

Legal Analysis of the Current Status of the Bogdkhan Mountain Strictly Protected Area: Challenges and Policy Recommendations

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ABSTRACT

Bogdkhan Mountain, one of the world's oldest legally protected areas and a UNESCO Biosphere Reserve, has experienced increasing urban development despite its status as a Strictly Protected Area under Mongolian law. This study examines the legal framework governing the Bogdkhan Mountain Strictly Protected Area (BMSPA), evaluates the current implementation of conservation legislation, identifies institutional and regulatory deficiencies, and proposes legal and policy reforms to reconcile biodiversity conservation with urban development. The research employs doctrinal legal analysis combined with comparative legal research and policy analysis. More than forty national legal instruments, international treaties, policy documents, administrative regulations, and foreign best practices concerning protected-area governance were examined. In addition, a questionnaire survey was conducted among residents living within the restricted-use zone of the BMSPA.

The findings reveal significant inconsistencies within Mongolia's legal framework. Although the Law on Special Protected Areas prohibits permanent construction within Strictly Protected Areas, other statutory provisions and subordinate regulations have facilitated the allocation of land-use rights within the restricted-use zone. As a consequence, approximately 35.4% of the restricted-use zone has been allocated for land use, resulting in extensive residential development and increasing ecological pressure. The study further demonstrates inconsistencies between national environmental policies, Mongolia's obligations under the Convention on Biological Diversity, and urban planning policies adopted for Ulaanbaatar.

Drawing upon international experience relating to Urban Protected Areas and contemporary principles of environmental governance, the study proposes comprehensive legal reforms, including harmonization of conflicting legislation, repeal of inconsistent subordinate regulations, revision of land-use policies, adoption of an updated management plan based on ecological carrying capacity, and the establishment of a specialized legal regime for urban protected areas. It further argues that Bogdkhan Mountain should be developed as a model Urban Protected Area that balances biodiversity conservation, sustainable tourism, public recreation, and constitutional protection of private property rights. The proposed reforms aim to strengthen environmental governance while ensuring the long-term conservation of one of the world's most historically significant protected landscapes.

Keywords: Bogdkhan Mountain; Strictly Protected Area; Urban Protected Area; biodiversity conservation; environmental governance; protected area governance; land-use regulation; environmental law; sustainable development; Mongolia.

INTRODUCTION

Bogdkhan Mountain is widely recognized as one of the world's oldest legally protected natural areas. Historical records indicate that it was placed under official state protection as early as 1778, during the Bogd Khanate of Mongolia. Although Yellowstone National Park in the United States, established in 1872, is commonly regarded as the world's first national park, several scholars—including Keith Teller—have argued that Bogdkhan Mountain had already enjoyed formal legal protection nearly a century earlier.

Historical evidence further demonstrates the continuity of this protection. In 1809, twenty-eight valleys

surrounding the mountain were placed under official surveillance, and entry permits were issued exclusively by the Bogd Khan himself. Following Mongolia's declaration of independence in 1911, the mountain was officially designated Bogd Khaikhan Mountain, and a dedicated administrative body responsible for its protection was established. Subsequently, the Presidium of the State Great Khural reaffirmed its protected status in 1957, and by Resolution No. 248 of 1974, the area was formally designated as the Bogd Mountain Strictly Protected Area.

The international significance of Bogdkhan Mountain was further acknowledged in 1996, when UNESCO decided to include it within the World Network of Biosphere Reserves, with the official certificate being issued in 1997. Under UNESCO's Man and the Biosphere (MAB) Programme, biosphere reserves are intended not only to conserve biodiversity but also to harmonize environmental protection with the socio-economic and cultural needs of local communities living within or adjacent to protected areas.

Despite its exceptional historical and ecological value, Bogdkhan Mountain has experienced rapid urban encroachment during recent decades. Residential developments have expanded into areas designated as part of the Strictly Protected Area, resulting in significant violations of the conservation regime established under Mongolian law. Within the restricted zone of the Bogd Khan Uul Strictly Protected Area, land-use rights have been granted to 1,964 individuals and legal entities covering a total area of 2,425.55 hectares. Of this area, 3.2% has been developed, with 2,630 buildings constructed and approximately 81,650 people residing there. These figures indicate that the northern part of Bogd Khan Uul, particularly the portion within the administrative territory of Ulaanbaatar, has effectively become a settlement area. This is a highly regrettable development from the perspective of protected-area conservation and environmental protection.

This situation mirrors challenges commonly identified in the international literature concerning Urban Protected Areas. Such areas frequently encounter pressures arising from large numbers of visitors with limited environmental awareness, conflicts of interest in governmental decision-making, urban expansion driven by population growth, illegal waste disposal, noise and light pollution, wildfire risks, air and water pollution, and the degradation of wildlife habitats. These issues have become increasingly evident within the Bogdkhan Mountain Strictly Protected Area, highlighting the urgent need for comprehensive legal and policy reforms.

RESEARCH METHODOLOGY

This study employs a qualitative doctrinal legal research design complemented by comparative legal analysis and an empirical questionnaire survey. The objective is to evaluate the effectiveness of Mongolia's legal framework governing the Bogdkhan Mountain Strictly Protected Area (BMSPA), identify institutional and regulatory shortcomings, and develop policy recommendations for improving environmental governance and biodiversity conservation.

The doctrinal component of the research involved a systematic examination of Mongolia's constitutional, statutory, and regulatory framework governing protected areas. More than forty legal sources were analyzed, including the Constitution of Mongolia, the Law on Special Protected Areas, the Land Law, the Law on Environmental Protection, the Law on Environmental Impact Assessment, the Law on Cultural Heritage, relevant Government resolutions, ministerial regulations, national development policies, and official management plans. Particular attention was paid to identifying inconsistencies among legal norms, conflicts between primary legislation and subordinate regulations, and gaps affecting the implementation of conservation objectives.

To strengthen the legal analysis, the study also adopts a comparative legal approach. International legal instruments and policy documents—including the Convention on Biological Diversity (CBD), UNESCO's Man and the Biosphere (MAB) Programme, IUCN Protected Area Management Guidelines, and UNEP environmental governance frameworks—were examined to compare Mongolia's legal regime with internationally accepted principles governing protected areas. Comparative examples from several jurisdictions were further reviewed to identify best practices concerning Urban Protected Areas, biodiversity governance, sustainable tourism, and land-use regulation.

In addition to doctrinal research, an empirical questionnaire survey was conducted to examine public awareness and perceptions regarding the legal status and management of the Bogdkhan Mountain Strictly Protected Area.

The survey employed purposive sampling and targeted residents living within the Restricted-Use Zone, where permanent residential development has become concentrated. Approximately eighty respondents residing in residential complexes including Shunshig Villa, Khunnu Villa, New Town, Khangarid City, IRIS Residence, and Garden City voluntarily participated in the study. These residential areas were selected because they represent the principal urban developments established within the protected area and therefore provide valuable insights into the practical implementation of environmental legislation.

The questionnaire consisted primarily of structured and semi-structured questions designed to assess respondents' awareness of the protected area's legal status, knowledge of land-use regulations, reasons for choosing to reside within the protected area, perceptions of environmental quality, and attitudes toward future conservation policies. Participation was voluntary and anonymous, and respondents were informed that the collected information would be used exclusively for academic research purposes.

