UNDP Consultancy Report

ELECTORAL SYSTEM OPTIONS FOR MONGOLIA

Project on "Representation and Inclusiveness through Electoral Systems" (RITES)

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1.   Introduction

This report examines a series of electoral system reform options for Mongolia. The State Great Hural (SGH) of Mongolia is in the process of reviewing the country's electoral legal framework with the aim of reforming the electoral system towards greater proportionality between voter preferences and their representation in the parliament. A Working Group established with a task to draft amendments in the electoral law has submitted a first draft to the Parliament. In addition, a number of private members bills and other proposals for electoral reform are currently being discussed in Mongolia.

Based on a project agreement signed between the SGH Standing Committee on State Structure and the UNDP, this report examines the strengths and weaknesses of these various proposals. It keeping with the Terms of Reference for the project, the report sets forward some basic principles for designing electoral formulas; comments on proposed new electoral systems and other proposed amendments; and develops recommendations on the optimum system choices for Mongolia given legal and other constraints.

As part of this project, a field mission to Mongolia from 5-12 May 2010 was undertaken by the consultant, Prof Reilly. This mission focused on interviewing key individuals involved in the electoral reform process: national legislators, parliamentary working groups, legal experts, policy advisors, electoral management bodies, political parties, civil society and the media. In addition, individual meetings were held with prominent individuals associated with the reform push, including the Chairman of the Standing Committee on State Structure, Mr O. Enkhtushvin; the Deputy Chair of the National Committee on Gender Equality, Ms B. Dolgor; the Chairman of General Election Commission, Mr N. Luvsanjav, and last but by no means least, the Prime Minister of Mongolia, Mr S. Batbold. This greatly enhanced the development of a comprehensive understanding of the key issues concerning electoral reform in Mongolia. A full list of meetings held and individuals interviewed is included at Appendix One.

In keeping with the terms of reference, this report aims to

- Identify and analyze key issues for electoral system design in Mongolia
- Comment on the proposed electoral reforms raised during the field mission
- Suggest amendments to these reforms based on international best practice
- Provide comparative knowledge and approaches relevant to Mongolia, and
- Assess the comprehensiveness and coherence of the proposed amendments.

2. Basic principles of electoral system design

Electoral systems are the rules and procedures via which votes cast in an election are translated into seats won in the parliament or some other office (eg a presidency). An electoral system is designed to do three main jobs. First, it will translate the votes cast into seats won in a legislative chamber. Second, electoral systems act as the conduit through which the people can hold their elected representatives accountable. Third, different electoral systems give incentives for those competing for power to couch their appeals to the electorate in distinct ways. In regionally distinct societies, for example, particular electoral systems can be designed to ensure that each region has its own local member, or can be designed so that members are elected on a purely national basis with no local representation, or can fall between these two extremes.

Some of the most common criteria for electoral system design include the following objectives:

- Providing fair representation
- Making elections accessible and meaningful
- Providing incentives for conciliation
- Facilitating stable and efficient government
- Holding the government accountable
- Holding individual representatives accountable
- Encouraging political parties
- Promoting legislative opposition and oversight
- Making the election process sustainable

- Taking into account 'international standards'

In addition to these general principles, interviews in Mongolia elicited a widespread consensus on the following additional objectives:

- Reducing "money politics"
- Avoiding intra-party competition
- Ensuring stable governments
- Strengthening political parties
- Improving the representation of women

It needs to be understood at the outset that not all of these criteria are mutually reinforcing, and that in practice trade-offs inevitably have to be made. For example, efforts to improve the fairness of electoral outcomes, which generally require a move towards greater proportionality, may run counter to the principle of ensuring stable governments, as more parties are likely to be represented in the legislature. Similarly, efforts to avoid intra-party competition may require less focus on electoral fairness, as they may require a shift to single-member electoral districts to ensure that candidates from the same party do not compete against each other for votes. Establishing the priorities among such competing criteria can only be the domain of the domestic actors involved in the design process.

Taking these various principles as a starting point, the remainder of this section describes the major electoral systems used around the world today, and provides some examples of countries using each system. It then moves on to analyse the empirical trends of other transitional democracies in reforming their electoral systems, and the lessons this may hold for Mongolia.

Types of Electoral Systems

A standard approach to the description and categorization of electoral systems is to group them according to how proportional they are: that is, how closely the ratio of votes

to seats is observed in electoral outcomes. Such a classification gives four broad families: plurality-majority systems; semi-proportional systems; proportional representation (PR) systems; and mixed systems. These constitute the major electoral systems used for national elections in the world today.

