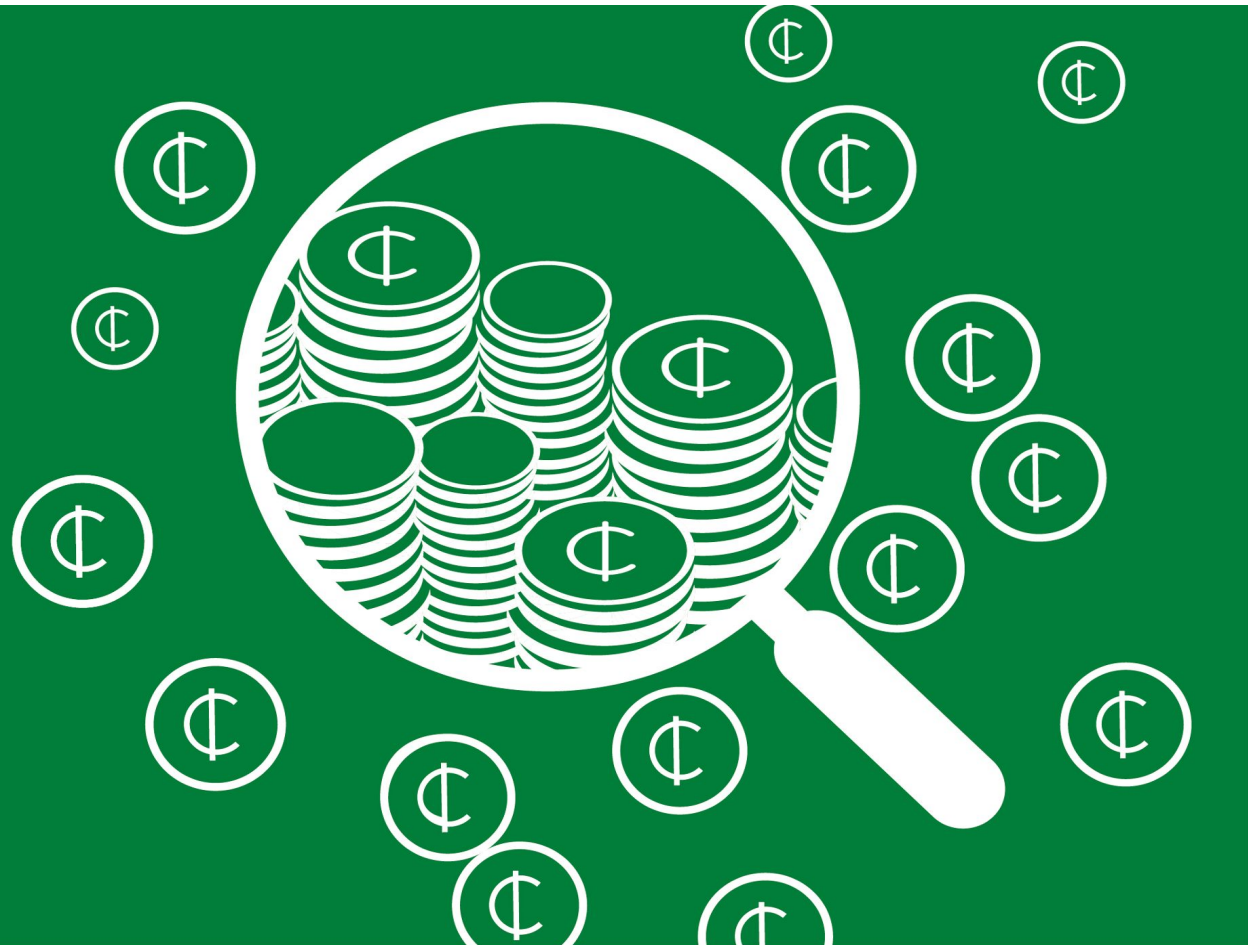




Political Finance in Mongolia

Assessment and recommendations



Co-funded by the European Union



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Catalina Uribe Burcher and Fernando Casal Bértoa

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Finally, thanks to David Prater and Kelley Friel for their diligent efforts to edit, design and produce the report.

Abbreviations



GEC	General Election Commission (Mongolia)
DP	Democratic Party (Mongolia)
FPTP	First-past-the-post
GASR	General Authority for State Registration (Mongolia)
IAAC	Independent Authority Against Corruption (Mongolia)
LoE	Law on Elections (Mongolia)
LPP	Law on Political Parties (Mongolia)
MP	Member of parliament
MPP	Mongolian People's Party
MPRP	Mongolian People's Revolutionary Party
NAO	National Audit Office (Mongolia)
MTA	Mongolian Tax Administration

Key recommendations



Mongolia's political finance regulatory framework faces significant challenges stemming from the current lack of enforcement and various loopholes. Some revisions are required to address this situation, and to keep up with current global best practices. While several important issues should be included in an eventual reform, the priority should be improving the oversight, disclosure and transparency of political finance information and reports to the public.

Public funding, private donations and spending limits

- Provide public funding for extra-parliamentary parties with significant electoral support.
- Earmark a proportion of political parties' public subsidies for the support and promotion of female and youth candidates and party members.
- Subject in-kind donations to regulations during and outside election periods, based on an objective monetary value appraisal criterion.
- Increase the ceiling for individual donations, and limit (and in the future consider prohibiting) corporate donations.
- Ban parties' use of 'pledge money' during election campaigns, or at least make it clear that these funds should be accounted for as part of the individual private donation ceiling.
- Decrease the spending limits for electoral campaigns and enhance controls over private media broadcasting expenditures.