The collected survey data were analyzed using descriptive statistical methods. Frequencies and percentage distributions were calculated to summarize respondents' answers and identify prevailing trends in public perceptions. Qualitative responses were reviewed through thematic analysis to identify recurring viewpoints concerning environmental governance, residential development, and the effectiveness of existing legal regulations. The empirical findings were subsequently integrated with the doctrinal legal analysis to evaluate whether the implementation of Mongolia's legal framework reflects its statutory objectives and international environmental commitments.

The study has several limitations. The questionnaire survey was confined to residents within the Bogdkhan Mountain Strictly Protected Area and therefore does not necessarily represent the views of the wider population or other stakeholders, including government officials, conservation managers, developers, and civil society organizations. Furthermore, the research primarily focuses on legal and institutional analysis and does not include ecological field surveys, biodiversity assessments, or Geographic Information System (GIS)-based spatial analysis. Nevertheless, the combination of doctrinal legal analysis, comparative legal research, and empirical evidence provides a reliable basis for evaluating the current legal framework and proposing practical legal and policy reforms for improving the governance of urban protected areas in Mongolia.

DISCUSSION

The findings of this study reveal that the principal challenges affecting the Bogdkhan Mountain Strictly Protected Area (BMSPA) do not arise primarily from the absence of environmental legislation, but rather from inconsistencies within the legal framework and weaknesses in institutional implementation. Mongolia has adopted a comprehensive body of legislation governing biodiversity conservation and protected areas, supported by constitutional guarantees, sector-specific environmental laws, and international obligations under the Convention on Biological Diversity (CBD). Nevertheless, the practical implementation of these legal instruments has been undermined by contradictory statutory provisions, inconsistent subordinate regulations, fragmented administrative decision-making, and insufficient coordination between environmental governance and urban planning institutions.

The empirical findings obtained through the questionnaire survey reinforce this conclusion. Although all respondents recognized that Bogdkhan Mountain is a Strictly Protected Area, a substantial proportion indicated that they were unaware, at the time of purchasing their property, that residential developments had originally been authorized under tourism-related land-use permits rather than for permanent residential purposes. These findings suggest that the principal governance challenge is not merely public awareness but also the lack of transparency and accountability within administrative decision-making. Residents appear to have relied on official approvals issued by competent public authorities, demonstrating that legal uncertainty has been generated primarily by institutional practice rather than by deliberate non-compliance on the part of citizens.

The research also demonstrates an institutional disconnect between environmental protection policies and urban development strategies. While Mongolia's long-term development policy (Vision 2050) and the National Program on Special Protected Areas emphasize biodiversity conservation and the expansion of protected areas, urban master planning documents simultaneously designate parts of the Restricted-Use Zone for residential

development. This contradiction illustrates a broader governance problem in which environmental objectives are insufficiently integrated into sectoral planning. As a result, environmental legislation and urban planning policies pursue competing objectives rather than functioning as complementary regulatory frameworks.

From the perspective of environmental governance, the Bogdkhan Mountain case illustrates the importance of regulatory coherence. Effective protected-area governance requires consistency between primary legislation, subordinate regulations, administrative practice, and national development policy. Where these legal instruments operate inconsistently, administrative authorities inevitably acquire broad discretionary powers, increasing the likelihood of regulatory conflict and weakening the rule of law. The present study therefore supports the growing international view that effective biodiversity conservation depends not only upon adopting stronger environmental legislation but also upon improving institutional coordination, legal certainty, transparency, and administrative accountability.

The findings further indicate that Bogdkhan Mountain increasingly exhibits the characteristics of an Urban Protected Area recognized by the International Union for Conservation of Nature (IUCN). Unlike remote protected areas, urban protected areas are expected to accommodate conservation, public recreation, environmental education, and sustainable tourism while responding to continuous development pressures from surrounding metropolitan areas. Consequently, applying a conventional protected-area management model designed for remote wilderness areas may no longer be sufficient for Bogdkhan Mountain. Instead, Mongolia should consider developing a specialized legal framework specifically tailored to urban protected areas, reflecting both ecological requirements and existing socio-economic realities.

International experience provides valuable guidance for addressing these challenges. Comparative practice demonstrates that countries increasingly rely upon judicial review and integrated environmental governance to protect ecologically sensitive areas from incompatible development. The South African Mabola Protected Environment decision illustrates how courts may give priority to biodiversity conservation when development proposals conflict with statutory conservation objectives. Similarly, international guidance developed by IUCN and UNESCO emphasizes adaptive management, scientific planning, stakeholder participation, and ecosystem-based governance as essential elements of modern protected-area administration. These approaches are directly relevant to the future governance of the Bogdkhan Mountain Strictly Protected Area and support the legal reforms proposed in this study.

Finally, the findings suggest that future legal reform should move beyond resolving individual statutory inconsistencies and instead adopt a more integrated governance approach. Sustainable management of the Bogdkhan Mountain Strictly Protected Area requires harmonization of environmental legislation, land administration, urban planning, biodiversity conservation, and constitutional protection of property rights within a coherent legal framework. Such an approach would better reconcile conservation objectives with legitimate public interests while strengthening Mongolia's compliance with international environmental commitments and improving the long-term effectiveness of protected-area governance.

I. The Legal Framework Governing the Bogdkhan Mountain Strictly Protected Area and Its Current Challenges

Bogdkhan Mountain constitutes one of Mongolia's officially designated State Sacred Mountains and simultaneously forms part of the nation's cultural heritage. Pursuant to Article 5.1.9 of the Law on Cultural Heritage, the mountain is classified as a tangible cultural heritage site of historical and cultural significance. Furthermore, the Presidential Regulation entitled "Rules Governing State Ceremonies for the Worship of Sacred Mountains" provides that the state worship ceremony dedicated to the spirit of Bogdkhan Mountain shall be conducted once every five years, thereby reaffirming its status as a nationally protected sacred site.

The Bogdkhan Mountain Strictly Protected Area (BMSPA) forms part of the southwestern extension of the Khentii Mountain Range. Geographically, it borders Khan-Uul and Bayanzurkh Districts of Ulaanbaatar to the north and Zuunmod and Sergelen Souns of Töv Province to the south. The protected area encompasses 41,427.89 hectares, comprising approximately 20,978 hectares of agricultural land, 21,227 hectares of forest, 18 hectares of water bodies, 85 hectares of urban land, and 29 hectares occupied by roads and utility infrastructure.

Approximately 39,746 hectares (79.5%) of the protected area lie within the administrative territory of Ulaanbaatar, while the remaining 1,905 hectares (20.5%) are situated within Sergelen Soum of Töv Province.

By Resolution No. 26 of 1995, the State Great Khural officially designated the southern mountain area adjacent to Ulaanbaatar as the Bogdkhan Mountain Strictly Protected Area. Its legal status is primarily governed by the Law on Special Protected Areas (1994), which defines a Strictly Protected Area as a territory possessing outstanding ecological, scientific, or representative natural characteristics that has been placed under state protection to preserve environmental integrity.

