National Security Sector and the Role of Legislature

Democratic constitution and legal reform process

With adoption of the new, democratic Constitution of Mongolia in 1992, as well as with the comprehensive social, economic and political transformation, Mongolia started and implemented a legal reform process. Subsequently, an urgent need to carry out legal reforms in the security and defense sectors in a short period of time arose.

Article 11 of the Constitution stipulates that the duty of the State is to secure the country's independence and ensure national security and public order.

The 1992 Constitution stipulated that the securing of a country's defense and national security is the duty of the state; therefore, the notion that all state organs have the duty for defense and national security was developed. Article 20 of the Constitution stipulates that "The supreme power of the state shall be vested in the State Great Hural (Parliament) of Mongolia" and the supreme legislative power shall be exercised solely by the State Great Hural.

In accordance with the Constitution, the State Great Hural shall exercise special authority to initiate and adopt laws, define the state domestic and foreign policies, and oversee the implementation of laws.

Though Mongolia started to comply with the new Constitution beginning 12 February 1992, in a period of four months, until the first general elections of the State Great Hural (Parliament) of Mongolia, the State Baga Hural adopted the following laws related to the national security and defense:

Law title	Approved date	Law objective and regulation
Law on civil-military service and legal status of military personnel	4 May 1992	The law regulates the civil-military relations and military training, as well as set and regulated the legal status of military personnel, military service, military mobilization, and military ranks.
Law on ensuring the National Security of Mongolia	13 May 1992 This law was invalidated with the adoption of the new law on National Security on 27 December 2001.	The law stipulated that state security is the safeguarding of sovereignty, territorial integrity, inviolability of the state borders and ensuring the security of the existence of the state social structure as stated in the Constitution. Safeguarding state security is the unified actions aimed to implement the state security policies by the state organs, other organizations, officials and civilians.
Law on National Security Council of Mongolia	29 May 1992	The law establishes the National Security Council's role, guiding principles, functions, structure, composition and powers and regulates relations in this regard. The members of the National Security Council are the President, Speaker of the Parliament and Prime Minister. The powers, structure, decisions and their implementation are reflected in this law.

The structure, composition and powers of the current National Security Council established by the State Baga Hural have not been amended at all. It can be concluded that the State Great Hural formed in accordance with the new Constitution of Mongolia has not exercised up till now its special authority in this regard either. The President of Mongolia has initiated and submitted the new draft law on the National Security Council to the State Great Hural on 4 February 2016; subsequently on 21 April 2016, the State Great Hural debated whether to discuss this law at the plenary session, as the majority of the present members of parliament did not support it, and the draft law was returned to its initiator.

Paragraph 2 of Article 11 of the Constitution stipulates that Mongolia shall have armed forces for self-defense. The structure and organization of the armed forces and rules of military service shall be determined by law.

The State Great Hural has implemented this article of the Constitution by adopting in May 2002 the Law on Armed Forces. The new revised version of the Law has been adopted in September 2016.

Paragraph 2 of Article 4 of the Constitution stipulates that the frontiers of Mongolia shall be fixed by law; Paragraph 3 stipulates that stationing of foreign troops in the territory of Mongolia or allowing them to cross the state frontier for the purpose of passing through the country's territory shall be prohibited unless an appropriate law is adopted.

The State Great Hural implemented paragraph 2 of the Constitution in 1993 by adopting the Law on Mongolian Borders, and subsequently paragraph 3 has been implemented in 1998 by adopting the Law on Stationing of foreign troops and allowing them to cross the state border if passing through the country's territory.

The State Ikh Hural, in accordance with the paragraph 2 of Article 25 of the Constitution of Mongolia, exercised its special authority to define the basis of the domestic and foreign policies of the State and adopted the following policy papers by its resolution:

Policy paper title	Date of adoption, Resolution number	Content	Reference
Military doctrine	1993	<p>The Concept of National Security of Mongolia for the first time has set the components of the national security as follows: security of existence; security of the social order and state system; security of citizens' rights and freedoms; economic security; scientific and technological security; security of information; security of Mongolian civilization; security of the population and its gene pool; ecological security. National security shall be ensured by social, political, organizational, economic, diplomatic, military, intelligence and legal means or through the development of international cooperation.</p>	These documents are the state policy papers related to the issues of national security and defense.
Concept of National Security of Mongolia;	1994		
Concept of Foreign Policy of Mongolia;	Resolution number 56	<p>The Concept of the Foreign Policy stated that Mongolia's foreign policy in the political field is an important instrument for ensuring and strengthening its security.</p>	
Military Doctrine of Mongolia		<p>The 1994 Military Doctrine is one of the fundamentals of this policy and related activities in the area of defense. The Military Doctrine is the official state concept defining the basis of state policy on war and aggression, averting and eliminating the danger of war, creating the conditions of and defending the country from aggression, on the organization of the armed forces and other troops as well as on waging armed struggle.</p>	
Basis of the State Military Policy of Mongolia	15 May 1998 Resolution number 56	<p>The Basis of the State Military Policy is the official state concept defining the basis of the state defense. The document has defined that the basis of the military system shall be the civil control of Armed Forces.</p>	

Concept of National Security of Mongolia	15 July 2010 Resolution number 48	<p>The 2010 National Security Concept stated that national security shall be ensured through coherence between the security of existence; economic security; domestic security; human security; environmental security; and information communication security. The sovereignty and independence of Mongolia shall be ensured through political and diplomatic means.</p> <p>The priority of Mongolia's foreign policy shall be safeguarding its security and vital national interests by political-diplomatic means. Maintaining friendly relations with its two immediate neighbors shall be a priority direction of Mongolia's foreign policy activity and shall maintain in principle a balanced relationship with both and shall promote all-round neighborly cooperation. It shall also pursue a policy aimed at developing friendly relations in accordance with the "third-neighbor" policy with all other countries and pursue an open, non-aligned, independent and multi-base foreign policy.</p>	With the rapid development of information technology, global economic challenges and rapid changes in external and internal environments of the national security of Mongolia, the requirement to renew the national security concept as well as the foreign policy concept arose.
Concept of Foreign Policy of Mongolia	10 February 2011 Resolution number 10		
The Basis of Defense Policy of Mongolia	8 October 2015 Resolution number 85	<p>The current Defense Policy paper has conceptualized and extended the context of the 1998 Basis of the State Military Policy, determined the state defense system, organization and structure of the armed forces. The document has greatly improved the defense sector legal environment and has defined the further development of the armed forces' structures.</p>	<p>With the renewal of the National Security Concept and Foreign Policy Concept, an urgent requirement to renew the 1998 Basis of the State Military Policy came up and the transformation process was completed in 2015. The draft State Military Policy was submitted by the President to Parliament on 13 April 2015. During the debates at the proposal of the members of the parliament the document was renamed as the Basis of Defense Policy of Mongolia and adopted by Parliament on 8 October 2015.</p>

Although the State Great Hural renewed the state policy documents and amended laws and regulations in line with the changes to the domestic and external environments, the information technology rapid development, global economic challenges, emergence of new non-traditional threats, and challenges to the global order require more efficient and effective actions from legislative organs.

With the adoption of the Basis of Defense Policy of Mongolia by the State Great Hural in October 2015, an urgent requirement to reform the defense sector legal environment and implement the reform came up. Hence the President of Mongolia and Commander-in-Chief of the Armed Forces in accordance with his constitutional right to legislative initiative submitted on 4 February 2016 draft proposals on the Defense Law of Mongolia, and renewed versions of the National Security Concept of Mongolia and Law on Armed Forces of Mongolia, Law on Military Service, Law on Legal status of military personnel, Law on Information Security and Law on State and Official Secrets to the State Great Hural.

Subsequently, the Law on Military Service and Legal status of military personnel and renewed Law on Defense of Mongolia and Law on Armed Forces of Mongolia were passed by State Great Hural on 1 September 2016. The following reforms were introduced to the new readings of the laws:

1. The new reading of the Defense Law of Mongolia determined the military terminology and changed the conception that defense system are military actions only, and thus broadened the understanding of defense system as a whole. It regulated that the basis of the defense system shall consist from the following inter-related three pillars: territorial defense, professional armed forces, and mobilization integrated management planning. The ambiguous meaning between military and paramilitary organizations was clarified and defined under State Military System in peacetime as armed forces, border and national guards, and emergency services. The legal basis for integration of the aforementioned organizations were set by legal norms of military, military code of conduct, military ranking, military personnel physical standards and participation in peacekeeping support operations.
2. The Defense Law stipulates that the state military system shall be prohibited for use in any means against the state, social system and society at large.

3. The defense management system has been improved, the subjects responsible for the command of state armed forces were defined as political high authority, state administration authority and professional military command and their mandates approved accordingly. The precise duties of the state and local authorities as well as of the private entities and organizations were specified. Accordingly, the private entities and organizations are now responsible for creating conditions and keeping workplaces for their personnel who are liable for military service to serve in the army, attend recruitment, military mobilization training and collective training.
4. The new reading of the Law on Armed Forces stipulates that the armed forces shall consist of the Ground Force and the Air Force. The law also determined the main tasks of the armed forces, command structure, and their mandates. Accordingly, the political leadership of the state military establishment is exercised by the State Great Hural, state administration authority is exercised by the Commander-in-Chief of the Armed Forces, Government and cabinet members in charge of defense and justice, and the supreme professional military authority is exercised by the General Staff of Mongolian Armed Forces. While the armed forces administration will be with the Minister of Defense, division, unit and company commanders, the professional command will be with the chiefs of the ground and air forces as well as chiefs of others military branches. The law has precisely defined the specific mandates of the aforementioned and has improved the coherence and eliminated duplications.
5. The law on conscription into military service and the law on the legal status of military personnel, which regulated these issues in the past were replaced by the Law on Military Service and the Law on Legal status of military personnel. The new reading of the Law on Military Service stipulates that the military service shall consist of active duty personnel and reserve personnel, the active duty shall consist of conscripts, contracted, alternative as well as officer and NCOs (non-commissioned officers) service. The years of study in the military school shall be calculated as per years worked. The new short-period reserve officer training course for students has been introduced and approved but no changes were made in the conscript's duration of service. The retirement age ceiling for active duty personnel

were increased by two years; respectively, the retirement age for sergeants and mid-level officers is 47, senior officers 52, superior officers 57. Women's retirement age irrespective of rank shall be 47.

6. The Law on Military Service has clarified the rules for promotion of military ranks and indicated the title of the official eligible as well as his rights, and precisely regulated the promotion, use, downgrading, stripping and restoring of ranks. The law also regulates that military ranks shall be used only in military institutions.
7. The new reading of the Law on legal status of military personnel stipulates that military personnel shall follow the principle of obedience to orders and shall not take part in political activities. Military personnel shall be considered as on duty while taking part in international peacekeeping support operations, studying in domestic or international military schools and taking part in civilian social building or disaster relief actions. The law has also improved the social benefits of the military personnel such as increasing the number of annual leave days similar to civilians, family members are entitled to receive medical service in military hospital, officers and NCO's are entitled to receive transportation costs while transferred to the new duty station or to the reserve, the spouses of military personnel are entitled to receive up to one month salary compensation when they lose their job following transfer to a different duty station.

It is noticeable that the territorial defense versus mobilization still require further improvement.

Another aspect which requires regulation is the further development of civil and military administration relations in accordance with democratic governance. Since the 1990s' democratic transformation of Mongolia the armed forces and military legal environment was transformed at large, one can conclude that civil-military relations were not studied properly, thus the legal reforms are not meeting democratic governance requirements. The tradition to keep the security and defense issues closed to the public is still exercised. The Law on State and Official Secrets submitted by President was approved by State Great Hural on 1 December 2016.

Parliamentary Oversight

In accordance with paragraph 1, Article 25 of the Constitution of Mongolia, the State Great Hural (Parliament) may consider at its own initiative

any issue pertaining to domestic and foreign policies of the State, and within its exclusive prerogative shall enact laws, and make amendments or changes to them, determine the basis of the domestic and foreign policies of the State and supervise and inspect the enforcement of laws and other decisions.

The State Great Hural, in accordance with the Constitution, Law on the State Great Hural, Law on Rules of procedure of the State Great Hural uses the following instruments and tools for democratic oversight:

1. Questions the Prime Minister and members of the Government (Cabinet Ministers) and the Chairpersons of other organs directly responsible and accountable for their work to the State Great Hural (Parliament) as prescribed by law;
2. Summons members of the executive to testify at parliamentary meetings;
3. Obtains documents from the executive and holds hearings;
4. Carries out parliamentary hearings;
5. Oversees the work of the organs directly responsible and accountable for their work to the parliament;
6. Creates parliamentary oversight working groups;
7. Oversees the legal acts and invalidates illegal decisions.

The parliamentary oversight body charged with this subject is parliament at large. Oversight is carried out through the Standing Committee and sub-committees, by members of parliament and, last but not least, through quasi-judicial organs such as the State Audit Office, National Human Rights Commission, Financial Regulatory Committee, the Central Bank, among other bodies.

A survey to collect data on parliamentary oversight of the security and defense sectors, except oversight of the defense budget, was carried out. The table below provides insight on the work of the parliamentary oversight working groups established by the decree of the Standing Committee on Security and Foreign Policy (hereafter, "Standing Committee") since 1992 up to the present.

No.	Date and number of resolution	Scope of oversight work	Follow-up actions taken
1	State Great Hural decree 98, dated 27 December 1993	State Great Hural working group tasked to scrutinize the implementation of the law on State Security by organs responsible for national security including special organs such as intelligence as well as management and protection of confidential documents.	The working group has tasked the Government to take measures to eradicate shortcomings and misconduct found in the work of the General Authority on State National Security and General Police Authority and report back the results to the parliament.
2	Standing Committee decree 4, dated 12 February 1999	Working group tasked to scrutinize the work of the Border Protection Staff Authority and the implementation of the Law on Borders.	The working group report has been discussed at the Standing Committee and a letter tasking the Government to take actions on the report findings was sent. It is recorded that the Government responded to the letter.
3	Standing Committee decree 13, dated 3 November 1999	Working group tasked to scrutinize and report on 1999 defense budget implementation.	No records available on the process, outcome or follow-up measures.
4	Standing Committee decree 04/02, dated 15 March 2011	Working group tasked to scrutinize the work of the Zavkhan andUvs provinces' border units and the implementation of the relevant laws and regulations.	No records available on the process, outcome or follow-up measures.

5	Resolution 157 of the Speaker of the State Great Hural, 18 December 2012	Working group tasked to scrutinize the implementation of the Concept of National Security of Mongolia, ensure the coherence of security sector and law enforcement sector reform policies, enact policies to improve the security sector parliamentary oversight and oversee the policies' implementation.	No records available on the process, outcome or follow-up measures.
6	Standing Committee decree 6, dated 8 October 2013	Working group tasked to revise the state of the conventional ammunition, their safety and stockpile management.	No records available on the process, outcome or follow-up measures.
7	Standing Committee decree 4, dated 22 April 2014	Working group tasked to scrutinize and evaluate status of implementation of the Concept of National Security as well as Concept of Foreign Policy.	Following the report of the working group at the Standing Committee recommendations and instructions related to the foreign policy implementation were given to the Government
8	Standing Committee decree 3, dated 4 February 2015	Working group tasked to scrutinize and report on the status of implementation of the Basis of the State Military policy and Action plan for development of Armed Forces until 2015 as well as revise the status of the conventional ammunition, their safety and stockpile management.	The working group visited several military units and companies and scrutinized the status of the conventional ammunition, their safety and stockpile management and has reported on findings and provided recommendations on improvement of safety and stockpile management to the Government; overseen their implementation.

No records were found on security sector parliamentary oversight work between 2000-2009. No records are available on cases of summoning the Minister of Defense or military staff to testify on security and defense affairs at parliamentary plenary or committee-level meetings during parliamentary terms 2012-2016. The Minister of Defense once made a report to the Standing Committee, in 2015.

In the period of parliamentary terms 2008-2012, the Prime Minister has reported once at the plenary session on the participation of the Mongolian armed forces personnel in the UN peacekeeping and other international peacekeeping support missions, the Intelligence Services reported twice, and the Border Protection Authority reported once in the year 2011 at the Standing Committee level only.

We can conclude from the above survey results that the parliament is not exercising in full its oversight mandate over the security and defense sectors and that there is a clear need to further improve the parliamentary oversight mechanism. The tools and instruments such as parliamentary questioning, inquiry, hearings should not be used only for obtaining updated information but rather be used as tools and instruments for finding out shortcomings of the laws and regulations, the root causes of problems, overseeing the work of the executive branches and elimination of misconduct. Subsequently based on the findings the parliament should take appropriate measures and decisions to eliminate the shortcomings.

The working group established in 2015 by the Standing Committee on Security and Foreign Policy revised the current state of the conventional ammunition, its safety and stockpile management, and gave specific recommendations to the Government and relevant organs.

Parliament and the budgetary process in relation to security and defense

The State Great Hural, in accordance with the Constitution of Mongolia and the Law on Budget, approves the state budget. The Government submits the next fiscal year annual budget proposal, which contains budget of all ministries including the defense one to the parliament on 1st October of the previous financial year.

The State Great Hural shall approve the annual state budget for the next fiscal year by 15 November of the previous year; annual budget discussions are held in accordance with the Law on Rules of procedure of the State Great Hural in the following four stages:

- First reading – The Prime Minister reports on the annual budget proposal and submits it to the parliament.
- Second reading – All Standing Committees, party and coalition caucuses, the budget expenditure oversight sub-committees shall revise the budget proposal and submit their amended proposals and conclusions to the Standing Committee on Budget. The Standing Committee on Budget shall discuss and vote on each and every proposal and subsequently shall submit the revised version of the annual budget proposal with conclusions to the plenary session.
- Third reading – The Standing Committee on Budget after the second reading at the plenary session shall include the proposals to the budget based on majority vote results and forward the amended budget proposal to the plenary session.
- Fourth reading – The Chairperson of the plenary session shall read the annual budget proposal by each paragraph and article and approve the annual budget by voting accordingly.
- There is no specific approval procedure for the defense budget. It is carried out in same procedural manner as for approval of other sectors budgets.

Challenges in Defense Budgeting

As aforementioned, the defense budget is submitted within the unified state budget by the Prime Minister to the parliament plenary session. The Standing Committee on Security and Foreign Policy within the scope of its mandate discusses the defense budget, required funding or amendments to the operational expenditures, then with the majority support of its members submits its conclusions and proposals to the defense budget to the Standing Committee on Budget.

The Standing Committee or the Speaker of the Parliament in some cases appoints a designated working group to prepare the budget proposals tasked with revising and packaging the budget proposals for submission to the plenary session. In past experiences, while discussing the defense budget for the year 2016, two working groups were established by the resolution of the Speaker of the Parliament and the decree of the Standing Committee on Budget respectfully. Cases when the amendments to the budget proposal were not submitted to the plenary session only because they did not reach consensus at the working group level have occurred in the

past. Upon discussion and approval of the budget proposal at the Budget Standing Committee and relevant Standing Committee level, the budget is forwarded to the plenary session for discussion. The parliament plenary session discusses the budget proposal submitted by the Standing Committee on Budget. This means that the budget proposal proposed by the Standing Committee on Security and Foreign Policy is discussed and decided at the Standing Committee on Budget level and is not discussed as proposed initially at the plenary session of the parliament.

It can be concluded that defense budget planning should be well prepared and developed, as it is difficult to make corrections during the discussion stage at the plenary session. On the other hand, the Standing Committee responsible for security and defense matters has limited powers than the Standing Committee on Budget and its working groups even.

Does the State Great Hural approve specific allocations in the budget?

The budget for intelligence services is approved by the State Great Hural as a specific allocation in the budget upon its preparation and submission by parliamentary special oversight sub-committee. This procedure is regulated by the amendment to the Law on Intelligence services adopted in 2015.

In accordance with Article 6 of the Law on Court Administration, the budget proposal for all court-level activities and investment shall be prepared and submitted by the Court General Council. Accordingly, the court budget proposal is prepared and submitted directly to the State Great Hural. The State Great Hural discusses the submitted budget proposal as a portion of the overall annual budget in line with the fiscal framework ceiling.

It is a subject for further study as to whether the national defense budget should be submitted as the court budget allocation case or whether the national defense budget should be prepared, submitted and approved as a separate budget as in the case of some countries. It is clear that the national defense budget should be prepared appropriate to the annual budget and GDP percentages. By doing so the national defense budget portion could become sufficient.

Defense spending oversight mechanisms

The State Great Hural oversees defense sector financial reporting, performance and compliance audits through the National Audit Office in accordance with the Law of State Audit.

The financial reporting audit revises and evaluates whether the Defense Minister's annual budget financial statements, spendings and transactions were carried out in accordance with the domestic and international accounting principles, standards and requirements. The budget performance audit revises, evaluates and issues recommendations on the function, operation or the management systems and procedures of the defense ministry and its entities and assesses whether the entity is achieving economy, efficiency and effectiveness in the employment of available resources.

The compliance audit revises, evaluates and issues recommendations to the defense ministry on adherence to laws and regulatory guidelines.

The National Audit Office, upon its financial, performance and compliance audits, submits the audit report and conclusions to the State Great Hural and its relevant committees. As there are no records available on the follow-up measures taken with regard to the defense sector audit report conclusions by the State Great Hural and Standing Committee. We could conclude that the legislative branch has been formally reading the audit reports.

Though the Standing Committees have full powers to review the budget spending at any government entity they have never exercised these powers. With the economic and social challenges Mongolia faces today there is a strong need to improve the Standing Committees' oversight mechanisms, specifically with regard to the audit reports, conclusions and recommendations follow-up.

Findings and conclusions

Within the legal framework

The new Democratic Constitution of 1992 created a solid legal framework for democratic reforms in the security and defense sectors.

Approval of the Basis of Defense Policy of Mongolia in 2015 by the State Great Hural further strengthened the legal framework for the next stage of democratic reform in the defense sector. Within the legislative reform framework, the package of laws on defense sector was passed by parliament on 1 September 2016.

The new defense package of laws is undoubtedly important for the development and reform process in the defense sector. It is equally important for the parliament and its respective committees to oversee their implementation process.

In 2016, the Cabinet has submitted the Law on amendments to the state budget with the amendments to the Law on pensions and benefits for military personnel to the parliament for consideration. Accordingly, after reviewing the amendments to the laws the Standing Committee on Security and Foreign Policy has concluded that the provisions which planned to reduce the monetary compensation equal to the amount of 36 months' payment for retired military personnel are not acceptable and thus after discussing at the plenary session were sent back to the law initiators. The subject again was raised during the discussion of the 2017 fiscal budget, the Standing Committee on Security and Foreign policy after considering the negative impacts to the security and defense sector such an amendment to the benefits and pensions would cause has returned the draft law back to the initiators. We can conclude that the Cabinet should consider impacts that could be caused to the national security while preparing respective amendments to the budget.

The national security is influenced by the current security environment as well as global threats and challenges. Indeed, this demonstrates the importance of revising and amending the policy documents such as the national security and foreign policy concepts, basis of the defense policy in line with changes in the security environment.

The President of Mongolia has submitted a draft law on information security. Considering importance of cybersecurity in national security the State Great Hural is required to create the necessary legal environment.

Parliamentary oversight mechanisms

Taking into consideration the fact that defense sector parliamentary oversight was not carried effectively and efficiently up to the present there is a strong need to improve the oversight mechanism and procedures, have periodic reviews over the implementation of the laws and regulations, investigate and oversee the Government and its cabinet members' activities, explore the reasons between the policy development and practical implementation differences, amend the relevant legislation and issue recommendations accordingly.

Moreover, the scrutiny and auditing mechanism and procedures are required to be developed in detail to ensure the effectiveness and efficiency of the parliamentary oversight.

Defense budgeting

Priority requirement with the defense budgeting procedure is the clarification and establishment of the functions of the relevant Standing Committee in the budget process.

It is a subject for further study as to whether the national defense budget should be submitted as the court budget allocation or whether the national defense budget should be prepared, submitted and approved as a separate budget as in the case of some countries. It is clear that the national defense budget should be prepared appropriate to the annual budget and GDP percentages.

LIST OF THE SECURITY AND DEFENSE LAWS APPROVED BY THE STATE GREAT HURAL (PARLIAMENT) OF MONGOLIA

One. State Baga Hural 1990-1992 term

1. Law on Civil-military service duty and legal status of the military personnel – 4 May 1992 (Invalidated by the approval of the new law on 1 September 2016)
2. Law on ensuring the national security of Mongolia – 13 May 1992 (Invalidated by approval of the new law on 27 December 2001)
3. Law on National Security Council of Mongolia – 29 May 1992

Two. First State Great Hural 1992-1996 term

4. Law on National Defense of Mongolia – 12 October 1992
5. Law on State Border – 21 October 1992
6. Law on pensions and benefits for military personnel – 13 June 1994
7. Resolution on approval of the National Security Concept, Foreign Policy Concept, Military Doctrine of Mongolia – 30 June 1994 (The resolutions invalidated by the resolution 48 dated 2010, resolution 10 dated 2011, and resolution 56 dated 1998 respectively)
8. Law on State Secrets -18 April 1995 (Invalidated by the approval of the new law on 1 December 2016)

Three. State Great Hural 1996-2000 term

9. Law on Executions – 19 December 1997
10. Law on Stationing of foreign troops in the territory of Mongolia, allowing them to cross the state borders for the purpose of passing through the country's territory – 8 January 1998
11. Law on State of War – 8 January 1998
12. Law on War – 15 May 1998
13. Law on Military mobilization – 15 May 1998
14. Resolution on approval of the Basis of the State military policy – 15 May 1998 (Invalidated by the resolution 85 dated of 2015)
15. Law on Intelligence services – 8 July 1999
16. Law on National security – 27 December 2001

Four. State Great Hural 2000-2004 term

17. Law on Armed Forces – 16 May 2002
18. Law on Military and Police personnel participation in UN peacekeeping and other International operations – 17 May 2002 (Invalidated by the approval of the new law dated of 20 May 2010)
19. Law on Military personnel property – 13 June 2002
20. Law on approval of the State secrets list – 2 January 2004 (Invalidated by the approval of the new law dated of 1 December 2016)

The state administration of the Ministry of Defense and General Staff of Armed Forces is regulated by the Law on Legal status of the ministry and Law on Government agencies dated 15 April 2004.

Five. State Great Hural 2004-2008 term

Though the parliament in this term did not initiate any laws related to the security and defense sector it has amended relevant provisions of the laws.

