



**THE SUBMISSION OF THE YOUTH POLICY WATCH (YPW)
TO THE THIRD CYCLE OF UNIVERSAL PERIODIC
REVIEW (UPR) OF THE UNITED NATIONS HUMAN RIGHTS COUNCIL**

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I. Introduction

1. Youth Policy Watch NGO (YPW) was established in 2014 following youth-led initiative for youth. Our mission is upbringing youth through public awareness on human rights and values of democracy to assist on process becoming more independent, active and accountable citizen. In addition, YPW contributes to the establishment of humane society rooted on sustainable development as well as youth participation in all societal level.
2. Until today, after its establishment, YPW conducts various projects, programs and researches on rights of child and youth; financing of political parties; election and its system; democracy; good governance; human rights and free media. For instance, we conducted parliament election monitoring in 2012 and 2016, presidential election monitoring in 2017, and started 'Politics and Money' project on financial transparency of political parties in 2018. YPW disseminated findings and information through media and discussed about issues with the public and state organizations openly. With assistance and guidance from National Human Rights Analyst in UN Resident Coordinator's Office in Mongolia, we prepared this submission for to the third cycle of Universal Periodic Review of the United Nations Human Rights Council to spotlight specific human rights issues never highlighted in previous cycles based on our capacity, competence and database.

II. Current status of political parties in Mongolia

3. Most international human rights instruments including ICCPR were ratified and counted as equal as domestic legislation by the State. Government of Mongolia reports to treaty bodies fulfilling their obligations under international norms.
4. Year by year, surveys showed that belief of citizens to democracy and parliament system is losing (Jargalsaikhan, 2019). Today, Mongolia stands in 93th place among 180 countries by Corruption Perceptions Index of Transparency International (Transparency International, 2018). Similarly, nation-wide survey expressed that average country index is 0.74 (National Statistics Office of Mongolia, Mongolian Statistical Information Service, 2018) by Human Development Index. Thus, Mongolian democracy is still facing more development issues relating to previously mentioned social obstacles on democratization process for almost 30 years.
5. Social obstacles are having numerous factors concerning different spheres. From that, YPW highlights that lack of commitments toward internal democracy in political parties, political engagement, voter education, financial transparency was led to nullification of democracy and structural distortion based on results of 'Politics and Money' project on financial transparency of political parties.
6. Up to date, 35 political parties registered in Mongolia (Supreme Court of Mongolia, Political Parties e-Registration, 2019). In 2016, only three political parties were elected to the Parliament: 65 seats for Mongolian People's Party, 10 seats for Democratic Party and 1 seat for Mongolian People's Revolutionary Party. From 1992, after adoption of current

Constitution, pluralism and multi-party system were promoted to develop and institutionalize. Only two or three major political parties were ruled in political spheres for years. Correspondingly, these three political parties mentioned above were not fully promoting and institutionalizing voter education and internal democracy in organizational level years to strengthen public belief to democracy.

7. Human rights violations such as poverty, environmental pollution and degradation, irresponsible mining, unemployment in Mongolia directly and indirectly connects with development of political parties. Political parties are active social units in participation system as voluntary subject to deliver voices of citizens to be heard and include in political decisions for public wellbeing. Due to this characteristic, role of political parties in realization of all human rights is crucial and essential and interrelates with violations above.
8. Without specific regulations on financial transparency of political parties and its supervision, there will not be any progress or development in the system as democratic institution platform. International good practice shows that first prioritized step to decrease high-level of political corruption, bring back belief of citizens to democracy and maturity of political parties (Bat-Orgil and Gerelt-Od, 2019) is to ensure financial transparency of political parties by legal reform (The International Institute for Democracy and Electoral Assistance and Open Society Forum, 2018). For instance, 60.1 percent of world countries and 93.2 percent of European countries demand to publicize financial reports of political parties and candidates (IDEA, 2019).
9. From these good practices, we have seen that financing of political parties are pillared by reporting, monitoring and accountability (The International Institute for Democracy and Electoral Assistance and Open Society Forum, 2018) as comprehensive concept. Especially, ensuring citizens' right to information and right to participate in public affairs are cornerstone of democratic system which provide opportunities to citizens to know and monitor ('Transparent Party' Partnership against Corruption, 2018) based on legal norms. For example. IDEA's concept 'transparency' starts from processes such as register, report, publicize and must include elements of information including 'what, who, how, when reporting'. This process can be applied as defining tool for describing involvement of state organization, oversight and accountability system.
10. In Mongolia, legal gap or general regulations such as section 'Financing of political party' in 4th chapter of Law on Political Party (LoPP) of 2005 which mainly covers relations during non-election period. And, section 'Economic basis of election advertisement' in 7th chapter of Election law (EL) of 2015 regulates relations in election period in broad manner. Particularly, huge obstacle in legal regulations is clearly defined as lack of 'direct person in charge' by findings. There are no regulations which visibly defined supervision and accountability of stakeholders. In addition, financial transparency of political party divided into separate problematic relations relating non-election and election period by national legislation.