Article 8 of the Law further divides Strictly Protected Areas into three management zones according to their ecological characteristics and conservation requirements:

1. Pristine Zone (Core Zone);
2. Conservation Zone (Buffer Zone);
3. Restricted-Use Zone.

The Bogd Khan Uul Strictly Protected Area (BKU SPA) covers a total area of 41,427.49 hectares, of which 6,443.29 hectares are designated as a restricted zone, 28,062.54 hectares as a protected zone, and 6,921.66 hectares as a pristine zone.

The Law establishes different legal regimes for each zone. Activities within the Pristine Zone are strictly limited to conservation measures and scientific observation conducted without altering the natural state of the ecosystem. Human intervention is otherwise prohibited.

Within the Conservation Zone, limited management activities are permitted where necessary to preserve biodiversity, maintain habitats, facilitate ecological restoration, or mitigate the impacts of natural disasters, provided that such measures do not adversely affect the environment.

The Restricted-Use Zone allows certain additional activities, including ecological restoration of degraded land, forest management, wildlife monitoring and population management, the sustainable use of mineral springs and therapeutic natural resources, ecotourism conducted along designated routes, temporary accommodation for researchers and visitors, scientific observation, photography and audiovisual recording, traditional religious ceremonies, and the collection of non-timber forest products by local residents for household purposes.

Notwithstanding these limited exceptions, the Law expressly prohibits several categories of activities throughout Strictly Protected Areas. These include:

- the construction of buildings and other permanent structures, except facilities specifically authorized for research, monitoring, or temporary accommodation of visitors;
- activities that pollute soil, water, or air;
- carrying firearms or bringing dogs into protected areas without official authorization from the Protected Area Administration; and
- any other activity prohibited under environmental legislation or the applicable conservation regime.

A plain reading of these statutory provisions indicates that permanent residential or commercial development is generally incompatible with the legal regime governing Strictly Protected Areas. Nevertheless, Articles 33 and 36 of the Law simultaneously authorize the Government to grant land-use rights within the Restricted-Use Zone to individuals and legal entities under specified conditions through contractual arrangements, provided that the proposed activities employ environmentally sustainable methods and receive recommendations from both the Protected Area Administration and the relevant local governor.

To implement these provisions, the Government adopted the Temporary Regulation on Granting Land-Use Permits within Special Protected Areas, establishing procedures for issuing land-use permits within designated areas of Strictly Protected Areas and National Parks. However, the Regulation introduces the concept of a "permitted zone", a term that is not defined anywhere in the Law on Special Protected Areas.

This legislative inconsistency has generated considerable legal uncertainty. Article 27 of the Law refers to "permitted zones within Special Protected Areas" when describing the powers of the central government authority responsible for protected areas but fails to define either the legal meaning or geographical scope of such zones. Consequently, administrative practice has interpreted the Restricted-Use Zone as equivalent to a "permitted zone," thereby allowing land-use permits to be granted in areas where the Law otherwise imposes strict conservation requirements. As a result, subordinate regulations have effectively expanded administrative discretion beyond the limits intended by the parent legislation, creating a legal basis for widespread land allocation within the Bogdkhan Mountain Strictly Protected Area.

Beginning in 1995, land-use permits within the Restricted-Use Zone of the Bogdkhan Mountain Strictly Protected Area were issued on the basis of environmental impact assessments and contractual agreements. From 2006 onwards, however, such permits have been granted directly by orders of the Minister responsible for environmental affairs. Historical evidence indicates that urban encroachment had commenced even earlier. By the early 1960s, more than 1,200 summer houses belonging to approximately 70 organizations, together with over 2,000 traditional dwellings (gers) accommodating nearly 15,000 people, had already been established around the mountain. Furthermore, more than forty permanent buildings had been constructed across seventeen valleys, gradually altering the natural landscape of the protected area.

Although Government Resolutions No. 241 of 1971 and No. 35 of 1988 required the relocation of certain recreational facilities in order to strengthen environmental protection, numerous governmental institutions, educational establishments, research organizations, correctional facilities, public schools, hospitals, and private enterprises continued constructing buildings within the protected area. These developments have occurred without comprehensive planning and have progressively intensified anthropogenic pressure on the mountain's ecosystem. Unless effective legal intervention is undertaken, the ecological integrity of the Bogdkhan Mountain Strictly Protected Area may ultimately be placed at serious risk.

International experience demonstrates that the degradation of protected areas may eventually necessitate costly ecological restoration programs and, in exceptional circumstances, even the removal of protected status. According to data published by the World Database on Protected Areas (WDPA) and the International Union for Conservation of Nature (IUCN), approximately 162 protected areas worldwide have previously lost their protected status. Most of these cases occurred between 1950 and 2000, while such decisions have become increasingly rare in recent decades owing to the strengthening influence of international environmental agreements, particularly the Convention on Biological Diversity, and the incorporation of international conservation standards into domestic legislation.

An illustrative example is provided by South Africa, where the North Gauteng High Court invalidated governmental approval for coal mining within the Mabola Protected Environment in 2015. The Court held that environmental protection obligations outweighed competing development interests, reinforcing the international principle that highly protected conservation areas should not be opened for economically motivated development except under exceptional legal circumstances. Such decisions reflect an emerging global consensus favoring stronger judicial protection of conservation areas rather than their progressive reduction.

A significant body of international conservation literature now recognizes the concept of Urban Protected Areas, namely protected areas situated within or immediately adjacent to metropolitan regions. The IUCN acknowledges that these areas possess distinctive management characteristics compared with remote protected areas because they experience continuous interaction with large urban populations.

Urban Protected Areas commonly encounter several recurring management challenges:

- substantial numbers of daily visitors possessing varying degrees of environmental awareness and ecological responsibility;
- unlawful or conflicted governmental decision-making concerning land-use planning and development;
- pressure arising from urban expansion and population growth;
- environmental degradation caused by crime, vandalism, littering, noise, and artificial light pollution; and
- increased risks of wildfire, air and water pollution, and habitat fragmentation that adversely affect biodiversity.

These characteristics are clearly observable within the Bogdkhan Mountain Strictly Protected Area. For example, habitat degradation within the Artsat, Nükht, and Khüreltogoot valleys has become sufficiently severe that the Protected Area Administration undertook the relocation of Mongolian marmot populations in 2020 in an effort to preserve the species' habitat. Such intervention illustrates the direct ecological consequences arising from expanding human settlement within the protected area.

Nevertheless, Urban Protected Areas also generate considerable public benefits. They provide opportunities for recreation, environmental education, and public health by enabling urban residents to experience nature with relatively low travel costs. At the national level, they contribute significantly to tourism, environmental awareness, and sustainable economic development. International examples include Royal National Park near Sydney, Tijuca National Park in Rio de Janeiro, and Calanques National Park near Marseille, all of which successfully integrate conservation objectives with urban accessibility through carefully regulated management systems.