Six. State Great Hural 2008-2012 term

21. Law on participation in peacekeeping operations – 20 May 2010
22. Resolution on approval of the National Security Concept of Mongolia – 15 July 2010

23. Resolution on approval of the Foreign Policy Concept of Mongolia – 10 February 2011

Seven. State Great Hural 2012-2016 term

24. Law on explosive materials oversight – 31 January 2013

25. Law on Anti-money laundering and Combating the financing of terrorism – 31 May 2013

26. Resolution on approval of the Basis of the Defense Policy of Mongolia – 8 October 2015

Eight. State Great Hural elected in result of the 2016 elections

27. New reading of the Law on Defense – 1 September 2016

28. New reading of the Law on Armed Forces – 1 September 2016

29. Law on Military service – 1 September 2016

30. Law on Legal status of the military personnel – 1 September 2016

31. Law on State and official secrets – 1 December 2016

B. Mergen

SECURITY SECTOR GOVERNANCE AND REFORM: ROLE OF THE PRESIDENT AND THE NATIONAL SECURITY COUNCIL

Historical development

The presidential institution did not exist in Mongolia before the 1990s. The first President of Mongolia was elected by members of the People's Deputies Hural of the Mongolian Peoples' Republic in September 1990. The presidential institution was created with adoption of the new Democratic Constitution in 1992. As stipulated in Article 33.1 of the Constitution of Mongolia, the President of Mongolia shall be the Chair of the National Security Council of Mongolia (hereinafter the NSC). Moreover, the first law on National Security Council initiated by the President was adopted in 1992 by the State Baga Hural (Parliament) established as the result of the first democratic elections in 1990. With the adoption of this law the National Security Council of Mongolia was institutionalized.

Since the establishment of the NSC, the following important legal documents such as the Concept of National Security, Basis of the State Military Policy and Concept of the Foreign Policy of Mongolia were promulgated in 1994 as well as the Law on National Security in 2001. Moreover, the renewed Concept of the National Security, Concept of the Foreign Policy, and Basis of Defense Policy and other legislations were passed in 2010.

The NSC consists of three members: the President of Mongolia, the Chairman of the State Great Hural (Parliament) and the Prime Minister. As stated in the Constitution, the President chairs the NSC while the Parliament determines the structure, composition and powers of the NSC of Mongolia. The Government for its part is tasked to strengthen the country's defense capabilities and to ensure national security. It is stipulated in the Law on National Security that the NSC shall ensure implementation of the Concept of the National Security. This demonstrates that this legal document is a core legislation that defines the main functions of the NSC.

The President

As stipulated in the Constitution of Mongolia, Law on National Security and other related legislation, the President of Mongolia shall be vested with the following full rights and powers:

- To Chair the National Security Council;
- To represent the state with full powers in foreign relations;
- To be the Commander-in-Chief of the Armed Forces of Mongolia;
- To instruct the Government on the issues of national security and defense;
- To submit proposals to declare a state of emergency or a state of war to the Parliament and shall direct the National Security Council in emergency situations and war.

As the Chair of the NSC, the President shall exercise the power to initiate laws, shall ensure executive and judicial branches inter-agency cooperation on national security issues and shall protect national interests and unity. Thus, during his/her tenure, party membership of the President is suspended.

Although the structure and composition of the NSC is determined by the relevant law, it is provided by the law that in times of state of emergency or state of war the President shall be vested with the special power to submit a proposal to the parliament on extension of the National Security Council to the National Security Committee. Furthermore, the President enjoys the right “to submit a proposal” to the Parliament on the composition of the NSC in peacetime.

National security should be ensured by consistent and coordinated actions. In particular, in times of states of emergency or war, citizens, the government, its agencies and other organizations are required to overcome difficult times by coordinating their activities and employing limited state resources as well as existing civilian and defense capabilities in an efficient manner. In accordance with the relevant laws the NSC is tasked with these functions.

The national security agencies with special functions are mentioned in the Law on National Security. The diplomatic service is also among them. The priority of Mongolia’s foreign policy is the safeguarding of its security and vital national interests by political-diplomatic means. In this sense, the President of Mongolia plays an important role in foreign relations. Foreign policy stance of the head and members of the NSC is prepared by the Ministry of Foreign Affairs and approved by the NSC.

The powers and functions of the NSC

The powers of the National Security Council can be categorized as follows:

- Special powers given by the Constitution, Law on State of Emergency, Law on State of War, Law on War;
- Powers given by Law on the National Security Council and Law on National Security.

In other words, the NSC has two types of functions: functions in times of state of emergency or state of war and functions in peacetime. As stated in paragraphs 2 and 3 of Article 25 of the Constitution of Mongolia, Law on State of Emergency, Law on State of War, Law on War, the full powers of the state will be given to the NSC with the approval of the Parliament. However, in peacetime, the NSC is responsible for ensuring coordination of activities related to national security by cabinet members and agencies, as stipulated in the Law on National Security.

In peacetime, the National Security Council shall exercise the following tasks:

- Shall discuss and review the implementation of the National Security Concept and other related legislations;
- Shall define fundamentals of domestic, foreign and defense policies and provide directions to resolve the issues of special importance pertaining to the implementation;
- Shall conduct research on the issues of special importance for national interests and security.

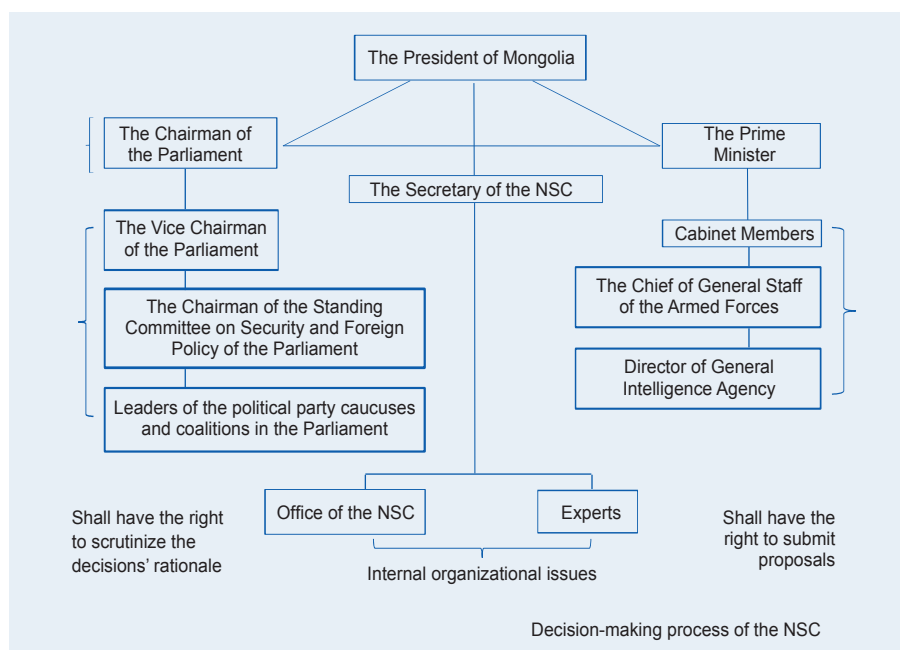
As stated in the Law on National Security Council, the Council shall perform the following tasks:

- To analyze the country's political and social development, ensure the security of the national existence of Mongolia, strengthen the state and social system as stipulated in the Constitution, reinforce national unity, guarantee human rights and freedoms, and safeguard the security of the population and its genetic pool;
- To increase the capacity for independent development based on its own resources by making rational and appropriate use of Mongolia's national wealth, protect national technology by enriching and developing it using the latest achievements, ensure an active and flexible participation in international economy;
- To protect and develop national culture, intellectual heritage and its capacity;
- To ensure Mongolia's sovereign right to possess its natural resources and ensure ecological security;

- To streamline and establish the guidelines to be adhered to during top-level state talks with foreign countries and international organizations, and conform to the state's foreign policy stance with regard to a particular issue with foreign countries and international organizations at the high level;
- To define state defense policy, improve and strengthen the structure and organization of the armed forces, form a proposal on the basis of the state defense policy with regard to external political conditions and submit it to the Parliament of Mongolia through the President;
- To assess, proceeding from national security interests, the international social, economic, scientific, technological, military, and political situation and determine the necessary measures to be taken.

Organizational structure of the National Security Council

In general, the functions of the NSC can be divided into two main categories, such as the organization of meetings and implementation of the functions stated in the relevant laws. The regular meetings of the NSC shall consist of members of the NSC, the Secretary, advisors, rapporteurs and experts. Figure 1 shows meeting and decision-making processes of the NSC.



The President of Mongolia is vested with the power to approve the indicative schedule of the meetings and agendas for discussions at the meetings of the NSC proposed by the Cabinet. Pursuant to the Law on National Security Council, the members of the Cabinet shall report to the Council on issues related to their jurisdictions, while the Chief of Staff of the Armed Forces and the Head of the General Intelligence Agency shall report to the Council on issues of their expertise depending on developments in internal and external environments.

The Office of the NSC prepares and submits conclusions over the matters discussed, the legal consequences may follow the draft decisions to the NSC.

The Vice Chairperson of the Parliament, the Chairperson of the Standing Committee on Security and Foreign Policy and leaders of the political party and coalition caucuses within the Parliament participate in NSC meetings with the right to consult on the issues concerning national security.

The final decision of the three members of the NSC is consensus based. The NSC issues recommendations directing the relevant state organizations.

Policy reforms

In line with the fundamental principles enshrined in the Constitution of 1992 as well as rapid changes in external and internal environments, a number of policy documents and laws were newly adopted in Mongolia. These policy documents played an important role for creating the basis of state policy to safeguard national interests and to strengthen the national security of Mongolia. Among them, the first National Security Concept of Mongolia was adopted in 1994.

With the rapid development of information technology, global economic challenges, emergencies of new non-traditional threats, and rapid changes to external and internal environment, in December 2009, the President of Mongolia decided to renew the National Security Concept and formed a working group led by the Secretary of the NSC. The working group consisted of former members of the NSC, experts, researchers, senior state officials and members of parliament. The Parliament of Mongolia enacted a draft resolution on approving the renewed National Security Concept prepared by the working group in July 2010.

Although this concept echoes the same principles of the previous one adopted in 1994, it has conceptualized the national security policy adapting to the current realities. It defines that the national security shall be ensured through coherence between the security of existence; economic security; domestic security; human security; environmental security; information communication security.

The Foreign Policy Concept

The Foreign Policy Concept renewed in 2011 states that, “Mongolia’s foreign policy shall be based on national interests, as defined in the Constitution of Mongolia and National Security Concept, and the country’s specific external and internal situation constitutes the basis for determining its foreign policy objectives, principles and priorities.” In the concept, it is also stipulated that Mongolia shall continue to pursue a multi-pillar and non-aligned foreign policy that was adopted in the 1990s, maintain friendly and balanced relations with neighbors and adopt a “third neighbor” policy intended to balance multi-pillars of the entire foreign policy.

The Basis of the Defense Policy

The Parliament of Mongolia adopted the document entitled “The Basis of the State Military Policy” in 1998. It was the guiding document for development of the defense and military sector.

Considering pressing issues over the course of defense sector transformation and development including the need to define the legal environment for territorial defense term and to safeguard defense interests, and to define the responsibilities of institutions at all levels, NGOs and citizens as well as an apparent need to modernize the structure of defense and armed forces of Mongolia, the President proposed to renew the basis of the state military policy to “The Basis of Defense Policy.” The document enacted in 1998 included measures to avert and eliminate aggression and to prepare the country and armed forces against aggression, while the recently adopted document defines the basis of the defense structure, strengthens territorial defense, adopts a policy towards creating a self-defense system based on the participation of the entire population and ensures that defense policy comprehensively consists of political, economic, social, legal and military measures.

**PROVISIONS PERTAINING TO THE PRESIDENT OF MONGOLIA AND NATIONAL
SECURITY COUNCIL OF MONGOLIA**

Law on the Government of Mongolia

Article 27.1. The Government shall take measures to implement decrees of the President of Mongolia and decisions of the National Security Council of Mongolia.

Law on the State of Emergency

Article 8.1. The National Security Council of Mongolia shall exercise its special power to organize the implementation of the decision declaring a state of emergency.

Law on Defense

Article 9.1.2. A cabinet member in charge of issues of defense shall be vested with the power to submit a proposal to modernize the defense system to the Government and the National Security Council.

Law on State of War

Article 5.1. The State Great Hural shall approve the President's proposal to declare a state of national emergency based on the conclusions and recommendations regarding a war-like situation provided by the National Security Council.

Law on War

Article 5.1. The National Security Council of Mongolia shall discuss a declaration a state of war and, based upon its decision, the President shall submit a proposal to Parliament in this regard and the Parliament shall approve or disapprove the President's decree to that effect.

Article 13.1. Once the State Great Hural declares a state of war, the National Security Council shall be enlarged to the National Security Committee.

Article 13.2. The National Security Committee shall be the supreme institution to assume all administrative powers in times of war and responsible for ensuring the implementation of defense policy.

Law on Military mobilization

Article 6.1. The President of Mongolia shall declare general or partial military mobilization based on the conclusions provided by the National Security Council.

Law on Intelligence Services

Article 16.2. The President of Mongolia as the Chair of the National Security Council shall summon the head of intelligence services for testifying and reporting, assess the activities of the intelligence services and instruct on the matters of national security to the intelligence services if necessary.

Law on State Secrets

Article 9.3. The Government shall thoroughly review the proposals to classify the information and submit to the State Great Hural after presentation at the National Security Council within 30 days.

Article 21.3. The Government shall submit proposals to declassify state secrets to the State Great Hural on basis of the National Security Council's proposal.

Article 13.1.2.a/ The President, as the Chair of the National Security Council, shall hear on protecting of state secrets by the Government, provide directions, and review the proceedings of relevant entities or civil servants with regards to the confidentiality state secrets.

Conclusion

In international practice, a country's national security council is often affiliated with the executive branch of the government. It is also common that the NSC is chaired by the president in a country with a presidential system of government, while the NSC is chaired by the prime minister in a country with a parliamentary system. The primary role of the NSC is to ensure the coordination of inter-agency activities. In most countries, a decision made by the NSC is advisory. However, in a few cases, the NSC's decision is obligatory to be implemented if it is approved by the Council of Ministers (in Turkey), or the President (in Russia) or the Council (in Kazakhstan).

Although Mongolia is a parliamentary system country the President is the Chair of the NSC. However, the NSC is not a part of the structure of the executive branch. Despite the Prime Minister being a member of the NSC, the cabinet members are not. Although it is defined that a decision of the NSC of Mongolia is advisory, all state organizations are obligated to take necessary measures to ensure the implementation of its decisions and report to the NSC on a scheduled basis on its implementation status. It demonstrates that decisions made by the NSC are required to be implemented.

In the Constitution of Mongolia, it is stated that the President shall be the Chair of the NSC. However, the Parliament determines the structure and composition of the NSC. In this sense, the Parliament can pass a law to include related cabinet members and directors of agencies in the composition of the NSC and provide the NSC with the function to advise the Prime Minister and cabinet members as in the countries with a parliamentary form of governance where the NSC is chaired by the President. In that case, an advisory decision made by the NSC would be obligatory if it is approved by the Cabinet.

T. Narankhuu

DEFENSE POLICY AND ARMED FORCES REFORM IN MONGOLIA

Defense sector and Armed Forces reform

Mongolia's security is determined by its characteristics, such as a small population, vast territory, and landlocked geostrategic location in North-East Asia where the world's leading economies and military powers exist: Russia, China, Japan, and the Republic of Korea.

The continuous existence of traditional threats of the Cold war era, such as disparate social structures and political systems, imbalanced ratio of military forces and arms, danger of nuclear weapons, and territorial disputes in the region, have negative impacts and influences on ensuring national security, and defense policy and actions.

Originating from the Hun empire, which was established as Mongolia's first Nation-State 2225 years ago, Mongolian soldiers' tradition and historical role reached its peak by conquering half of the world in the 13th century.

After the national revolutions of 1911 and 1921, the establishment of modern defense system which was comprised of regular army with civil engagement, is regarded to be the foundation of present-day armed forces of Mongolia.

The development and reforms of the Mongolian Armed Forces were interrelated with the former Soviet Union until the 1990s.

According to the Treaty on Friendship and Cooperation between Mongolia and the Soviet Union, Mongolian Armed Forces were developed from cavalry to motor rifle troops, and soldiers of the two countries fought shoulder-to-shoulder in the Battle of Khalkhin Gol (Nomonhan incident) of 1939 and Liberation war of 1945.

Some researchers' view that Japanese militarists' incursion into the eastern frontier of Mongolia to Khalkhin Gol sparked the Second World War can be valid.

During the wartime years (1939-1945), the armed forces' capability, and quality of military technology and weapons improved; however, after the war the structure of the armed forces was periodically streamlined (1945-1954).

With the intensification of cold war tensions, precisely from mid 1950s to the end of the 1980s, consideration for reorganization and build up of the Mongolian armed forces, providing it with modern weapons, and developing combat readiness of military personnel was taken.

With the 1990s' democratic transformation, facing new realities Mongolia encountered the need to redefine and reform its defense, security and foreign policy, and to set up defense policy and develop self-defense armed forces; moreover, it started comprehensive economic and social reforms. Moreover, as the country's economy was in a difficult situation, it was required to streamline the structure of the armed forces.

Defense sector reforms were directed towards redefining national defense policy and goals in the post-cold war era; rebuilding armed forces; developing defense foreign relations and cooperation based upon mutual military confidence; strengthening civil-military relations; and establishing civilian control over the armed forces.

Mongolia's defense policy and activities are part of measures to ensure its national security, as well as integrity of political, economic, social, legal, and military means with the aim of safeguarding and guaranteeing Mongolia's independence, sovereignty, territorial integrity, and inviolability of borders.

The basis of the defense structure of Mongolia is comprised of: the territorial defense supported by government and administrative organizations and participation of all citizens, the armed forces with professional troops at its core, and the state mobilization with integrated planning and execution.

Territorial defense

Organizing and coordinating territorial defense supported by government and administrative organizations, and with engagement of all citizens, is a complex of multifaceted, integrated measures. It is not just a matter of concern for the defense sector, but also a set of coordinated and integrated political, social, economic, and ideological measures depending on active participation and support of government organizations and all citizens, and close interrelations among special task-force organizations for ensuring national security.

The legal reforms to correlate the principles, management system, organization, and infrastructure of territorial defense with the system of mobilization training and reserve formation, are being implemented.

It will be possible to solve complex issues such as ensuring preparedness and training of the territorial defense and mobilization through integrated planning and formation of a mobilization reserve; preparedness of assigned groups to deal with possible humanitarian crises or catastrophes, preparedness of required equipment; contingency planning and coordination of activities with similar neighboring units under joint command and information systems.

Considering that international political and economic relations, free economic zones and transit zones are becoming more open, increasing foreign investment flows, the increasing number of transnational threats and crimes, and persistent man-made catastrophes, climate and natural disasters increase migration to urban areas. Thus, implementing territorial defense shall somewhat guarantee national independence and territorial integrity, and shall create social and economic development opportunities in rural areas.

For a country with a small population and vast territory, defending its territory, deploying soldiers by mobilization and engaging in wars were somewhat habitual tradition for Mongolian nomads. The draft law on Territorial defense, which will build, and develop the territorial defense adjusting to contemporary social structure, relations, and economic situation, is being formulated.

Armed forces with professional troops at its core

According to the Constitution of Mongolia, citizens of Mongolia have duties to defend their motherland and serve in the army; furthermore, male citizens aged between 18 and 25 shall serve in fixed-term military service for 12 months, or join an alternate form of military service.

The new reading of the Law on Military Service stipulates that the military service shall consist of active duty personnel and reserve personnel; the active duty shall consist of conscript, contracted, alternative as well as officer and NCO's (non-commissioned officer) service. A new short-period reserve officer training course for students has been introduced and approved but no changes were made in the conscript's term of service. The officers and non-commissioned officers aged between 45 and 60, and citizens aged between 18 and 45, who are able to serve in military service, are considered as mobilization reserves.

Though Mongolia has a conscript military service it has armed forces with professional troops at its core for self-defense.

In addition to its main duties of safeguarding the national independence, sovereignty, and territorial integrity against external armed incursion or aggression, the Mongolian Armed Forces are tasked with increasing defense preparedness from external armed attack or aggression, providing support for border protection, supervising inviolability of air frontiers and airspace, dealing with possible humanitarian catastrophes, citizen rescue, contingency planning and coordination, training for recruits and mobilizing reservists and citizens in military skills, safety and storage of conventional ammunition stockpiles, assisting in protection of critical infrastructure, assisting in international humanitarian actions and participating in peacekeeping support operations, and engaging in construction activities to develop the country.

The armed forces, border and internal troops, the emergency agency, and the intelligence agency, which are parts of state military organizations, follow general military code of conduct, ensure training and preparedness, exercise rights and obligations stipulated by the legal status of military personnel under unified and coordinated command.

In peacetime, the administrative management of the above-mentioned organizations is undertaken by the respective ministries.

In a state of emergency and a state of war situation the border and internal troops, and the state emergency agency will be the part of the armed forces.

The armed forces consist of a ground force (army), an air force and other professional troops. The General Staff of Mongolian Armed Forces consists of professional military commands, and their subordinate brigade-structured military units and formations of specialty troops. The military schools, military art and cultural organizations, military research institutions, military hospital and archive belong to the Defense Ministry.

The reforms of the armed forces were regularly implemented based on the needs aimed to ensure national security.

Before the 1990s, the reforms of the armed forces were implemented with the assistance of the Soviet Union. As Mongolia shifted to a democratic social structure with a market-oriented economy, the necessity of reforming defense policy and the armed forces, and setting up armed forces for self-defense, arose.

Mongolia was implementing reforms of the structure and organization of the armed forces, adjusting to the current realities and duties, and periodically upgraded weapons and hardware equipment.

The weapons, transportation, and engineering equipment and hardware equipment provided with non-refundable assistance from some countries within the framework of bilateral cooperation in defense sector contributed to the reform process.

As stated in “The Basis of State Military Policy of Mongolia” adopted in 1998, in peacetime, the armed forces have duties to “Carry out functions within the United Nations (UN) peacekeeping forces,” and “To render support and assistance in humanitarian actions.” These duties were confirmed by the “Law on Armed Forces of Mongolia,” and “Law on Military and Police personnel Participation in the UN peacekeeping and other International operations” adopted in 2002. Furthermore, the Mongolian armed forces actively participate in international peacekeeping operations and humanitarian actions.

Since 1945, Mongolian armed forces personnel first participated in 2002 in an overseas international military operation, and made contribution to the global peace efforts.

Though Mongolia launched in the mid-1990s the initiative to participate in UN peacekeeping operations with the mandate of safeguarding international security, it has met challenges such as creating a legal basis, providing peacekeeping training, as well as increases for professional, psychological and physical preparedness for personnel to join peacekeeping operations and, last but not least, solving the social problems of military personnel and their families. Also, it has faced requirement to provide required equipment and materials for performing peacekeeping duties.

It should be noted that there was a considerable amount of government support and assistance from the countries that have relations and cooperation with Mongolia in the defense sector to solve above-mentioned problems.

Mongolian armed forces personnel started to participate in international training and exercises for peace-support operations from in 1999, in UN peacekeeping operations since 2002, and international coalition operations since 2003. Mongolia’s participation in UN peace-support operations is increasing and expanding year by year.

Since 2002, over 12,600 military personnel served in 16 peace support operations in 14 countries. Today, a total of 1185 MAF military personnel are making their contribution to global peace efforts: 346 personnel in NATO-led international coalition military operations, three personnel in United States Central Command, 895 military personnel in six UN peacekeeping

operations, a military adviser in Permanent Mission of Mongolia to the United Nations, one military personnel in Office of Military Affairs, Department of Peacekeeping Operations, United Nations. /Annex 2/. It is considered as a result of the last 14 years' efforts that Mongolian military personnel's ability to adapt to different climates and environments, their well-disciplined and well-organized performance being highly acknowledged by the United Nations, and the commanders of military contingents from the coalition countries in peace-support operations.

The basis of successful participation in peacekeeping operations is regular training and exercise. Since the activities of Joint Training Center of Mongolian Armed Forces have been broadened, becoming Regional Training Center for Peace support operations, over 10 bilateral and multilateral military training and exercises directed towards improving military personnel's skills to participate in peace-support operations, and humanitarian actions, have been conducted on regular basis.

In 2015, a total of 12 international and joint military training and exercises were conducted. Those include:

- Multinational peacekeeping field training exercise "Khaan quest-2015" co-organized with US Pacific Command;
- Third joint field training exercise of Special force units "Balance Magic-2015-1" with the United States;
- Mongolia–Russia joint tactical field exercise "Selenge-2015";
- Mongolia–China joint field exercise for special forces "Hunting Eagle-2015";
- Mongolia-Turkey joint field exercise for special forces teams "Nomadic warriors-2015";
- "Road-2015" Engineering training and exercise with Japan;
- "Resolute Support-11" peace-support operations training and exercise with Qatar;
- "Nomadic Elephant-2015" field training and exercise with the Republic of India;
- UN Military observers course, UN Logistics officers course.

Overseas Training and exercises:

- "Sword of Peace" international peacekeeping training exercise in Malaysia;

- “Regional Cooperation-2015” peacekeeping Command and Staff exercise in Dushanbe, Tajikistan.

Mongolia joined the International Security Assistance Force (ISAF) by sending mobile training groups since November 2003, and expanded its participation from 2008 by sending helicopter flight trainer and repair teams, military base security guards teams up to the present. Also, Mongolia participated in NATO-led international peacekeeping operation in Kosovo (KFOR) from 2005 to 2007.

During the last 17 years of implementation of the previous “The Basis of State military policy,” Mongolia focused on developing professionally-oriented armed forces; in the next 10 years, it has conceptualized to develop the defense policy and carry out legal reforms to develop the Armed Forces with professional capable troops at its core with a structure and organization tailored to meet the needs of performing combat and multipurpose tasks and readiness requirements, and provided with weapons, and equipment required, adjusting to the internal and external security environment, and objectives and dimensions of defense.

To further develop the armed forces with professional troops at its core, it is required to provide the armed forces with modern arms, personal protective equipment, light armored maneuverable vehicles with the capability to travel great distances, compact helicopters, low-altitude surveillance drones, and encrypted communication devices, complying with the development of military affairs and technological advances.