Plurality-majority systems

The five types of plurality-majority systems comprise two plurality systems (first past the post and the block vote), and three majority systems (the two-round runoff, the alternative vote and the supplementary vote). While plurality systems are won by those who win a plurality of the vote (ie more than any other contestant), a feature of majority systems is that they are structured so as to ensure that the winning candidate gains an absolute majority (ie more than 50 percent) of eligible votes.

Under 'first past the post' (FPTP) systems, the winner is the candidate who gains the most votes, but not necessarily an absolute majority of the votes, in single-member districts. Such elections are typically presented as a contest between candidates, rather than parties. Voters choose their favoured candidate with a tick or a cross on the ballot paper, and the winner is simply the candidate who gains more votes than any other. This is the world's most commonly-used electoral system for both presidential and parliamentary elections. Countries using this system include the United Kingdom, the United States, India, Canada, and most countries that were once part of the British Empire. Mongolia has used this system in the past.

The *block vote* (BV), the system currently used in Mongolia, is the application of plurality rules in multi-member rather than single-member electoral districts. Voters have as many votes as there are seats to be filled, and the highest-polling candidates fill positions sequentially regardless of the percentage of the vote they actually achieve. A further variation on the block vote is the 'party block' system used in Singapore, where voters choose between party lists rather than candidates, and the highest-polling party wins all seats in the district.

The most common form of majority system, the two-round system (TRS), takes place in two rounds of voting, often a week or a fortnight apart. The first round is conducted in the same way as a normal plurality election. If a candidate receives an absolute majority of the vote, then he or she is elected outright, with no need for a second ballot. If, however, no candidate has an absolute majority, then a second round of voting is conducted, usually as a runoff between the two highest polling candidates from the first round, and the winner of this round is declared elected. This system is widely used for presidential elections, and also for legislative elections in France, most former French colonies, and parts of the former Soviet Union.

The *alternative vote* is another type of majority system. Electors rank candidates in the order of their choice, by marking a '1' for their favoured candidate, '2' for their second choice, '3' for their third choice, and so on. If no candidate has an absolute majority, a process of sequential transfer of votes is used until a majority winner emerges. This system is currently used for parliamentary elections in Australia, Papua New Guinea and Fiji.

Semi-proportional systems

Semi-proportional systems translate votes cast into seats won in a way that falls somewhere between the proportionality of PR systems and the majoritarianism of plurality-majority systems. The best known semi-proportional electoral system is the *single non-transferable vote* (SNTV). Under this system, each elector has one vote but there are several seats in the district to be filled, and the candidates with the highest number of votes fill these positions. This means that in a four-member district, for example, one would on average need only just over 20% of the vote to be guaranteed election. This system is used today in Afghanistan and Vanuatu.

Proportional representation (PR) systems

The rationale underpinning all PR systems is the conscious translation of a party's share of the votes into a corresponding proportion of seats in the legislature. There are

three major types of PR system—open list, closed list, and single transferable vote systems. All PR systems require the use of electoral districts with more than one member: it is not possible to divide a single seat elected on a single occasion proportionally. In some countries, such as Israel and the Netherlands, the entire country forms one multi-member district. In other countries, for example, Cambodia, electoral districts are based on provinces, while Indonesia lays down the range of permissible sizes for electoral districts and gives the task of defining them to its EMB.

The following provides a brief description of the three main variants of PR systems.

Closed list PR, the most common type of proportional representation system, requires each party to present a list of candidates to the electorate. Electors vote for a party rather than for candidate; and parties receive seats in proportion to their overall share of the national vote. Winning candidates are taken from the lists in order of their respective positions, meaning that the order of candidates elected from that list is fixed by the party itself, and voters are unable to express a preference for a particular candidate. In South Africa, for example the ballot paper contains the party names and symbols, and a photograph of the party leader, but no names of individual candidates. Voters simply choose the party they prefer; the individual candidates elected as a result are determined by the parties themselves. While limiting voter choice, this allows parties can include some candidates (eg members of minority ethnic groups, or women) who may have difficulty getting elected otherwise. Many European countries use this system.

Open list PR, by contrast, allows voters to choose not just a party but also a particularly candidate from a party list or, in some cases, more than one list. Finland, Brazil and Indonesia all use different versions of open list PR. In Brazil and Finland, voters *must* vote for candidates: the number of seats received by each party is determined by the total number of votes gained by its candidates, and the order in which the party's candidates are elected to these seats is determined by the number of individual votes they receive. While this gives voters much greater freedom over their choice of candidate, it also has some less desirable side effects. Other systems make a candidate vote option. Either way, candidates from within the same party are effectively competing with each other for votes, a situation which can lead to internal party conflict

and fragmentation. On the same note, open lists have sometimes proved to be disadvantageous for the representation of women in highly patriarchal societies.