Bogdkhan Mountain performs a similar function for the residents of Ulaanbaatar. Hiking routes such as Zaisan–Dugui Tsagaan, Manzushir–Tsetsee Gun, and Tör Khurakh–Tsetsee Gun have been officially designated for public recreation. Infrastructure projects financed by the Capital City Government include picnic facilities, shelters, children's playgrounds, sports facilities, environmentally friendly public sanitation, parking areas, landscape improvements, and approximately 22 kilometres of pedestrian and cycling trails. Additional recreational facilities have also been developed within the Ikh Tenger valley. These initiatives demonstrate that Bogdkhan Mountain is gradually evolving toward the internationally recognized management model of an Urban Protected Area, which seeks to reconcile biodiversity conservation with carefully managed public use.

Furthermore, several countries have enacted specialized legislation governing construction and tourism infrastructure within protected areas. Canada, for example, has adopted legal regulations specifically addressing the development and maintenance of visitor facilities inside protected areas while maintaining strict environmental safeguards. Such comparative experience may provide valuable guidance for improving Mongolia's legal framework governing the Bogdkhan Mountain Strictly Protected Area.

Under Mongolia's current legal framework, applications for land-use rights within the 12,035.09-hectare Restricted-Use Zone of the Bogdkhan Mountain Strictly Protected Area are submitted pursuant not only to the Law on Special Protected Areas and the Temporary Regulation on Granting Land-Use Permits within Special Protected Areas, but also in accordance with the relevant provisions of the Land Law of Mongolia. Applicants are generally required to submit an application form together with proof of identity or business registration, cadastral maps, preliminary site plans, project proposals, and reports describing the existing condition of the proposed site. As a result, 1,964 individuals and legal entities have been granted land-use rights pursuant to orders issued by the Minister of Environment and Tourism. Consequently, 2,630 buildings have been constructed within the area, and the population residing in the Bogd Khan Uul Strictly Protected Area has reached 81,650, with unofficial estimates placing the actual population at approximately 120,000.

The Temporary Regulation provides that land-use rights may be granted only for "specific purposes." However, neither the Law nor the Regulation defines what constitutes such a "specific purpose." This legislative omission has created significant legal ambiguity and has enabled broad administrative discretion in determining permissible land uses.

As a consequence, official statistics indicate that land-use permits have been granted by ministerial order to 481 individual citizens covering approximately 289.6 hectares, 910 legal entities covering approximately 3,416.2 hectares, and 610 indigenous residents covering approximately 26.0 hectares. These allocations have resulted in the construction of 2,556 buildings, including 2,207 detached residential houses and 349 apartment buildings, together with 25 tourism facilities. The resident population within the Bogdkhan Mountain Strictly Protected Area has consequently reached 43,050 persons. These figures clearly demonstrate that the Restricted-Use Zone has gradually evolved into a substantial urban settlement rather than remaining a conservation-oriented buffer area as originally envisaged by the legislation.

The Land Law defines land use as the utilization of one or more beneficial characteristics of land pursuant to an agreement concluded with the landowner or lawful possessor within the limits prescribed by law. However, the

Law on Special Protected Areas contains only limited provisions governing the practical administration of land-use rights within protected areas. Consequently, administrative authorities have frequently relied upon procedural provisions originally designed for ordinary land possession under the Land Law rather than adopting a specialized legal regime appropriate for environmentally sensitive protected areas.

For example, Article 36.3 of the Law on Special Protected Areas requires that tourism-related land use within the Restricted-Use Zone comply with the procedures governing land possession for commercial activities under Article 34.2 of the Land Law. Under this mechanism, an environmental impact assessment must be completed within ninety days before a land-use agreement is concluded and the relevant certificate is registered. Although this procedure facilitates administrative decision-making, it illustrates that the legal framework governing land use within protected areas remains incomplete and relies heavily upon legislation that was not specifically designed for conservation management.

These provisions collectively demonstrate that the legal framework contains an inherent structural inconsistency. While the Law formally prohibits permanent development within Strictly Protected Areas, subordinate regulations simultaneously authorize land-use rights, thereby undermining the effectiveness of the statutory conservation regime.

A further institutional weakness concerns protected-area management planning. The Temporary Regulation requires every protected-area administration to prepare a Management Plan identifying the location, extent, and permitted direction of future land use on the basis of scientific studies and expert assessment. In compliance with this requirement, the Administration of the Bogdkhan Mountain Strictly Protected Area prepared a Management Plan (2014–2018), which was subsequently approved by the Ministry of Environment and Green Development. The Plan comprehensively addressed the area's historical significance, geography, biodiversity, pollution, conservation management, strategic objectives, implementation measures, and institutional priorities.

Nevertheless, the Management Plan did not contain the legally required spatial planning framework identifying the precise locations and extent of land that could lawfully be allocated for use. As part of this study, a questionnaire survey was conducted among approximately eighty residents living within residential developments located inside the Bogdkhan Mountain Strictly Protected Area, including Shunshig Villa, Khunnu Villa, New Town, Khangarid City, IRIS Residence, and Garden City. All respondents (100%) were aware that Bogdkhan Mountain constitutes a Strictly Protected Area. However, 65% reported that they had been unaware, at the time of purchasing their property, that their apartments or houses had originally been approved under permits issued for tourism-related purposes rather than permanent residential use. The remaining 35% stated that they learned this fact only after acquiring their property. These findings indicate a substantial lack of transparency regarding the legal status of residential developments within the protected area.

When respondents were asked why they had chosen to live within the protected area, 50% cited the clean air, 15% the favorable location, 15% the quality of the buildings, while the remaining respondents referred to relatively affordable housing prices, expectations of future urban development, lower population density, and a cleaner living environment. Conversely, among those identifying disadvantages, the principal concerns included traffic congestion, poor water quality, and dust pollution. Notably, no respondent identified the legal restrictions associated with residing in a Strictly Protected Area as a significant inconvenience. This finding suggests that, in practice, the conservation regime established by law is not being effectively implemented in relation to permanent residential communities established within the Bogdkhan Mountain Strictly Protected Area.

Finally, respondents were asked whether they would support legislation removing Bogdkhan Mountain from its status as a Strictly Protected Area. Every respondent (100%) opposed such a proposal, demonstrating strong public support for maintaining the mountain's protected status despite the extensive urban development that has already occurred within its boundaries. This result indicates that the public does not seek to abolish environmental protection itself but rather expects more effective governance capable of reconciling conservation with lawful and sustainable land management.

II. State Policy of Mongolia, Future Development, and the Bogdkhan Mountain Strictly Protected Area

Twenty years after the United Nations Conference on Environment and Development (UNCED) held in Rio de Janeiro in 1992, which first articulated the fundamental principles of sustainable development, these principles

have become the principal framework guiding national development policies worldwide. During the Rio Summit, the Prime Minister of Mongolia signed the Convention on Biological Diversity (CBD) on behalf of Mongolia, and the State Great Khural ratified the Convention on 1 June 1993.

The Preamble to the Convention affirms that the conservation of biological diversity constitutes a common concern of humankind. It expresses deep concern over the significant reduction of biodiversity resulting from human activities and recognizes that the in situ conservation of ecosystems and natural habitats represents the most effective means of preserving biological diversity. Accordingly, the Convention calls upon State Parties to undertake determined action to conserve and sustainably use biological diversity for the benefit of both present and future generations.