Mobilization with integrated planning and execution

Mobilization with integrated planning and execution has a vital role to plan and implement complex measures to safeguard national security with minimal casualties and without short-term complications in redistributing available resources, and promptly stabilize the economy and society in times of sudden changes in regional security, a state of emergency or crisis.

According to the “Law on Mobilization,” military-strategic training to ensure mobilization readiness are conducted for the governors of the all soums and provinces, the city mayor, the chiefs of the Citizens’ Representatives Hural, and the vice ministers and the state secretaries of the ministries at the in Joint Training Center of the Armed Forces and regional level at Khalkh Gol soum of Dornod province (East), Dalanzadgad soum of Umnugobi province (South) and Orkhon province (West).

In this training, the authorities become familiarized with defense policy, relevant laws and regulations, territorial defense activities, operational training on inter-agency cooperation among the state and local administrative organizations as well as their duties and responsibilities.

Defense sector legal reforms

The defense sector legal reform process began with the holistic political, economic, social democratic transformations in Mongolia, and the fundamental legal documents have been adopted and started to be implemented since early the 1990s.

The new Constitution, which was adopted in 1992, stipulated that “The duty of State is to secure the country’s independence, ensure national security, and public order,” and “Mongolia shall have armed forces for self-defense.”

It is also declared that “The structure and organization of the armed forces, and the rules of the military service shall be determined by law,” and in accordance with this, the legal basis of defense sector was formulated.

We can conclude that the laws and regulations of defense sector adopted in line with the ideology of the new constitution and legal reforms carried out by the governments from generation to generation played a historical role in bringing the armed forces to their current level.

Military doctrine adopted by the State Great Hural in 1994 defined the defense policy goals, assessing new security realities, and defined measures and actions to be taken, but it encountered difficulties in implementation as it did not define the resources to carry them out.

“The Basis of State Military Policy” adopted in 1998 determined the state policy towards armed aggression, the government concept of averting the threats of wars and conflicts, safeguarding the country from external armed aggression; defined the military structure and organization; and outlined the defense strategy. Though the document laid the foundation for defense policy, it still lacked within the document how to determine the resources, means and strategy to implement it.

In 2000, the President of Mongolia, the Commander-in-Chief of the Armed Forces of Mongolia adopted the “Program for development of Armed forces until 2005,” in which mid-term goals of defense strategy, and their means of implementation were defined; however, the possibility for fulfilling the program was limited since it didn’t tackle the issue concerning required resources.

In 2006, the above-mentioned program was renewed; the President of Mongolia and the Commander-in-Chief of Armed Forces of Mongolia adopted “Program for development of Armed forces until 2015, and then approval of the action plan by the Government of Mongolia ensured the conditions for defining the mid-term policy of the defense sector, and its implementation measures and resources.

However, due to the country’s economic situation several programmatic objectives and activities were underfinanced.

The fundamental laws of the defense sector: Law on Defense of Mongolia, Law on Armed forces of Mongolia, Law on Civil-Military Service Duties and Legal Status of Military Personnel, Law on State of War, Law on Mobilization, Law on State border of Mongolia, Law on Pensions and Benefits for Military personnel were adopted, and are regulating the affairs related to the defense sector, and the armed forces.

In these laws and regulations, defense management, system and missions and activities of the armed forces were defined in detail. For example, as the highest organ of state power, the State Great Hural exercises rights to enact laws, and make amendments to them, defines the basis of domestic and foreign policies, approves the budget, defines state borders, determines the structure, composition and powers of the National Security Council, institutes the highest military ranks, ratifies and denounces international treaties submitted by the Government, declares and terminates states of war or states of emergency, and approves or nullifies presidential decrees to that effect, and, last but not least, oversees the implementation of laws and other resolutions of the State Great Hural.

The President of Mongolia, the Commander-in-Chief of the Armed Forces of Mongolia exercises powers to confer highest military ranks, Chair the National Security Council, proclaim partial or nationwide military mobilization and issue ordinances on deployment of armed forces.

The Government, as the highest executive organ of the State, exercises powers to implement laws, strengthen the country’s defense capacity, ensure the national security, submit the budget to the State Great Hural and to enforce the decisions made thereon.

The “Law on Civil-Military Service Duties and Legal Status of Military Personnel” adopted in 1992, regulates procedures and rules for citizens to fulfill their duties under the Constitution, determines the forms of military service and clarifies the legal status of military personnel.

“The Basis of Defense Policy of Mongolia,” approved in October 2015 is the document which broadened the scope of the Basis of the State Military Policy of 1998. It has defined the national security and defense policy in line with the current changes in international and regional security environment.

Subsequently, the State Great Hural approved the package of defense laws, such as the Law on Defense, Law on Armed Forces, Law on Military service, and Law on Legal status of Military personnel.

The next step for measures to be taken by the Government is the reformulation of regulations which would coordinate the implementation of the relations and interactions stipulated in the laws. This will ensure comprehensive implementation of the defense sector reforms and furthermore shall ensure the continuity of the defense sector reform process for the next ten to twenty years.

The professional and political management of the defense sector, civil-military relations, Parliamentary oversight, defense budgeting and transparency in defense sector

With the approval of the Law on Defense in 1993 and the Law on Armed Forces in 2002, in accordance with the principles enshrined in the new Constitution, the relations of the defense management, armed forces management and civil control over the armed forces have been legislated.

The law on Armed Forces stipulates that “looking at the basic objective of civil control over armed forces involves an implementation process of state laws and regulations, quality of professional military command, and defense budget exploitation and expenditure.”

It is believed that civilian control over the armed forces has been introduced with the appointment of the first civilian Defense Minister in 1996. Though the civilian control of armed forces is institutionalized, it needs further improvement.

For the last 20 years, 11 civilian politicians have worked in the capacity of Defense Minister. For implementation of any reform process, preconditions such as political support at the policy level, public administration and sustainable management, and adequate resources are important. In the last 20 years, the defense administration has been replaced once every two years. This definitely caused a negative impact on the sustainable development of the sector and the reform process.

The “Basis of Defense Policy of Mongolia,” adopted in October 2015, has clarified the defense management system. The law also determined the main tasks of the armed forces, the command structure, and their mandates. Accordingly, the political authority shall be vested in the State Great Hural, and the state administrative authority shall be vested in the Commander-in-Chief of the Armed Forces, cabinet member responsible for defense, border protection and emergency management, and the professional military authority shall be vested in the General Staff of the Armed Forces. While the armed forces administration will be within the Minister of Defense, division, unit and company commanders, and professional commands will be with the chiefs of the ground and air forces as well as chiefs of others military branches. The law has precisely defined the specific mandates of the aforementioned, improved coherence and eliminated duplication.

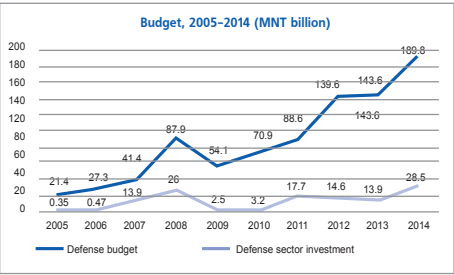
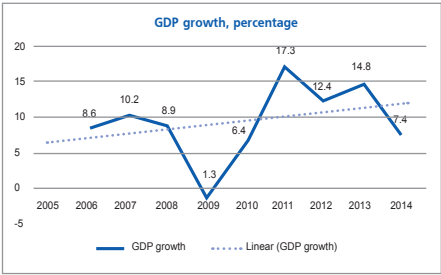
To further develop civil-military relations, the defense ministry established cooperation with civil society organizations (CSOs) and non-governmental organizations (NGOs), the military updated the public on defense policy, defense activities, armed forces development and reform. The military also provided humanitarian assistance to the population in times of natural disasters or man-made disaster situations.

The civilian control of armed forces is conducted by State Great Hural (Parliament) by means of adopting the defense policy and laws as well as approval of the defense budget. The budget approval process is regulated by the Law on Budget.

Until the 1990s, grant aid from the Soviet Union comprised a significant percentage of Mongolia’s defense budget and expenditure. With a shortfall in foreign aid and all-around economic reform, Mongolia faced the need to develop its self-defense forces and draft reform policy, and to solve funding issues.

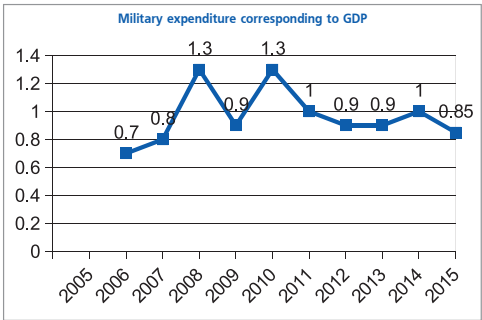
The defense sector is funded similarly to other social sectors and is not considered as a separate budget. There is clear need to ensure the efficient and effective allocation of the resources and to strengthen the spending oversight mechanism.

The graphs below show the average growth of GDP in Mongolia through the last 10 years. It provides opportunity to compare the defense budget and investment allocation ratio.



The graphs show that in last 10 years the average growth of gross domestic product (GDP) was a steady 9.4%. On the other hand, rather than abroad-based and fixed economic growth, the economy is dependent on one sector; during that time, foreign investment increased in the mining sector. This is related to the constant growth rate of Mongolian export minerals in the market. In 2008, there was a global economic crisis, and by 2009 Mongolian GDP growth dropped to -1.3%; therefore, the Mongolian economy has a risk related to global economic conditions, and rates of raw materials. If compared to the 1990s, the Mongolian defense budget decreased 2.6% of GDP; for the past 10 years the defense budget growth was steady.

The average military expenditure corresponds to GDP at approximately US\$249 per person.



Military expenditure compared to spending on defense programs for the most recent year is available at World Military Expense (<http://www.globalissues.org/article/75/world-military-spending>). In 2015 the Mongolian military expenditure per person was \$34. In 2015, defense spending was 201.3

billion tugrug, with a population of 3 million, and \$1= 1940₮.

Even if the assigned budget for the defense sector was increased, it is still slightly lower than the international benchmarking; thus, the resources are not enough to implement the armed forces' reform goals.

For the past 10 years, the President of Mongolia has initiated programs which included many sub programs and projects aimed at reform of the defense sector, such as the “Program of development of Armed forces until 2005” and “Program of development of Armed forces 2015.” These programs were approved by the government. Unfortunately, the implementation of some projects was stopped due to budget shortfalls and a lack of budget policy support.

It is important to consider this problem while drafting the “Program of development of Armed forces until 2030.” The defense reform, defense planning and defense budget allocation should be included in the new policy document.

Western countries spend 10% of their defense budgets on development, research, and scientific studies (US 14%, the United Kingdom 5%, Japan 7%), Mongolia spends around 1%, which is very low figure.

Budget transparency is ensured and regulated by the Glass Account law in Mongolia. Even though the annual defense budget is open to the public, the defense spending categories are confidential. Mongolia does not spend a noteworthy amount on defense, personnel and weapons reform: 80% of the defense budget belongs to sector operating expenses.

The State Great Hural exercises its parliamentary oversight over the security and defense sector, through enacting laws and regulations, defining government policy, and approving the budget. The following factors influence the implementation of security sector reform: less access to information, and prioritizing social and economic interests above security and defense sector interests, while approving the defense budget allocations.

Defense sector foreign relations and international cooperation

The Constitution of Mongolia stipulates that “Mongolia shall adhere to the universally recognized norms and principles of international law, and shall pursue a peaceful foreign policy.” The National Security Concept states that, “The sovereignty and independence of Mongolia shall be ensured through political and diplomatic means,” and the Foreign Policy Concept states that “Mongolia shall pursue an open, non-aligned, independent and multi-pillar foreign policy.” The defense sector pursues foreign relations and cooperation in line with the above-outlined principles.

The Defense sector relations, cooperation guided by following policy

- To strengthen military trust, continuously develop bilateral security and defense cooperation with two neighbors, the third neighbors and countries in the region;
- To increase military-technical international cooperation;
- To actively participate in the UN and other international peacekeeping support missions and contribute to the strengthening of global peace;
- Against the use of military force in resolving conflicts and disputes;
- In cases except for military threats or aggression, not to join any military alliance,
- Maintain nuclear weapon-free status and not get involved in military operations against neighbors or other countries;
- In cases except exposure to foreign armed aggression, not to participate in war or armed conflicts;
- Prohibit stationing of foreign troops in the territory of Mongolia, or allowing them to cross the State borders for the purpose of passing through the country's territory without enacting a relevant law;
- Fulfill its obligations before the United Nations and the international community in the fight against transnational crime and international terrorism.

The defense sector cooperation framework:

Areas of cooperation

- Military;
- Military-technical;
- Military science;
- Military medical service;
- Culture, sports and humanitarian assistance.

Forms of cooperation

- Mutual visits;
- Exchange of military representative and experts;
- Supplying ammunition, equipment and materials;
- Military equipment maintenance and repair;
- Military personnel training and re-training;
- Consultative meetings, exchanges of experience and information;

- Mutual participation in the field training, exercises, conferences, consultations, seminars and workshops;
- Joint military training, exercises and seminars;
- Developing relations with military schools, academies and research institutions;
- Organization of veterans' meetings, travel to historic places;
- Organization of concerts, exhibitions, film festivals, cultural and other sport events;
- Military travel exchange.

Since the holistic political economic and social transformations in early 1990s, in line with the expansion of foreign relations of Mongolia, the defense sector foreign relations have developed too. As of February 2016, Mongolia has cooperated militarily with 32 countries, five foreign countries have posted defense and military attachés in Mongolia; in turn Mongolia has posted six defense attachés to six countries and a military advisor to the Permanent Mission of Mongolia to the UN.

To further strengthen the bilateral cooperation in the defense sector the ministry regularly organizes consultative meetings to discuss and exchange views on international and regional security issues between the Ministries of Defense. It also organizes bilateral visits to further develop bilateral relations and cooperation. For last few years, Mongolian armed forces have actively developed bilateral cooperation in peacekeeping support and organized joint training exercises in peacekeeping support, and has been enhancing its military engineering and medical services capacity in assisting in humanitarian relief and disaster protection fields.

Mongolia has special relations with the Russian Federation as munitions and technical equipment used by Mongolian armed forces were all produced in the former Soviet Union and came as grant aid.

In line with the Foreign Policy Concept principle of maintaining and developing relations and cooperation with its two immediate neighbors, Mongolia has defense cooperation with the People's Republic of China. Though Mongolia does not purchase weapons from China, it has purchased construction and engineering equipment. Furthermore, bilateral relations in the fields of medical and social protection of military personnel have been expanding in recent years.

In accordance with the Foreign Policy Concept of Mongolia, the line ministry is developing relations and cooperation with the “third neighbor” countries.

Since 1996, Mongolia has put forward a proposal to participate in NATO's Partnership for Peace program, and activated the relationship with NATO member states. Starting from 2003, Mongolia has been developing military communication and co-operation with Belgium, the UK, Luxembourg, Turkey and Poland who were members of NATO and have become well known internationally due to its successful participation in peacekeeping operations in Iraq, Kosovo and Afghanistan.

By endorsement of the new partnership policy by the NATO Foreign Ministers meetings in 2011 in Berlin, Mongolia and NATO agreed to further develop relations by launching an Individual Partnership and Cooperation Program in March 2012. As of today, within the framework of the NATO Defense Education Enhancement Program, the National Defense University of Mongolia successfully managed training, seminars to develop training skills, teaching methodology and curriculum of the University. Mongolia has also launched a project on development of geo-database for restoration of former military sites under NATO's Science for Peace and Security Program.

In September 2014, the army training center officially joined NATO's system of Educational Training Centers, and was approved to organize NATO's official training and internship. The Army Training Centre has been expanded to train peacekeepers and anti-terrorism officers and also organize military exercises and more than ten different training programs annually at the moment. Since 2006, Mongolia has been involved in international peacekeeping training called Khan Quest with the US Pacific Command. In 2015, over 1,200 soldiers from 23 countries were involved with this training; in 2016, more than 2,030 soldiers from 47 countries have been involved. Today the Khan Quest training has become one of the five main training exercises to increase the capacity of peacekeeping skills for the Asia-Pacific countries. Through this training Mongolia is implementing its National Security Concept by political and diplomatic means and improving the methodology of peacekeeping and increasing military skills of the armed forces. In 2013, Mongolian military officials and soldiers have participated in the UN's peacekeeping operation in South Sudan as a commander of a zone and a head of a unit. This shows that the peacekeeping skills of the Mongolian armed forces have reached a new level and are accepted internationally.

As of today, one female peacekeeper is fulfilling her duty in the UN peacekeeping operation. Another important area of developing the defense foreign policy is to improve military equipment, renew weapons and prepare military personnel. Every year more than 250 Mongolian army officers study abroad in over 60 different schools from more than 20 countries to improve their skills and education. The Mongolian defense institution provides favorable domestic and external environment to further strengthen Mongolia's reputation internationally by contributing to regional stability and security, confidence building, and reforming its defense sector and armed forces.

Main activities throughout 2009-2015

Armed Forces capacity increased

In 2009, the Cabinet made an amendment to the Law on Special Fund and created the "Armed Forces Development Fund". This has played an important role in the defense sector reform process and conceptualization of its further development.

The amendment to the Law on Armed Forces in 2010 led to reviving the tradition of armed forces to contribute to the development of the country. Military engineering units were reestablished, thus the military engineers are taking part in the development of roads, bridge repair and construction of the civilian infrastructure.

Since 2011, the line ministry has formed and deployed "Transporter" teams with the aim to contribute to the development of strategic mineral deposits.

With the purpose to re-train the military personnel, the Cabinet initiated in 2012 and successfully implemented the "Mongolian soldier and development" program aimed at providing professional engineering skills for conscript and contracted military personnel. The line ministry is aiming to further strengthen the capacity of its military engineers to increase their participation in UN peacekeeping missions as well as national strategic minerals exploitation.

In 2015, by the decision of the Cabinet three battalions which took part in the peacekeeping support missions during the last 10 years have been re-organized and formed into a brigade and a brigade command has been formed.

Participation in the peacekeeping support missions

The Mongolian Armed Forces are increasing their participation in global peacekeeping support operations. They took part in the 2009-2010 MINURCAT mission in Chad at the battalion level, since 2011 in the UNAMID mission in Sudan with a military medical service unit, since 2011 in UNMISS mission in South Sudan with an 850-person battalion. The Mongolian Armed forces have participated since 2009 in the NATO-led ISAF mission in Afghanistan and are continuing to participate since 2014 in the “Resolute Support” mission jointly with Germany and the US.

The contribution of the Mongolian armed forces in the UN peacekeeping support missions was highly praised by the UN Secretary General Ban Ki Moon. During his visit to the Armed Forces Training Centre in Mongolia he has expressed his gratitude on behalf of the UN to the Mongolian peacekeepers for their contribution to the global peace efforts.

Defense cooperation

Mongolian defense cooperation has expanded in recent years. It has posted a defense attaché to the Federal Republic of Germany and assistant to the defense attaché to the Russian Federation since 2010; the decision to post a defense attaché to the Republic of Korea was made in 2011, and the defense attaché's appointment to Turkey and to the Republic of Korea was finalized in 2015. Furthermore, the decision for some of the attachés to cover for the countries with military cooperation was decided jointly with the Ministry of Foreign Affairs.

Moreover, in March 2012, Mongolia signed an Individual Partnership and Cooperation Program with NATO. This has provided opportunity for Mongolia to further develop relations with NATO at the same level as other NATO partners such as Australia, New Zealand, Japan, Republic of Korea and Pakistan.

Mongolia has joined the Organization for Security and Cooperation Europe (OSCE) in 2012 and thus expanded its politico-military cooperation. During the Mongolian Chairmanship of the OSCE Forum for Security Cooperation in the first trimester of 2015, the defense ministry appointed its military adviser to the Permanent Mission of Mongolia to the OSCE. Moreover, during this period Mongolia sent its monitor to the OSCE Special Monitoring Mission to Ukraine; this was the first-ever case Mongolia sent its expert to a non-UN mandated mission.

In 2013, an inter-governmental agreement between Mongolia and People's Republic of China on military technical cooperation has been signed, and thus increased the bilateral cooperation level with southern neighbor in line with the Foreign Policy Concept of Mongolia.

Throughout 2009-2015, Mongolia has established over ten inter-governmental agreements on defense sector cooperation as well as over 24 ministerial-level bilateral agreements, Memorandums of Understanding and technical cooperation agreements.

The following major developments in defense sector cooperation are worth noting:

- Participation of Mongolian Armed Forces sport committee in international military sport committee events;
- Obtaining air defense equipment;
- Renewal of car park by Russian Federation grant aid;
- Obtaining buses, e-archive assistance development and training equipment worth of 10 million RMB from the PRC in 2013;
- Obtaining military engineering equipment worth of 13 million RMB from the PRC in 2015;
- Obtaining radio communication equipment, engineering equipment and night vision equipment worth of US\$6 million from the US;
- Obtaining military medical equipment from Germany since 2013;
- Obtaining a soft loan for military hospital equipment worth of 15.8 billion from the Republic of Austria;
- The military ensemble took part in the Edinburgh Military Band festival in 2015.

Conclusion

For a country with vast territory, a small population, and bordering two major powers - and landlocked - Mongolia has successfully transformed its security and defense sector in the 26 years of its democratic reform process.

We can conclude that defense reform has been implemented effectively and successfully considering the all rounded political, economic and social changes the country has faced.

Firstly, the defense sector has managed to fulfill its duties in ensuring the national sovereignty and security through political and diplomatic means.

It has contributed to confidence building with its two immediate neighbors as well as strengthening of regional confidence building, developing military cooperation with other countries and, importantly, increased its prestige on the world arena as an experienced peacekeeping-capable armed force.

Secondly, the defense sector has managed to develop highly professional military personnel and increase its national self-defense preparedness capabilities. The defense forces of Mongolia train their personnel in over 20 countries' military academies and schools through bilateral agreements, thus increasing the professional, linguistic, operational capacities of the armed forces personnel.

Still, the defense sector has many challenging issues to overcome. There is a need to implement the territorial defense policy outlined in the Basis of the Defense Policy of Mongolia, structuralize the territorial defense, outline the differences between the military and paramilitary organizations, develop the longstanding development policy for the development of professional military troops for self-defense purposes and renovating military equipment as well as building capacity of the air forces of Mongolia.

Though the renovation of military equipment is an ongoing process there is a certain need for political and governmental support for the strengthening of the security and defense of the nation, especially during the defense budgeting process.

**COUNTRIES WITH THE DEFENSE COOPERATION
WITH MONGOLIA**

Countries with military cooperation/year beginning cooperation:

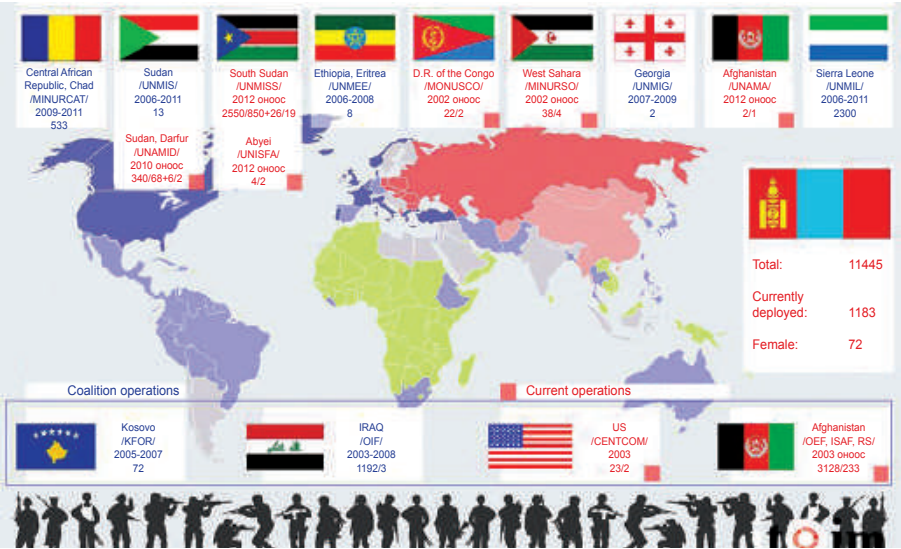
1. The Russian Federation	1921
2. Republic of India	1973
3. People's Republic of China	1991
4. USA	1991
5. Federal Republic of Germany	1993
6. Canada	1995
7. Israel	1995
8. Republic of Poland	1995

9. Republic of France	1996
10. Republic of Korea	1996
11. Italy	1998
12. Republic of Turkey	1998
13. UK	1999
14. Belgium	1999
15. Switzerland	1999
16. Cuba	1999
17. Japan	2000
18. Ukraine	2001
19. Netherlands	2002
20. Republic of Belarus	2002
21. Luxembourg	2002
22. Finland	2002
23. Bulgaria	2003
24. Kazakhstan	2003
25. Kuwait	2006
26. Qatar	2007
27. Democratic Republic of North Korea	2008
28. Vietnam	2010
29. Pakistan	2011
30. Czech Republic	2012
31. Hungary	2013
32. Austria	2014

Countries with military-technical cooperation

1. The Russian Federation	1993, 2004, 2008
2. Ukraine	2003
3. Republic of Turkey	2003
4. People's Republic of China	2013
5. Republic of Belarus	2013

Mongolian Armed Forces participation in the peacekeeping support missions



J. Bayartsetseg

EXECUTIVE ROLE IN SECURITY SECTOR GOVERNANCE AND LAW ENFORCEMENT REFORM

The law enforcement sector and its legal framework

Pursuant to the National Security law of Mongolia, the structural system to ensure national security consists of the State Great Hural, the President of Mongolia, the National Security Council, the Government of Mongolia, state and local self-governing organizations and other relevant officials responsible for ensuring the National security.

The Government of Mongolia, within its full power, is in charge of undertaking requisite actions to ensure national security and monitoring the activities carried out by the central state administrative bodies and local administrations for the implementation and enforcement of state policy on the national security.

The law enforcement sector is the kernel of the structural system to ensure national security, which is also an organization with specialized duties for the implementation of policy and for law enforcement.

The term “law enforcement agency” was defined in the Constitution of Mongolia as an organization of the judiciary as well as an actual law enforcement agency. Additionally, sixteen laws of Mongolia, including the “Law on Foreign travel of Mongolian citizens for private purposes” (1993) and the “Law on prevention of crimes” 1997 ratified by the State Great Hural, have referenced the definition of law enforcement. Likewise, there are three international treaties to which Mongolia is a party, which described the definition of “law enforcement actions,” “law enforcement activities” and “law enforcement agency.”