Finally, the *single transferable vote* (STV) form of PR, as used in Ireland, is a form of preference voting in which voters rank candidates in order of preference on the ballot paper, in the same manner as the alternative vote.

Mixed Systems

Mixed electoral systems attempt to combine the positive attributes of both plurality/majority (or sometimes semi-proportional) systems and PR electoral systems. In a mixed system there are two electoral systems using different formulae running alongside each other. Votes are cast by the same voters and contribute to the election of representatives under both systems: typically, a district-based system, often utilising single-member districts, and a proportional list, often elected on a national basis.

Mixed systems are a feature of electoral system choice in the 1990s, and have been a particularly popular choice in transitional democracies -- perhaps because, on the face of it, they appear to combine the benefits of proportional representation with those of local district representation. Mixed systems can be divided into two broad categories, *mixed member proportional* and *mixed-member majoritarian* systems.

Mixed member proportional (MMP) systems, found in countries like Germany and New Zealand, are designed so that part of the parliament (usually 50 percent) is elected from single-member districts, while the remainder is constituted by PR lists. Voters can be given a separate vote for each or only one vote. MMP systems then use the PR list seats to compensate for any disproportionality produced by the district seat results. Such systems deliver truly proportional election results and are thus often categorised as a form of PR.

Mixed member majoritarian (MMM) systems, by contrast, use both PR party lists (see below) and local districts running side-by-side, but with no compensatory provisions. Part of the parliament is elected by proportional representation, part by some type of plurality or majority method. As Table One shows, MMM systems have been a

particularly popular electoral system choice in transitional democracies in recent years, and many countries in East Asia and the former Soviet Union now use these systems.

Table 1: Transitional Democracies using Mixed-Member Majoritarian Systems

Country	No. of PR Seats	No. of Plurality/Majority (or Other) Seats	Plurality/Majority (or Other) System	Total no. of Seats
Armenia	56 (43%)	75 (57%)	FPTP	131
Azerbaijan	25 (20%)	100 (80%)	TRS	125
Georgia	150 (64%)	85 (36%)	TRS	235
Guinea	76 (67%)	38 (33%)	FPTP	114
Japan	180 (37%)	300 (63%)	FPTP	480
Kazakhstan	10 (13%)	67 (87%)	TRS	77
Korea	56 (19%)	243 (81%)	FPTP	299
Lithuania	70 (50%)	71 (50%)	TRS	141
Monaco	8 (33%)	16 (67%)	BV	24
Pakistan	70 (20%)	272 (80%)	FPTP	342
Philippines	52 (20%)	208 (80%)	FPTP	260
Russia	225 (50%)	225 (50%)	FPTP	450
Senegal	55 (46%)	65 (54%)	PBV	120
Seychelles	9 (36%)	25 (74%)	FPTP	34
Taiwan	34 (34%)	80 (66%)	FPTP	113
Tajikistan	22 (35%)	41 (65%)	TRS	63
Thailand	100 (20%)	400 (80%)	FPTP	500

| Tunisia | 152 (80%) | 37 (20%) | PBV | 189 |
| Ukraine | 225 (50%) | 225 (50%) | FPTP | 450 |

3. Mongolian parliament proposals for electoral reform

In the interviews conducted with Mongolian parliamentarians as part of this project, four options for electoral reform were put forward. The first two of these were detailed in writing, being proposed by the Standing Committee Working Group, and by Mr L. Bold, respectively. The other two options were not detailed in writing but were raised in the course interviews with parliamentarians as potential reform options for Mongolia. All proposals incorporated some element of proportional representation.

The following section discusses each of these proposals, and provides expert reaction comments on each of them, in turn.

A. One district for all of Mongolia - <u>Draft submitted by the Working Group (Messrs Lundeejantsan and Saihanbileg)</u>

<u>The following is the description of this system that I have been provided:</u>

"No of Districts: one country-one district.

No of candidates on a party list: not more than 76.

Parliamentary party threshold: at least 7 percent of all valid ballots. Parties/coalitions that have received more than 7 percent of all valid ballots will have seats allotted proportionally.

Participation of independents: permitted; need to have more than 7 percent of all valid ballots.

Nominations on party lists will be conducted by parties in a uniform manner according to the legislation.