- Introduce a formula to calculate public subsidies, donation caps and spending limits that takes into consideration economic fluctuations, inflation, and changes in average or minimum monthly salaries.

Reporting, control and sanctions

- Clarify and review the electoral funding reporting framework. The 2015 Law on Election and the 2005 Law on Political Parties should be aligned to subject campaign financing and non-election period party financing to the same strict disclosure and reporting requirements, and their control should be centralized into a single authority.
- Refine the mandate, capacity and oversight role of the National Audit Office (NAO) as the controller of political finance. The NAO should be given proportional advisory, oversight and investigative responsibilities, including auditing electoral candidates' and parties' financial reports, as well as sanctioning authority. The regulations should also clearly detail the process and procedures used to select which party's or candidate's reports are to be audited in order to prevent bias.
- Promote cooperation among the various oversight authorities and encourage the NAO to proactively engage with all stakeholders to develop and carry out its role as the political finance oversight authority. Prioritize coordination between the NAO and the General Election Commission, the Independent Authority Against Corruption and the Mongolian Tax Administration.
- Ensure that the NAO makes all information about party finance—electoral and non-electoral—transparent and readily accessible to the public, ideally in an electronic and user-friendly format.
- Take steps to make party funding reporting more effective, which will enhance the NAO's guidance, communication with political parties and review of parties' financial reports.
- Provide the NAO with the necessary resources—financial and human—to fulfil its existing and future oversight obligations with the expected diligence and efficiency.
- Improve the political finance sanction framework by increasing fines and introducing new, more dissuasive punishments, such as the loss of public subsidies or prison.

1. Introduction



The unregulated and obscure flow of money in and out of politics poses serious threats to democracy in Mongolia. In 2014, 86 per cent of citizens surveyed reported that the political finance system needed major reforms; 79 per cent thought the system favoured special interests, 74 per cent said it reduced competition in elections, and 77 per cent believed the system has limited the social diversity among candidates (OSF 2014). In the same survey, 67 per cent of respondents expressed concern about the lack of transparency regarding political financing.

Women face greater obstacles to accessing a political voice, not least because of the scarce resources at their disposal to compete in politics on an equal footing (IRI 2016). Political parties are also vulnerable to the influence of private business interests, given the current legal and financial framework for the country's political system (Falguera, Jones and Ohman 2014: 110; OSCE/ODIHR 2017: 13). This framework has legal limitations, and oversight authorities (chiefly the National Audit Office, NAO) have insufficient reach and mandate (OSCE/ODIHR 2016: 27; OSCE/ODIHR 2017: 15).

Efforts to reform the country's political finance framework have been underway since 2012. Most notably, in 2016 Mongolia committed in its National Action Plan under the Open Government Partnership to amend the Law on Political Parties (LPP) to enhance political party funding transparency (OGP 2016: 12–13). Discussions to reform this law were underway as of June 2018.

The International Institute for Democracy and Electoral Assistance (International IDEA) and Open Society Forum (OSF) in Mongolia are supporting these reform efforts under the auspices of an EU grant to implement the 'Level Up: Political Finance with Integrity' project. This project is operated in



parallel in Paraguay and Moldova, in partnership with Semillas para la Democracia and the Center for Continuous Electoral Training, respectively.

The Level Up project seeks to increase interparty consensus on the legal, financial and policy frameworks affecting political party financing to level the playing field in politics, especially for women and youth. It also aims to protect public policy from the undue influence of money in politics through a series of interparty and multi-stakeholder dialogues, among other actions.

In Mongolia, International IDEA and OSF agreed to inform these activities through a comprehensive assessment of the current political finance legal framework and its implementation. The legal assessment focuses on the sources of funding for political parties, restrictions on donors and donation ceilings, conflicts of interest, political finance transparency, oversight of private funding, membership management (membership fees and reporting), disclosure and reporting. It also examines the financial requirements for candidate selection, access to party resources, funding or donations, investments in capacity development of party women and youth members, eligibility and conditionality for funding allocations (e.g. quotas), funding allocation criteria, earmarked public financing, timing of allocations, and sanctions and enforcement mechanisms.

This report discusses the main findings of this legal assessment, with a focus on the 2015 Law on Elections (LoE) and the 2005 LPP, both of which are currently in the process of amendment. The study was informed by an assessment mission in Mongolia, where researchers conducted interviews with a variety of actors, namely political party leaders, scholars, civil society organizations and relevant government agencies. The report refers to this information when pointed out, and corroborated by, various interviews with the authors. The study also benefited from collaboration with in-country researchers identified by OSF and draws on OSF and International IDEA broad expertise.

This report is structured as follows. Chapter 2 provides an overview of Mongolia's political system. Chapter 3 focuses on the political finance legal framework and discusses the main take-aways from the legal assessment of the existing regulations and their implementation, mainly regarding private and public funding, oversight and sanctions. Chapter 4 concludes with recommendations for future reforms.

2. Mongolia's political system



Mongolia's political system has been shaped by how its elections have been formatted, their timing and how political parties are regulated. More broadly, the country's democratic trajectory and geopolitical dynamics influence the role that money plays in the system.