A decade later, the World Summit on Sustainable Development (Rio+10) convened in Johannesburg in 2002, reviewing the achievements and shortcomings of the previous decade while establishing new priorities for sustainable development through the Millennium Development Goals. The Johannesburg Declaration emphasized that the international community should urgently address fundamental human needs, including access to clean water, public health, food security, biodiversity conservation, and the maintenance of ecological balance. The internationally accepted concept of sustainable development rests upon three mutually reinforcing pillars—environmental protection, social development, and economic growth—which must be pursued in a balanced and integrated manner.

The conservation of biodiversity and the maintenance of ecological integrity have consequently become defining priorities of contemporary environmental governance. Reflecting this global trend, the number and extent of protected areas worldwide have increased steadily. Whereas protected areas covered approximately 12 percent of the Earth's land surface, representing more than 100,000 sites in 2005, the number had expanded to approximately 270,361 protected areas by December 2021.

Mongolia has similarly adopted a national policy aimed at expanding its protected-area network. The National Program on Special Protected Areas expressly provides that the country's protected-area system should be expanded to cover not less than 30 percent of the national territory. This objective is further reflected throughout Mongolia's long-term national development strategy.

The Long-Term Development Policy of Mongolia (Vision 2050) identifies Green Development as one of the country's principal strategic priorities. Chapter Six states that Mongolia shall promote environmentally sustainable development, preserve ecosystem balance, ensure environmental sustainability, improve the quality of human life, and guarantee that the benefits of natural resources are enjoyed by both present and future generations. Chapter Eight, addressing Regional Development, further provides that regional development shall preserve natural ecosystems while promoting diversified green industries, regional economic integration, and balanced competitiveness. Chapter Nine, concerning Ulaanbaatar and Satellite Cities, envisages the capital city as a livable, environmentally friendly, and people-centered smart city.

Vision 2050 also establishes measurable conservation targets by increasing the proportion of Mongolia's territory designated as State Special Protected Areas from the current 20.15 percent to 30 percent by 2030, 33 percent by 2040, and 35 percent by 2050. These objectives demonstrate that the expansion of protected areas and the enhancement of ecosystem services have become integral components of Mongolia's long-term state policy. In this respect, Vision 2050 represents a continuation of the environmental philosophy embodied in both Mongolia's National Program on Sustainable Development (1998) and the Comprehensive National Development Strategy Based on the Millennium Development Goals.

The National Program on Sustainable Development, adopted in May 1998, sought to integrate macroeconomic development with solutions to global environmental challenges while strengthening Mongolia's economic independence. The Program explicitly recognized that green development constitutes a fundamental necessity arising from the common interests and practical needs of humanity. Subsequently, the Comprehensive National Development Strategy Based on the Millennium Development Goals reaffirmed these principles by identifying private-sector-led economic growth, human development, education, healthcare, science and technology, and environmentally sustainable development as national priorities. Nevertheless, implementation of these policy

instruments has been hindered by inadequate institutional coordination, weak policy continuity, and insufficient preservation of professional expertise across successive administrations.

A comprehensive review of Mongolia's national development policies therefore demonstrates a consistent governmental commitment to expanding protected areas, strengthening biodiversity conservation, and promoting green development. These policy objectives are fully consistent with Article 6(a) of the Convention on Biological Diversity, which requires Parties to develop national strategies, plans, and program for the conservation and sustainable use of biological diversity. Accordingly, these principles have been incorporated not only into the Law on Special Protected Areas, the Law on Environmental Protection, the Law on Buffer Zones of Special Protected Areas, and the Law on Environmental Impact Assessment, but also into numerous national policy instruments, including the National Program on Special Protected Areas, the National Water Program, the National Program for the Conservation of Rare and Endangered Species, the Green Development Policy, and the National Biodiversity Program.

Despite this coherent national policy framework, significant inconsistencies remain between environmental policy and urban development planning. Because Bogdkhan Mountain lies immediately adjacent to Ulaanbaatar, the Master Plan for the Development of Ulaanbaatar to 2020 and the Development Vision to 2030, approved by Resolution No. 23 of the State Great Khural in 2013, designated several valleys within the Bogdkhan Mountain Strictly Protected Area—including Zaisan, Artsat, Enkhtaivan, Nükht, and Tashgai—as future residential development zones. This planning decision created the legal and practical conditions for large-scale construction within areas that had previously been subject to conservation protection. Furthermore, Vision 2050 also envisages the construction of the Bogdkhan Freight Railway during the period 2031–2040, thereby introducing additional development pressure upon the protected area.

In addition, pursuant to the 2013 parliamentary resolution, the Capital City Citizens' Representative Khural approved the Master Plan for the Nisekh–Yarmag Residential District by Resolution No. 198 of 20 November 2015. This planning document covers parts of Khan-Uul District that overlap with the Restricted-Use Zone of the Bogdkhan Mountain Strictly Protected Area. Consequently, it may be argued that the municipal planning authority exercised its statutory planning powers in a manner inconsistent with the prohibitions established under the Law on Special Protected Areas, particularly those governing activities prohibited within Strictly Protected Areas.

Accordingly, both the Master Plan for Ulaanbaatar, the 2013 Parliamentary Resolution No. 23, and the municipal planning decisions implementing that policy appear inconsistent not only with Mongolia's national sustainable development strategy but also with Article 6(b) of the Convention on Biological Diversity, which requires biodiversity conservation and sustainable-use considerations to be integrated into relevant sectoral and cross-sectoral plans, programs, and policies. This inconsistency illustrates the continuing disconnect between Mongolia's environmental commitments and its urban planning practice.

III. Proposed Legal Solutions to the Challenges Facing the Bogdkhan Mountain Strictly Protected Area

Unlike most other Strictly Protected Areas in Mongolia, the Bogdkhan Mountain Strictly Protected Area (BMSPA) is situated immediately adjacent to the capital city of Ulaanbaatar. Consequently, rapid urbanization, population growth, and expanding municipal infrastructure have substantially altered the ecological conditions of the protected area. These pressures have contributed to the degradation of environmental quality, increasing levels of air, soil, and water pollution, the weakening of conservation regimes, and a growing number of violations of environmental legislation.

In addition to its environmental significance, Bogdkhan Mountain constitutes an important element of Mongolia's cultural heritage. Under the Law on Cultural Heritage, the mountain is recognized as a tangible cultural heritage site. Article 8 of that Law expressly prohibits the construction of infrastructure, mining activities, agricultural production, industrial operations, or any other activity capable of damaging historical and cultural heritage sites or their surrounding buffer zones. These statutory restrictions reinforce the conservation objectives established under environmental legislation.

The Bogd Khan Uul Strictly Protected Area (BKU SPA) covers a total area of 41,427.89 hectares, of which land-

use rights have been granted for 2,425.54 hectares within the restricted zone. This indicates that land-use rights have effectively been granted throughout the restricted zone in the northern part of the BKU SPA, which lies within the administrative territory of Ulaanbaatar City.. Practically all of these allocations are concentrated within the northern section of the protected area adjoining Ulaanbaatar, demonstrating that large portions of the Restricted-Use Zone have effectively been transformed into permanent urban settlements. This situation represents not only a departure from the original conservation objectives of the protected area but also raises serious questions regarding compliance with both domestic environmental legislation and Mongolia's obligations under the Convention on Biological Diversity, particularly Articles 6 and 7 concerning biodiversity conservation and ecosystem protection.