At least 15 percent of candidates from political parties/coalitions shall be women-candidates.

The voter shall cast one vote only for a selected candidate. This vote shall be counted as a vote given simultaneously to the party that the selected candidate represents. This vote will be counted into the national total.

The General Election Committee (GEC) shall be responsible for allocating seats to the parties according to the votes they have received. It shall also be responsible for allocating seats to candidates according to the number of votes they have received.

The GEC shall count votes received by all candidates.

The GEC shall count votes received by all parties/coalitions.

It will calculate the threshold of 7 percent out of all valid ballots.

The GEC will allocate seats to parties/coalitions according to the proportion of votes received by them in the following manner:

1. A total number of votes received by parties/coalitions and independent candidates that have failed to overcome the 7 percent threshold shall be deducted from the total of valid ballots. The remaining sum will be divided by 79 to determine the number of votes per one seat.

2. The total of votes received by parties/coalitions and candidates that have passed the 7 percent threshold shall be divided by the number of votes per one seat to determine the number of seats they are allocated.

3. If there remain unallocated seats, the seats shall be given to parties/coalitions with the largest remainder (the principle of the largest remainder shall apply).

If an independent candidate overcomes the threshold, his/her seat shall be deducted from the total number of seats that will be used to calculate the seat quota.

Once the number of seats for parties/coalitions is determined, party candidates will be given seats according to the number of votes they have received beginning with the candidate with the highest number of votes.

The GEC shall produce a list parties/coalitions, party candidates and independents where they will be rated according to the votes they have received starting from the highest number of votes."

Expert Comment:

This would likely be the most proportional of the four proposed electoral reform models, as proportionality of electoral outcomes typically increases with the number of members to be elected in each district under PR rules. The proposed "open list" vote would presumably be constitutional, as electors would vote only for candidates, even though the initial seat allocation process would be first to parties, and then to the highest-polling candidates from each of those parties. This system has been used in other countries such as Finland and thus has a track record of operation. The system would also be likely to focus more political attention on national issues and increase the importance of Ulaanbator at the expense of the regions.

However, the proposal has several major disadvantages which I believe make it unsuitable for Mongolia.

First, and most seriously, by making the entire country one electorate, the proposal effectively eliminates electoral districts and undermines the possibility of meaningful regional representation in the Mongolian parliament. Comparative experience suggests that geographically large countries such as Mongolia require some measure of regional district representation. This is particularly the case in rural or agrarian societies, where electors typically need a local representative that they can approach about issues of concern to them, such as the provision of local services and infrastructure. For this reason, single-district PR systems are only found in geographically small countries such as Israel or the Netherlands. No country of Mongolia's size uses such a system.

Secondly, because of the way an open list system of PR is to be used, the administrative consequences of this system would be debilitating, as the name of every candidate standing in the entire country would need to be included on the ballot paper. For instance, if 10 parties stood candidates for all 76 seats, then the ballot paper would have to include 760 names, making it both unwieldy and also very confusing for voters.

This stands in contrast to the use of open list voting in other democracies, which typically uses much smaller electoral districts for this reason.

There are also some issues with the details of this model that require further explication, although these may be the result of the above description/translation of the proposal rather than the proposal itself. These include: the overtly high electoral threshold of 7%, which is very high be international standards (most countries which use thresholds set them between 2-5%); the unexplained electoral quota divisor of 79 rather than 76 or 77 (perhaps this is an error?); and the lack of any details of how the 15% quota for women candidates would work in practice (such as how to ensure female candidates would be placed in winnable positions on the party list).

B. Regional PR - open list with 6-7 large electoral districts (draft submitted by private members – Mssrs Lu. Bold and others)

<u>The following is the description of this system that I have been provided:</u>

"No of districts: not determined. Districts will be bigger with approximately the same number of voters and based on the principle of regional districts (bigger than the current administrative districts (21 and the capital city), there may be around 6-7 electoral districts).

A voter shall cast two votes: one - for the party, the other – for an individual candidate on the party list (that he/she has voted for) or an independent candidate.

A district electoral committee (DEC) shall divide the number of valid ballots (*huchintei sanal*) by the number of seats allotted for the district to determine the district seat threshold.