2.1. Current electoral and political framework

Mongolian political parties must register with the Supreme Court after obtaining at least 801 signatures (LPP, articles 8 and 9). Presidential elections are held every four years based on a two-round electoral system. Parliamentary elections are also held every four years. It uses a plurality, first-past-the-post (FPTP) electoral system to elect its 76 Members of Parliament (MPs). In December 2011, a new mixed-member proportional representation system was introduced, but the FPTP system was reinstated one month before the June 2016 election. The FPTP system has generated a 'winner-takes-all' situation. For example, in the 2016 election for the State Great Hural (Parliament), the Democratic Party (DP) attained over 33 per cent of the votes, but could only nominate 9 MPs, while the Mongolian People's Party (MPP) won 45 per cent of the votes, and could nominate 65 MPs (GEC 2016).

2.2. Political background

Mongolia has been a democracy since 1992. Since then, 14 elections (seven presidential and seven legislative) have been held. Although more than nine political parties have managed to obtain parliamentary representation in the last

25 years, the Mongolian party system has been dominated by two political parties—the post-communist and social-democratic MPP, and the liberal-conservative DP. All presidents and prime ministers since 1992 have belonged to one of these two parties.

Mongolia has traditionally had one of the least fragmented party systems in the region (Casal Bértoa 2017: 79). As of June 2018, there were 28 registered political parties, but only three had parliamentary representation—the MPP and DP (which won 85.5 and 11.8 per cent of seats in Parliament, respectively), and the Mongolian People's Revolutionary Party (MPRP), which splintered from the MPP in 2010—not to be confused with the MPP's former denomination, MPRP, between 1924 and 2010. The MPRP currently holds just one seat in Parliament. With the exception of the 2008 and 2016 legislatures, in which there were four parties represented in Parliament, there have been only three.

Although coalition governments have been the norm in Mongolia, the MPP obtained a constitutional majority of more than three-quarters in the last legislative election, enabling it to build a uniform cabinet in July 2016. The current president comes from the main opposition party (the DP), although the Constitution requires the president to suspend his or her party membership before running, following the principle of national unity.

2.3. Corruption and an unbalanced playing field for women and youth

Mongolia's party politics has been affected by high-profile corruption scandals in recent years. They overshadowed the 2017 presidential election (Lkhaajav 2017) and were used to justify the ouster of Prime Minister Jargaltulgiin Erdenebat in September 2017 (*South China Morning Post* 2017). In 2015, former Minister of Health and Sports G. Shiilegdamba was sentenced to five years in prison for accepting bribes to finance his party (Mongolian Business Database 2017).

In 2017, Mongolia ranked 103 out of 180 countries assessed in Transparency International's corruption perception index; it scored 30 on a scale from 0 (high levels) to 100 (low levels) (TI 2018). According to a survey conducted by the Asia Foundation, respondents ranked political parties fifth on a list of the 16 most corrupt institutions in 2010; seven years later they came second (The Asia Foundation 2017).

Another important challenge that Mongolia's political system faces is the limited space available for women and young people to compete on an equal playing field. Women and young people face multiple barriers to running for office—particularly a lack of resources (Uribe Burcher and Bértoa 2018b, 2018e, 2018j). Currently, only 13 out of 76 seats in Parliament are held by women (IPU 2018), and the country ranks 107 out of 144 in terms of women's political empowerment (World Economic Forum n.d.).

The LPP endorses the principles of gender equality and refraining from discrimination based on age. Parties or coalitions must nominate at least 20 per cent of candidates of each gender for elections (LoE, article 126.2), but there is no corresponding quota for young people. In the most recent elections, all relevant parties complied with the letter of the law, but not the spirit: they placed most female candidates in electoral districts with a low chance of winning (Uribe Burcher and Casal Bértoa 2018j).

3. Political finance regulatory framework: regulation, practice and observations



The influence of private interests and big corporations in Mongolian politics is a growing concern (Falguera, Jones and Ohman 2014: 110). Many Mongolians think ‘large donors have a very strong influence on politicians’ (Erdenedalai 2016); in a 2014 public opinion survey, 86 per cent of respondents reported that the political finance system needed major reforms (OSF 2016).

Party finance is primarily regulated by two pieces of legislation: the 2015 LoE (articles 40–60) and the 2005 LPP (articles 16–21). The former regulates electoral finance, of both parties and candidates, while the latter regulates the finance of political parties as organizations, during and outside of electoral processes.

Although both laws contain political finance regulations (e.g. sources of funding, spending limits, audits and sanctions) that apply to both political parties and candidates, Mongolia does not meet international guidelines and best practice recommendations on party funding (Venice Commission and OSCE/ODIHR 2011; Council of Europe 2003). Notably, the practice of requiring individuals to pledge money to political parties to run in elections (discussed in more detail in the Section 3.1) is at odds with recommendations regarding individuals’ right to passive suffrage, that is, the possibility of being elected (ACE 2018). It also poses a particularly cumbersome obstacle for women and young people to access politics, as they often lack the networks or personal finances to raise the necessary funds (Uribe Burcher and Casal Bértoa 2018e, 2018i, 2018j).

Moreover, the amounts pledged by candidates at every election surpass the legal donation ceilings, thus creating a loophole that makes the regulation void.

Most concerning is that the oversight and disclosure of parties' finances by the mandated authority fails to meet international standards. This seems to be due to an insufficient and unclear regulatory framework, as well as reticence among some political parties and state institutions to implement the current, if imperfect, regulation (Uribe Burcher and Casal Bértoa 2018e, 2018h). Given that sanctions are not sufficiently clear or enforceable, the current regulations do not effectively deter parties or candidates from illegal funding practices.