In a broad outline, law enforcement is a mechanism for applying compulsory measures on restoration of the rights violated arising from crime, and stopping and detecting an offence against law. With that narrow interpretation of law enforcement, it means the activities that monitor whether to enforce the law and decisions of the court.

The main representatives of law enforcement agencies could be the police as well as organizations tasked with combating specific types of crime and offence, and enforcing and restoring rights violation.

The Ministry of Justice of Mongolia was established in 1911 under the name “the Ministry for the court and internal affairs,” and is now one of the functional ministries of Mongolia charged with implementation of the policy and the law enforcement functions. The Minister of Justice is responsible for:

- legal reform policy;
- systematization of legislation, information, legal training, advocacy and research study;
- legal assistance;
- protection of the state border;
- police agency, investigation, maintenance of the public order, crime fighting and prevention;
- court decisions enforcement,
- relations of the Government with the judiciary, prosecutor’s office, advocacy and non-governmental organizations;
- relations between state and church;
- issues of citizenship and immigration;
- ordinary visa and relations concerning the entry, exit, residence of foreign citizens in Mongolia;
- supervision of legal grounds of the decisions of the state administrative bodies;
- registration of citizens, entity and property;
- registration of mass media;
- issues of protection of intellectual property, patent and copyright;
- state policy on national archives.

The following law enforcement agencies perform their operations under jurisdiction of the Ministry of Justice.

THE NATIONAL POLICE AGENCY

- Early interception of crimes, crime investigation;
- Collection and analysis of crime data, security of crime scenes, crime scene investigation;
- Monitoring and patrolling of public places;
- Conduct undercover investigations;
- Ensure law enforcement and public order;

- Maintain public order in times of public disorder, terrorist attacks, emergency situations and state of war;
- Perform duties as specified in the Law on State of Special Protection;
- Oversee implementation of the regulations on firearm possession, production, purchasing, sales and transportation;
- Record data on traffic accidents, violation of traffic regulations.

GENERAL AUTHORITY FOR BORDER PROTECTION

- To organize the measures for protection of the state border;
- To fulfill its obligations pertaining to the border issues under the international law;
- To ensure that there will not any illegal change of the border, signs at the state border and to solve the border issues in conformity with laws and regulations;
- To prevent the violation of state border and enforce the procedures of the state border;
- To ensure the passage of persons and vehicles through the state border in accordance with the appropriate laws and regulations;
- Prepare reports on cases of illegal border crossing attempts by crime suspects, offenders and convicts who escaped detention;
- Ensure inter-agency cooperation with other law enforcement agencies on investigating and arresting criminals in border areas and support with personnel, equipment and vehicles.

GENERAL EXECUTIVE AGENCY OF COURT DECISION

- To implement policy and laws adopted by the state with regards to enforcement of decisions of the court and other organizations;
- Ensure professional management of the agencies of court decision in the aimag and capital, and to administer their performances;
- Implement court decisions;
- Record the date on enforcement of decisions nationwide;
- To ensure compulsory treatment for alcohol and drug addicts in accordance with the administrative procedures and implement court decisions on arrests.

GENERAL DEPARTMENT FOR CITIZENSHIP AND IMMIGRATION

- To coordinate the activities of state and local administrative agencies responsible for immigration, naturalization and the legal status of foreign citizens;
- To provide information and methodological assistance on immigration matters, naturalization and foreign citizens to diplomatic missions and consular offices of Mongolia through the Ministry of Foreign Affairs of Mongolia;
- To issue an invitation letter, ordinary visa and visa permissions for a foreign citizen and exercise the right to extend or cancel the visa or residence permits;
- To register foreign citizens or stateless persons temporarily or permanently residing in Mongolia;
- Process applications of individuals who have applied for, or exclusion, or reinstatement of Mongolian citizenship and submit it the President of Mongolia;
- Matters of adoption of children who are Mongolian citizens to foreign citizens;
- Process and issue permits to foreign non-governmental or international organizations to establish their representative office in Mongolia.

GENERAL TAKHAR SERVICE

The service was established in accordance with the Law on Takhar Service passed by Parliament on 5 July 2013 and has been dissolved by the relevant law on 21 July 2016. The functions were transferred to the National Police Agency and General Executive Agency of Court Decision subsequently.

- Protection and safety of judges and the courts;
- Protection of victims and the witnesses;
- Transportation of the offenders and convicts by the armored car;
- Bring forcefully the offenders and witnesses to the courts;
- Transfer of convicts;
- Investigation of the fugitive offenders and convicts.

THE NATIONAL FORENSIC SCIENCE INSTITUTE

- Collection and preservation of evidence when resolving criminal, civil, administrative and other cases;

- Collection, preservation and analysis of biological evidence, trace evidence, impression evidence and other evidence;
- Examination and comparison of explosives, controlled substances, ballistics, firearms and toolmark examinations;
- Forensic interviews;
- Forensic DNA analysis.

GENERAL AGENCY OF NATIONAL REGISTRATION

- To organize operations to enforce laws related to State civil registration;
- To maintain the state civil registration;
- To maintain state registration of legal entities and property rights state registration;
- To preserve, protect and keep a record of the state register's original data evidence archive and create a digital archive;
- To cooperate with foreign countries, specified international registration agencies and other organizations in accordance with the law and regulations of Mongolia and international agreements;
- Compilation of the state registration procedure report, analyze and research the data;
- To develop state registration methodology in conformity with international standards, and get approval from authorities to enforce them.

LAW ENFORCEMENT UNIVERSITY OF MONGOLIA

- To conduct basic and applied science research;
- To offer degree of diploma, bachelor, master and doctor;
- To build capacity of professors through retraining educators and researchers and selecting capable staff and scholars;
- To build human resources for organizations in charge of law enforcement.

Law enforcement activities are regulated by around ten laws including the Criminal proceedings code, Law on Executions, Administrative law, Law on State Control and Supervision, Environmental protection law and Nuclear energy law.

REFORM OF THE LAW ENFORCEMENT SECTOR

In the course of transforming the institutions responsible for national security, such as the military, police and courts, the reforms were implemented through amendments to a couple of laws and thus there was a lack of comprehensive reform which could cover the law enforcement sector entirely. It may be reasonable to assume that since 1990, the reform of the law enforcement agency had been slowing owing to that phenomenon. As is well known, the Law on the National police agency was ratified in 1993 and was revised and amended in 1995, 1996, 1997, 1998, 1999, 2000, 2002, 2003, 2007, and 2009, respectively.

The Government of Mongolia has implemented comprehensive law enforcement reform from 2012 to 2016. Major transformations were implemented in order to update the legal environment, structure, finance and infrastructure of the sector:

1. Develop the legal framework that regulates the operation of the law enforcement agencies in line with the principle of the rule of law.
2. Improve the functions and organizational structure of the Ministry of Justice and introduce a mechanism of formulating legal policy based on scientific research and in line with human rights principles;
3. Restructure and merge case registration, investigation and criminal departments into an Investigation Agency and establish a Forensic investigation unit;
4. Develop an integrated registration database for administrative and criminal cases, and introduce the risk management component in the operations of the patrol police, the border agency, tax department and other specialized inspection agencies;
5. To establish a structure of an investigation judges in the courts in order to further guarantee human rights;
6. To develop the office of the Marshal service in the Courts, and re-organize and separate the court decision enforcement agencies on criminal case and on civil case;
7. To adopt a law on activities for the wellbeing of society and further increase civilian oversight;
8. Create a legal framework to ensure the protection of civil rights by the court;
9. Create mechanisms for the witnesses and victims protection;

10. Set up a specialized task force with duties to combat domestic violence;
11. Eliminate a system of investigation of criminal cases outside court, and to create a legal basis for conduct of criminal proceedings under the court jurisdiction;
12. Transfer the prosecutor office's functions related to human rights and dispute resolution related to the executive work oversight and processes to the courts;
13. Transfer the public order and crime prevention functions to the local government jurisdiction, and ensure establishment of the public oversight mechanism.

Following laws related to the law enforcement sector reform were ratified between 2012 and 2016.

- Criminal Code (3 December 2015)
- Law on Offence (3 December 2015)
- Law on the Protection of the victims and witnesses (5 July 2013)
- Law on Legal assistance for insolvent offenders (5 July 2013)
- Revised version of the Law on Anti-Money Laundering and Combating the Financing of Terrorism (31 May 2013)
- Law on the Police Agency (5 July 2013)
- Law on Takhar Service (5 July 2013)
- Law on Firearms (7 August 2013)
- Law on Prosecutor's office (15 July 2013)
- New reading of the Law on combating domestic violence (19 May 2016)

Furthermore, the new readings of the Criminal proceedings code and Law on Court decision enforcement were submitted to the State Great Hural for consideration.

The legal status of the law enforcement officials responsible for the maintenance of public order, implementation of crime prevention activities and national security such as judges, prosecutors, policemen, border officers, emergency agency personnel, immigration officers are regulated by the Law

on the court decision enforcement, the Law on State border, the Law on disaster management and the Law on the Legal status of foreign citizens.

Considering the law enforcement agencies as militarized organizations similar to the military reduced the importance of functions of the law enforcement related to providing security services to the citizens. Thus, the cornerstone of reform of the law enforcement sector was to enhance duties of the law enforcement agencies to serve citizens.

Accordingly, reforms to restructure the law enforcement agencies have been carried out. Even if the functions of the police agency are to enforce the law and to ensure the national security, there are three main areas of activities: combating crime, maintaining public order, and public security.

Moreover, the police agency serves citizens by resolving complaints related to crimes and maintains public order. It also fulfills its law enforcement duties by fighting, detecting and preventing crimes, ensuring public order and preventing public disorder in crisis situations. With a view to make police functions more detailed, improve the code of conduct, service quality and human resource development, the Law on the Police has been revised and ratified by the State Great Hural. The purpose of the law is to create a comprehensive policing system, further improve the legal environment, the structure and strategy of the police, and introduce new technologies.

The structural reform of the police agency aimed to change the perception of police as a militarized organization and develop the notion of police serving the citizens. Reform in the human resources distribution has balanced the ratio of officers charged with execution tasks and support duties. The public security unit was established and reinforced with over 1,000 military personnel. The re-trained military personnel have strengthened the community policing functions of police, subsequently in accordance with the normative standards set out by the Government, considering the population density ratio additional police units were formed at the districts.

With a view to standardize the functions and activities of the police agency, enhancing the police management, and creating knowledgeable human resources, "Procedures of the police agency activity" and "Police development program" were formulated in 2010 and 2014 as regulatory documents of the law enforcement agencies.

In line with the reform process the Takhar service was established with the aim to ensure continuity of the execution of judicial proceedings, and protect

victims and witnesses. Courts must have proper court security procedures, technology, and personnel to not only protect the safety of people and property within and around the courts, but also the integrity of the judicial process. The Takhar Service was aimed to provide a safe environment for judges, employees and all visitors coming into the court hearings, and if necessary, to protect public prosecutors, victims and witnesses, safe transportation of the offenders and convicts, and investigation of the fugitives.

While implementing the court decision implementation structure reform the legal environment for executing the civil cases court decisions, imprisonment, socializing and other forms of punishment were considered. It was imperative that measures of detention of suspects, imprisonment and execution of other forms of punishment should be standardized.

The General Authority for Border Protection, which is responsible for border security issues, performs three main duties including security of border ports, maintaining the border regime and protection of border. The first two are functions of the law enforcement agency while the third function is affiliated with border defense. In accordance with reform in the Citizenship and Migration General Authority, the border checkpoint functions were transferred to the Citizenship and Migration General Authority. Though the Citizenship and Migration General Authority implements law enforcement activities, its main function is to serve the citizens and thus the issuance of visas and matters pertaining to citizenship are under its jurisdiction.

Law enforcement agency oversight and public engagement

Since an internal audit was indispensable to the activities of the law enforcement agency, the Ministry of Justice has taken complete measures to make the internal audit more comprehensive within the scope of the law enforcement sector reform. Internal audit units were established within law enforcement agencies. The structure was approved that the rank of the unit's officers shall be one rank higher than others. Special attention was given to the implementation of audit and evaluation on the agency's activities, evaluation implementation actions, performance and mid- and long-term outcomes. The following regulations such as "Risk assessment methodology," "Methods for Monitoring and Evaluation," "Criteria for customer assessment," "Human rights criteria," "Assessment of administrative cost efficient and effective spending," "Methods for assessment of human resources needs." and "Regulation on an internal audit" were approved.

Also in line with the international ISO31000:2009 standard risk management guidelines were introduced. The risk management plans and frameworks take into account the varying needs of agencies, its particular objectives, context, structure, operations, processes, functions, projects, products, services, or assets and specific practices employed were approved and implemented. An independent internal audit was established near the Office of the Minister of Justice, while other internal audit units carried their tasks within the affiliated agency and organization in accordance with the internal audit regulations.

The revised Law on Police service has a chapter covering the oversight of police conduct and improvement of their work. The purpose of the oversight is to prevent any violation of law by the police officer, to stop their illegal actions, to protect persons and entities whose rights might be violated by illegal actions taken by the police officers, develop police culture, and to train and educate police officers on the use of the laws.

In that sense, the internal oversight and security units with their main functions determined were set up. Additionally, the civilian oversight mechanism was set up, with functions and rights to monitor the activities of the police agency with the aim to develop the principle of policy agency accountability before civil society.

The “Police development program,” which is the main document determining the policy, goals, strategic policy and mission of the Police aimed to change the perception and typical attitude that the police is a militarized agency and to develop and introduce accountable, speedy services to the population, with support of the public and under civilian oversight.

The fundamental principles of implementing the police activities are as follows:

- Respect for human rights and freedom;
- Open and transparent;
- Public trust and support.

The Civil councils, composed of 5-7 representatives of the citizenry, with duties to carry out public oversight of the activities of the police organization, operate under the Citizens’ Representative Hural in provinces and in the Capital City. The councils exercise the right to review the police organization’s spending, budget performance and financial reports, and inspect the implementation of introducing scientific findings and contemporary techniques, technologies and information systems to the training and the police activities.

The civil council members are appointed, with five members in the council, one member for the term of one year, two for the term of two years, and two members for the term of three years. If there are seven members in the council, the appointment of members shall be one for one year, three for the two years and three for the three-year term respectively.

In order to execute duties of the civil council without any delay and constraint, the regulations, such as “Charter of the civil council,” and “Procedure on the Police agency reporting to the city council and the public” were adopted; hence, the activity of the city council was regulated in detail. As a consequence, there were potential opportunities to combat crime, maintain public order and public security, and at the same time to increase citizens’ oversight through transparency, and support in policing activities.

Due to the fact that the civil council is a newly established body, there is a need to ensure that the council’s activity should be made more inclusive. In particular, the Council must be independent and not rely on politicians and authorities of the police agency, notably, it is critical to nurture close relations with the police agency. In the same way, whereas supporting public involvement, the council should carry out a hearing along with the public and the police officers, draft policy recommendations concerning improvement of decision making process and analyze statistics data, report and statements.

International relations and cooperation of the law enforcement sector

It is extremely vital to enhance international collaboration in the law enforcement sector, and to conclude agreements on cooperation as well as to expand programs and projects to be implemented with financial aid. Within the scope of these intentions, the following measures were taken:

- To accede to international treaties;
- To conclude mutual legal assistance agreements;
- To implement projects and program;
- To cooperate with the United Nations and its specified agencies;
- To organize training and workshops to share experience.

The Ministry of Justice has been concluding fourteen agreements with the foreign governments and 48 Memorandums of Understanding with the Ministry of Justice and other relevant ministries, simultaneously ensuring their implementation by revising whenever required. Moreover, Mongolia has established strong relations with its two immediate neighbors. The

Government of Mongolia concluded 17 agreements and Memorandums of Understanding with the Russian Federation and five agreements with the PRC. Also, it is implementing short and long-term projects in cooperation with international organizations including the United Nations Development Program, the United Nations Population Fund, Hans Seidel Foundation, German Technical Cooperation Agency (GTZ), and Development Assistance Programs of the United States and the Republic of Korea.

In 2015, the Ministry of Justice concluded the Memorandum of Understanding on cooperation with Geneva Centre for the Democratic Control of Armed Forces. It is inevitable that acceding to the international treaties allows introducing international standards into the activities. Accordingly, Mongolia joined not only core human rights convention adopted by the United Nations but also the United Nations Convention against torture and other cruel, inhuman or degrading treatment or punishment, the international conventions for the protection of all persons from Enforced Disappearance in 2015.

In line with Mongolia's obligation to international treaties, the Government of Mongolia submits its periodic report in relation to the implementation of the human right treaties to the relevant United Nations committees for consideration. Mongolia submitted its mid-term voluntary Universal Periodic Review report for 2012-2016, Government of Mongolia 19th, 20th, and 21st reports on International Convention on the Elimination of all forms of racial discrimination, 2nd periodic report on implementation of the Convention against torture, 6th report on the implementation of the International Covenant on civil and political rights, and the 2nd Universal Periodic Review report of Mongolia to the respective treaty bodies.

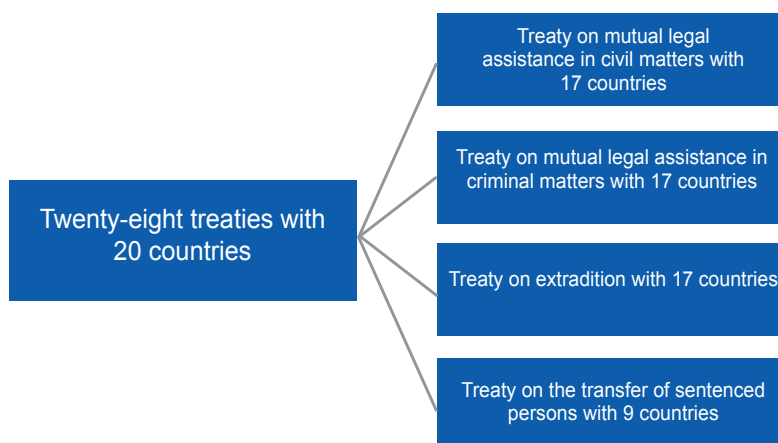
Mutual legal assistance treaties done with other foreign countries are very important bilateral agreements for law enforcement agencies, particularly for the police agency. Mongolia concluded 28 treaties with over 20 countries including the treaty on mutual legal assistance in civil and criminal matters, on the transfer of sentenced persons, extradition etc.

In 1968, the first-ever treaty between the People's Republic of Mongolia and the People's Republic of Hungary on mutual legal assistance in civil, family and criminal matters was established. Since then, similar mutual legal assistance treaties were concluded with around ten then socialist-bloc countries. At that time, the mutual legal assistance treaty used to cover civil, family, labor and criminal matters. However, since the 1990s, taking into consideration international practices the treaties are concluded by areas of law.

LIST OF COUNTRIES WITH BILATERAL AGREEMENTS

- | | |
|--|---|
| 1. Hungary | 11. Republic of Kazakhstan |
| 2. People's Republic of Bulgaria | 12. Republic of Poland |
| 3. Socialist Republic of Romania | 13. Russian Federation |
| 4. Socialist Republic of Czechoslovak | 14. Republic of Korea |
| 5. Slovak Republic | 15. Ukraine |
| 6. Canada | 16. Socialist Republic of Vietnam |
| 7. Democratic People's Republic of Korea | 17. Republic of Kyrgyz |
| 8. Republic of Cuba | 18. Republic of Turkey |
| 9. People's Republic of China | 19. Republic of India |
| 10. Republic of France | 20. The Hong Kong Special Administrative Region of the People's Republic of China |

Mongolia has concluded treaties regulating matters relating to the transfer of sentenced persons with seven countries; it is working on signing one with the Hong Kong Special Administrative Region of the People's Republic of China and the Republic of Kazakhstan.



TREATY ON THE TRANSFER OF SENTENCED PERSONS

1. Republic of Cuba	1989
2. Republic of Poland	1998
3. Russian Federation	1999
4. Republic of Turkey	2000
5. Republic of Korea	2007
6. People's Republic of China	2011
7. Canada	2014
8. Republic of India	2015
9. The Hong Kong Special Administrative Region of the People's Republic of China	2016

Within the framework of the transfer of sentenced persons, in 2015 from the People's Republic of China one citizen, in 2014 from the Republic of Korea two citizens, from the Czech Republic one citizen, from Kazakhstan two citizens respectively were transferred to Mongolia; conversely, in 2014 one citizen of the Republic of Korea, and four citizens of the Russian Federation were transferred to their home countries. Besides, the Government of Mongolia is working on transfer of Mongolian citizens who have been sentenced to prison in foreign countries, including 19 citizens in China, four citizens in the Republic of Korea, and one citizen in Russia.

In 1978, Mongolia joined the Berlin Convention on the Transfer of Sentenced Persons and continues to remain so. (Members are Bulgaria, Hungary, Cuba, Mongolia, Poland, Czech Republic, Slovak, Russia, and the Democratic People's Republic of Korea). At the same time, Mongolia has expressed its willingness to accede to the European Convention on the Transfer of Sentenced Persons.

The law enforcement agency, namely the National Police Agency of Mongolia, started to participate in the United Nation peacekeeping UNPOL missions from 2016. The National Police Agency is aiming to ensure its personnel participation in UN Peacekeeping operations.

Conclusion

The expected outcome, expectations from the judicial reform among public and the law enforcement personnel is that it will reform the sector, create fair judicial system respecting human rights and dignities. Thus, clearly the reform should further continue in the years to come.

The judicial reform and law enforcement sector reform shall require long term commitment. It is important to stress that in carrying out comprehensive reform be it judicial, institutional, structural or financing and budgeting, the political will and the commitment from the Government agencies and the law enforcement agencies is a precondition.

While ensuring the enforcement of the laws and regulations the law enforcement agencies' operational capacity in exercising their duties needs to be developed, through advocacy, training, re-training in the application of law and enforcement.

Following operational regulations required to be carried out:

- To standardize the law enforcement agencies rules of procedures, further improve the services, operational procedures, develop the capacity and qualifications of the personnel and police culture.
- To ensure that the legal reform and law enforcement sector reforms are in compliance with the legal sector development program policy and are interrelated with the cooperation programs with international law enforcement agencies.
- To develop personnel capacity, upgrade technology, equipment and structure of the law enforcement agencies and to create conditions for applying law enforcement in accordance with laws, norms and standards.
- To support the building of research and study capacity of the law enforcement agencies and increase public and civil society participation;
- To facilitate the exchange of information among law enforcement agencies, develop integrated databases and improve the methodology for developing statistical data;
- To increase the budget required for the law enforcement sector reform, its operations, activities, structural changes and to expand cooperation with international organizations.

B. Altankhuu

PAST REFORM AND FUTURE TENDENCIES OF BORDER PROTECTION IN MONGOLIA

Establishment of Mongolian boundaries

Undoubtedly the border treaties, joint survey and demarcation of the Mongolian borders with its two neighbors are also one of the significant events in the 20th century history of Mongolia, akin to restoring independence in 1911, adoption of the first Constitution in 1924, and proclamation of the Mongolian People's Republic, and fully-fledged membership of Mongolia to the UN. Thereby, from the mid-20th century the borders of Mongolia were internationally recognized and guaranteed by international treaties, and Mongolia being considered as one of the few countries with no territorial disputes.

Historically, the frontiers of Bogd Khanate Mongolia established by the 1915 Treaty of Khyagta signed between Mongolia, Russia and China are basically the boundaries of the modern borders of Mongolia. Mongolia's northern border boundaries were first defined in period while Mongolia was under Manchu Qing Empire rule by the Treaty of Nerchisk (1689), Treaty of Bura and Khyagta (1727), Treaty of Tarbagtai (1864) and Treaty of Saint Petersburg (1881) signed between Imperial Russia and Manchu Qing Empire regulating the relations as well as border issues between the two empires. In adherence with this historical border boundaries and People's Republic of Mongolia and the Soviet Union border delimitation and demarcation treaties of 1958, in 1976 the current northern borders of Mongolia were delimited and demarcated.

The border marking at the sites along the border line were conducted between 1977 to 1979 in accordance with the Mongolia-Soviet Union border delimitation and demarcation treaty (1958) and 1959-1960 document on border demarcation. The first Mongolia-Russia joint border administration was conducted from 1987 and concluded in 1996.

The border line between Mongolia and China between 1965 to 1850 throughout territories of Outer, Inner Mongolian provinces, regions and their pastureland divisions were marked by hillocks. In adherence with these hillock-marked border lines, and People's Republic of Mongolia and People's Republic of China border demarcation and delimitation treaty signed on

26 December 1962 the southern borders of Mongolia were delimited and demarcated.

In accordance with the Inter-governmental agreement on bilateral border protocol signed on 30 June 1964 between the People's Republic of Mongolia and People's Republic of China the border demarcation along the border line was conducted from 1962 to 1964. The first joint border administration was conducted from 1982 to 1984, and the second one conducted from 2001 to 2005. With registration of the "People's Republic of Mongolia and People's Republic of China Border Treaty" (1962) with the UN under reference number 14375 on 9 October 1975, the southern borders of Mongolia were guaranteed by international legal instrument.

Brief on development of the border protection agency

In 1911, after Mongolia restored its independence the Bogd Khagan Government of Mongolia, it restructured the border protection system. Accordingly, the Russian Empire-Mongolian border or northern boundaries were protected by border guard households. They were responsible not only for protection of the border but for the safety and security of the monasteries and temples. At the time when the border line was not demarcated and delimited, and not guaranteed by international treaties the boundaries of Mongolia were protected by a few border guard households.

With the tensions in external and internal politico-military situations in the early 1930s, the border protection police organization was dissolved. The first border troop detachments and commandments were formed. On 20 January 1933, by the resolution No. 3 of the Ministerial Council of the People's Republic of Mongolia, the Military and Boundaries Department was established at the Internal Affairs Ministry. Subsequently the modern Border Protection organization was established with formation of the first border troop detachment and command for the western and southern boundaries.

The above department under the Internal Affairs Ministry was extended to the Military and Boundary Affairs Authority in 1940. With the end of the Second World War in 1945 and development of friendly bilateral relations with the neighbors in the early 1950s the border troops were dissolved. Between 1950-1955 a Department for the Border troops and National Guard was established under the Internal Affairs Ministry, in 1955-1959 period a Department for Border was established under the Military and Public Security Protection Ministry. During the above historical period the border regime and

order were regulated by compact forces by operating the border posts and passport control points.