The DEC shall produce a list of all parties/coalitions and independent candidates with the votes that they have received starting with the highest number of valid votes. The DEC shall divide the total number of votes received by parties/coalitions and independent candidates by the district seat threshold and thus determine the number of

the seats that have been won. If the number of seats that have been won equals the number of seats (mandates) allotted for the district, the DEC concludes that the district seats have been distributed and parties/coalitions and independents that have failed to receive seats will be eliminated from further calculation. If the number of seats that have been won is less than the number of district seats, the remaining seats will be distributed on the basis of the largest remainder. The remaining seats will be distributed only among parties/coalitions and independents that have overcome the district seat threshold. Using the DEC list of votes received, the votes received by parties/coalitions and independents will be divided by one or other real number in the order of ascent. The resulting number shall be used as the largest remainder in distributing the remaining seats. If the number of valid votes for parties/coalitions and independents is equal, the General Election Committee shall resolve the tie by a toss. After the district seats have been distributed to parties/coalitions and independents, the list of party/coalition candidates will be produced starting with the highest number of votes."

Expert Comment:

This proposal represents a more practical option for Mongolia in terms of the proposed 6-7 districts, in contrast to the national district proposed by Option A.

However, in terms of the suitability of the proposal, much depends on two issues that are currently unclear. First, the proposal envisages that each elector will have two votes: a party vote, as well as a vote for an individual candidate. Many MPs I interviewed believed that a party list vote is unconstitutional due to the constitutional requirement that MPs be "directly elected". Clarification of the meaning of this term in the Mongolian constitution would be needed before further developing this option.

Second, the proposal shares with option A some of the problems of mixing geographically large electoral districts with an 'open list' candidate vote. These problems include a dilution of regional representation, and the difficulties of managing an open list PR vote in situations of high candidature. For instance, if 6 electoral districts were created as part of this proposal, each could on average see as many as 100 candidates standing for election and thus needing to be included on the ballot paper.

This would be a large number both in terms of practical ballot-paper design and in terms of maintaining a simple electoral process that all voters can understand.

There are also some minor problems that need to be improved should this model go ahead:

- First, the description reproduced above suggests that "A district electoral committee (DEC) shall divide the number of valid ballots (*huchintei sanal*) by the number of seats allotted for the district to determine the district seat threshold." In fact, this would only establish a maximum quota for the seat (a so-called 'Droop' threshold). A more efficient model would be to divide the number of valid ballots by one more than the number of seats (a so-called 'Hare' threshold) to establish the minimum number of votes needed to win a seat.

- Second, the description reproduced above states that "seats will be distributed only among parties/coalitions and independents that have overcome the district seat threshold." In practice, this would make the "effective threshold" (ie the mathematical threshold created by the electoral system itself) somewhere between 14-16% in a 6-7 seats district – a high level by comparative standards for a proportional system. As noted above, international practice for PR systems is to set thresholds, when used, between 2-5% of total votes. However, some countries (eg Chile) have much higher 'effective' thresholds due to the district magnitude of their systems. This would likely be the case in Mongolia as well if such a system were adopted.

- Third, the description reproduced above states that "Using the DEC list of votes received, the votes received by parties/coalitions and independents will be divided by one or other real number in the order of ascent. The resulting number shall be used as the largest remainder in distributing the remaining seats." This is unclear both in language and in terms of what specific procedures are being suggested, and requires a comprehensive redraft to clarify the author's intentions.

C. Mixed-member system, either 26/50 or 50/26 (private members proposal)

Although no detailed description exists, the proposal that Mongolia adopt some form of mixed-member system was suggested by a number of interviewees, including Prime Minister S. Batbold, as a possible electoral reform. Various forms of mixed-member systems have also been suggested by several previous international advisory missions to Mongolia according to background information provided.

Under mixed-member systems, part of the parliament is elected, usually by plurality vote, in local single-member districts, while another part is elected by proportional representation, usually from a party list at the national level. The system thus can claim to offer the "best of both worlds", combining local representation with incentives for party-building and opportunities for minority representation afforded by the national list.

Two specific mixed-member options were put forward during my discussions with individual legislators. One, the 26/50 model, envisages a system where each Aimag would elect their own local member, and the remaining 50 MPs would be elected from a national list. This would drastically improve the fairness of electoral outcomes while still retaining some local representation. The second model turns these ratios around, with 56 MPs elected from local districts and around 26 from a national list. Of course, the precise numbers would be a matter of choice, and many variations are possible.

Expert Comment:

Both of these proposals would see Mongolia follow the trend towards mixed member systems which has been evident in many other transitional democracies, as detailed above in section 2.

Of the two proposals, the 26/50 model would yield the most proportional results, as 2/3 of all seats would be elected from a national list. If no threshold was employed, the quota for elections would be just under 2% of the vote, meaning that even very small parties could expect to gain seats. Depending on the desirability or otherwise of this expectation, the application of 2-5% vote threshold could be considered.