Article 12 of the Law on Special Protected Areas prohibits the construction of buildings and other permanent structures throughout all zones of a Strictly Protected Area, except facilities specifically intended for temporary accommodation of visitors, scientific observation, or research activities conducted in accordance with the law. It likewise prohibits activities that pollute soil, water, or air. However, Chapter Seven of the same Law simultaneously authorizes land use within the Restricted-Use Zone, particularly through Article 33, thereby creating an internal inconsistency between the general prohibition on development and the statutory provisions authorizing land allocation. This contradiction has generated significant legal uncertainty concerning the permissible scope of land use within Strictly Protected Areas.

1. Harmonization of the Law on Special Protected Areas

Accordingly, the contradictory provisions contained in Articles 19, 33, and related provisions of the Law on Special Protected Areas should be comprehensively amended in order to establish a coherent legal framework governing land use within Strictly Protected Areas. The present inconsistency between the conservation regime and the land-allocation provisions should be eliminated through legislative reform.

Furthermore, the Temporary Regulation on Granting Land-Use Permits within Special Protected Areas, issued by Ministerial Order No. 218 of 2001, introduces the undefined concept of a "permitted zone." Because this concept has never been defined by statute, administrative authorities have interpreted it as referring to the Restricted-Use Zone, thereby creating a legal basis for granting land-use rights within Strictly Protected Areas. This subordinate regulation has therefore expanded administrative authority beyond that contemplated by the parent legislation.

2. Statutory Definition of "Permitted Zones"

The concept of a "permitted zone" should be expressly defined within the Law on Special Protected Areas. The legislation should make unequivocally clear that none of the three management zones of a Strictly Protected Area constitute a "permitted zone" for the purpose of permanent residential or commercial land allocation, unless Parliament expressly provides otherwise through legislation. Such clarification would eliminate the ambiguity that has characterized administrative practice for more than two decades.

Scientific evidence also supports the need for stricter regulation. A land carrying-capacity assessment conducted by researchers of the National University of Mongolia in 2002 concluded that only 20 percent of the Restricted-Use Zone could sustainably accommodate human use. Nevertheless, while approximately 1,754 hectares (15 percent) had been allocated for land use in 2013, this figure had increased to 4,268.44 hectares (35.4 percent) by December 2021, substantially exceeding the ecological carrying capacity identified by scientific research. These findings demonstrate the urgent necessity of conducting an updated carrying-capacity assessment and immediately suspending the issuance of additional land-use permits beyond environmentally sustainable limits.

3. Immediate Suspension of Further Land Allocation

The Ministerial Order issued on 29 October 2021, temporarily prohibiting the issuance of new land-use rights within the Bogdkhan Mountain Strictly Protected Area, should remain in force and its duration should be extended. Maintaining this moratorium would contribute significantly to protecting ecological integrity and preventing further degradation of the protected area. At the same time, the Temporary Regulation governing land-use permits—which has facilitated development inconsistent with the objectives of the Law on Special Protected

Areas—should be formally repealed. An updated carrying-capacity assessment should then be undertaken by qualified scientific institutions, with future planning decisions based upon objective ecological evidence rather than administrative discretion.

4. Repeal of Conflicting Technical Standards

At present, approximately 2,000 individuals and legal entities lawfully occupy land within 4,268.44 hectares of the Restricted-Use Zone pursuant to permits issued by competent governmental authorities. Construction within these areas has generally complied with MNS 6426:2013, the national standard establishing general requirements for ecotourism accommodation and facilities within Special Protected Areas, as authorized under Article 11.7 of the Law on Special Protected Areas.

Clause 5.3.3 of this standard requires tourism facilities to preserve the essential characteristics of tourism products, harmonize with the surrounding landscape, and respect cultural heritage values. It further provides that buildings should generally not exceed two stores in height. However, the same provision creates an important exception by excluding construction located within settlement zones adjacent to Ulaanbaatar from this height restriction where such development is consistent with municipal master plans. In practice, this exception has enabled the construction of multi-store apartment complexes, private residential compounds, and commercial office buildings within the Restricted-Use Zone of the Bogdkhan Mountain Strictly Protected Area.

Accordingly, Clause 5.3.3 of MNS 6426:2013 should be repealed or comprehensively revised insofar as it conflicts with the conservation objectives established by the Law on Special Protected Areas and related environmental legislation. Technical standards should facilitate implementation of statutory conservation requirements rather than creating exceptions that undermine them.

5. Establishing an Appropriate Legal Regime for Existing Development

A particularly complex legal issue concerns the numerous buildings that have already been constructed pursuant to official governmental permits. Property owners have acquired ownership rights in accordance with Articles 5.3 and 16.3 of the Constitution of Mongolia, together with the Law on State Registration of Property Rights, which protect the lawful acquisition, registration, ownership, and inheritance of immovable property. Consequently, the existing buildings constitute legally recognized private property protected by constitutional guarantees.

At the same time, the Land Law of Mongolia establishes that immovable property forms an integral part of the land on which it stands and requires that land use shall not endanger public health, environmental protection, national security, or ecological balance. Accordingly, any future legal reform must reconcile two competing constitutional values: the protection of private property rights and the preservation of nationally significant environmental assets.

Rather than attempting to invalidate existing property rights, a more balanced legal solution would be to establish a new statutory regime governing those parts of the Restricted-Use Zone where permanent settlements have already emerged. One possible approach would involve removing already-developed areas from the current Restricted-Use Zone and assigning them to a separate legally defined management category. Alternatively, the remaining undeveloped portions of the Restricted-Use Zone could be incorporated into the Conservation Zone, while a specialized regulatory framework is established for existing developed areas. Such an approach would recognize the practical reality of urban development while ensuring stronger protection for the remaining natural ecosystem.

This proposal is also consistent with international practice concerning Urban Protected Areas, where protected areas located adjacent to major cities frequently require specialized legal regimes reflecting their unique relationship with surrounding urban development. Mongolia should therefore consider adopting a distinct legal framework specifically designed for urban Strictly Protected Areas rather than applying a uniform regulatory model developed primarily for remote conservation areas.

6. Renewal of the National Program on Special Protected Areas

The National Program on Special Protected Areas, approved by Parliamentary Resolution No. 29 of 1998, was intended to guide national conservation policy for a period of approximately twenty years. Consequently, the Program may be regarded as having reached the end of its intended implementation period in 2018.

It is therefore appropriate to undertake a comprehensive evaluation of the Program's objectives, implementation, and outcomes before preparing and adopting a new national program consistent with Vision 2050, contemporary biodiversity conservation principles, and Mongolia's international environmental obligations.

7. Adoption of an Updated Management Plan

Both the National Program on Special Protected Areas and the Temporary Regulation governing land-use permits require each protected area to maintain a scientifically based Management Plan identifying permissible land-use locations, planning priorities, and conservation objectives. Nevertheless, although the previous Management Plan covering 2014–2018 expired several years ago, no updated plan has yet been adopted.