Despite these challenges, there seems to be an important window of opportunity and a degree of political will in Mongolia to improve the situation. A task force in Parliament is currently drafting a reform to the LPP, and a reform of the LoE is also being considered. If enacted, these reforms are expected to address some of the most pressing political finance regulatory shortcomings.

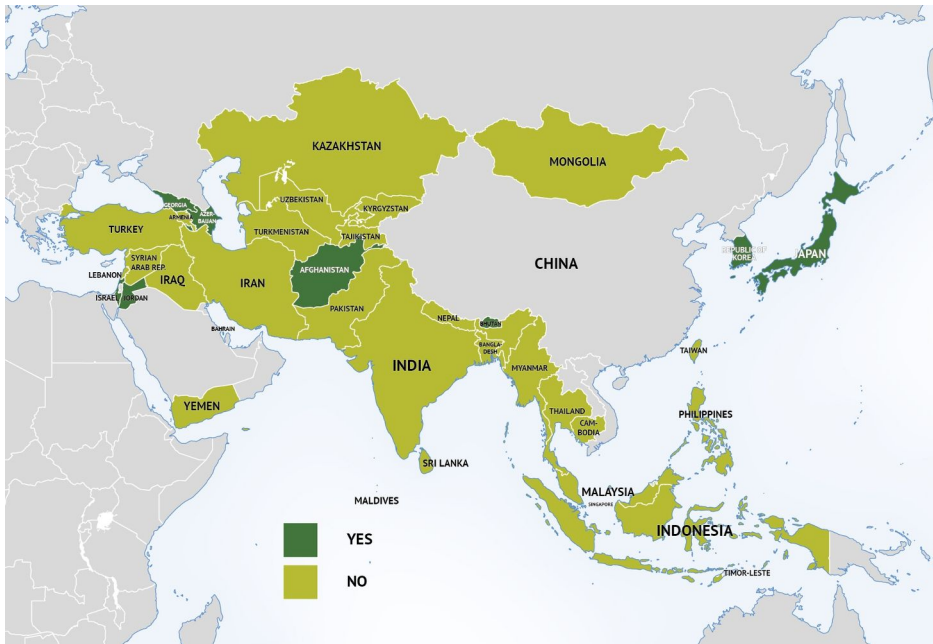
3.1. Private funding

Under current regulations, political parties can accept donations for elections and ordinary activities from individuals. One of the most important current political finance challenges is the rapid increase in the amount of 'pledge money' accepted—money that candidates donate to their party to run for office (Uribe Burcher and Casal Bértoa 2018a, 2018b, 2018e, 2018f, 2018g, 2018h, 2018i, 2018j; Erdenedalai 2016). The amount of 'pledge money' has grown from MNT 20 million (USD 8,100) in 2008 to MNT 80 million (USD 32,400) in 2012, and around MNT 100 million (USD 41,200) in 2016 (Erdenedalai 2016; OECD/ODHIR 2016: 15). This amount was even higher (MNT 250–500 million/USD 101,500–203,000) for top candidates in party lists (Uribe Burcher and Casal Bértoa 2018b). This practice jeopardizes the right to passive suffrage (ACE 2018) and hampers the chances of women and youth to become candidates, as they typically lack access to these sources; moreover, it contravenes the individual donation ceilings provided by the law. Corporate donations to political parties are also allowed under Mongolian law, much like in other countries in the region, as shown in Figure 1.

However, politicians and corporations seem to have found a way to bypass the limits by disguising corporate donations as individual donations, and by funnelling resources to candidates as part of the 'pledge money' they are expected to provide to receive their party's nomination (Uribe Burcher and Casal Bértoa 2018b, 2018e).



Figure 1. Bans on corporate donations to political parties in Asia



Source: International IDEA, Political Finance Database, 2018, <<https://www.idea.int/data-tools/data/political-finance-database>>, accessed 21 June 2018

Another challenge related to corporate donations is that, while state corporate donations are banned, donations from private corporations that have government contracts are not (LPP, article 18.7). Also, trade unions are only banned from donating to candidates, not to parties (LoE, article 52.1). As such, there seems to be an incentive for corporations to provide donations with the expectation of future favours in return, most often in the form of contracts and lobbying support (Uribe Burcher and Casal Bértoa 2018a, 2018e, 2018i, 2018g; Denyer 2018). Anonymous and foreign donations are banned, regardless of whether they come from individuals or corporations (LPP, article 18.7).