Alternately, a 50/26 model would see more members elected from local districts than from the national list. Questions for this model include whether all 50 district MPs would

be elected from single-member districts (which would require a redrawing of electoral boundaries), how the national list would operate (ie, open or closed), and whether any threshold should be employed (preferably not, as the effective threshold would already be almost 5%).

Regardless of whether the balance between seats is set at 20/56, 56/20 or indeed some other format, however, this proposal shares with Option B the problem of necessarily including a party list vote for the PR part of the system. As detailed above, many MPs I interviewed believed that a straight party vote is unconstitutional due to the requirement that MPs be "directly elected". Clarification of the meaning of this term would be needed before further developing this option.

If a party list vote *is* possible, then some form of mixed-member system would appear to be an attractive option for Mongolia. As detailed in section 2, many transitional democracies around the world now use such systems, and mixed-member majoritarian models in particular have become especially popular in East Asia and the former Soviet Union, two important regions of reference for Mongolia. A number of these countries also use their party list component in ways which may be relevant for Mongolia. In Thailand, for instance, nominees for the party list seats must possess higher educational qualifications, as cabinet ministers are drawn exclusively from the party list and not from local electorates. In the Philippines, the party list is only open to parties representing disadvantaged groups. Other countries use the party list vote to improve gender balance, requiring parties to place female candidates in winnable positions on the list (for further discussion of this issue, see section 4 below). Some of these creative approaches to electoral system design may be relevant to Mongolia.

D. Existing Aimag-based districts, but with counting system changed to PR (one member's proposal)

Finally, one of the parliamentarians interviewed suggested leaving the existing district structure of 26 electoral districts as it is, but changing the counting method from the current plurality/block method to proportional representation. As no further details of the

proposal were forthcoming, it has been included here as an option requiring additional development. Such a system would presumably use an open list vote, and thus would not require constitutional reform. Assuming any application of PR would take the simplest route possible, this would presumably involve the application of a Hare quota (ie, no of members to be elected plus one) and a "largest remainder" method for distributing additional seats.

Expert Comment:

This would be the simplest reform of the various options propsed, and would likely result in some modest increases in overall proportionality (less so in rural areas, but more so in the larger, Ulaanbator-based, electoral districts) but fewer changes to the status quo in other areas. Because of the relatively small magnitude of most electoral districts it would also be compatible with an open list PR vote and may be more recognisable to voters than the other proposed reforms, given the limited changes involved. In the rural districts which only elect a few members, however, it would likely not open up many opportunities for new parties and may therefore result in broadly similar outcomes to the current system.

Overall Recommendation:

All of the four proposals have strengths and weaknesses. Option A, the working group's proposal, is the most well-developed model and proposes a system of open list voting with an electoral threshold and a nomination quota for female candidates. All of these ideas are worthwhile in their own right and could usefully be incorporated into whatever system Mongolia finally chooses. However, in my opinion, the single-district system is not a realistic option for a country of Mongolia's physical size and regional diversity, and would need to be modified before this proposal could be further developed.

Options B (Mr Bold's proposal) and C (Mixed system) would appear to offer better prospects of a workable reform *depending on whether a party list vote is possible*. If some form of party list vote is held to be constitutional, then either the Bold proposal, which outlines a system of party-list PR in 6-7 large electoral districts, or the various

mixed-member proposals (preferably the 26/50 model), should be considered further. However, clarification of whether "directly elected" members can be chosen by a party list vote in Mongolia is needed before further development of this proposal.

If such clarification is not possible, or if it is found that party-list voting is not constitutional, then option D, which proposes keeping the existing district structure but changing the vote counting method from a plurality to a proportional system, may be worth further consideration and development as one means of combining proportional voting with open lists. One option may be to take some of the desirable elements of Option A and see to what extent these could be combined with the smaller district structure proposed in Option D, or indeed another form of district structure that does not result in overly-large constituencies. This would include some of the aspects of Option A that could be applied under any of the proposed reforms, such as its model of open list voting, the 15% quota for female candidates, and so on.

4. Special considerations: Representation of Women and Minorities

In addition to the issues discussed above, two other special considerations were frequently raised during interviews with parliamentarians and legal experts. The first and most important of these concerned ways to raise the representation of women in Mongolian politics from its currently very low rate of just 3% of elected members. The second issue, raised by a smaller number of interviewees, was how to safeguard the ongoing representation of Mongolia's Kazakh minority in any electoral reform. This section discusses each of these issues in turn.