In the early 1960s, with the tensions in the international politico-military situation and beginning of the “cold war” in 1959, the Ministry of Public Security Protection (equal to the Soviet Union’s KGB) was established. With the need to establish the border troops again the Department for Border was re-established. In 1967, the Ministry of Public Security Protection established the Department for Border troops and National Guard which in 1979 was reformed to the Border Troops and National Guard Authority.

In early 1990s with the democratic transformation process in Mongolia the Ministry of Public Security Protection was dissolved and the Border troops were under the newly formed State Security General Office for certain a period of time. In 1993, with the adoption of the new Law on Borders the Border Troops Authority was established.

The Border Troops Authority had an independent agency status within the Government structure until 1996. In the period 1996-2000 the Border Troops Authority was transferred to the Ministry of Defense and had government regulatory agency status. From 2000, the Border Troops Authority became a government regulatory agency under the Ministry of Justice and Home Affairs. Since 2002 up to present, after renaming it to the Border Protection Authority, it is operating as a government regulatory agency under the Ministry of Justice and Home Affairs of Mongolia.

Since establishment of the modern border protection system the Border Protection organization took part in the 1939 Battle of Khalkhin Gol (Nomonhan incident), 1945 liberation war, and border encounters and incidents occurred at western borders in 1940-1948. Hundreds of border guards have lost their lives protecting national independence and frontiers, 14 national heroes were born from the border guards’ personnel.

The Border protection organization throughout its establishment process was professionally developing and gaining experience. It has developed into a publicly recognized and prestigious modern specialized force with organizational structure, tactical methods and professional human resources.

State border protection policy and legislature

Article 31 of the Law on Borders stipulates that:

The State border protection security is an integral part of the measures to ensure national security. Border protection is a combination of military,

engineering-technical, information technology, intelligence and border patrol activities to ensure the inviolability of the state borders by implementing domestic legislature on border as well as international treaties, enforcement of the border regime in the boundary line, border ports, border zones and border as well as passenger and transport checkpoints control, preventing, detecting, intercepting of border offences.

Until the 1970s the border relations were regulated by the special rules of procedures and instructions of the Public Security Protection Ministry and Border Troops Authority. With the goal to improve and develop the legal framework of the border, border relations and border protection organization, and necessity to regulate by law the border issues the first Law on Border protection of the People's Republic of Mongolia was adopted by the resolution of the People's Great Hural Presiding officers on 16 July 1973.

The above law was of utmost importance in creating new legal environment to regulate the Mongolia's border relation issues, improving the policy on state borders and border protection, especially in context of strengthening the Mongolia-China border protection. The Law on Border protection and the international treaties and agreements signed by Mongolia such as Mongolia, Soviet Union border delimitation and demarcation treaty (1958, 1976), Mongolia, Soviet Union state border regime, border cooperation and mutual assistance inter-governmental agreement (1980), Mongolia and People's Republic of China border demarcation and delimitation treaty (1962), Mongolia and People's Republic of China state border regime and border relations inter-governmental agreement (1988) were in force until adoption of the 1992 Constitution of Mongolia as well as 1993 Law on Borders.

Throughout the above period, the Mongolia-China border defense was of highest importance for Mongolia and its southern borders were protected by well-built military forces. On the contrary, the northern border with the Soviet Union, the so called "friendship border" was less protected and had few border posts and checkpoints. Considering the external and internal situation at that time, since the 1960s the government has implemented a set of measures to strengthen the southern borders, with the 1990s political, social and economic transformation measures to strengthen the northern borders were enacted and implemented. The literally unprotected northern borders had to be strengthened subsequently by measures to establish border protection units, subdivisions as well as building the capacity of the border protection organization were implemented. As a result, the whole border of Mongolia was transferred to the Border Protection organization's control.

In the period after the WWII and ideological conflicts between socialist and capitalist blocs the border protection organization activities were highly influenced and politicized, and were targeted mostly on fighting against cross-border intelligence, spying, propaganda activities, contraband activities as well as detection and interception of so-called political crimes. With the 1990s social and economic transformation, the border protection had to fight with new border infringements organized by criminal groups or individuals such as drug smuggling, firearms smuggling, cross-country cattle theft, illegal hunting and collecting plants.

Border protection organization structure and organization

Article 4 of the Constitution adopted in 1992 after the democratic transition in early 1990s stipulated that "...The territorial integrity of Mongolia and the State borders shall be inviolable. The State borders of Mongolia shall be ensured by law." In accordance, the principles enshrined in the Constitution the State Great Hural (Parliament) of Mongolia adopted the Law on Borders in 1993 and thus defined the powers and structure of the Border Protection organization responsible for the administration and management of the border protection throughout the country in line with the new political social realities.

Article 3.1.11 of the new reading of the Law on Mongolian borders adopted in 2016 stipulates "... The organization responsible for border protection is the state administrative organization and its subordinate border protection troop units and divisions which are responsible for the administration and management of the national border protection activities."

The border protection issues are in the portfolio of the Cabinet member; the Minister for Justice and Home Affairs of Mongolia subsequently, the state administrative organization responsible for administration and management of the border protection activities, the General Authority for Border Protection are under his jurisdiction. Out of the five agencies in the portfolio of the Justice and Home Affairs Minister only two agencies such as the National Police Agency and the General Authority for Border Protection are the government regulatory agencies of Mongolia.

The border troops are the core of the border protection organization. It shall have a headquarters, units and regiments, armament, equipment, logistics, supply, medical, educational and research divisions for its operations. The border troops shall have independent status and its structure and functions

shall be determined by law. It is regulated that in peacetime the border troops shall be part of the military structure while in a state of war it shall function as part of the armed forces. The border troops shall comply with the military code of conduct, rules and regulations and its personnel shall exercise the rights and functions as stated in the legal status of military personnel.

The General Authority for Border Protection duties and functions as outlined in accordance with the new reading of the Law on Borders are as following:

1. Implement the state border policy;
2. Administer and manage the national border defense;
3. Ensure implementation of the international treaties Mongolia is signatory to in enforcement with the border regime;
4. Ensure inviolability of the boundary lines;
5. Ensure enforcement of the border areas regimes, prevention and detection of the border infringements, settlement of the border violations in accordance with law;
6. Facilitate passenger and transport crossing, ensure the border port security and enforcement of the border port regime;
7. Intercept the public disorder in the boundary line, border ports and uphold public order
8. Detect and intercept cross border crimes;
9. Promptly communicate to the Air Force units and formations on cases of air frontiers violations by airplanes or UAVs;
10. Other functions as stipulated by law.

The General Authority for Border Protection enforces the Law on Borders and its duties and functions in line with the Constitution of Mongolia, National Security Concept, Foreign Policy Concept, State policy on state borders, 1962 Mongolia-China border treaty, 2010 Mongolia-China border regime agreement, 1958, 1976 Mongolia-Russia border treaties, 2006 Mongolia, Russia border regime agreement and other agreements, Mongolian border protection rules and Procedures for civilian participation in border defense adopted by the decree of the President and other rules and regulations of Mongolia.

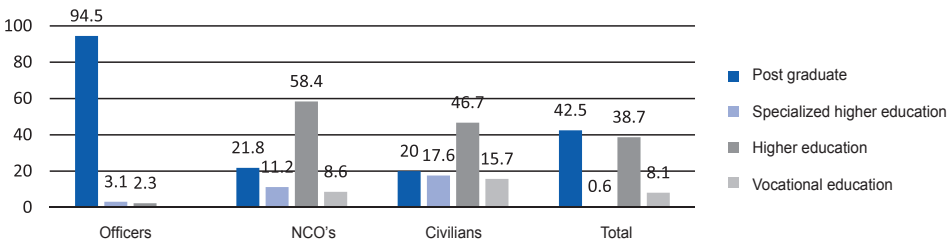
The border protection organization carries out its functions through General Authority for Border Protection, Border Troops Headquarters, border

regiments, units, posts and patrols. The border defense is organized in close cooperation of the border and immigration regiments, border posts, supply units with the state administration and local administration organizations, law enforcement agencies as well as civilian population assistance.

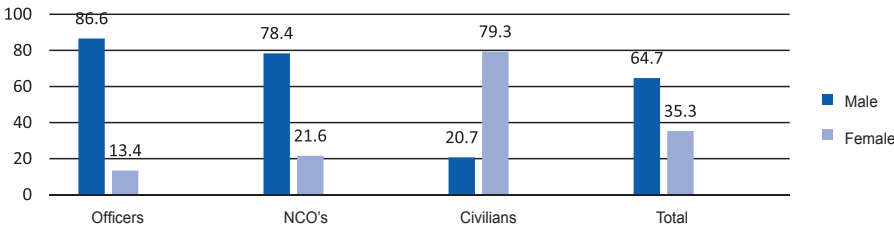
Border protection organization manpower

The personnel of the border protection organization have a permanent cadre composed of officers, NCOs and civilian personnel. In addition, it is reinforced by short-term personnel such as the contract and conscript service personnel.

Graph 1. Education background

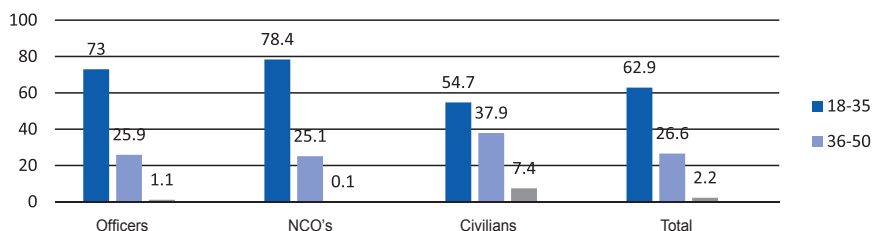


Graph 2. Gender balance



In total, 62.9% of the border protection organization personnel age is between 18 and 35.

Graph 3. By age



Human resource development, Border School

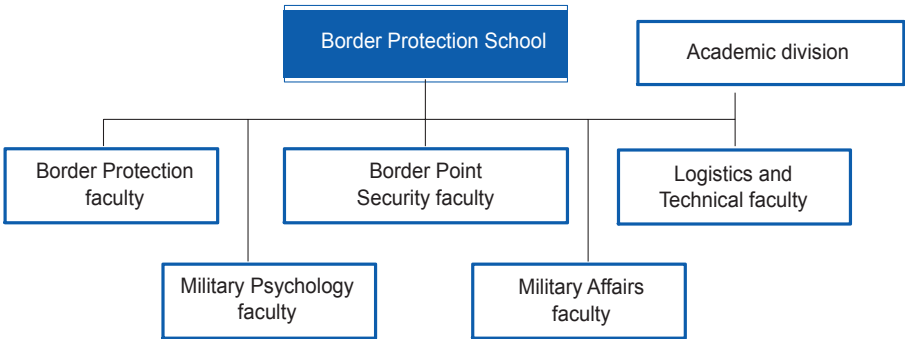
Professional military officers and NCOs are prepared at the domestic or overseas military schools, specialized personnel are prepared on a contract basis at the domestic and overseas institutes, administrative personnel are prepared at domestic and overseas military academies, the Law Enforcement University of Mongolia and other postgraduate-level institutions. The specialized personnel selected among the graduates from civilian higher educational institutions are trained at the Border School.

Successful applicants for NCO positions upon selection process have further specialized training and join the border protection service. Foreign languages beginner level training is conducted at the subordinate departments, intermediate and advanced level training are conducted at the General Authority for Border Protection, foreign languages department of the Law Enforcement University of Mongolia as well as through domestic and international language training programs.

NCOs were prepared at the border troops institute under the General Authority for Border Protection until its reorganization to the Border Service Institute under the Interior Affairs University in 2010. With restructuring of the Interior Affairs University into the Law Enforcement University, the Institute was renamed to the Border Protection School. The affiliate school is responsible for preparing, developing and retraining the special public servants in four-year program for NCOs at the request of the General Authority for Border Protection.

The Border Protection School is one of the seven academic institutions under the umbrella of the Law Enforcement University of Mongolia.

Border Protection School structure



Approximately 30 professional courses are taught at this school and a bachelor degree program in border protection service, border checkpoint service, law enforcement, border checkpoint logistics, a master’s degree program in border studies, border protection strategy-tactical management, border protection administration, and a doctoral degree course on border studies are offered.

Inter-agency cooperation and foreign relations

The Concept of National Security of Mongolia states that the security of the existence of Mongolia means continuation of its independence, sovereignty, territorial integrity, and the inviolability of the state frontiers of Mongolia. In line with this, the General Authority for Border Protection in coordination with relevant national security agencies enforces the Concept of National security as well as laws and regulations of Mongolia.

While implementing its immediate border protection functions the border protection authority in cases of armed aggression or armed conflict at the border shall request enforcement from the Ministry of Defense and the General Staff Armed Forces. The border protection organization works in liaison with the General Intelligence Agency and National Police Agency on prevention, detection and interception of cross-border crimes and border-infringement cases as well as assists the National Emergency Management Agency during natural disasters and calamities at the border adjacent territories.

The General Authority for Border Protection conducts on a regular basis jointly with the General Staff of Armed Forces, General Intelligence

Agency, National Police Agency, National Disaster Management Agency crisis response training, table-top exercises, command-tactical exercises as well as seminars and workshops. It also conducts sport events and exercises with the other relevant law enforcement agencies and coordinates regular information exchange with them. The border authority coordinates its functions with the customs, professional inspection, and immigration authorities while facilitating passenger and transport crossing, the border port security and enforcement of the border port regime. The state administrative body as well as local administration units and their officials are responsible for ensuring the state border protection in accordance with laws and regulations of Mongolia. The state administration bodies as well as commercial entities shall enforce the border protection laws and regulations and shall provide assistance, support and supply of goods as a matter of priority to the border protection organizations when required.

To ensure the implementation of the duties of Mongolia in accordance with its international treaties and agreements on border issues signed between the Russian Federation and People's Republic of China, the General Authority for Border Protection of Mongolia conducts regular consultative meetings, bilateral agreements, protocols and joint programs with the Border Agency of the Federal Security Services of the Russian Federation, Border Troops Authority of the Ministry of Public Security Ministry and Border protection agency of the Combat Readiness Department of the Ministry of Defense of the PRC. To oversee and enforce the state borders and border-area regimes' bilateral joint meetings to settle certain border issues are conducted at the border representatives' levels. The Border Authority extends its cooperation and shares experience with the border agencies of India, Finland and the EU agency Frontex.

Recent developments

The General Authority for Border Protection in recent years has initiated relevant amendments to international treaties, bilateral agreements as well as domestic legislature and regulations in line with the new border protection trends and changing environment. It is introducing and further building the capacity of the contract border guard service as well as organizing the border region protection considering the climate, landscape, and human resource components. At the same time, it is improving the transparency and capacity of the organization, foreign relations and cooperation as well as introducing modern technology and equipment in its operations.

Since the adoption of the Law on Borders in 1993 the law has been amended 13 times, but until 2014 no conceptual changes were made to it. With the adoption of the Law on Border ports in 2014 and subsequent amendment to the Law on Borders, the Immigration service which was under the border protection was transferred on 1 April 2014 to the Foreign Citizens and Immigration Service, which further was restructured in to the Immigration Authority. As a result, the General Authority for Border Protection became solely responsible for the border port protection and enforcement of the border regime as well as protection of the Zamyn-uud and Altanbulag free trade zones.

In 2016, with the aim to modernize the rules and regulations on border protection, border, border land and border ports regimes, regulation on involvement of citizens and administrative entities into border protection, organization of the border region protection in line with the weather, climate, landscape and human resources capacity, creating the border guards legal personality, incorporate the legal terms and terminology of the Law on Borders in conformity with the international legal principles as well as the National Security Concept of Mongolia approved in 2010, and with the need to develop border protection adjusted to modern border protection trends the revised version of the Law on Borders was submitted to the Parliament and was adopted on 28 December 2016.

In accordance with the new reading of the Law on Borders, the Immigration service was transferred back to the General Authority for Border Protection. The elements mentioned in the previous paragraph such as organization of the border region protection and creation of relevant regulations, detection and interception of cross-border criminal activities, use of personal protection devices, regulations on involvement of citizens and administrative entities into border protection were defined. The definition of the aid force council, aid force member, civilian rights and duties in border protection was an important step in developing further the basis of border relations. However, during the enforcement of the new law a need to further amend and modernize the border protection rules and regulations arises.

Since 2006, the Border Protection Authority started to implement a new structure on contract border guard service by selecting personnel from citizens who have served in the army willing to join the border guards voluntarily. The contract border guard project is implemented in several stages beginning with improvement of recruitment criteria and the selection process. Building the capacity of recruits resulted in increases in the number of the contract

border guard service personnel in the organization; furthermore, it improved the overall operational capacity of the border organization, making it a more professionally oriented service.

The border protection was further re-organized into the border region protection structure in line with the climate and landscape features. Several scientific and research conferences and symposia were held. The concept of the “Border region protection” approved by the government was implemented by stages. The legal basis for border region protection is enshrined in the new Law on Borders.

In pursuit of introducing new surveillance, alarm and communication technology and equipment in border protection the border authority has conducted studies and tests of equipment which are suitable for Mongolia’s harsh climate, weather and terrain features and has started to install them on certain parts of the borders. Different types of UAVs, detection and surveillance sensors, radars, cables, infrared surveillance equipment is used today at the borders.

The civilian, central and local administrative entities’ involvement in border protection is an important part of the Mongolian border protection structure. A regulation on involvement of citizens and administrative entities into border protection approved by the decree of the President is the legal basis for involvement of the citizens in line with the residency location in the border protection activities. Activities to increase the citizens’ and aid force members’ involvement in border protection such as regional consultative meetings involving provincial and sub-provincial local administration, law enforcement agencies, units, aid force personnel as well as local entities and civil population are carried out annually.

Conclusion

The delimitation and demarcation of the borders in accordance with the bilateral border treaties with its two neighbors as well as being a country with no territorial disputes is undoubtedly one of the most important events for Mongolia in the 20th century.

Mongolia has managed to create conditions for settling border issues by international agreements and treaties through bilateral border treaties and agreements with its neighbors, bilateral border administration, joint border verification and inspections, renewing bilateral border regimes, and amending and modernizing national border protection service rules and regulations accordingly.

Registration of the Mongolia-Russian border treaty with the UN, stricter enforcement of the border regimes along borders, intensification of border representative activities, organization of the Mongolia-Russian border verification and inspection, renewing of the boundary line, pillars should be carried out jointly with the Russian Federation in near future. Finally, further policies to increase the institutional capacity of the border protection organization, professionally oriented personnel development, contract border protection guard service capacity building, improvement of the border area infrastructure should be implemented in line with the national economic and social development tendency and capacity.

Introduction of modern border protection technologies and equipment is vital for the border security of a country with a small population and vast territory such as Mongolia. Though such a modernization process shall require considerable funds, in the longer term this shall save funds and human resources, and most importantly shall ensure the national border security.

The modern Border Protection Authority developed into a state special service with organized administration, structure, professional personnel, tactics and equipment and is implementing with honor and dignity its duty protecting the inviolability of national frontiers and the border security of Mongolia.

J. Munkhbold

POLICE REFORM: LESSONS LEARNED AND FUTURE TENDENCIES

Brief historic development

In any independent state structure the police are the main organization with functions to enforce the laws and regulations, maintain the public order and ensure safety of public and private property. Scholars divide the modern police structure development into the following periods.

Bogd Khagan ruling period: 1911-1920

Mongolian police administration during this period was under the Ministry of Military Affairs and it had two main units - the patrol police regiment and national guard – and, depending on the territory and objects to be protected, the functions were patrolling or security protection by mounted police or patrol policing. The main responsibilities of the mounted police were to work as official couriers, wardens and security protection services for ministries. In addition to the functions above they started to investigate the crimes and conduct intelligence work beginning in September 1913. Reforms were initiated as there were not much progress and development of the police services in their main functions such as crime fighting. For instance, security protection services for most of the ministries and lords, as well as guarding prisoners, were limited, and shift guard service at the fire department was introduced and in case of a large-scale blaze military affairs ministry personnel were sent as a support force. Patrolling, guarding, preventing and intercepting crime in the capital city was under the jurisdiction of the Ministry of Interior Affairs.

“Socialist” development period: 1921-1989

In connection with the adoption of the new Constitution of the People’s Republic of Mongolia in 1924, 1940, and 1960, the judicial and law enforcement systems were reformed and developed respectively. The policing prevention organization was under the jurisdiction of the Public Security Protection Ministry. Subsequently, the police organization structure and its personnel capacity was transformed by establishment of police units, sections, divisions and departments. Relevant laws and regulations, rules of procedure, guidance and instructions were enacted.

According to the joint meeting of provisional government and Central Committee of Mongolian People's Party on the 24 March 1921, the "Preventive branch" responsible for protecting public and private property, maintaining peaceful life and public order was established under the Ministry of Military Affairs.

In February 1932, the Ulaanbaatar city police department was transferred to the jurisdiction of the internal security agency. New rules for a people's preventative policing department were passed in February 1934. Operational rules and procedures were defined, and short- and long-term courses started to be operational with personnel resources.

With transformation of the internal security agency into Ministry of Internal Affairs, the police department was extended to an independent operational office under the Ministry in 1936. The anticrime unit was expanded to the Executive Operations Department, the crime unit in 1937, the economic crime unit in 1938, and the fingerprint expert and photo laboratory were established in 1940 under this department. Thus, scientific achievements started to be used to fight crime.

Since 1939, in the framework of crime prevention the department started raising legal awareness among the public, and developed and implemented a crime prevention policy. According to this policy, humanitarian assistance was delivered to impoverished people and volunteers were sent to rural areas.

To improve the capacity and knowledge of police personnel, training and seminars were organized such as basic and special courses, politics, geography, chemistry and internal service, and discipline rules.

From July 1945, the police organization started focusing its activities on improvement of crime prevention, fighting against crimes, conducting investigations and crime scene raids in accordance with the law, introduction of police-public cooperation into the operations, speedy response to petitions and complaints, maintenance of public order and increased the scope of patrolling. In terms of human resource policy, it considered to appoint in higher and lower positions former military personnel. The forensic science technical unit was founded to use scientific and technological achievements in combating crimes in 1944.

In 1946, the power to file reports and cases and transferring them to courts were amended the police officers were tasked only with investigation and operational activities.

From 1954, police personnel were sent to the Soviet Union to attend two years of police officer's course and the police institute.

The 1960 Constitution of the People's Republic of Mongolia ensured the human rights and freedoms and their protection. This increased the court and law enforcement organizations accountability and responsibility standards and ensured inter-agency cooperation between police, prosecutors and court offices.

Anticrime policy started to be developed beginning in the 1960s. The main area of focus then was crime prevention, the study of the causes and tendencies of crimes, introduction of science and technology into operational activities, and introduction of know-how and experience. In addition, public and youth groups were established to support police operations in crime detection, prevention and interception. Another important area of activities then was combating crimes against public and private property. Police started to appoint officers against financial crimes at all police units.

Even though community policing principles and forms (public cooperation, public groups) were implemented since the early 1980s, it was not implemented in a classical way due to the lack of policy and guidance.

In the 1970s-1980s efforts to develop and strengthen the forensic science unit by supplying technical equipment and building the personnel capacity were taken. Criminalistics method and tactics training for police personnel and expert's capacity building training were conducted. Special chemical and bio laboratories were created and expanded with the support of Germany, the Soviet Union, Czechoslovakia and Poland at that time. In the period from 1970 to 1989 with the increase in the population and number of crimes and offences the police organization was required to implement administrative and structural reforms. Several rules, regulations and guidance were updated in the process of law enforcement reform between 1980 to 1985.

Democratic transformation since the 1990s

With the all-encompassing democratic political, social and economic transformation in the 1990s the police had to be reformed to meet the new realities and challenges. With the adoption of the new constitution the police organization was reformed and transformed into the General Police Agency or state administrative organization. As a result, police personnel in its activities followed the principles of political neutrality, transparency, fair justice respecting human rights and freedoms, and abiding the law.

With the approval of the law on police in 1993, structural and administrative reforms have been carried out by the police to some extent, but with the tremendous changes in the politics, society, economy and judicial systems those minor changes did not meet the social needs and reforms. According to that law, the structure of the General Police Agency was composed of Criminal police department, State investigation department, Traffic police department, Fire department, Administration and Finance department, National Guard headquarters, Criminology research center, State civil registration office, Police institute, Communication unit and Detention Center, Police School, Communications Unit and Detention center. Relevant departments, sections, units as well as metropolitan, municipal and provincial police units were also under the jurisdiction of the National Police Agency.

According to the 1996 amendment to the law on police, the police agency which was under the government structure became the government regulatory agency under the Ministry of Justice and was restructured accordingly. At that time, the issue of merging the criminal police department and investigation department was discussed intensively.

In conformity with an amendment to the Criminal Code and Criminal Proceedings code introduced in 2002, the structure and organization of the police agency was restructured, accordingly the operational officer's power to file reports and cases was removed. In addition to this, the focus of the agency was to improve the quality and efficiency of criminal intelligence work. Moreover, the Criminology Research center was restructured to the Forensic Science National Center with an independent agency status. Crime record office was established at the first time and process of merging the state crime record units was implemented. National Police Agency for the first time established the internal security and audit department, mobile patrol units between 2004 to 2009 period. To further develop its capacity and structure in line with international standards of police organization, the National Police Agency conducted several initiatives to improve partnership between public and police, to consider personnel workload, and improve police officers' equipment and special tools supplies. Besides, the police created their own motto, "Striving together for peaceful and secure life," which improved the image of the police, increased public awareness and contributed to the public-police partnership development.

To further strengthen the human resources and capacity of its personnel the police agency facilitated study programs for bachelor and doctoral degrees at academies and universities under the Ministry of Internal Affairs of the Russian Federation and the Republic of Turkey in the fields of specialized

psychology, economic security, special techniques, criminalistics, and international Law.

Today, the National Police Agency is under the jurisdiction of the Ministry of Justice and Internal Affairs. The agency is headed by a Commissioner General, appointed by the Cabinet, is assisted by three Deputy Commissioners: first deputy commissioner, deputy commissioner in charge of administrative affairs, and deputy commissioner in charge of internal affairs and monitoring. The National Police Agency is composed of five main departments such as the crime department, public order department, public security department, finance and administration department, and internal oversight department. Over 10,000 police personnel in 34 stations, 89 divisions, 10 centers, 228 sections, and 83 subdivisions are combating crime, ensuring public order and public security under the management of the agency.

Human resource planning of the police agency aims to provide stable working conditions for experienced, qualified and honest personnel respecting the law, human rights and freedoms for the benefit of society, public order and public security.