III. Human Rights Issues

a) Financial reports of political parties are not transparent.

11. In the framework of current legislation, financial reports which show information on income and expenditure of political parties during non-election and election period are not transparent and able to disseminate to the public.
12. **Financial reporting during election is unsatisfactory.** In 2016, 1 political party, 1 coalition, 104 candidates from 12 political parties, 3 coalitions, 498 candidates registered in General Committee on Election for parliament election were not submitted their financial within legal period to report (Constitutional Court of Mongolia, 2019). Monitoring reports on parliament and presidential elections in 2016 and 2017 shows that (Philanthropy Development Center and Youth Policy Watch NGO, 2017) 'expenditure reports from candidates are incomplete and numbers are questionable' (Open Society Forum, 2016). For instance, total income of three political parties ran in presidential election in 2017 was 13 billion 337 million MNT (5.675 million USD) and 5.4 billion MNT (2.297 million USD) was donated by citizens. In details, donation from 5555 citizens were 8.6 billion MNT (36659 million USD) and 36 legal entities donated 496 million MNT (211 thousand USD). National Audit Office was recognized donation and published names of citizens (donated 1 million MNT and above) and legal entities (donated 2 million MNT and above) (Resolution of Head of National Audit Office , 2017). However, one third of population were in poverty in 2016 (World Bank, 2017) and three political parties and their candidates received donation from citizens: 14.3 billion MNT (6.085 million USD).
13. **Political parties are not reporting even in non-election period.** In accordance with LoPP, political parties obliged to inform about financial report on expenditure for election on political activities including state funding membership fee, cash and non-cash donation, loan, assets and other sources to the public annually (Law on Political Party, 2005). 'Inform to the public' is not clearly described in the law and may understood to publish in website instead of printed version. However, only 4 political parties are having websites from 28 and only one of them was uploaded financial report. (Youth Policy Watch NGO, 2018). This is clear evidence which is showing that legislation is not implementing.
14. Political parties which seats in parliament as legal entities are not reporting to relevant state organizations in compliance with Law on financing and accounting. For instance, official response from Ministry of Finance (no. 7/1134, 4 March 2019) to 'Transparent Party' Coalition against corruption said that 'Mongolian People's Revolutionary Party submitted its annual reports from 2015-2017 in financial e-balance system. Mongolian People's Party and Democratic Party were not submitted any reports'.

6) There is lack of detailed legislation who will be in charge of and how to provide oversight on financing reports of political parties.

15. Different regulations between non-election and election period which led to inconsistent circumstances to monitoring on financing of political parties and causing legal gaps (Law on Political Party, 2005). For instance, from 1996, political parties seated in parliament receive funding from the State (Youth Policy Watch NGO, 2018). Only, in 2007, National Audit Office conducted auditing and handed recommendations on violations ('Support to Participatory Legislative Processes' project, 2014). After 2007, there was no financial reporting from

political parties and auditing from National Audit Office ('Support to Participatory Legislative Processes' project, 2014). This shows that Article 20.1 of Law on Political Party 'Supervisory institution in political party shall monitor financial operations of political party' is not fully covering this relation and lacking more detailed regulations.