Representation of women

Different electoral systems can have a profound impact the representation of women. In general, international experience suggests that proportional systems tend to result in the election of more women, all other things being equal. Electoral systems which use

reasonably large district magnitudes encourage parties to nominate women on the basis that balanced tickets will increase their electoral chances.

Another reason for the superiority of PR systems is the way party list systems allow for the legal application of gender or other quotas. For instance, some countries require that women make up a certain proportion of the candidates nominated by each party. In plurality or majority systems, this option is more difficult to implement, although seats can always be set aside in the legislature for women.

Taking this as a starting point, the following specific strategies can be used to increase the number of women representatives in any electoral reform:

a. First, there are reserved seats, where a certain number of seats are set aside for women in the legislature. These seats are filled either by representatives from regions or by political parties in direct proportion to their overall share of the national vote. Reserved seats typically exist in plurality/majority electoral systems, and are often entrenched in a country's constitution. This happens in a handful of countries, including Afghanistan (two women for each of the 32 provinces or roughly 25 per cent of seats), Uganda (one woman for each of the 56 districts, or roughly 18 per cent of seats) and Rwanda (where 24 women are elected by a women's-only ballot, accounting for 30 per cent of the seats). In India, seats on local authorities in some states are divided into three groups: at each election, only women may be nominated for one group of seats, thereby guaranteeing a minimum of one-third women elected, with the side effect of a two-term limit for elected men.

b. Second, there are quotas, whereby electoral law can require political parties to field a certain number of women candidates for election. This generally applies to PR electoral systems, as in the case of Bolivia (30 per cent of candidates), Namibia (30 per cent of candidates at the local level) and Peru (30 per cent of candidates). The 15% quota for female candidates proposed for Mongolia in the Working Group's proposal (Option A) is an example of such a model. However, such laws do not always guarantee that the target will be met unless there are strict placement mandates and enforcement mechanisms guaranteeing that women are placed in electable positions on party lists. This is the case in Argentina (30 per cent in winnable positions), Belgium (30 per cent with placement mandate) and Costa Rica (40 per cent of winnable positions). In addition, political parties

may also adopt their own internal quotas for women as legislative candidates. This is the most common mechanism used to promote the participation of women in political life, and has been used with varying degrees of success all over the world.

c. Third, *financial incentives* for female candidates can be used. In Papua New Guinea, for instance, female candidates polling at least 10% of the vote are entitled to a refund of their campaign expenses after the election. This provision has had a modest but positive impact in increasing the overall number of female candidates.

Expert Comment:

Which (if any) of the above mechanisms may be suitable for Mongolia depends predominantly on which form of electoral system is chosen.

If the existing Aimags are left as the basic unit of representation, then some kind of reserved seat option may be worth considering (for example, the Afghanistan option of reserving one seat in every province for a female candidate could be considered).

If a closed list or mixed member system is chosen, then some form of electoral quota, as detailed above, may be worth considering. The proposal for a 15% quota presented in the Working Group's reform proposal (Option A) could also be considered under other models using a list system, even though a "winnable seats" criteria would be difficult to implement under such a system.

Finally, regardless of the electoral system used, party quotas and financial incentives for female candidates could be introduced as part of any electoral system reform. International experience suggests both can have a positive impact on the number of women standing for election.

Representation of Minorities

Mechanisms to ensure the representation of Kazakhs were also raised by several interviewees. At the moment, the regional concentration of Kazakh voters in the country's north-west allows them to gain some minimal degree of representation in

parliament. Concerns were expressed by some interviewees about the potentially negative effects for Kazakh representation and national unity if electoral reforms resulted in a change to this practice.

Expert Comment:

The implication for the representation of Kazakhs and any other ethnic minorities need to be taken account when designing any new or revised electoral system. In particular, any change to existing district boundaries should take account of the need to maintain some level of Kazakh representation. In practice, this means that electoral districts should not be so large as to unduly dilute the prospects of Kazakh voters being able to elect a member of their ethnic group to the Great State Hural.