The percentage of the personnel in police agencies as follows: state special service personnel 93%, state administrative service personnel 3%, state service personnel 7%, female personnel 10%, lawyers 50%, personnel with bachelor degree 60%, master degree 5.2%, doctoral degree 0.04%, secondary education certificate 30%, primary education certificate 1%.

According to statistics, one police officer is responsible for 306 citizens, 70 percent of the police personnel are responsible for combating crime and maintaining public order, 30 percent are responsible for supporting the public.

The National Police Agency is also responsible for the training and retraining of its personnel. Since establishment of the police training center in February 2014 it has organized 1,252 hours of training programs on 343 topics to re-train, specialize and improve personnel knowledge and skills. Besides that, foreign language training is conducted in cooperation with professional organizations.

As of today, police personnel are being prepared at the Law Enforcement University of Mongolia, academies and schools in Russian Federation and Republic of Turkey.

The Law Enforcement University-affiliated Police School is responsible for preparing, developing and re-training special public servants. The Police School currently has five faculties: Police studies faculty, Criminal

investigation faculty, Special tactical operations training faculty, Forensic science faculty and the Traffic police faculty. The personnel prepared at this school are trained at the request of the National Police Agency and Forensic science national institute.

The following professional courses are taught to improve police personnel knowledge and professional skills:

- Introduction to Police profession (1 month – 1 year);
- Bachelor Degree Police Officer – Law Enforcement (4-5 years);
- Master degree in Police management-strategy tactics (2 years);
- Master degree in Police studies, research (2 years);
- Doctoral degree in Police studies (3-5 years).

Inter-agency cooperation with other law enforcement agencies

The National Police Agency has inter-agency cooperation with the following law enforcement agencies:

- Courts;
- Prosecutor's office;
- Independent Anti-Corruption Authority;
- General intelligence agency;
- General agency of border protection;
- General agency of court decision;
- Immigration office of Mongolia;
- State registration office;
- Takhar Service (equivalent to US Marshals Service).

Judicial reform

- Internal operational rules and guidelines were codified with the purpose to oversee whether they are in line with the laws, regulations and standards, and if required to be amended, developed and approved accordingly.
- Since enforcement of the Law on Police in 1993, within the judicial reform framework after 20 years the new reading of the law on Police was approved on 5 July 2013.
- With the enforcement of the new law on police by the government

9 resolutions, 11 regulations, programs, by the 12 decrees of the Justice Minister, 15 rules, regulations and guidance, by 11 orders of Chief of National Police Agency 18 regulations, and guidance were amended and approved.

Reform concept

With the adoption of the new Constitution in 1992 the process of amending the existing legislation in line with the principles enshrined in it started. Subsequently, the state institution reform was implemented in accordance with the resolution no. 14 of the State Baga Hural (Parliament) on “Enforcement of the Constitution.” Within this reform process the Law on Police was adopted on 2 December 1993.

In 1998, the State Great Hural (Parliament) approved the “Judicial reform program of Mongolia” in which the police reform was included as follows: “Implement measures to improve the results of anti-crime activities and maintenance of the public order, reform and develop the police organization, re-develop filing of reports and cases and investigation procedures, reinforce the human resource and supply required equipment and tools.”

With the enforcement of the Law on Police as well as implementation of the judicial reform program major improvement was achieved in terms of police agency restructuring, re-organization, development of human resources and the equipment arsenal, as well as building the operational capacity in combating crimes and maintaining public order and security. Though some progress has been made up to the present there is still need for further reform in the police agency structure.

Requirement of police organization reform was underlined during the convocation under the theme “Reform of Judicial branch management,” which was held in April 2011 under the auspices of H.E. Mr. Ts. Elbegdorj, President of Mongolia.

Foreign experts consider that the Mongolian police agency shall provide the public with efficient and effective police service by making extensive professional and technological reforms in police organization. According to experts’ views, such a transformation from Soviet-style policing methods to international policing standards could be achieved with the active participation of the Government, National Police Agency as well as international counterparts and shall develop the police agency capacity and public and police partnership.

The “Police reform policy” was developed in line with the National Security Concept of Mongolia and Police Doctrine with the objective to conceptualize the police reform strategy.

Police agency reform

The police reform policy strategy was developed to transform all departments, stations, offices and units of the National Police Agency and National Guard through inter-agency cooperation with the judicial branch, local administrations in line with the social and economic development of the country.

The following police policy reforms are required to be implemented:

- Police legal environment reform. To improve the law enforcement legal environment. Make the police transparent, independent and accountable.
- Police structure reform. Re-structure and transform the police agency structure, create conditions for police operational activities such as crime prevention, public order and security.
- Policing reform. To focus on crime and offence prevention activities to ensure public order, introduce scientific achievements and advanced technology and to further strengthen public-police partnership.
- Police human resource reform. To build capacity of police personnel. Furthermore, to create a system for preparing upper, middle and lower management personnel.
- Police technique and technology reform. To introduce advanced science and technology into police services, improve information exchange by using advanced technology and to build the operational capacity of personnel in crime and offence prevention, detection and investigation.
- Police innovation. To create a system “police science - police education - police service,” introduce police research and study results into operational activities.
- Police culture reform. Transform organizational culture, strengthen values, build citizens’ confidence by improving police service standards, encouraging personnel, increasing discipline, etc.

Police reform in brief

In April 2012, the Administration of the president of Mongolia appointed a working group to draft the Law on legal status of the police personnel and police operations. The “Reformation Government” has submitted package of laws drafted in line with the judicial reform process to the State Great Hural (Parliament). Subsequently the Law on Police was adopted on 5 July 2013 and came into force on 1 January 2014.

The Law on police is composed of 9 chapters and 42 articles, which contain police organizational structure, organization and legal basis for operations. According to the new reading of the law, the main functions of the police shall be combating crime, protecting public order and providing public security.

There is a general concept that “police” is a state agent empowered by the state to enforce law, protect public rights and interests with the legitimate power to use force. Alternative names for police force include “constabulary, gendarmerie, police force, police department, police service, law enforcement agency.” Members may be referred to as “police officers, troops, sheriffs, constables, rangers, peace officers.”

The word “police service” has been used in Mongolia recently and “service” means the occupation or function of serving, but the main reference is to an organized state system to serve the public. In many foreign countries, police are referred as the “police service” and we can understand that the police are a service tasked to protect human life, health, and property. That’s why the law’s title was changed to the “Law on Police Service.”

Some regulatory and operational norms which have been in the previous reading of the law were taken out from the new reading of the law. The new law formulated the structure and organization of the police agency and its main functions. The rules of procedures, rules on the use of physical force, special tools and arms, emergency operations which were in the previous reading of the law are expected be regulated by the new draft Law on law enforcement operational activities.

Researchers conclude that the success of police work is interlinked with public opinion and depends on public support, understanding and cooperation.

The field of police science was developed in 1705 in Western Europe. Throughout the development of modern police studies, it has been concluded the most two important things for police service development are democratic control and political neutrality.

According to the law on police a civil council shall be established with the function to oversee police budget spending, budget performance and financial statements as well as the implementation of police reform. It is a vital mechanism to implement the principle of “respect for human rights and freedoms, transparency, accountability.”

The fundamental principles of the activities of the police as stipulated in law are to maintain confidentiality, the confidence of the public, support of civilians, and to cooperate with governmental and nongovernmental organizations, local self-governing bodies and citizens. In relevance with this principle, a chapter on “Community-police operations” was added to this law. Municipal authorities shall employ a community police officer for public safety and prevention of crime. A civil council shall determine the number of police officers every year based on proposals submitted by the Governor of provinces and state consultation with the civil council and police authorities.

Conclusion

We can conclude that the police structure of Mongolia has been periodically reformed and transformed in line with the political, social and economic development of the country as well as crime tendencies.

However, it is notable that in the course of reforms scientific approaches to reform were missing. Police reform and transformation carried out since 2012 lacked this approach, sudden transformation in the police system caused the side effect in human resource management as well as the operational activities of police. Though risk management and conflict management was implemented there were shortfalls in transformation and development management. The police service is a highly-professionalized service which should be independent, transparent and accountable, respecting human rights and freedoms and in line with laws and regulations. At the same time the mechanism of responsibility and accountability within the police and implementation of the non-use of force policy must be complied with by all.

For further strengthening and developing a professional police service, the development of human resource policies, personnel capacity building, police management, improving crime prevention and detection methods, maintaining public order and public security, introducing innovative techniques as well as modern communication and surveillance technologies, and, finally, strengthening the public-police partnership is of utmost importance. Moreover, developing police culture and values is another aspect that needs to be considered.

BORDER TROOPS APPAREL



SENIOR OFFICERS INSIGNIA



PROTOCOL INSIGNIA



JUNIOR OFFICERS INSIGNIA



REGIONAL BADGES



DECORATIONS



Z.BOLDBAATAR



MONGOLIA
D.SUKHBAATAR
B (II)

POLICE OFFICERS UNIFORM



Official uniform

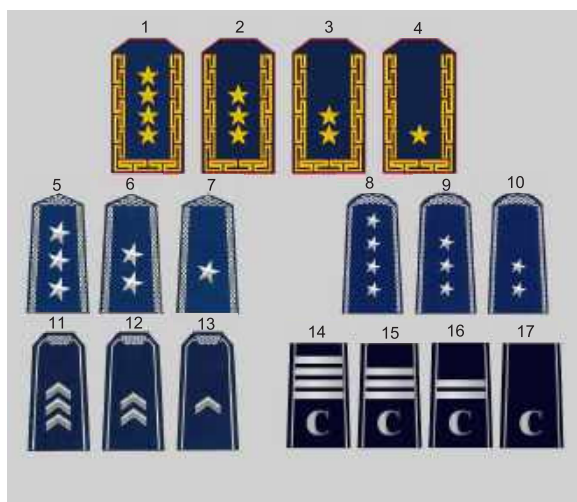


Uniform



Battle dress uniform

POLICE RANKS



1. Commissioner General
2. First Deputy Commissioner
3. Deputy Commissioner
4. Assistant Commissioner
5. Police Colonel
6. Police Lieutenant Colonel
7. Police Major
8. Police Captain
9. Police Senior Lieutenant
10. Police Lieutenant
11. Senior Sergeant
12. Sergeant
13. Junior Sergeant

Police cadets insignia

14. Senior Sergeant
15. Deputy Sergeant
16. Sergeant
17. Cadet

PRIVATE SECURITY COMPANIES UNIFORM



Private security guard accessories



Vehicle radio stations

Portable radios



B. Purev

PRIVATE SECURITY INDUSTRY DEVELOPMENT IN MONGOLIA

Development of the private security industry

During the socialist period until the early 1990s there were no private or contracted security companies or legal entities in Mongolia. But there were property security services. Wool processing manufacturers' cooperatives, leather processing manufacturers' cooperatives, and sewing manufacturers' cooperatives had property security units responsible for the protection and security of the industries within the cooperatives. All them were part of the state property organizations and the largest had around 200 security personnel. The state property objects and organizations of extreme importance were under contracted police officers' protection funded by those organizations.

The General Police Department, which was under the jurisdiction of the Government at the time has submitted proposal to relieve the police officers from protection and security functions, as around 71 percent of the officers were exercising security tasks. The Cabinet, after discussing the change of mandate of the police from security to the law enforcement and public order functions, has supported the proposal and has issued protocol No.14 on 23 November 1990. In accordance with this protocol the number of state organizations that were under the protection and security of the police was significantly decreased, some of the organizations' security was transferred to National Guard protection, but still a certain number of organizations remained under police security protection. Most of the objects that remained under police security protection were transferred to the Ulaanbaatar City Police Department Contracted Security protection unit which was established by the decree of the Chief of the General Police Department on 24 December 1990. The unit was formed by retired police officers. Subsequently, a decree on establishment of the police security and alarm service unit was issued. The unit formed by police officers was offering protection, security, security alarm services to the private business entities, private premises, and residential towns, at a market price.

However, considering the lack of need to keep the remaining state objects under police security protection the General Police Department issued a decree on 21 January 1993 to establish a cooperative near the Ulaanbaatar City Police Department that offered security protection services

at a market price to those objects and organizations who wanted to have such services. This was the first contracted security protection company, but state-owned. Subsequently the contracted security protection unit established at the Ulaanbaatar City Police Department was dissolved in July 1993. In May 1993, the Cabinet issued a resolution approving the list of state objects and organizations under state special security protection. Accordingly, only objects and organizations of “extreme importance” were placed under police and military security protection; all other facilities protection was transferred to ordinary security companies.

Subsequently, in 1998, a group of retired and former police officers established a private security protection company named “Tsagaan Bar” (White Tiger) which was the first private security company in Mongolia. The company started to protect state objects and organizations such as the General Taxation Office, companies with state ownership as well private premises and houses, residential towns with security guard and alarm systems. The company then split into 3 entities such as “Tsagaan Bar,” “Bambai Security Service” and “Ulaanbaatar Security” in 1999. As the law on contracted security protection services was not issued then the private security protection companies relations were regulated by the Company Law of Mongolia.

Legal framework

The Law on contracted private security protection services was adopted by the State Great Hural on 20 January 2000. This is the main legal document which regulates the activities of the private contracted security protection legal entities.

In accordance with Article 7 of the law the private entity interested in running contracted private security protection services shall obtain from the relevant state authority permission or license to run such services. On 30 November 2001, by the adoption of the law on decreasing the number of the licenses issued by the state the law on contracted security protection services was annulled. Instead it was stated that the entities shall be required to register with the provincial or capital city police. Some provisions of the law related to the licenses were invalidated; some wording changed to “register.” No other amendments were introduced and the law is still observed.

Article 3 of the law stipulates that “security protection” is “an activity of ensuring protection and security of the property, objects of the customer on

contract basis by the entity running security protection services,” “security protection entity” is “an entity registered in accordance with the legal provisions with the relevant state authority and running security protection services.” This clearly states that the security protections services could be run only by the legal entity and not a by a private person. Article 4 of the law states that a private person can on a contract basis serve as a concierge or guard, the relations shall be regulated by the labor agreement. It is obvious that the relations of the special security services, armed forces, other law enforcement, intelligence, police security protection activities will not be regulated by this law.

Article 7 of the law stipulates that the entity interested in running private security protection services shall submit a request for registration, relevant documents, employer’s reference letter as well as medical certificates for each personnel to the provincial or capital city police authority. Upon the receipt of the request the police shall review the materials and within 30 days shall inform on the decision in written form. The term “relevant documents” is referred to the evidence that the entity fulfilled the requirement stated in Article 6 of the law. These are:

- The charter and organizational structure, and staff personnel;
- Possesses the equipment and specialized tools required for conducting security operations;
- The original of the certificate of the given legal entity and the notarized copy thereof;
- Self-reliant financial standing.

Article 3.1.4 states that the “security staff personnel” is the legal personality who exercises specific security functions in the security protection entity. Article 13 of the law stipulates that a person who reached the age of 20, in good health and physical condition, received adequate education and training, certain working experience, without a conviction is eligible to be employed as security staff personnel.

Article 11 of the law states that the security staff personnel shall wear uniforms with the special identification badges while on service. The uniform designs and special identification badges, as well as the regulations on the use of the uniform shall be approved by the National Police Agency.

The law also stipulates that the main legal document regulating the relations between the private security protection entity and the customer shall be the contract. The contract provisions shall be in accordance with the

law on contracted security protection as well as the Civil Code of Mongolia. Specific provision which is required to be included in the contract is related to Article 9 of the law on contracted security protection which stipulates that the private security protection companies and their security staff personnel are prohibited to collect, disseminate the information on the private lives of individuals, political and religious beliefs and transfer such information without prior consent of the customer to third parties, the press and media.

In accordance with the law provision the security staff personnel can use special tools required for conducting security operations like: rubber or electric shock truncheons, hand and finger cuffs, tear gas spray devices and the other protective devices. The special tools can be used in circumstances such as “cases when the legal demand put by the security staff personnel met with resistance and could not be terminated without using force.”

The security staff personnel have the right to use rifles only for necessary defense. The term necessary defense is stipulated in Article 19 of the law as following: “the security staff can use rifles in cases of armed robbery threatening the security of the protected object, property and life or cases of criminal gang robbery.” The rules of procedure and instructions to use rifles, special tools as well as hand-to-hand fighting are approved by the State General Prosecutor and Minister for Justice. The use of trained dogs is also stipulated in the law. However, the rules of procedures and instructions on the use of trained dogs are missing in the law and such procedures and instructions are not so far approved by the relevant authorities. In practice, the trained dogs are used for patrolling purposes only; thus, such procedures and instructions are not necessary in practice.

Private security companies operating in Mongolia

The Government of Mongolia approved the list of the state objects of “extreme importance” and the objects in the list were under security and protection of police and National Guard. In 2013, with the dissolution of the National Guard and establishment of the Security Services in the police all objects which were under security protection of the National guard were transferred to the police security protection.

As of today the following objects and organizations are under the policy budget and contract security protection, such as National Radio and Television Broadcasting Company, the contagious diseases national laboratory, mineral concentration “Erdenet” plant, explosive substances production plant, water

plants in Ulaanbaatar, Darkhan, Erdenet and Choibalsan cities, power stations No. 3 and No. 4 in Ulaanbaatar, the Mongol Bank as well as some diplomatic missions and representative offices of the international organizations in Mongolia.

There are over 300 private security protection companies operating in Mongolia. Depending on the season, the number of the personnel employed varies between 3,800 to 4,500 people. The private security companies can be classified as follows:

1. Legal entities providing security protection and security alarm services to business entities and private individuals.
2. Property security companies of the large holdings, groups and companies. They are internal structure within a larger group usually a subsidiary company of the larger corporation or an organization.
3. Private security protection companies that are registered with the state, but carry out random security protection services.
4. Over 30 private security companies have obtained the registration to run security protection activities but have not started operating or suspended their operations.

A few private security protection companies were established with foreign investment in the beginning, but as of today there is no private security protection company with foreign investment operating in Mongolia. But there are a few companies of which around 25% of shares belong to foreign nationals.

For example, “Bambai” security services LLC, which has obtained one of the first permissions from the Capital City Police after in 2000 the law on contracted security protection was adopted. As mentioned earlier, the company split from the “Tsagaan Bar” LLC and is now one of the most well-known private security protection companies with a wide range of services and activities. In a period of 17 years of operations the company has detected over 96,152 cases of breaches and offences, among which were 4,055 cases of theft or robbery, 372 cases of fire outbreaks, and the remaining cases are related to the violation of the organization internal regulations, drunk rows, etc. As of January 2016, the Bambai security services employed 405 security staff personnel in 314 working places, has over 901 objects under its security protection in Ulaanbaatar and in 11 provinces.

In the last 17 years, the company in total paid over 5.9₮ billion in taxes, 139.3₮ million in fees, land taxes, fines and compensations, 1.3₮ billion from employer and 1.1₮ billion for the insurance contributions.

Legislation

Currently most of the objects except ones which are listed by the Government as state objects of “extreme importance” (excluding police and military objects) are under private security protection companies. This includes state organizations, national private business entities and business entities with foreign investments, publicly owned property and assets, major auto parking facilities, residential towns, privately owned lands, private premises and houses, mining fields run by mining companies, industrial plants and factories, banks, financial institutions, public entertainment and service organizations and facilities like theaters, museums and stadiums, private clinics and hospitals, trade centers (supermarkets), etc. From this we can conclude the role of the private security industry in safeguarding internal security is immense.

It is important to increase the involvement of the private security industry in safeguarding the internal security of the state. In doing so the following needs to be taken into consideration.

1. Further improve the law on contracted security protection. For example, the types of the security protection services the legal entity could provide need to be included in the law. We consider that all objects which are not under protection of law enforcement and the military as stipulated in the Cabinet resolution and the law could be placed under the private security protection entities. As of today, some of the state organizations and officials consider that the Khanbumbat Airport at the Oyu Tolgoi mine as well as mining explosives storage should not be under private security protection entities.

2. The term “security and protection personnel” should be registered as a profession in the state registration and the references of the profession needs to be approved. The current tendency to employ young people with no specific training as the security protection staffer might have bad consequences. The training guideline for the private security protection company staffers was approved by the decree of the Minister of Justice and Minister for Education in 2001. Unfortunately, this training guideline is not meeting the requirements. It does not contain specialized training such as instructions for the use of special tools, detection of vehicles, recording skills, communication skills with

the customers as well as insufficient knowledge of the laws and regulations.

3. In practice, since 1993 up to the present law enforcement agencies, namely the police and private security protection companies never had conflicts and duplications in their activities and operations. In recent years, the Capital city police initiated consultative meetings, conducted training with the private security protection companies, thus increasing bilateral cooperation. But there is still a demand from the public order enforcement agency to further increase inter-action and cooperation with their private sector counterparts. The private security and protection staff personnel quite often witness or detect criminal actions and offences, especially during the night shifts nearby their protected objects. There is a lack of training for the private security staff personnel on operational awareness and reaction in such cases. The relevant organizations should consider what benefits cooperation between the law enforcement agencies and the private security companies could bring as well as on how to make use of the private security protection services in the safeguarding public order.

4. There is no registered case of rifle use by private security staff personnel so far. No complaints on the misuse of special tools have been registered either. There have been several cases when private security protection companies were involved in loan collection activities using force, hired for demolition of the fences due to the land ownership disputes, among others. The number of vehicles with “security” signs have increased, and cases of such vehicles involved in illegal hunting and investigations were reported. There is a certain need for the relevant state authorities to oversee and investigate the activities of the private security protection companies.

P. Tsetsgee

OVERVIEW OF THE MILITARY JUSTICE SYSTEM

Historical background

The establishment of the military court system or special courts has its own history. From 1921 to 1993, the Military Court was named in the Mongolian judicial system as the “special court.” The establishment and dissolution decisions were carried out by adopting relevant laws.

According to scholars, the first People’s Provisional Government approved the composition of the provisional Government on 24 March 1921. In accordance with the composition the first public court was established under the Ministry of Interior, and the first military court was established under the Military Affairs Ministry.

Subsequently, on 16 July 1921, by the decree of the People’s Government, the military special court “Command Committee” to deal with political as well as military offences and misconduct cases was established under the Military Affairs Ministry.

The Military Affairs Ministry was the highest judicial body under whose jurisdiction all military trials and prosecution processes were carried out, while all other case trials and prosecution processes were carried out by the state central administrative and local administrative organization officials. This was in the period when the legal and judicial systems were not well developed, due to a lack of professional human resources.

In accordance with the first constitution of the People’s Republic of Mongolia adopted in 1924 the supreme power to establish the judicial and court system, code of procedures as well as the drafting of laws on civil and criminal codes and proceedings was vested in the State Supreme Legislative Organization. Subsequently on 16 April 1926 the State Baga Hural Presiding officers have approved the “People’s Republic of Mongolia rules of procedures on establishing the court offices.” The military court or special courts were included in the first judicial system.

Specification of the special courts:

- Criminal offences committed by service personnel against the armed forces and national security.

- The judges of the military courts shall be appointed by the Military Council and approved by the State Baga Hural.

By resolution no. 54 of the State Baga Hural, presiding officers of the “Rules of procedures of the Mongolian Red Army military courts” were approved. Accordingly, by Military Council resolution permanent courts and temporary courts could be established, and personnel of the courts shall be considered as military personnel and shall comply with the laws and regulations on military personnel.

- Criminal offences and crimes committed by military personnel jointly with civilians outside of the military garrison or unit were transferred to the public courts. Any civil cases related to military personnel were not overseen by the military courts.
- The military courts and the Border Defense Office courts, which were established under the Ministry of Interior by the decision of the Ministerial Council of the People’s Republic of Mongolia in 1931, shall be comprised of a presiding judge, two members and one secretary, who shall also exercise the right equal to the member of the court and advise on the ruling of the court.

At the same time in 1930, an additional chapter 5 “Rules of procedures of the military courts and military prosecutor offices” was newly introduced to the “People’s Republic of Mongolia rules of procedures on establishing the court offices.” This document has enlarged the case jurisdictions of the cases as well as regulated that the military court presiding judge and the secretary shall be military personnel.

Article 59 of the 1940 Constitution of the People’s Republic of Mongolia stipulated that the “judges and members of the special courts shall be appointed for the term of four years by the State Baga Hural.” Thus, the appointment of the special court’s presiding judges and members were specifically regulated at the constitutional level.

The Chapter 4 of the first Law on the Structure of the Courts of the People’s Republic of Mongolia approved in 1949 stipulated that the special courts shall be established at the military units and paramilitary organizations, the military court presiding judges, members and people’s representatives shall be elected for a four-year term by the supreme legislative power People’s Great Hural of Mongolia. The military criminal cases were to be overseen by the presiding judge or one of the members of the court with the presence of two people’s representatives who had the right.

By the resolution of the People's Great Hural presiding officers of the People's Republic of Mongolia, the military courts of Choibalsan city and Undurkhan city were dissolved in 1951 and the People's Army military court was established at the Ministry of Defense. In 1965, the court was renamed to People's Army special court. In 1972, by resolution of the People's Great Hural presiding officers, the Border and National Guard military special court was established. In 1978, a military engineering special court as well as special courts at the three garrisons such as Erdenet, Zuunbayan and Uliastai were established.

Subsequently, in 1988, by the resolution of the Mongolian People's Revolutionary Party Central Committee Political Bureau on the "Military justice reform" and by the resolution of the People's Great Hural Presiding officers the Border and National guard special court, People's Army special court and Military engineering court were merged into an Army Special Court with the right to conduct appeals and investigations. The three garrison special courts and military unit special courts were re-organized and began to exercise the right to conduct primary trials.

The main legal document which regulated the activities of these special courts was the Military Court Rule of Procedure approved in 1978 by the People's Great Hural Presiding officers. The rules of procedures stipulated that the main goal of the special courts is to "implement justice and fight any attempts which threaten national security, damaging the armed forces' fighting capacity, and violating the code of conduct of military service." The document also regulated the status of the military collegium, primary court jurisdiction as well as determined that the primary courts' procedures shall be set by the Ministry of Defense and Ministry of Interior of the People's Republic of Mongolia and if required the military courts could be established at the military garrisons, formations, and units. The military courts procedures were regulated by the Constitution and Law on court organizations of the People's Republic of Mongolia as well as the Military Court Rules of Procedures. Though in accordance with the Constitution the military (special) courts were within the justice system and under the Supreme Court oversight, the rule of independent and fair justice was not always complied due to the following reasons:

- The supreme court military collegium and military court members were members of the Armed Forces, with military ranks and privileges, obliged to adhere to military personnel rules of conduct and procedures;

- The military court administration, support, premises, transport as well as funding were provided by the Ministry of Defense and Ministry for Internal Security;
- The security protection of the military court premises as well as offender protection under the garrison/unit/regiment were under the jurisdiction of the military court;
- The presiding officer of the supreme court military collegium reported on activities of the court directly to the above ministries as well as chief of the political department of the People's Army, thus the possibility for directly and indirectly influencing the court decision was quite high.