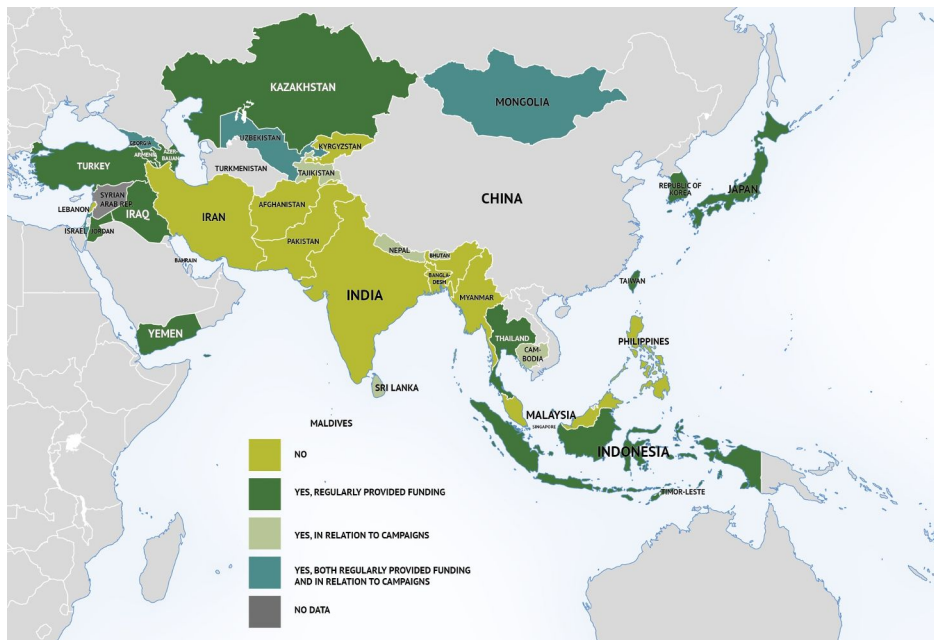
Cash donations from individual donors are capped at MNT 3 million (USD 1,217; LoE, article 50.1.1) during elections, and MNT 1 million (USD 406; LPP, article 18.3) for ordinary activities. The ceiling for corporate donations is MNT 15 million during elections (USD 6,084; LoE, article 50.1.2) and MNT 10 million for ordinary activities (USD 4,056; LPP, article 18.3). However, stipulating fixed ceilings, rather than fluctuating limits linked to average or minimum monthly salaries, makes them less able to keep up with the inflation rate.

Mongolia's regulations currently permit both cash and in-kind donations (LoE, article 49). Cash donations need to be channelled through (and kept in) dedicated bank accounts (LoE, articles 40.3–40.5; LPP, article 18.5). In-kind donations, which may include goods (e.g. vehicles, fuel, paper, computers), services (e.g. legal advice) or the use of facilities (e.g. meeting rooms) are appraised exclusively by their recipients (LoE, articles 51.2, 51.4) rather than according to objective or independent criteria, such as market prices or an auditor's assessment. Such donations are also only regulated in relation to elections. There are thus major loopholes regarding in-kind donations for ordinary party activities and underestimating their value to allow more resources to be injected into campaigns.

3.2. Public funding

Mongolian political parties with representation in Parliament receive public funding, as is the trend in many countries in the region, as shown in Figure 2.

Figure 2. Public funding for political parties in Asia



Source: International IDEA, Political Finance Database, 2018, <<https://www.idea.int/data-tools/data/political-finance-database>>, accessed 21 June 2018

Mongolia offers parties two types of state subsidies. The first is a one-off amount equivalent to MNT 1,000 (USD 0.40) per vote obtained in the last legislative election. The second is a quarterly amount equivalent to MNT 10 million (USD 4,060) that parties receive per seat, 50 per cent of which is earmarked for electoral expenses. The amounts are adjusted according to the exchange rate (LPP, article 19). A better approach would be to link the subsidies to the inflation rate rather than the exchange rate, to more accurately reflect the costs of campaigns and party expenses.

Public funding remains a very limited portion of political parties' financing in Mongolia—less than 20 per cent of their revenue, according to the most accurate estimates, which makes parties dependent on corporate donations and pledge money. Of the MNT 36 billion spent during elections, around half was financed by the candidates themselves (Mongolian Anti-corruption Authority and Voter Education Centre 2015: 19). By contrast, the proportion of countries allocating public funding to parties has increased in recent years (Uribe Burcher and Perdomo 2017). In most European countries public subsidies constitute their primary source of income; the UK is the most important exception (Casal Bértoa and van Biezen 2018: 47).

Current public subsidies in Mongolia are insufficient to cover the costs of electoral campaigns. As Table 1 shows, public subsidies reached over MNT 30 billion (USD 12 million), on average, in 2012 and 2016, an extraordinary increase over previous years, when expenditures were less than MNT 10 billion (USD 4 million).

Table 1. Election campaign expenditure and GDP

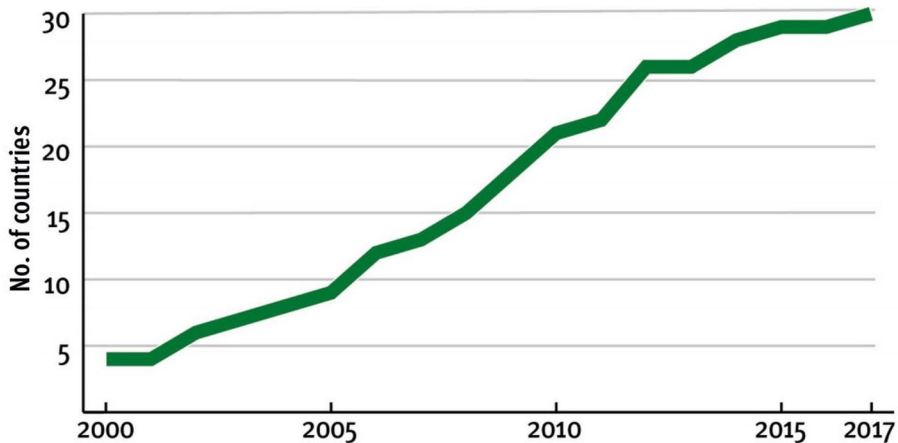
Election year (Parliament)	Expenditures of candidates and political parties (MNT, millions)	GDP per person (MNT, thousands)
1992	13.7	25.9
1996	209.3	326.6
2000	1,841.8	490.6
2004	1,558.4	858.0
2008	7,978.3	2,480.2
2012	36,863.0	5,876.8
2016	34,360.2	7,642.9

Source: OSF, 2016 *Parliamentary Elections: Campaign Finance Monitoring* (Ulaanbaatar: OSF, 2016: 29), <https://www.forum.mn/res_mat/2017/Election%20Campaign%20Financing.pdf>, accessed 9 August 2018

Most importantly, the subsidies are too small to cover ordinary party expenses; during election campaigns parties must fundraise to cover campaign expenditures as well as general operating expenses (Uribe Burcher and Casal Bértoa 2018b, 2018e). This is especially problematic for parties that do not hold seats in Parliament but enjoy an important level of electoral support (e.g. 2–3 per cent of votes).