5. Conclusion

In conclusion, it is worth emphasizing that regardless of the specific electoral system chosen, there are some larger overarching issues that came up repeatedly during consultations for this project:

- First, there was a widespread consensus on need for electoral reform expressed by virtually all sectors/parties/individuals interviewed. This suggests that the status quo is no longer seen as legitimate, and that the option of doing nothing is simply not viable. The need for some kind of electoral reform is probably the single most important message to emerge from these consultations.
- Second, however, there was only limited consensus on the best system or model that such reform should take. All the proposals elucidated above contain some element of proportional representation, but beyond this they differ widely. Beyond the consensus on the need for a fairer system, there appears to be considerable disagreement on specific models. This lack of consensus will need to be overcome if any reform is to gain majority support.
- Third, there was widespread confusion over the constitutional implications of any electoral reform. Some parliamentarians and legal experts interviewed believed that

Mongolia's constitutional requirement that members be "directly elected" meant that only candidate-based voting was possible, essentially ruling out any party list option. Others believed that this clause should be understood in its conventional international sense to refer specifically to the use of electoral colleges or other forms of indirect democracy, and thus had no implications for the current electoral reform debate. Still others had different views again. Given this lack of consensus, it is imperative that the meaning of this term be clarified as soon as possible, either by passing legislation or by judicial ruling.

- Fourth, regardless of which electoral system is chosen, there was widespread agreement on the need for the distribution of seats to more accurately reflect the distribution of Mongolia's population. In particular, many interviewees called for the re-allocation of seats between urban and rural areas to reflect the rapid population movements currently taking place in Mongolia. Currently, Ulaanbator is estimated to have roughly half the entire Mongolian population but only one-third of the parliamentary seats. This malapportionment needs to be corrected immediately, and mechanisms put in place to ensure that future population movements are reflected in the allocation of seats so that the basic principle of one person, one vote is preserved.

- Fifth, the timing of any reform is important. Mongolia currently has a window of opportunity to reform its electoral system. Such opportunities do not come along very often, given the changing constellation of political forces in a democracy, and should not be expected to last long. In addition, it must be emphasized strongly that any reforms should be enacted as soon as possible to enable implementation prior to the 2012 general elections. Even modest reforms will require the General Electoral Commission to develop new procedures and processes for election. Major reforms will require more time to implement new arrangements. Either way, it is important that any legislation be passed soon so as to enable any reform sufficient time to be implemented.

A strong message to come out of this process of consultations was the need for caution and realism in pursuing electoral reform. While clearly there is a consensus on the need for change in Mongolia's electoral system, this should not be at the expense of those

parts of the Mongolian democracy that work well. Continuity of the 'rules of the game' and respect for representative institutions is very important in transitional democracies, as it is only by repeated use of the same institutional arrangements that the process of democratic consolidation can occur. Thus, while reform of Mongolia's electoral law is clearly necessary, changes should be measured and considered reforms which build upon the strengths of Mongolia's democracy.

Finally, there is a need for realism about what electoral reform can achieve. It must be remembered that while potentially very influential, electoral reform cannot change underlying issues of political behavior or national culture. In addition, concerns about political parties, money politics and stable government and similar issues exist in a great many new democracies. Indeed, such problems exist in all democratic systems to some extent. Understanding of this reality should serve as a caution against unrealistic expectations and underline that the consequences of any reforms are carefully considered, with a view not just to addressing specific issues of concern but also to maximizing the long-term legitimacy and stability of Mongolian democracy.

Appendix 1: List of Meetings Held

Day	Name and position	Time
6 May, Thursday	O. Enkhtuvshin, Chair of the Standing Committee on State Structure	12.30
	L. Bold, MP	14.00
	Su. Batbold, MP	14.30
	H. Temujen	15.00
	J. Suhbaatar	16.00
	Akbar Usmani, UNDP RR a.i. Shoko Noda, UNDP DRR	17.00
7 May, Friday	*MPRP party caucus members:* Ts. Uuld O. Dorjsuren Ts. Enkhjargal Ts. Narmandakh	9.30
	Democratic Party caucus B. Boldbaatar G. Herlen Behbat	10.30
	Legal Department, Parliament Secretariat L. Ulziisaikhan A. Tuul N. Munkhzesem	11.30
	Standing Committee on State Structure, *Parliament Secretariat* O. Tungalag - adviser S. Enkhzezeg - officer Z. Nyamtsogt - officer	12.00
	Lunch	
	National Committee on Gender Equality Ms. B. Dolgor, Prime Minister's adviser, Deputy Chair of the NCGE	14.00
	General Election Commission Mr. N. Luvsanjav- Chairman Mr. Ch. Sodnomtseren – Commissioner, Secretary Mr. Bayanduuren – Chief of the Secretariat	15.00
8 May	Workshop with MPs Government hospitality centre "Elite"	11.00-15.00
10 May	Workshop with CSOs, political parties, experts	9.30-13.00
	Prime Minister of Mongolia Mr. S. Batbold	15.00
	Debriefing, internal discussions Jama, Hulan, Davaa	16.00

Appendix 2: Translated chapters from IDEA book