16. In 2015, there was progressive step on election period in EL. This law says that state organizations such as General Committee on Election, General Authority of Taxation and National Audit Office shall monitor expenditure reports from political parties. Nevertheless, YPW's 2017 election finance monitoring reports shows that General Committee on Election serve as passive receiver, National Audit Office work on performance report from political parties or candidates only and General Authority of Taxation make counselling (Youth Policy Watch NGO, 2018). Functions of relevant state organizations in other laws are not complied with EL.
17. Article 4.1 of Law on state auditing said that legal framework will cover only state-budgeted organizations not political parties or candidates. In 2011, Article 15.5.15 of this Law was amended into 'to audit and make conclusion on financing of election expenditure of political party, coalition and candidate'. However, Article 5.3 of this Law requires only conduct performance auditing. In other words, EL is not complied with other Law and National Audit Office became 'toothless lion' during election period.

b) State has no legal regulation to punish perpetrator who applies legal gap relating financing of political parties.

18. Article 24 of LoPP recognized penalty in accordance with Criminal Code or Petty Offence Law (Law on Political Party, 2005). But Parliament not included any petty offence relating LoPP in Petty Offence Law when adopts (Petty Offence Law, 2017). This also made legal gap in this relation.
19. Article 60.5 of EL provide limitation on right to stand for election in next election only, not criminal or any other penalties. Public servant shall be fined, if he or she is not providing copy of expenditure report according to Article 60.2 of EL.
20. Civil Will and Green Party lodged complain regarding Article 60.5 of EL to Constitutional Court of Mongolian in 2016. Applying this article, this party was not registered for election run due to no submission of election expenditure report. In 2019, Constitutional Court of Mongolia decided this case as constitutional decision while mentioned that '...election expenditure shall be monitored openly and transparent by this Article. Political party as constitutional subject shall improve financial accountability, provide opportunity to have independent monitoring and ensure equality, justice in election and implementation of civil rights by securing legal guarantee to have election financing and expenditure report'. This is be a progress in national legislation, not silver bullet for the systemic problem.
21. Based on our findings, YPW concluded that political parties shall submit their reports as part of organizational culture and exemplify to other political parties in compliance with universally-recognized values such as democracy and rule of law. In addition, we concern on systemic obstacles and provide recommendations below to the Government.

Conclusion

22. Necessity to provide financial transparency of political parties are crucial to implement right to information and to participate in public affairs of citizens. Citizens are demanded to have

information to make choice, to be represented by someone or voice to be heard directly. For this reason, information relates to financing report of political parties and its monitoring shall be provided to all.

23. In international level, as good practice, relevant state organization in 107 countries from 176 monitor and publish financing reports of political parties in online to implement right to information. For instance, Australian election committee publishes submitted, reviewed, revised and edited versions of finance reports of political parties (AEC, 2019) and online registration system in Canada and Georgia improves citizen accessibility. Online reporting is becoming more accessible, user-friendly, easy to navigate and compare data even data illustration. The Government of Mongolia needed to have detailed requirements on income and expenditure reporting with template, guideline, manual to increase efficiency in public service.

Recommendation №1: Legalize the centralization of reports from each political party in relevant state organization and publicize in its official website in transparent manner. In parallel, describe detailed reporting items, template, procedure, process and guidelines;

Recommendation №2: Define specific procedures on publication, review including detailed time for analysis and uploading process after submission of political parties reports and list in duties of relevant state organization.

24. IDEA informed that monitoring institutions described in 176 countries are election organizations (47.5 percent), special institution (15.3 percent) and audit office (14.1 percent) and other judicial or ministerial institution.

Recommendation №3. Strengthen National Audit Office through legal environment to work independent with enough resources including competent human and adequate financial resources and expansion of power to monitor political parties.

25. Other State Members of UN around the world apply various penalties including fine, exclusion from political party registration, nullify result of election, stop State funding or criminal punishment for political parties, when they not submitted finance report to relevant state organizations.
26. Only punishment to limit access to next election shows that Mongolia need to strengthen national legislation to ensure civil rights of citizens and advance accountability based on good practices in global level.

Recommendation №4: In addition to limit right to stand for election, adopt legal punishments such as fine, exclusion from political party registration, nullify result of election, stop State funding or criminal punishment for political parties as legal entities which able to be implemented within short time and support maturity of political parties

in order to enhance accountability system.

Recommendation №5: In compliance with principle of justice, define punishments, its types of measures and portion in correlation with context, characteristics and amount of damage.

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