The military court proceedings stipulated adherence to the collective decision making principle and oversaw the inclusion of the two people's representatives with rights equal to the judges in the trial courts. The judges, members, as well the people's representatives of the military courts were required to be military personnel, citizens of the People's Republic of Mongolia, with the right to vote and aged 23 or older. The judges, members of the military courts were appointed by the People's Great Hural presiding officer decree for the term of four years, while the people's representatives were appointed for a two-years term through open voting among the military garrison, regiment or unit personnel. We can conclude that the military court proceedings were not conducted by professional judges or law enforcement personnel.

The large number of cases dealt with by the military courts at the time was because all cases related to military personnel crimes, military reserve personnel crimes committed during training, cases of gang crimes involving military personnel as well as crimes committed by security service, police and prison personnel, fire fighters etc. were all considered by the special courts. It is noticeable that due to the broad explanation and scope of the term "military crimes" the offender cases were heard at the military courts, thus leading to the violation of basic human rights and freedoms, and legal status.

With the re-structuring of the armed forces, by adopting the law on courts in 1993 and resolution No. 60 of the State Great Hural (Parliament) of Mongolia on dissolution of the Military Special courts and special trial courts the functions of the military courts were transferred to the civil courts. Cases of the military personnel crimes were dealt by the district courts of their residence.

The 1992 Constitution of Mongolia stipulated that the judicial power in Mongolia shall be exercised exclusively by the courts and the courts shall be instituted solely under the Constitution and by other laws. It ensured that the organizational structure of courts and the legal basis of their operations shall be established by law and that the judges shall be impartial and subject only to law.

What is a military crime? How to define it?

The term “military crime” was used in the Criminal Code of Mongolia and was a separate chapter until 1 February 2008 when it was re-named a “military service crime.”

Articles 274-296 of Chapter 10 of the 2002 Criminal Code of Mongolia stipulated that “The military service crime is the crime which encompasses all voluntary and negligent violation of laws of Mongolia, violation and disobedience of military orders and regulations leading to the creation of conditions threatening society or situation conducive to such.”

Article 274.1 of the Criminal Code stated that, “A citizen of Mongolia who violates the rules and regulations on military service while serving in the armed forces, other military and conscript training and commits crimes as stipulated in the chapter 10 shall be considered as a person who committed a military service crime.”

The military serviceman is “the citizen of Mongolia who serves in the armed forces and other military formations.”

In accordance with the amendments to the Criminal Code of Mongolia on 1 February 2008 the “police, special service, court decision implementation officers, firefighters, prison wards” were removed from the list of military crime subjects.

However, the Law on Military Service approved on 1 September 2016 stipulates that “citizens of Mongolia serving in the armed forces, border protection and national guard, and special services shall be military servicemen.” This might lead to understanding the definition of the military service crimes in broad context and further lead to amendment of the Criminal Code.

The object of the military service crime is the military service rules and regulations and norms regulating them. The objective characteristics of the military service crime are violations of the military service rules and regulations.

Crimes against the established order of the execution of military service specified in the Special Part on Crimes against the rules of the execution of military service of the Criminal Code committed by citizens of Mongolia who are service personnel of the Armed Forces, as well as those for the reservists during their training muster, shall be military crimes. Servicemen shall include the citizens of Mongolia in active military service in the Armed Forces and other troops. Officers, sergeants, firefighters, ... who committed the crimes specified in this Chapter shall be subject to criminal liability. Persons unspecified in this Article who act as accomplices in military crimes shall be subject to criminal liability under the respective article with application of Article 33 of the Criminal Code. Even in cases when military personnel while not on active duty has committed crimes as stipulated in Article 274-296 of the Criminal Code he/she shall be subject to a military service crime.

The subjective characteristics of the military service crime could be a voluntary and negligent violation. The diverse forms of disobedience against superiors, misuse of a position as superior, use of force, and desertion are intentional forms of violations. Disobedience of orders, violation of safety rules and regulations while handling firearms, conventional ammunition, other dangerous devices and equipment are negligent form of violations. Cases of guard crimes encompassing any misdeed during guard duty, and absence without leave could be voluntary as well as negligent violations.

Therefore, it is important to detect the subjective characteristics of the military service crimes and identify the purpose and the motives behind the crimes. It could be understood that the military service crime is a violation of the military service rules and regulations by the citizen of Mongolia while serving in the armed forces, conscript service, and reserve personnel military training.

Crimes against the established order of performance of military service committed during martial law or a state of war and liability for such shall be established by the law of Mongolia passed at the respective time.

Crimes against the established order of the execution of military service specified in the Criminal Code of Mongolia

- Disobeying orders (Article 275)
- Threat, resistance or violence towards commander (Article 276)
- Violence by superiors against subordinates (Article 277)
- Violation of the statutory rules of relationship between service personnel who are not subordinated to one another (Article 278)
- Desertion from military service (Article 279)
- Evasion of military service by self-injury or by other method (Article 280)
- Sale, embezzlement, and misappropriation of military property and ammunition (Article 281)
- Deliberate destruction or damage of military property (Article 282)
- Violation of the rules for handling of weaponry or substances and objects presenting an increased danger to the surroundings (Article 283)
- Violation of rules of driving or operation of military vehicles (Article 284)
- Violation of the rules of the military or training flights or of preparation to them (Article 285)
- Violation of war duty rules (Article 286)
- Violation of the internal service statutory rules (Article 287)
- Violation of the statutory rules of guard duties (Article 288)
- Violation of the rules of guarding the border (Article 289)
- Surrendering to the enemy or leaving the military unit (Article 290)
- Unauthorized leaving of the battlefield or refusal to use arms (Article 291)
- Voluntary surrender (Article 292)
- Marauding (Article 293)
- Abuse, excess or omission of power (Article 294)
- Negligent attitude towards service (Article 295)
- Illegal wear and abuse of the sign of the Red Cross (Article 296)

Crimes committed against another military person

The “crimes committed against another military person” are regulated by the Chapter on crimes against the human rights and freedoms as well as the Chapter on crimes against human life and health of the Criminal Code of Mongolia.

Crimes against the established order of the execution of military service specified in the Criminal Code such as violence by superiors against subordinates (Article 277), violation of the statutory rules of relationship between service personnel who are not subordinated to one another (Article 278), evasion of the military service by self-injury or by other method (Article 280), violation of the rules for handling of weaponry or substances and objects presenting an increased danger to the surroundings (Article 283), violation of rules of driving or operation of the military vehicles (Article 284), violation of the rules of the military or training flights or of preparation to them (Article 285) could intentionally and unintentionally occur against another military person or civilians.

Consequences of such crimes could be loss of life, injury, damage of property and many more that could be measured as below.

Damage forms:

- A) Material (monetarily measurable)
- B) Non-material (non-monetarily measurable)

Non-material damage forms:

- A) Recoverable
- B) Non-recoverable

“Recoverable health damage” is intentional or unintentional infliction of a less severe or minor bodily injury, which has caused a long-term or a short-term detriment to health or a loss of the ability to work.

“Non-recoverable health damage” is intentional or unintentional infliction of a severe injury that is a life-threatening injury or one which has entailed the loss of sight, hearing or any organ, or the loss by an organ of its functions, a mental illness or another detriment to health which has entailed or which has been expressed in irreversible disfiguration of the face or interruption of pregnancy, or which has caused a permanent loss of the ability to work.

Criminal cases committed by military service personnel handled by courts (nationwide figures):

2013 – 0.084%

2014 – 0.094%

2015 – 0.088%

The cases are handled by civil courts of the provinces, sub-provincial units, districts where the military administrative body, regiment, unit, Defense University and other defense sector subordinate organizations are located.

Criminal cases committed by military service personnel handled initially in local criminal courts in the past three years. (Data from court statistics)

Years	Number of cases handled by initial criminal courts (all provinces)		Percentage
	Total number of cases	Military crime cases	
2013	352	3	0,85
2014	473	6	1,26
2015	711	6	0,84
total	1536	15	0,97

It is noticeable that the percentage of the military crime cases among the total criminal cases handled by the courts is very low.

In accordance with this survey, most of the military crime cases handled by the criminal code and criminal code proceedings are related to violence by superiors against subordinates, violation of the statutory rules of relationship between service personnel who are not subordinated to another, desertion from military service, evasion from military service, sale, embezzlement, and misappropriation of military property and ammunition, violation of the rules for handling weapons or substances and objects presenting an increased danger to the surroundings.

Conclusion

Though the number of military crime cases handled by the criminal courts is negligible, it could be concluded from the survey on military crime cases classification that measures to increase the morals and ethics of military personnel are required.

Paragraph 3.1.1 of Article 3 of the Law on Military Service approved on 1 September 2016 defines that, “citizens of Mongolia serving conscript military service, active member of the armed forces, border protection and national guard, special services and reservists during their training muster” as serving in the “military service.” This might lead to an understanding of the definition of the military service crimes in broad context and further lead to amendment of the Criminal Code.

Dissolution of the military judicial system and transfer of Military Special courts and special trial courts functions under civilian judicial system was conducted in line with the democratic transformation process in Mongolia. As of today, the civilian judicial system handles the cases of the military crimes in accordance with the civil and criminal proceedings laws of Mongolia.

P. Oyunchimeg

HUMAN RIGHTS IN THE SECURITY SECTOR

The 1992 Constitution of Mongolia cemented human rights and freedoms by proclaiming them as the supreme objective of developing a humane, civil, democratic society in the country.

Eight years after the adoption of the Constitution, in 2000, the law of the National Human Rights Commission of Mongolia (hereinafter referred as NHRCM) was adopted. Following the adoption of this law, a national human rights institution mandated with the promotion and protection of human rights and freedoms, human rights education was established in Mongolia.

The law is comprised of 6 chapters and 26 articles and provides the operational principles, structure, organization, and mandate of the Commission as well as regulates the complaints handling procedures on human rights violations. According to article 3.1 of the law, the Commission is an institution mandated with the promotion and protection of human rights and freedoms, and charged with monitoring the implementation of the provisions on human rights and freedoms, provided for in the Constitution of Mongolia, Mongolian laws and international treaties to which Mongolia is a party.

Article 3.3 stipulates that the Commission shall adhere in its operation to the principles of the rule of law, independence, protection of human rights, freedoms and legitimate interests, justice and transparency ... Article 3.4 stipulates that it shall be prohibited for any business entity, organization, official or individual person to influence and/or interfere with the activities of the Commission and its members. As of today, the commission operates in full compliance with the Principles relating to the Status of National Institutions (Paris Principles).

The NHRCM has three full-time Commissioners. The law requires the candidates for Commissioners to be Mongolian citizens with high legal and political qualifications, with appropriate knowledge and experience in human rights, with a clean criminal record and having reached the age 35. In accordance with this law, the Speaker of the State Great Hural (Parliament) nominates candidates for Commissioner to the State Great Hural (Parliament) based on proposals by the President, the Parliamentary Standing Committee on Legal Affairs and the Supreme Court. The State Great Hural appoints the

Commissioners for terms of six years with a single possible re-appointment. The Chief Commissioner is appointed by the Commissioners for a term of three years.

As an institution with an independent mandate the NHRCM does not report on its activities to an individual official but submits status report on human rights and freedoms in Mongolia to the State Great Hural (Parliament) in the first quarter of each year. The Standing Committee on Legal Affairs upon discussing the status report issues a resolution and if deems appropriate to further examine the questions raised shall submit the report for discussion at the plenary session of the State Great Hural (Parliament).

The Universal Periodic Review Summary prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council recommended the Government of Mongolia that the NHCRM is provided with adequate resources and funding to enable it to carry out prompt, independent, impartial activities. The decreasing allocation of the NHCRM budget for the last consecutive three years (830.3 million in 2014, 831.5 million 2015, 731.6 million in 2016, in ₮/MNT) is certainly insufficient for an organization that carries its activities throughout the whole territory of Mongolia. Thus, the NHCRM implements projects on specialized human rights issues jointly with international organizations.

The NHRCM is granted “A” status by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) (indicating full compliance with the Paris Principles) and is a full member institution at the Asia Pacific Forum of National Human Rights Institutions (APF).

The Commission conducts inquiries of government organizations and business entities to detect and eliminate violations of human rights and to restore the violated rights. In addition, it also conducts research and surveys on specific topics to study existing pressing human rights problems in society and to reveal their causes and effects. Furthermore, domestically the Commission signed memoranda with the security, armed forces and law enforcement organizations to expand cooperation with them and improve human rights education of their employees.

The Commission conducts advocacy work supporting the ratification of or accession to international human rights treaties and establishing bilateral agreements and memorandums of understanding aiming to protect Mongolian citizens living abroad.

In accordance with Article 13, paragraphs 13.1.3, 13.2.6 of the law on NHRCM the Commission puts forward proposals on the implementation of international human rights treaties and/or drafting of Government reports thereon and encourages ratification of and/or accession to international human rights treaties.

The Commission submits lateral comments and proposals on the drafting of the national reports on the implementation of the international human rights treaties to the Government, and as an independent human right watch-dog organization submits its shadow report to the UN relevant committees. Since its establishment, the Commission has submitted five shadow reports to the Committee against Torture, the latest submitted on 13 July 2016, reports on implementation of CEDAW in 2006 and 2016, and reports on human rights situation in Mongolia to the UN Human Rights Council in 2010 and 2014.

From 2008 to 2015, the Commission has submitted proposals, recommendation to over 100 laws, regulations and policy papers and conducted advocacy work supporting the accession to the Optional Protocol to the Convention against Torture, Third Optional Protocol on Convention on Rights of the Child, Convention on the Rights of Persons with Disabilities, Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime.

The NHRCM conducts human rights education training to advance public knowledge and awareness so that they can be prepared to stand up for their rights and issues recommendations to Mongolian diplomatic missions to pursue the interests of Mongolian citizens living abroad.

With this aim the NHRCM conducts activities at its own initiatives and in accordance with Article 13, paragraph 13.2.2 collaborated with the international, regional and other national human rights institutions.

As a member of the Asia Pacific Forum of National Human Rights Institutions the Commission closely collaborates with the NHRC of Korea, Myanmar, the Philippines and Australia on issues related to the protection of the interests of Mongolian citizens.

Human rights – Security sector reform

The approval of the new National Security Concept of Mongolia on 15 July 2010, by the State Great Hural (Parliament) of Mongolia has started a comprehensive security sector reform as well as legislative reform process.

The Concept states that Mongolia's genuine national interests shall incorporate the very existence of the Mongolian people and its civilization, respect for human rights and freedoms, the rule of law, national unity, constitutional establishment, development of political, civil organizations and free press and media as well as a democratic state structure built on social stability shall be the preeminent guarantee for the assurance of national security.

Rapid changes in external and internal environments cause new multifaceted threats and challenges to the national security of Mongolia. Globalization, growing economic, social integration, the information technology and communications rapid development created new boundless environment which directly affects human mentality and lifestyles. Though it boosts positively the development and creates new opportunities on the other hand it causes the emergence of new non-traditional threats. Freedom of expression and privacy, two rights intertwined with the information and communication technology (ICT) sector. Balancing the two is not easy; states and companies in the sector continue to face multiple challenges such as internet governance and legislation, data protection, copyright, privacy and human rights issues. Unsecure data can affect national interests and national security and, ultimately, the citizens' rights and freedoms. Thus, the notion of ensuring the protection of human rights and freedoms in the national security concept is of utmost importance.

Human rights protection and human security are ensured by the State Great Hural (Parliament), President and the National Security Council, Cabinet, law enforcement, state administration and local administration organizations. With changing perceptions of civil rights, freedoms, and human security there is a strong need to create a comprehensive vision and mechanism to address this issue and increase public/private entities and civil society involvement.

Since its establishment, the NHRCM in accordance with the provisions of the law has been ensuring civil rights and freedoms by curtailing external and internal factors negatively affecting them as well as taking preventive measures.

Chapter 3.3 of National Security Concept of Mongolia stipulates that, "The foundation of internal security shall rest on ensuring human rights and freedoms, adherence to the Constitution, respect for the rule of law, continuity of the Mongolian state governance and national unity, support for political parties, civil society, free press and media, individual liberties as well as safeguarding public order and social stability."

As an institution mandated with the promotion and protection of human rights and freedoms, the Commission organizes jointly with governmental, NGOs, and press and media human rights awareness raising campaigns, takes effective measures against human rights violations, conducts human rights education training to advance public knowledge and awareness so that they can be prepared to stand up for their rights, establishes mutually beneficial cooperation with international and regional organizations to advance human rights in Mongolia.

To receive independent evaluation the Commission reports twice a year on its activities to civil society organizations. Besides that, an adjunct council with representatives from 19 NGOs who run human rights protection activities in Mongolia assists the Commission.

Human rights education training to advance public servants knowledge and awareness.

- Human rights education training to advance public knowledge and awareness;
- Human rights training for public servants and the general public;
- Public lectures on pressing issues in human rights;
- Release of leaflets, booklets, and books on specific human rights issues;
- Mark an annual International Human Rights Day;
- Quarterly broadcasting of special radio and television programs on human rights and freedoms issues;
- Public debates on findings on Report on Human Rights and Freedoms in Mongolia;
- Update frequently the website content of the Commission;
- Run permanently the Human Rights E-Campus Training;
- Hold yearly “Human rights open day” activity in local areas;
- Run Human Rights E-Library.

“Human rights open day” activities are held on a permanent basis during which inspections on conditions of the detention centers and prisons of the police and general executive agency of court decisions offices in provinces are conducted. Regular meetings and discussions are held with the provincial

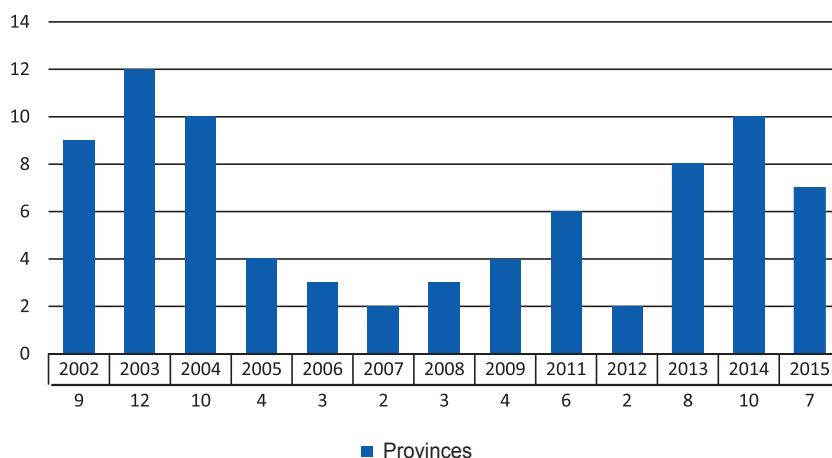
Citizen's Representative Hural, Governor's offices, courts, prosecutor's offices, police, general executive agency of court decisions, Takhar service offices (equal to the US Marshals Service) as well as with representatives of civil society and the public.

Human right days and inspections to the detention centers

The NHRCM observes 10 December of each year as Human Rights Day by holding special events. Thematic television programs on preventing human rights violations, promoting and advocating human rights and educational programs raising public awareness on human rights are broadcasted nationwide.

Inspections of the detention centers and prisons are both scheduled and unscheduled. The scheduled inspection is conducted jointly either with the Prosecutor's office or General executive agency of court decisions throughout country in accordance with the guidelines and special schedule. Unscheduled inspections are conducted in accordance with the guidelines unexpectedly or upon receipt of a complaint in accordance with Article 16 of the Law on national human rights commission.

At the same time the Commission issues recommendations and/or proposals on whether laws or administrative decisions are in conformity with the key human rights principles and provides legal advisory services. Human rights education training for law enforcement agencies personnel as well as state administrative personnel is held on regular basis. The table below shows the frequency of the Human rights open days held by commission.

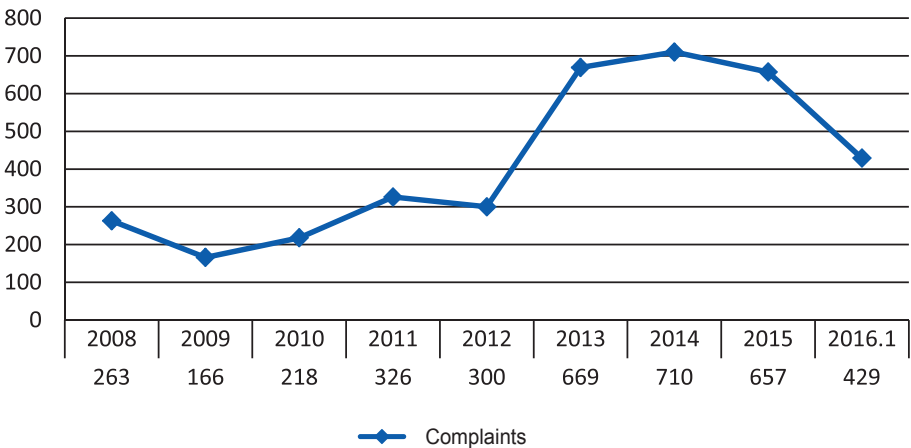


Human rights violation prevention activities, complaint lodging and handling

Human rights violation preventive measures are important part of the commission’s work. Violation of human rights by governing groups while exercising their powers affects the good governance and furthermore threatens human rights and freedoms. Thus, precise examination of human rights violations complaints, effective enquiry and complaint handling are the tools to ensure the human rights and freedoms.

Since its establishment, the NHRC and commissioners in accordance with their mandate have exercised their powers to investigate human rights violation cases and handled complaints. One can conclude that the number of human rights violation complaints submitted by individuals is increasing in recent years is due to the increased general public knowledge on human rights. The fact that commission senior level officers work in provinces as well as the complaints could now be submitted online also affect this increase.

The Commission has received and handled 3,738 complaints from individuals and entities between 2008 and 2016. According to statistical data, on average the Commission received and handled around 200 complaints annually in the first few years, while the number of the complaints handled has increased twice in the last three-year period on average 645 to 710 complaints annually.



The NHRCM exercises oversight over security sector (Armed forces, National Police agency, intelligence services, border protection agency) by ex-post, ex-ante and regular oversight and inspections, obtains and reviews the necessary evidence, official documents and information from organizations and/or officials, receives and handles complaints, oversees the complaint decision execution etc.

2008-2015 activities

The law on NHRCM does not contain any provision on the commission's role and function on protection of human rights in the security sector or security sector oversight. The Commission conducts the promotion and protection of human rights and freedoms, monitors the implementation of the provisions on human rights and freedoms in all organizations and entities provided for in the Constitution of Mongolia, Mongolian laws and international treaties to which Mongolia is a party.

The monitoring inspections are scheduled and unscheduled or surprise. Off-schedule inspections are conducted in accordance with the guidelines or upon receipt of a complaint from individuals or entities. The inspections are conducted in accordance with the rules and regulations of Mongolia, international treaties, principles, rules and recommendations of the UN and other international organizations.

In accordance with Article 16.1.4 of the law on NHRCM the Commission has the right to obtain without any charge the necessary evidence, official documents and information from organizations and/or officials, and to get acquainted with them on the spot, accordingly the Commission reviews and inspects official documents and information of the security and law enforcement agencies except the ones related to the state secrets or are under the list of documents under state secrets. In certain cases, if commissioners consider it necessary during investigation the commissioner exercises its right to access the confidential data/secrets of the State, organization or individual person in accordance with procedure established by Article 16.1.8 of the law.

The Law on NHRC determines the powers of Commissioners with respect to decision-making on complaints.

The NHRCM has conducted first monitoring visits to the military regiments of the Armed Forces and Border Protection Agency units in 2005.

This was the first ever case of independent oversight over the implementation of human rights in the security sector which has revealed for the first time the violations of the human rights in the armed forces and border protection agencies. The fact-finding visit has also reviewed the labor rights of the military personnel as well as the implementation of the child rights for education and issued recommendations.

The scope of the fact-finding visits included monitoring on the implementation of rights of military servants as prescribed by legislation, armed forces human rights violations, especially consequences arising from service misconduct, implementation of right to labor by civilian employees on service contract with the military, and status of the workplace environment, living conditions, nutrition, uniform replacement and work safety of military servants.

NHRCM had conducted monitoring visits to six military regiments of the Armed Forces General Command stationed in Ulaanbaatar and five military regiments subsidiary to the Border Protection Agency. The monitoring visits have revealed practices of service misconduct, unnecessary use of force and humiliation of subordinates. The Commission explained to the command and the regiment personnel that these human rights violations should not be explained by the specifics of subordinate uniform command and that the military service should abide to human rights norms and standards. The Commission included in the 2007 Report on Human Rights and Freedoms in Mongolia a thematic chapter on the status of the human rights of military personnel. The thematic chapter on human rights of military personnel has been discussed at the Standing Committee on Legal Affairs of the Parliament.

In results of the survey conducted among 829 recruits during monitoring visits at armed forces regiments, 79.4% of respondents indicated that sergeants exercise service misconduct, 55.9% respondents indicated sworn officers, 53.6% indicated corporals and 38.7% indicated other privates exercising service misconduct. In a similar survey among 522 recruits at border protection regiments 44.8% indicated sergeants, 23% officer, 10.2% corporals and 22% other privates as exercising service misconduct. Furthermore 32.3% of respondents from armed forces regiments reported being physically abused, 33.5% threatened and 36.6% being materially extorted, whereas 19.9% respondents from border protection regiments reported experiencing physical abuse, 17.6% threatened, and 6.3% being materially extorted. According to 2006 inpatient statistics of the Armed Forces

Central Clinical Hospital for a 10-month period, 12 privates were hospitalized because of severe beating by their superiors. The report stated that these figures suggest that service misconduct such as physical abuse, mental duress and other improper behavior are common among military personnel.