Accordingly, preparation and approval of a new Management Plan for the Bogdkhan Mountain Strictly Protected Area should be treated as an urgent national priority. The revised plan should clearly identify areas where land use may be permitted, incorporate internationally recognized Urban Protected Area management principles, and be based upon updated scientific studies concerning ecological carrying capacity, biodiversity conservation, and sustainable land-use planning. Comprehensive environmental assessments should precede preparation of the new plan in order to ensure that future management decisions are supported by reliable scientific evidence.

8. Developing Bogdkhan Mountain as a World-Class Urban Protected Area

International experience demonstrates that Urban Protected Areas provide substantial ecological, social, educational, and economic benefits not only to local communities but also to the nation as a whole. Protected areas located adjacent to major cities—including Royal National Park (Sydney, Australia), Tijuca National Park (Rio de Janeiro, Brazil), and Calanques National Park (Marseille, France)—have successfully integrated biodiversity conservation with sustainable recreation, environmental education, and tourism through carefully designed legal and management frameworks.

These protected areas enable urban residents to enjoy recreational opportunities in natural environments at relatively low cost, improve public health through access to green spaces, promote environmental awareness among younger generations, and generate significant tourism revenue. Equally important, their management systems are supported by comprehensive operational guidelines addressing visitor education, waste management, biodiversity conservation, scientific research, institutional cooperation with universities, professional training for protected-area managers, long-term financial sustainability, and ecosystem restoration.

Drawing upon these international best practices, Mongolia should adopt a comprehensive long-term strategy aimed at transforming the Bogdkhan Mountain Strictly Protected Area into a world-class Urban Protected Area. Such a strategy should establish an integrated program encompassing conservation, scientific research, sustainable tourism, public recreation, environmental education, institutional capacity-building, and stable financial mechanisms for long-term management. Rather than treating conservation and urban development as mutually exclusive objectives, future policy should seek to harmonize these priorities through modern protected-area governance consistent with internationally recognized standards.

Comparative Judicial Practice and International Case Law

Comparative judicial practice demonstrates that courts in many jurisdictions have increasingly adopted a precautionary and ecosystem-based approach when resolving conflicts between environmental protection and economic development. These decisions provide valuable guidance for strengthening the governance of protected areas in Mongolia.

One of the leading authorities is *Mabola Protected Environment and Others v Minister of Mineral Resources and*

Others (North Gauteng High Court, South Africa, 2018). The Court set aside governmental approval for coal mining within the Mabola Protected Environment, holding that environmental authorities must give substantial weight to biodiversity conservation and the precautionary principle when authorizing activities within protected areas. The judgment emphasized that protected-area legislation should be interpreted consistently with constitutional environmental rights and sustainable development principles rather than short-term economic interests. This decision demonstrates the important role of judicial review in ensuring that administrative discretion remains consistent with statutory conservation objectives.

A similar approach has been adopted by the Supreme Court of India in the long-running T.N. Godavarman Thirumulpad v Union of India litigation. Through a series of landmark judgments, the Court significantly expanded judicial protection of forests and protected areas by applying the public trust doctrine, the precautionary principle, and the principle of sustainable development. The Court repeatedly affirmed that environmental conservation constitutes a continuing constitutional obligation of the State and that economic development cannot justify irreversible degradation of ecologically sensitive areas. The Godavarman decisions have become one of the most influential examples of environmental public interest litigation worldwide.

Comparable judicial reasoning can also be observed in Pakistan. In *Shehla Zia v WAPDA* (Supreme Court of Pakistan, 1994), although the dispute concerned environmental health rather than protected areas specifically, the Court interpreted the constitutional right to life as encompassing the right to a healthy environment. This judgment established an important constitutional foundation for environmental litigation and has subsequently influenced judicial protection of environmentally sensitive areas, including national parks and biodiversity conservation initiatives.

International practice further illustrates the increasing importance of integrated environmental governance beyond judicial decision-making. The International Union for Conservation of Nature (IUCN) has consistently emphasized that Urban Protected Areas require governance models based upon adaptive management, scientific planning, stakeholder participation, and institutional coordination. Similarly, UNESCO's Man and the Biosphere (MAB) Programme recognizes that protected areas located adjacent to metropolitan regions should balance biodiversity conservation with sustainable recreation, education, and community participation through integrated legal and management frameworks.

These international experiences demonstrate that effective conservation depends not only upon comprehensive environmental legislation but also upon consistent judicial interpretation, institutional accountability, and coherent administrative decision-making. For Mongolia, the experience of South Africa, India, and Pakistan suggests that stronger judicial oversight, clearer statutory interpretation, and harmonization between environmental legislation and urban planning policies would substantially improve the governance of the Bogdkhan Mountain Strictly Protected Area. Rather than relying solely upon administrative discretion, future legal reform should establish a more integrated legal framework capable of safeguarding biodiversity while accommodating legitimate public interests in accordance with international environmental law.

Research Limitations, Implementation Challenges and Future Research

This study has several limitations that should be acknowledged. First, the empirical component of the research was based on a questionnaire survey conducted among approximately eighty residents living within the Restricted-Use Zone of the Bogdkhan Mountain Strictly Protected Area. Although these respondents represent an important stakeholder group directly affected by land-use policies, the survey does not capture the perspectives of other relevant actors, including government agencies, protected-area managers, local government authorities, property developers, environmental non-governmental organizations, Indigenous communities, or judicial institutions. Consequently, the findings should be interpreted as reflecting the perceptions of one stakeholder group rather than those of all actors involved in protected-area governance.

Second, the study primarily employs doctrinal legal analysis supported by comparative legal research and descriptive empirical data. It does not include ecological field surveys, biodiversity monitoring, Geographic Information System (GIS)-based spatial analysis, remote sensing, or quantitative environmental impact assessments. These complementary methodologies could provide more comprehensive evidence regarding

habitat degradation, land-use change, ecological carrying capacity, and long-term environmental trends within the protected area.

Third, the research focuses on a single case study—the Bogdkhan Mountain Strictly Protected Area. While this case is particularly significant because of its historical importance, UNESCO Biosphere Reserve status, and proximity to Ulaanbaatar, the findings cannot automatically be generalized to other protected areas in Mongolia. Future comparative studies examining other State Special Protected Areas, National Parks, and internationally recognized Urban Protected Areas would provide a broader basis for evaluating the effectiveness of Mongolia's protected-area governance framework.

Beyond these methodological limitations, the implementation of the proposed legal reforms is likely to encounter several practical challenges. The most significant challenge concerns balancing biodiversity conservation with constitutionally protected private property rights acquired through previously authorized land-use permits. Legislative reform must therefore ensure legal certainty while respecting the legitimate expectations of property owners and safeguarding the public interest in environmental protection. Additional implementation challenges include institutional fragmentation, overlapping administrative authority, limited financial and technical capacity for protected-area management, insufficient inter-agency coordination, and the need to harmonize environmental legislation with land administration and urban planning policies.

Future research should therefore adopt interdisciplinary approaches integrating legal analysis with ecological science, environmental economics, urban planning, and spatial technologies. Comparative research examining governance models adopted in Urban Protected Areas in jurisdictions such as Australia, Canada, South Africa, and European countries would further contribute to identifying best practices applicable to Mongolia. Future studies should also evaluate the effectiveness of judicial review in environmental protection, the role of adaptive governance in biodiversity conservation, the impact of climate change on protected-area management, and the development of governance indicators capable of measuring the effectiveness of legal and institutional reforms over time.

