

The Price of Limiting Power

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On 18 April 2021, Mongolia's political landscape was hit by an unexpected event: President Battulga Khaltmaa issued an official decree in which he suggested to dissolve Mongolia's 100-year-old ruling party, the Mongolian People's Party (MPP). What appears to be a political problem at first glance, points to a deeper crisis of Mongolia's constitutional democracy. Not only the scope of Presidential powers, but also the so called [National Security Council](#) (NSC) and Constitutional Court are in urgent need of reform. I argue that this deeper crisis consists of institutional conflicts between the President (who has been elected from the main opposition party) on the one side, and the ruling party and prime minister on the other side.

Back to Political Volatility

Until 1990, Mongolia had been a communist one-party regime under the MPP for 70 years. It was only in 1990 that the transition to democracy came along with a transition to a multi-party system with free and fair elections. Since then, Mongolia has been led by 17 different governments, making it one of the most politically volatile countries in the region. Despite this tumultuous history, the country managed to successfully organize parliamentary elections [last June](#), in the midst of the COVID-19 pandemic. The result was a landslide victory for the ruling MPP which retained its super-majority in the country's unicameral parliament. The MPP chairman and incumbent Prime Minister, Khurelsukh Ukhnaa, was re-elected for a second term. It seemed like Mongolia might experience a rare period of political stability.

However, just six months into his term, Khurelsukh unexpectedly [stepped down](#) as Prime Minister along with his entire Cabinet, ostensibly in response to a small, one-day demonstration that took place in the central square of the capital, Ulaanbaatar, in January 2021. Many of the protesters, who were outraged by the mistreatment of a pregnant COVID-19 patient during her hospitalization, were reportedly surprised to see their humble gathering elicit such an impact. In reality, many Mongolians suspect that Khurelsukh resigned with an eye to prepare a bid for the upcoming [presidential election](#) in June 2021.

After Khurelsukh's resignation, he announced to stay on as chair of the MPP, which agreed to appoint his right-hand man, Oyun-Erdene Luvsannamsrai, as the replacement Prime Minister.

From the “bad seven changes” to the 2019 Constitutional Amendment

Complicating the matters further, in 2019, the Mongolian Parliament approved significant [changes to the constitution](#), including limiting presidencies to a single term. This is only the second time that the Mongolian government made an amendment to the constitution since its adoption in 1992. The first amendments took place in 2000, which some politicians call the “bad seven changes”. Due to the commitment from the ruling party, especially from one of its leaders, Zandanshatar Gombojav, the second amendment was approved by Parliament. Zandanshatar is currently serving as a speaker of the Parliament. Previously, he was a visiting scholar at Stanford University, where he met Professor James Fishkin. Mongolia became one of the few countries that used the [deliberative democracy](#) approach by Professor Fishkin to amend its constitution. Many Mongolian scholars argued that it was a [flawed method to](#) amend the constitution, especially since the deliberative process was subject to manipulation. Through the method of deliberative polling, the government tried to survey citizens’ views on possible constitutional amendments. Though this process claimed to work with representative sampling methods, this is where manipulation was possible. For instance, some citizens were provided with unbalanced information and asked biased questions.

The main goal of the recent second [constitutional amendment](#) was to move from a semi-presidential system to a parliamentary system. The power of the popularly-elected president was restricted and more power given to the prime minister, especially with regard to choosing cabinet members. Many scholars expected conflicts among these two institutions after the amendment. This expectation concerned, for example, the newly-introduced term limit for presidents. While previously the constitution prescribed a two-term limit with four years per term, the amendment limited a presidential term to a single term of six years. Initially, this clause was planned to be implemented after 2025. However, this date has since been dropped. The result is an ongoing debate among politicians and legal scholars whether the [new term limit](#) should already apply to the current President. After long discussions, some members of an opposition party petitioned the Constitutional Court to get a decision on this issue. After various rumors and [suspicious events](#), such as canceling meetings of the small chamber and changing one justice of the court by the Parliament, the Constitutional Court ruled that current and former presidents cannot run for presidential elections again.

The President’s Intervention

For the incumbent President Battulga Khaltmaa, this decision was shocking news. After few days of silence, Battulga Khaltmaa came up with the idea to [dissolve the ruling party](#). He issued an official decree on 18 April 2021 and handed it over to the Supreme Court for a final decision. The official reasoning behind this decree is based on two accusations by the President: Firstly, the President accused the head of the MPP (Khurelsukh) to be involved in the [Mongolian Joint Military Union](#), an NGO that helps mostly retired military veterans. According to the President, political

parties should not be involved in military organizations or activities. Ironically, the President himself sent the NGO official congratulating remarks, when they launched in 2019. For the last 30 years, the Mongolian military organizations and officers have been held at arm's length from politics. Secondly, and more importantly, the President accused the MPP of having influenced the Constitutional Court's decision. At the time of writing, the Supreme Court stated that a meeting cannot be organized due to the COVID-19 pandemic. Nevertheless, there has been a strong debate among the Mongolian people whether the President's decree is constitutional or not.

However, the amendment of the Mongolian constitution is not the only constitutional issue causing political trouble. One of the main sources of the current crisis is related to the [National Security Council](#) (NSC). This is a unique organization which was established by the 1992 constitution. From the perspective of checks and balances, the structure of the NSC is problematic. The NSC has three members. The President acts as the head of NSC, the other two members are the Prime Minister and the Speaker of Parliament. Khurelsukh Ukhnaa (the former Prime Minister) worked closely with President Battulga Khaltmaa for the last four years in the NCS. Evidently, since 2017, President Battulga has been using this structure in order to implement his political agenda with green light by the other two members. For example, the President successfully passed the law on [payoff loans](#) for all pensioners through a decree by the NSC. The NSC became very influential in the last 4-5 years, due to the personal relationship between Battulga and Khurelsukh, which allowed them to – essentially – rule by decree. Scholars have been warning about the NSC's [unconstitutional activities](#) for the last few years. Now, after the NCC has become a source of political conflicts, the current prime minister and speaker of the parliament stopped attending the meetings of the NSC.

The Way Ahead

Ultimately, all these events and conflicts have culminated in the present political crisis, but cannot be understood without recourse to the 1992 constitution. Most of these problems are related to the strong position of the President in the Mongolian political system.

Even though the Parliament made significant changes to the Constitution in 2019, there are still unclear and problematic issues. Firstly, the amendment did not change the popularly elected presidency. Popular elections in Mongolia usually gave more legitimacy to the President compared to the Prime Minister, resulting in the President becoming a gridlock in the parliamentary system. Secondly, the court that should make a final judgment on the constitution is heavily influenced by politicians (which I have explained [here](#) in detail). Thirdly, the structure of the NSC will not change. Since Khurelsukh Ukhnaa has the biggest chance to win the presidential election, NSC will be an even more problematic and influential political actor in the near future. Even though there is consensus among politicians that the last amendment was a positive change for our democracy, I argue that the last amendment has not gone far enough. If political instability will continue at this scale, Mongolia's political crisis might put the very institution of constitutional democracy in danger.