The LPP does not stipulate who should decide the amount guaranteed to political parties, or when subsidies should be paid. Nor is public funding linked to party support for the participation of women and youth as members or candidates. Earmarking public funding in this way is an increasing good practice around the world (Figure 3). This approach could enhance the political voice of women and young people in Mongolia as long as two conditions are met: (1) the amounts earmarked need to represent a large enough proportion of total public subsidies to serve as a real incentive for parties to fulfil the requirements; and (2) the total amount of public funds allocated to parties must be sufficiently attractive, in comparison to private funding, to ensure the public funding system as a whole becomes a true asset for parties (Ohman 2018).

Figure 3. The spread of gender-targeted public funding around the world



Source: Ohman, M., *Gender-Targeted Public Funding for Political Parties: A Comparative Analysis* (Stockholm: International IDEA, 2018), <<https://www.idea.int/publications/catalogue/gender-targeted-public-funding-political-parties-comparative-analysis?lang=en>>, accessed 14 August 2018

3.3. Oversight

Currently, Mongolian legislation provides for two types of control in relation to party finances. The LPP requires parties to be audited internally and annually,

and the reports must be made public (article 20.3). The LoE requires parties, coalitions and candidates to audit their electoral finances and report basic information about their electoral expenses, the income dedicated to electoral expenses (including donors' identities) and any other assets. These reports are submitted to the General Election Commission (GEC), which sends copies to the NAO and the MTA. The NAO has 90 days to review the report and publish a statement, together with the identity of any donors who exceeded the threshold of MNT 1 million from individuals and 2 million from legal entities (USD 408,000 and 816,000, respectively) (LoE, articles 57–60). The NAO is thus mandated to monitor, research and cooperate as part of these tasks (LoE, articles 60.3–60.4).

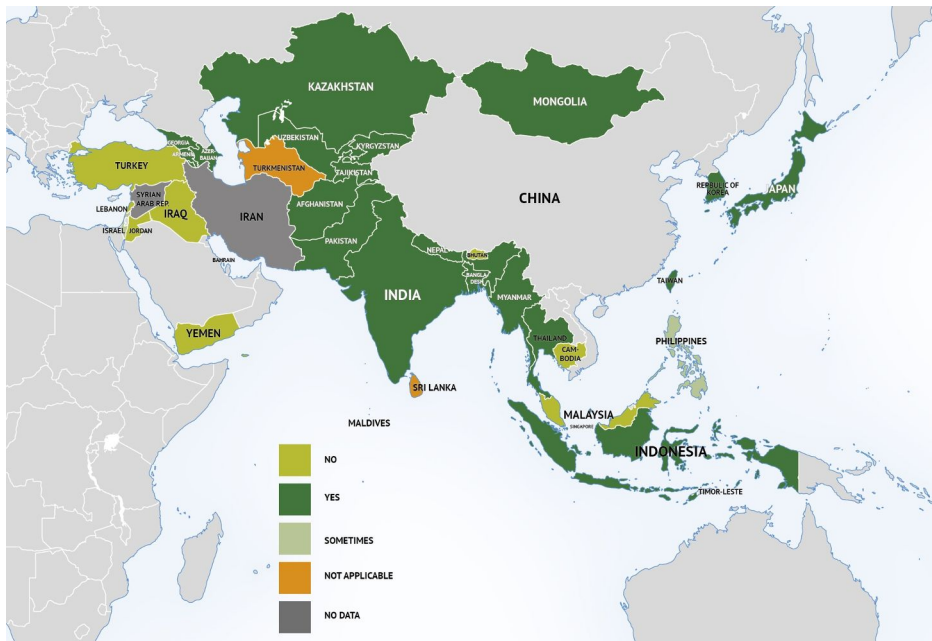
However, the law does not provide sufficient clarity for oversight authorities, primarily the NAO, the MTA, the GEC, and the General Authority for State Registration (GASR), to fulfil these mandates, and the implementation of the abovementioned regulations seems to be limited. For example, the law does not clearly describe the process and procedures for selecting which party or candidate reports should be audited. Nor does it specify what the MTA is supposed to do with the copy of the report it receives. In addition, the NAO has thus far only published summaries of the reports and audits submitted by parties (Uribe Burcher and Casal Bértoa 2018e, 2018h).

Moreover, political parties do not seem to recognize the authority of these agencies, primarily the NAO, to request, audit and publish their reports. Article 20.3 of the LPP states that 'Finance of the party shall be audited annually and it shall be published', without specifying the NAO's role. Parties have interpreted the vague language to argue that they can have their reports audited privately to present to the NAO and publish (Uribe Burcher and Casal Bértoa 2018c, 2018h). The LoE also provides a reduced mandate to NAO during elections, which parties have again taken to allow them to present already privately audited reports. The NAO does not review the reports' accuracy, which calls the independence of the audits into question. However, the NAO has insufficient personnel and finances to carry out more in-depth checks, in light of the number of candidates and parties (for example, in 2016 there were 498 candidates, 12 parties and 3 coalitions) and the lack of a clear process and procedure to select which party and candidate reports to audit, and how the auditing should be conducted (Uribe Burcher and Casal Bértoa 2018h, 2018d).