As a result of the monitoring visits Memorandums of Understanding were signed with the relevant organizations to conduct human rights education training, awareness-raising campaigns and human rights violations prevention measures. The MoUs were established for periods of 3 to 5 years and included joint monitoring of the MoU provision implementation in accordance to special annual work plans. It has been concluded that these joint activities have shown a positive result in prevention and protection of human rights in military. The results of the monitoring visits to twelve military regiments of the Armed Forces and seven military regiments subsidiary to the Border Protection Agency conducted between 2011 to 2015 concluded that the rate of human rights violations revealed during the 2005 monitoring visits has decreased by over 80 percent. The report concluded that the human rights education level of commanders, officers and personnel has increased and has positively evaluated the organization's efforts for prevention and protection of human rights in their respective regiments by allocating special funds.

However, implementation of the labor rights of the military personnel, and status of workplace environment, living conditions as well as solitary confinement conditions still cause concerns. On the other hand, the commanding officer's accountability mechanism for human rights violations or violation of labor rights is still very weak. Instead of being held accountable for misdeeds, a curious promotion system is in place in some regiments.

The NHRCM has issued ten demands and four recommendations to the commands of military regiments of the Armed Forces and five demands and five recommendations to the Border Protection Agency regarding the elimination of the human rights violations in their respective regiments. In accordance with Article 19.4 of the law on NHRCM business entities, organizations or officials shall inform in writing regarding measures undertaken within one week if they have received demands, and within 30 (thirty) days if they have received recommendations from Commissioners. Commissioners may approach the Court, according to the procedure established by law, regarding the business

entities, organizations or officials which have refused to undertake relevant measures as provided under his/her demands and/or recommendations.

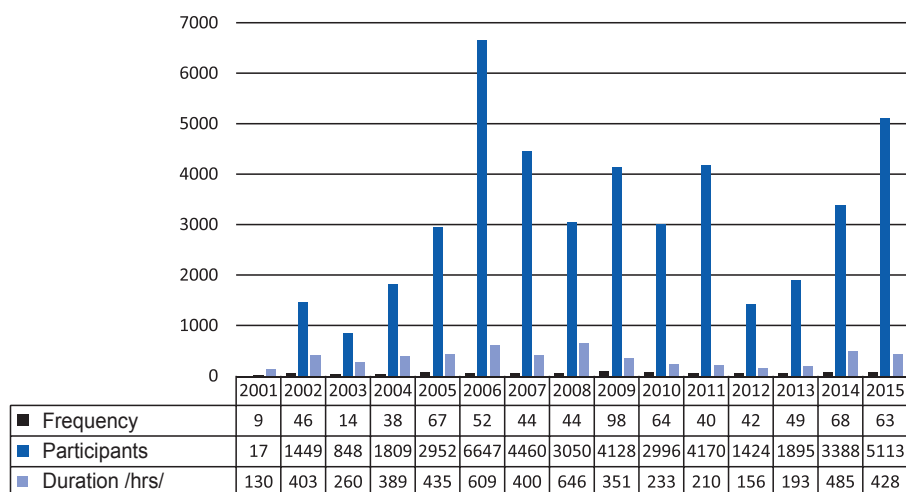
Human rights education, awareness raising and advocacy activities conducted for law enforcement agencies (2008-2015)

Advocacy and awareness raising activities

- A country's strict compliance with international agreements, conventions, and national legislation on upholding human rights during investigation, interrogation, and sentencing of criminal cases of any person is an important indication of that country's human rights situation. The Constitution of Mongolia states that, "Mongolia shall fulfill in good faith its obligations under international treaties to which it is a party. The international treaties to which Mongolia is a party shall become effective as domestic legislation upon the entry into force of the laws on their ratification or accession." Therefore, the Commission advocates development of human rights sensitive internal rules and regulations as well as reviews the internal rules and regulations of the law enforcement agencies. Within the framework of this activity the NHRCM has included a thematic chapter on "Penal Institutions and Human Rights" in the 11th report on Human rights and freedoms in Mongolia submitted to the parliament.
- Released weekly special articles dedicated to the promotion of human rights in four daily newspapers since 2011; however, due to lack of funds the Articles release was suspended in 2016.
- Develops human rights advocacy programs with the National Broadcasting Company "Legal guide" program.
- The Commission publishes quarterly the journal "Human Rights," which features articles from human rights practitioners and scholars. The journal seeks to encourage academic research on human rights. Due to the shortage of funding the magazine was published only twice in 2016.

Human rights education training

- In accordance with Article 13.2.4 of the law on NHRCM the Commission is mandated to increase public awareness about the laws and/or international treaties relating to human rights. The table below shows the human rights education training activities carried out by Commission in the past period.



- Conducts human rights education training for law enforcement agencies on a regular basis. Developed 24 handbooks on human rights issues.
- The Lawyers Legal Status Law of Mongolia stipulates that lawyers shall have human rights education. The Commission has advocated for inclusion of eight thematic lectures on human rights in the law school curriculum and organizes the human rights education training jointly with the Mongolian Lawyers Union.
- Holds public lecturing on human rights pressing issues six times per year since 2012. As of today, the Commission has held its 29th public lecture.
- Organized one-year training against human trafficking for provincial law enforcement and legal organizations jointly with the Swiss Agency for Development and Cooperation and Human Security Research Center. Throughout 2008-2015, organized over 100 human rights education training sessions at the request of law enforcement and legal organizations. In 2012, organized human rights awareness-raising and education training at 25 prisons jointly with Caritas Mongolia NGO.
- Organizes human rights lectures for high school and Law Enforcement University students on International Human Rights Day yearly.

- Established and operates the Human Rights Center at the Law Enforcement University of Mongolia in 2005.
- Held train-the-trainers program under theme “Prevention of torture” for law enforcement agencies in 2016 and prepared 25 train-the-trainers.
- During period 2008-2016 held over 468 training sessions for over 26,164 participants.

Research and monitoring

Since 2002, the Commission has been conducting applied research on thematic human rights issues, and includes significant findings of such researches in the Annual Human Rights Status Report. Within the period 2009-2015 the commission conducted 12 thematic studies related to the law enforcement agencies’ functions and activities.

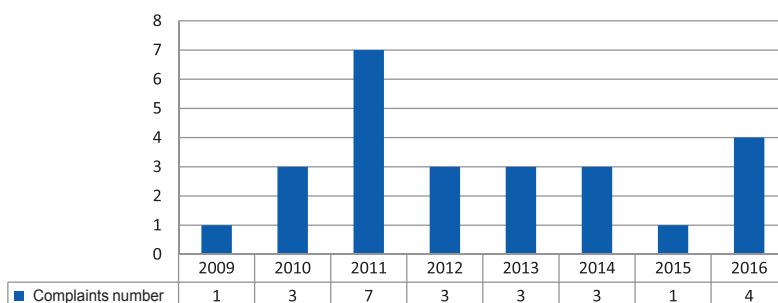
While developing its policy, the Commission also issues recommendations to relevant bodies as a result of research and studies.

The NHRCM runs the Human Rights Information Centre with more than 10,000 resources including popular English-language resources. The Centre serves general public and aims to encourage human rights research among scholars and citizens.

With the judicial and legal reform in 2015 the Commission has submitted 25 proposals on human rights issues to the laws and regulations to the Government and relevant ministries.

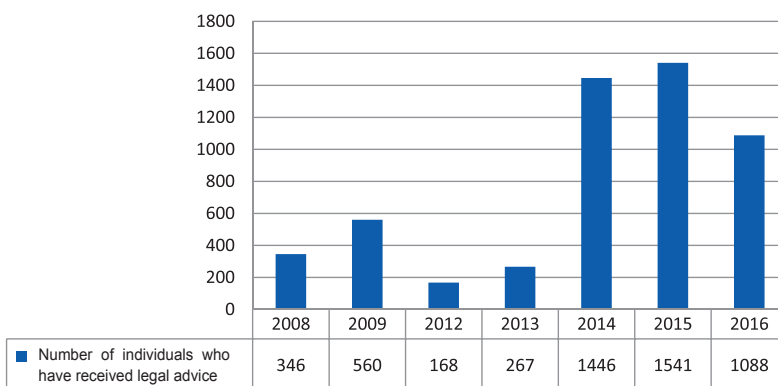
Human rights protection

According to Article 17.1.1 the Commissioners have the right to submit claims to the courts regarding issues of violations of human rights and freedoms by business entities, organizations, officials or individual persons to participate in person or through a representative in judicial proceedings in accordance with procedure established by the law. In 2003-2016 the Commission issued over 30 complaints on human rights violations to the courts and won over 412₮ million compensations to victims and restored their rights. Since 2011 up to present the Commission and won over 274₮ million compensations to victims and restored their rights.



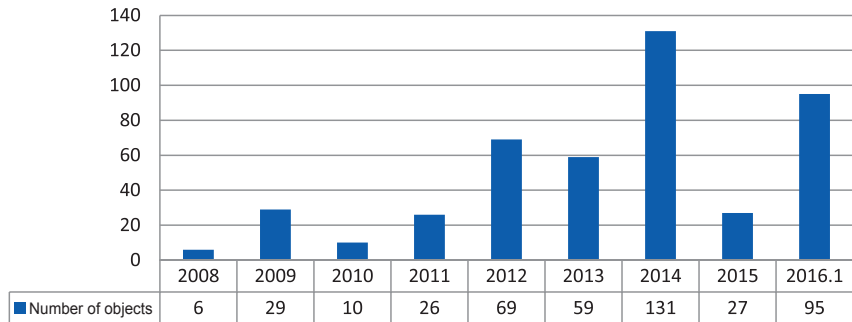
Legal advice

Besides receiving and resolving complaints regarding violation of human rights and freedoms, the Commission gives citizens, business entities or organizations legal advice free of charge. The number of individuals who have requested legal advice is around 200-400 a year on average. Citizens who received legal advice increased to 1,500, up three times in recent years.



Oversight and investigations

The Commission conducted over 452 investigations and fact-finding visits during 2008-2016 and issued demands and recommendations as well as oversaw the measures undertaken.



Conclusion

In conclusion, it should be mentioned whether the national legislation, security and defense policies adhere to the constitutional provisions upholding human rights.

1. Verification of law enforcement and security sector institutions' internal rules and regulations on compliance with international agreements, conventions, and national legislations on upholding human rights is still important.
2. Human rights education training should be continuously conducted at all law enforcement and security sector institutions. Due to the frequent promotion and reshuffling of personnel in law enforcement and security sector institutions, the trainers often are appointed to other positions.
3. Cases of violation of human rights in the armed forces are different from the violation cases revealed in the law enforcement agencies. Thus, it is important to guarantee sufficient funds for the NHRCM for human rights advocacy, prevention and protection activities. Due to the location of the regiments and units in the outskirts of the country the inspection and fact-finding visits could not be conducted on a regular basis.
4. Requirement to develop a specific policy for training human rights trainers, providing them with updated information on international and regional human rights developments still exists.
5. Inquiry on whether an individual has ever committed human rights violations should be included in the promotion criteria of the personnel in the armed forces and law enforcement agencies.
6. Public awareness-raising activities on the promotion and protection of human rights and freedoms should be continued and conducted jointly with the NHRCM on a permanent basis in the security sector.

B. Indra

ROLE OF THE MEDIA IN SECURITY SECTOR OVERSIGHT

Journalism development in Mongolia

Press and Media in Mongolia

The press and media sector was founded over 100 years in Mongolia. However, free and independent media have only 20 years of history. The very first newspaper, “Shine Toli” (The New Mirror), was founded in 1913. With the Soviet Union’s assistance, the first radio program was broadcasted across Mongolia in 1934, and the first regular television broadcasts began in Mongolia in 1967. In general, this was the beginning of the foundation of Mongolian press and media sector. However, under the socialist regime, the media was under total control of the government serving as a state voice.

The complete political, social and economic transformation in the 1990s created the basis for the free media development in Mongolia. The first independent newspaper “Ardchilal” (Democracy) was printed on April 8, 1990. Moreover, the freedom of press and media was guaranteed by the Constitution of Mongolia adopted in 1992.

One of the major achievements of democracy in Mongolia is the recognition of the freedom of press which led to the establishment and development of the independent press and media sector and subsequently changed the role media played in the society. As of 2015, there were 101 newspapers, 71 television channels, and 112 websites operating in Mongolia. Out of them, only the Mongolian National Broadcaster (television and radio broadcaster) and MONTSAME (news agency) are state funded, while the remainder are all private.

Legal and regulatory framework for media

With the democratic transition, the fundamental laws and legislations pertaining to the media sector were adopted and the reform process is still ongoing.

According to the study “Journalist and Law” conducted by the Globe International NGO in 2001 there were 91 provisions directly related to the media in more than 230 laws.

However, the media sector is still lacking in fulfilling its duty to be the public watch-dog over the government actions and providing the public and civil society with the required information due to the gaps in the legal framework and provided that the economic conditions are not contributing to the development of the sector. The Law on Freedom of the Media adopted in 1998 bans all types of censorship and restricts the right of the Government from having media under their control or jurisdiction. However, Mongolian National Broadcaster still serves the interests of the state and continues to be financed by the government as it did in the past, hence the government organization does not strictly abide to the law.

The media organizations at the local levels operate under the local Citizens Representatives Hural with the status to serve the public. In fact, these media organizations are under the direct supervision of local governors, who exercise the state administrative and supervision duties, hence under the control of the state.

Investigative journalism in Mongolia

During the societal transformation period of Mongolia in early 1990s, the journalist J. Baramsai published a series of articles to expose illicit actions of the law enforcement institutions, namely, “Does anyone plot revenge from prison?” and “Lawyers took off their masks.” These articles are considered as the first significant works written using investigative journalism techniques in the history of Mongolian journalism. Moreover, these series strongly influenced people’s mindsets. As a result, they helped to prove the innocence of many people charged in fabricated crimes, punished corrupt officials in law enforcement institutions, eliminated shortages in the judicial system and improved and reformed it.

Though over 20 years have passed since then, investigative journalism has not developed much in Mongolia. In many ways, one can conclude that democratic liberalization of journalism is at a stalemate. There are two following reasons for this:

Firstly, government officials are reluctant to respond to the inquiries, access to information as well as state records is often denied, and as there is an absence for adequate legal framework to provide space for investigations, the investigative journalism could not develop in Mongolia so far. In other words, the journalists have limited possibilities to obtain reliable information

and ensure the accuracy of their reports. The information is usually obtained illegally thus leading for journalists to face charges and detention. The study on “Why journalists are not interested in getting involved in investigative journalism?” revealed 90.25% of the responders believed that pursuing career in investigative journalism is life-threatening, while 78.90% of the responded that they feel fear to do so. In addition, 90.45% of the responses indicated that there is no protection offered by the media agency or company, 85.15% said that their investigative reports are often disregarded by law, law enforcement institutions and court, while 85% responded that journalists face pressures both from the outsiders as well as the owners of their media companies upon when publishing investigative reports.

Secondly, the problem has roots in funding. Although today media in Mongolia is out of state control, commonly the press and media companies are owned by politicians and businessmen. This caused an otherwise healthy process of democratic liberalization of media to be plagued. The media in Mongolia is highly dependent on a sole source of financing, since political and financial groups wield strong influence over the media sector and making investment both in explicit and implicit ways. That makes reports biased and over-dependent on media company owners hindering independence of editorial board and weakening the capability of media to be a guarantor of the freedom of expression.

National Security and the Right to Access Information and Restrictions

The right to seek and disseminate information is guaranteed by Constitution, but access to information is still limited. The Globe International is an independent non-profit organization which conducts substantial research and projects on freedom of the media and independent journalism. One of their projects was “State Secrecy and Freedom of Information” conducted in 2006.

In a democratic society, there are two principles to receive information: open access and limited access. The right to access information in Mongolians is restricted by several laws such as on state secrets, privacy of organizations, individual privacy and other legislations. Below are the findings on restrictions on the right to access information and their confidentiality classifications in regard to the information related to state secrets:

Information classified as State Secrets

State secrets are regulated by the Law on State Secrets and Law on List of State Secrets. In Article 5 of the Law on State Secrets, it is stated that “confidential parts of the National Security Concept, information, documents and other issues related to ensuring economic security” and “information of utmost importance on foreign policy and foreign stance, drafts and confidential agreements, contracts established with foreign states” are identified as issues related to the state secrets. For example, there are nine items classified as state secrets in the defense sector, while four items considered as state secrets in the economy, science and technology sectors. As for intelligence and counterintelligence operations there are five items classified as state secrets. As stipulated in the Law on List of State Secrets, 73 items are classified and protected as state secrets. Paragraph 5 of Article 2 of Chapter 3 of the Law on the Protection of State Secrets stipulates that “it shall be prohibited to seek the state secrets with the purpose to obtain and disclose them.”

While preparing the list of state secrets, the rights for freedoms of expression and information are not guaranteed. It can be stated that any classified items under state secrets do not consider legal interests of the general public. For example, in paragraph 2 of Article 5 of the Law on State Secrets, it is stated that drafts, confidential agreements, contracts established with foreign states are classified as state secrets. As these documents are stamped by a seal classifying as a state secret, it is impossible for the general public to find out what kind of confidential agreement the Government established with foreign states. Paragraph 2 of Article 71 of the Criminal Code of Mongolia stipulates that obtaining and disclosure of documents which constitute a state secret by a person who has learned them not by virtue of his/her job or position shall be punishable by imprisonment for a term of up to three years. This provision is directly related to journalists and media agencies.

The teams of lawyers of the Globe International NGO project summarized that existing legislation pertaining to state secrets contains the following shortcomings:

- Classifications of state secrets are too broad in scope;
- Classification periods are very long;
- Law on List of State Secret overlaps the Law on State Secrets;
- The provision of the law which stipulates that disclosure of state secret shall be punishable by imprisonment for a term of eight years

is not in conformity with the Johannesburg principles on “National Security, Freedom of Expression and Access to Information.”

- Provisions on protection of state secrets inserted in the Law on National Security, Law on Foreign Trade Arbitration, Criminal Law, Law on Resolution of Petitions and Complaints made by Citizens to the State Agencies and Public Officials and Law on Geodesy and Cartography and other legislations contradicts with the general law on state secrets.

State secrets-partial access to information – human rights

“Protection of state secrets” is a set of activities and measures taken by the state entities and civil servants aiming to prevent the disclosure of state secrets. The law prohibits civil servants or citizens who are responsible for the confidentiality of documents or have seen the state secrets in accordance with his/her official duties to disclose state secrets or use the information obtained for personal purposes. Considering that large amounts of information are and could be defined as state secrets, this provision could lead being charged for seeking information that is classified as a state secret.

At the same time, there is no legal provision specifying to what extent crimes concerning disclosure of state secrets must be considered as classified. Though the right to access information that contains state secrets is limited by law, there is not a single provision in the laws regulating the publicity and media reporting concerning the cases on disclosure of state secrets, which are still under investigation and the ruling of the court was not made.

For example, in 2015, a civil servant, who was not responsible for state secrets in accordance with his/her official duties, was prosecuted for leaking state secrets and detained for several months. Although this person was found guilty by a trial court, the charges were later overturned by a ruling of the Supreme Court of Mongolia. If someone who is not responsible for state secrets according to his/her official duties is charged with disclosing state secrets, the relevant public servant who is responsible for confidentiality of state secrets should be charged for failing to perform his/her duties as well. However, the investigation did not find the person responsible for confidentiality of the state secrets, thus only the person who accessed the confidential information was prosecuted and detained. In this sense, one can conclude that basic human rights were violated. Moreover, this was the case when an ordinary public servant suffered a lot due to an overly broad scope of the information that can be classified as “state secret.”

While still under investigation and the final ruling of the court was not made, the case was made public and reported in the column “From the Court Room” of “Unuudur” (Today) newspaper in August 2015. Since the case was related to the disclosure of state secrets, journalists were not in a position to conduct an independent investigation of the case. If the case is considered as a serious crime threatening national security then the information regarding the case should not be disclosed to the public until the suspect’s guilt is established by the final appeals court decision. However, this case was one of the serious cases of violations of human rights as some procedures of this case were partially open to the public and the trial court decision was reported by media.

Being partially open to the public regarding the case related to national security, the Court allowed the media to grossly violate human rights and committed an irresponsible action. There is no legal mechanism to hold the court accountable for this criminal act. What one can do is still hope that the media will prove its commitment to journalism ethics and standards, and will acknowledge their act of violation of human rights and publicly express their apologies.

We can conclude that whenever cases related to state secrets become partially open to the public through the court system they are also making the media sector a passive transmitter. Moreover, the gap between the closed legal framework restricting transparency of information related to national security and the role the media plays as a passive transmitter leads to civil rights violation in the access to the information. As the information related to state security is confidential and could not be investigated, the partial openness of the information is harmful to the society and better off completely closed to public.

The role of the media in times of the state of emergency versus censorship

Throughout the history of Mongolia’s democratic development there was one incident of declaring a state of emergency due to political unrest. On 1 July 2008, five people were killed amid violent protests and riots by allegations of fraud surrounding the 2008 legislative election that occurred three days earlier. The sudden outbreak of violence was the first - and unprecedented - event in Mongolian history in its transition period resulting in social conflict. Media monitoring was done related to the role played by the media and the state control during the riots.

Under the pretext of implementing the president's decree on declaring the state of emergency following the "First of July" incident, all television activities were banned except for the Mongolian National Broadcaster and the state media censorship was revoked for the following four days. In doing so, the right of freedom of expression, freedom to publish and freedom to receive transparent information through free and independent media were greatly restricted. This demonstrated how fragile freedom of the press and media is in Mongolia.

The Mongolian National Broadcaster in 618 seconds of airtime, from 00:11 to 00:21 of July 5th, 2008 has announced "...The state of emergency is lifted. The Mongolian National Broadcaster was broadcasting its news under the Law on State of Emergency, based on the information provided by the Operative Headquarters of the National Security Council Staff under the direct supervision of the headquarter..."

In total, 11 television channels allocated 15% or 107 hours of 709 hours of their airtime to the reporting on the "First of July" incident and its consequences. Daily newspapers devoted 12.6% (118,176 cm²) of their space to information on the "First of July" incident. During the time of the state of emergency control, 51.1% of information sources appearing on the Mongolian National Broadcaster were official or provided by the representatives of the government, only 4.1% of airtime was occupied by citizens and 3.2% was devoted to NGO representatives. The independent experts, scholars and observers received only 0.1% of airtime.

If we will review the indicators on how the Mongolian National Broadcaster news was influenced by censorship during the state of emergency and after the lifting of the state of emergency. It is clearly seen that on 1 July the reports blaming the opposition parties in particular, civil coalition and the Republican Party in inciting the riots were at around 5.5%. This number went up to 22.6% during the time of the state of emergency. Moreover, 6.3% of reports were reporting that Eagle TV was inciting the crowd to violence.

During the state of emergency, 25.3% of explanations claimed that the cause of the First of July incident was the MPRP election fraud while 14.4% mentioned that it was incited by Ts. Elbegdorj, then Chairman of Democratic Party. These numbers have decreased during the government censorship period. After the lifting of the state of emergency, information accusing MPRP in the riot incident was dominating while the second most discussed belief (10.4%) was that the election results were contradicting general public expectations.

Reports of injured law enforcement officers accounted for 18.6%, on cultural heritage consumed 14.5%, and reports on civilian losses accounted for 11.2% of total airtime.

In addition, there were a number of human rights abuses during the riots as well as after the First of July, since there were no codes of conduct or standards for media concerning protecting human rights while reporting during the state of emergency in Mongolia. While conducting a live broadcast and interviewing, television channels failed to use editing techniques to blur faces and distort voices of witnesses and victims to conceal their identity. Police used coercion to take video materials filmed at the riot. This allowed police to use filmed records against suspects and those arrested. The work of the media is to prepare and air reports with the purpose to inform the public on the events but not to provide the police with evidence.

The media monitoring concluded that forcing all television broadcasters except Mongolian National Broadcaster to stop their airtime and revoking censorship for four days during implementation of the president's decree declaring a state of emergency violated the Law on Public Television and Radio and exceeded its powers while applying the outdated provisions of Law on State of Emergency adopted in 1995. Follow-up recommendations were prepared and submitted to the State Great Hural, the media association and the union of journalists.

Armed Forces and Media

The notion of “civilian control over the military” is stipulated in the relevant laws. Article 11.2 of the Law on Armed Forces stipulates that “civilian control of the military are the actions pertaining to implementation of state laws and regulations, professional military command, open and transparent oversight of defense budget performance and spending.”

Defense budget performance and spending are overseen by the Ministry of Finance, while the annual defense budget is discussed at the meetings of the Standing Committee on Security and Foreign Policy and the Standing Committee on Budget and approved by the State Great Hural. It is one of the elements of civilian control over the armed forces. Oversight of defense spending is regulated by the Law on Glass Account, and citizens can visit www.shilendans.gov.mn/5296 to check budget expenditures.

Though media oversight of the Armed Forces is open, it is limited in extent. The media will conduct investigations if it notices the misconduct in

defense budget spending. Being open to a limited degree is explained by the fact that the right to information is restricted by the provision in Article 3.2 of the Law on the Information Transparency and Right to Access Information, stating that this law shall not apply to the operations of the armed forces, border protection authority and intelligence services. Thus, it is important for the media to ensure a balance between the restrictions imposed by law and the principles of transparency.

As it is difficult in practice to maintain the balance, the media is not engaged deeply in the defense sector. Commonly, the reports related to the defense sector are the cases related to the misconduct in defense spending and investigation of such cases by the Independent Anti-Corruption Authority. Since investigative journalism is not developed in Mongolia, the media fails to be a public watch-dog and only plays the role of passive transmitter only.

The Ministry of Defense has its “Duulga” (The Shield) studio, which is used for advocating the defense sector development and informs the public on its activities; thus, it is not in a position to be a public watchdog either.

Conclusion

Impact of legal framework: Due to the specific and professional nature of the work carried out by organizations responsible for national security their activities could not be fully open and transparent to the public. There is a high risk that the decisions made behind closed doors might affect and violate human rights and public interests, thus the media’s role as a public watchdog is important. Unfortunately, the existing restrictions on access to government records in Mongolia make it possible for virtually anything to be classified as “secret” and hidden from the public view, hindering the media from fulfilling its public duties.

Mongolian NGOs conduct independent and joint studies with international organizations on the reform of the media sector, organize training and issue recommendations to the media and other organizations. It can be concluded that in general, though slowly, legal reform is continuing. This indicates that the process to improve the existing legal framework is already underway.

Impacts of media funding: As the security sector is half closed, and since democratic liberalization in journalism is slow and investigative journalism under-developed, the media fails to act as a public watchdog. The media in Mongolia mainly focuses on protecting the narrow interests of their owners, since they are directly dependent on political and business groups. There is shortage in reporting on hot topics protecting public interests.

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