Overall, notwithstanding these limitations, this study provides a comprehensive legal assessment of the current governance framework of the Bogdkhan Mountain Strictly Protected Area and offers practical recommendations for strengthening environmental law, improving institutional coordination, and supporting the long-term conservation of one of the world's oldest protected areas.

CONCLUSION

This study has examined the current legal status of the Bogdkhan Mountain Strictly Protected Area by analyzing its governing legal framework, the principal challenges affecting its conservation, relevant international experience, and Mongolia's long-term environmental and sustainable development policies. On the basis of this analysis, the study has proposed a series of legal and institutional reforms designed to reconcile environmental protection with the realities of urban development.

The analysis demonstrates that the interaction between Articles 33 and 36 of the Law on Special Protected Areas, relevant provisions of the Land Law, and the Temporary Regulation on Granting Land-Use Permits within Special Protected Areas has resulted in the allocation of land-use rights within a Strictly Protected Area in a manner that is inconsistent with the prohibitions established under Articles 11 and 12 of the Law on Special Protected Areas. Consequently, activities expressly prohibited by law—including the construction of permanent buildings unrelated to scientific research or temporary visitor accommodation and activities causing environmental pollution—have become legally possible through contradictory legislative and administrative mechanisms. In effect, the Law on Special Protected Areas contains internal inconsistencies, while subordinate regulations have operated for more than two decades in a manner that conflicts with the objectives of the parent legislation.

At the same time, Mongolia has consistently demonstrated a strong commitment to biodiversity conservation through both domestic policy and international obligations. Following accession to the Convention on Biological Diversity, the Government adopted ambitious conservation targets under Vision 2050, aiming to increase Special

Protected Areas from 20.15 percent of the national territory to 30 percent by 2030, 33 percent by 2040, and 35 percent by 2050. Earlier national policy instruments—including the National Program on Sustainable Development and the Comprehensive National Development Strategy Based on the Millennium Development Goals—likewise recognized green development and environmental sustainability as fundamental national priorities.

Nevertheless, urban planning policies adopted for Ulaanbaatar—including the city's master development plans and residential expansion strategies—have created significant inconsistencies with these national environmental objectives and with Mongolia's obligations under Article 6(b) of the Convention on Biological Diversity, which requires biodiversity conservation to be integrated into sectoral and cross-sectoral planning. The case of Bogdkhan Mountain therefore illustrates a broader institutional challenge concerning policy coherence between environmental governance and urban development.

Although the Bogdkhan Mountain Strictly Protected Area exhibits many of the characteristics commonly associated with Urban Protected Areas, scientific evidence indicates that its ecological carrying capacity has already been exceeded. A carrying-capacity assessment undertaken in 2002 concluded that only 20 percent of the Restricted-Use Zone could sustainably accommodate human activities. However, by 2021, land-use rights had been granted over 35.4 percent of the Restricted-Use Zone. Immediate action is therefore required to conduct updated ecological assessments and to suspend further land allocations until scientifically justified management decisions can be implemented.

At the same time, the study recognizes that more than 2,556 buildings have already been constructed pursuant to officially issued governmental permits and that their owners enjoy constitutionally protected property rights. Consequently, future legal reform should not simply disregard these vested rights. Instead, Mongolia should establish a specialized legal regime capable of regulating already-developed areas while simultaneously strengthening protection of the remaining natural ecosystem. Such an approach would better reconcile constitutional guarantees of private property with the State's constitutional responsibility to conserve nationally significant environmental assets.

Finally, the study concludes that the time has arrived to develop the Bogdkhan Mountain Strictly Protected Area into a world-class National Park and Urban Protected Area supported by a comprehensive legal framework, modern management system, and long-term national policy. Such an initiative would not only strengthen biodiversity conservation and sustainable development but would also create a nationally significant recreational and tourism destination benefiting both the residents of Ulaanbaatar and international visitors while preserving one of the world's oldest protected areas for future generations.

RECOMMENDATIONS

Based on the foregoing legal analysis, the following recommendations are proposed:

1. Amend the Law on Special Protected Areas to eliminate contradictory, inconsistent, and ambiguous provisions. In particular, the provisions governing land use within Strictly Protected Areas contained in Articles 19, 33, and 36 should be harmonized with the statutory prohibitions on construction and other environmentally harmful activities established elsewhere in the Law.
2. Repeal subordinate legal instruments that conflict with the Law on Special Protected Areas and the Land Law, including the Temporary Regulation on Granting Land-Use Permits within Special Protected Areas and the relevant provisions of MNS 6426:2013, insofar as they facilitate land allocation and construction inconsistent with statutory conservation requirements.
3. Conduct an updated ecological carrying-capacity assessment of the Restricted-Use Zone of the Bogdkhan Mountain Strictly Protected Area. Given that land-use rights have already been granted over 35.4 percent of the Restricted-Use Zone—substantially exceeding the 20 percent carrying-capacity threshold identified by previous scientific research—the issuance of additional land-use permits should be suspended immediately.
4. Approve a new Management Plan for the Bogdkhan Mountain Strictly Protected Area as a matter of urgency. The revised plan should clearly identify permissible land-use areas, incorporate internationally

recognized Urban Protected Area management principles, be supported by updated ecological and carrying-capacity assessments, and include a comprehensive evaluation of the implementation of the previous management plan.

5. Establish a specialized legal regime governing the Restricted-Use Zone of urban Strictly Protected Areas. Consistent with international practice, Mongolia should recognize that protected areas adjoining major metropolitan centers require legal mechanisms distinct from those applicable to remote protected areas. The existing urbanized portion of the Restricted-Use Zone should therefore be regulated under a dedicated legal framework reflecting its unique characteristics while maintaining strong environmental safeguards.
6. Strengthen protection of the remaining undeveloped areas within the Restricted-Use Zone by transferring those areas to the Conservation Zone or another management category affording a higher level of environmental protection.
7. Integrate biodiversity conservation into urban planning and national development policies in accordance with Article 6(b) of the Convention on Biological Diversity. Future master plans for Ulaanbaatar, regional development strategies, and sectoral policies should systematically incorporate biodiversity conservation and sustainable land-use principles at every stage of planning and implementation.
8. Develop a comprehensive long-term program for the Bogdkhan Mountain Strictly Protected Area based upon internationally recognized Urban Protected Area management standards. Such a program should include biodiversity conservation, sustainable tourism, environmental education, scientific research, visitor management, institutional cooperation, and stable financial mechanisms capable of ensuring effective long-term protection.
9. Revise and modernize the National Program on Special Protected Areas (1998) so that it is fully aligned with Vision 2050, contemporary environmental legislation, Mongolia's international commitments, and current national and regional development policies.

ABBREVIATIONS

1. **LPAN – Law on Special Protected Areas of Mongolia**
2. **BMSPA – Bogdkhan Mountain Strictly Protected Area**
3. **SGH – State Great Khural (Parliament of Mongolia)**
4. **USA – United States of America**
5. **MET – Ministry of Environment and Tourism**
6. **MAS – Mongolian Academy of Sciences**
7. **Business Entity – Enterprise or Legal Entity**

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