The full disclosure of political finance reports through digital and user-friendly systems is increasingly seen as good practice around the world (Jones 2017). Figure 4 shows that such reports are publicly available in many countries in the region. However, Mongolian law only refers to parties' obligation to publish their financial statements and does not reference the NAO's reviewed reports. Thus, the NAO has been reluctant to publish the reports, either in their original form or after its review (Uribe Burcher and Casal Bértoa 2018e). Also, as neither the LoE nor the LPP is clear about how or when the reports should be published, third

parties find it difficult to obtain this information. The Independent Authority Against Corruption (IAAC), in goal 9 of its legally binding 2016 National Program of Combating Corruption, advocates the release of all available information to the public to enhance transparency in political finance and therefore integrity in politics.

Figure 4. Public availability of political finance reports in Asia



Source: International IDEA, Political Finance Database, 2018, <<https://www.idea.int/data-tools/data/political-finance-database>>, accessed 21 June 2018

Coordination and cooperation between oversight authorities, primarily between the NAO and the GEC, should be a top priority. The GEC is tasked with collecting the reports, after which the NAO is supposed to review them (LoE, articles 57.3, 57.4). Yet there is little coordination between these state authorities, or with other agencies that have a stake in the process, such as the MTA and the IAAC (Uribe Burcher and Casal Bértoa 2018c, 2018d, 2018h). Finally, there are questions regarding the independence of these authorities, and the amount of political pressure they face from parties and other forces in the country to avoid in-depth oversight of party finances (Uribe Burcher and Casal Bértoa 2018e).



3.4. Sanctions

The current legislation only provides non-monetary sanctions for political finance violations in relation to elections. Under LoE article 60.5, a party, coalition or candidate who fails to present its electoral statement within 45 days after an election risks losing its right to participate in the next election, which is known as ‘electoral de-registration’.

This type of sanction seems to have a limited deterrent effect (Uribe Burcher and Casal Bértoa 2018c, 2018e). Electoral de-registration has been imposed only three times, and the Civil Will-Green Party is currently challenging the practice in the Constitutional Court, arguing that it violates the party’s constitutional political rights (Uribe Burcher and Casal Bértoa 2018c). It might also be too strict to penalize minor law violations, such as when a party simply submits its statements past the deadline.

3.5. Other issues

Spending limits and media access

LoE article 40 tasks the NAO with setting a spending limit for each election but does not stipulate what criteria should be used. One of the main areas of party expenditure is media advertisement. Currently, the LoE guarantees all political parties and candidates equal access to public media. However, the implementation of this provision seems to have inadvertently had an effect on public electoral debates, and arguably made them less effective (Uribe Burcher and Casal Bértoa 2018a). For example, a political debate involving up to 20 parties or candidates may encourage the participation of ‘fake candidates’ who participate with the sole purpose of disrupting the debate.

The GEC is responsible for determining the schedule and time allocation for free campaign media coverage. Campaign coverage is limited to 60 minutes per day on each private media outlet (15 minutes per party or candidate) (LoE, article 82). However, private broadcasters reportedly charge high fees for media coverage during election campaigns, which violates the requirement to charge no more than the average fee over the last six months (LoE, article 82). Therefore, only the wealthiest parties and candidates can afford media coverage (Uribe Burcher and Casal Bértoa 2018a, 2018i).

Declaration of candidates’ assets and conflicts of interests

Currently, the IAAC is charged with collecting and reviewing declarations of assets and income, except those of MPs, which are reviewed by the parliamentary Ethics Committee. The IAAC is mandated to review any allegations of offences uncovered by the Ethics Committee. Sanctions for discrepancies or offences

detected in the asset declarations range from fines to dismissals, although these have only been imposed one time since the law's enactment (*N News* 2013; Parliament of Mongolia 2013). The IAAC must refer any criminal cases to the public prosecutor.

Insufficient coordination between the responsible institutions hinders the effectiveness of these provisions. For example, the Ethics Committee has never found any irregularities (Uribe Burcher and Casal Bértoa 2018d), which limits the role of the IAAC in this regard. However, during the 2017 presidential election the IAAC took a proactive approach and made the asset declarations of the three presidential candidates public.

4. Conclusions and recommendations



This assessment has identified several potential areas for reform that could improve the transparency of party funding, reduce illegal practices, limit opportunities for corruption, and improve the chances that women and youth can participate in political life. The review of the existing legislation on political finance in Mongolia is a key step towards reaching these goals. While many of these issues deserve close attention, the priority should be on improving the oversight, disclosure and transparency of political finance information and reports. Any improvements will require the successful implementation of the set regulations.

Recommendations

Private funding

The most problematic elements of private funding are the practice of requiring pledge money, as well as the regulations relating to corporate donations, fixed ceilings and the appraisal of in-kind donations. Requiring pledge money poses obstacles for people with insufficient resources to participate in politics and violates the individual donation ceiling. Allowing corporate donations from companies with government contracts creates potential conflicts of interest. Likewise, fixed ceilings in the law do not provide the flexibility needed to update limits in keeping with the country's inflation rate. Finally, in-kind donations that are appraised by the parties and candidates, and that are only regulated during elections, increases the risk that parties will underestimate the assets' value, and accept in-kind donations outside election time with no oversight or accountability.

Accordingly, legislators should consider the following:

1. Reduce the ceilings for corporate donations while increasing the ceilings for individual donations to make parties and politics more responsive to citizens. To compensate for this loss in funding, and to encourage Mongolians to engage in politics, an increase in the ceilings for individual donations, for both electoral campaigns and ordinary activities, should be considered. A total of 50 countries have introduced a ban on corporate donations (International IDEA 2018), including up to seven of the 11 EU post-communist democracies (Casal Bértoa and Biezen 2018: 20–21).
2. Limit (and ultimately ban) donations by corporations with state contracts. Limits could include caps or instating a ‘cooling-off’ period (e.g. two years) after the donation is made, during which time the company cannot be awarded state contracts.
3. Discourage the practice of pledge money. Any money provided by an individual, including candidates, should strictly abide by—and be accounted within—the individual annual donation caps established by the law, in relation to cash or in-kind donations.
4. Clarify the terminology and regulations related to in-kind donations. Such donations should be regulated during and outside election periods, and their value should be objectively and independently appraised, and linked to market prices or an independent source.
5. Provide a formula to calculate donation caps that allows for fluctuating limits linked to inflation, average monthly salaries or minimum monthly wages. This would prevent donation caps from becoming quickly outdated due to rising inflation.
6. Prohibit cash donations to parties and candidates during and beyond electoral periods. This could prevent opportunities for corporate donations to be disguised as individual donations, and empower the oversight authorities to exercise their mandates.

Public funding

Mongolia currently provides very little financial support to political parties. The available funding is insignificant in comparison to potential private fundraising and is restricted to parliamentary parties. There are no clear legal criteria to calculate the amounts to be allotted, and the subsidies are not linked to parties’ efforts to support, promote or facilitate the participation of women and youth in politics.



Accordingly, legislators should consider the following:

1. Increase the amount of public subsidies, for both electoral and ordinary expenses, guaranteed to political parties. This would help decrease parties' dependence on private resources, and compensate for cuts in private funding if ceilings on corporate donations are further restricted, as recommended above.
2. Extend access to public subsidies—for both electoral and ordinary expenses—to all parties that obtain a relevant percentage (e.g. 2–3 per cent) of votes. This measure, which is common (International IDEA 2018), including among post-communist democracies (Casal Bértoa and Spirova 2017), would help open up the political system beyond the two main parties, and increase the survival chances of parties that have important public support but are not represented in Parliament. This would, in turn, increase levels of political representation and help level the playing field among Mongolian political parties.
3. Revise the distribution criteria for public subsidies to use the number of votes, rather than the number of seats, to allocate funds. This measure would give the electorate an additional purpose when casting their ballot: their vote would send a message of support for a party's ideology, and support the party's financial capacity to attain it. This change would also help alleviate some of the imbalances generated by the Mongolian FPTP system.
4. Adopt a new, more adjustable formula for allocating subsidies to political parties, such as three times the average monthly salary or the minimum monthly wage per vote or seat.
5. Earmark a proportion of public subsidies to promote the participation of women (e.g. 20 per cent) and youth (e.g. 10 per cent) in politics. A portion of public subsidies could also be earmarked for civic or membership education, as in the Netherlands and Serbia, or research initiatives, as in Greece, Latvia and Poland (Casal Bértoa and Rodríguez Teruel 2017: 5–9). Yet given that political parties are already being 'reimbursed' for part of their electoral expenses (LPP, article 19.1), quarterly public subsidies should not be earmarked for electoral purposes. It is also important to ensure that, if such earmarking of public subsidies is adopted, that any sanction against political parties for political finance offences avoids affecting the earmarked funds.

Over the long term, Mongolia should consider introducing a system to allocate public subsidies based on the principle of 'matching funds', which distributes a

portion of the public subsidies based on parties' capacity to collect small, private contributions. This could further reduce parties' dependence on public subsidies, encourage parties to engage with the electorate and create an additional 'value' to voters when providing a small donation (Casal Bértoa and Rodríguez Teruel 2017; Uribe Burcher and Perdomo 2017).

Oversight

The most pressing challenge in Mongolia's political finance system lies in its oversight system. Regardless of whether any of the legislative changes recommended above are implemented, one of the main priorities should be to improve oversight, to strengthen the deterrent effect of all current and future legislation. Some of these oversight shortcomings relate to a lack of clarity with regards to the mandates of the oversight authorities, their capacity and independence. Currently, political parties are responsible for ensuring that their reports are privately audited, relegating the NAO's role to a simple formality, rather than a substantive auditing role in terms of reviewing the accuracy of reports. Additional clarity is also needed with regards to how, when and to what extent reports should be made public, and who is charged with this task. Finally, the capacity and independence of these authorities also seems to be limited.

Accordingly, legislators should consider the following:

1. Make all reports public upon submission, including the identity of individual donors.
2. Empower oversight authorities to assume all control and auditing responsibilities for party finances. The responsible authority (currently the NAO) should have a clear mandate and authority to perform an in-depth audit of the reports, and for all types of resources acquired or allocated to political parties, private and public, during and outside the electoral period. The NAO audit reports and findings should be made public, ideally through a digital and user-friendly system.
3. Provide oversight authorities, particularly those in charge of auditing reports, with the necessary competences, including investigative and punitive, and resources, both human and financial. Importantly, to prevent bias or discriminatory treatment by oversight bodies, clear procedures must be put in place. For example, there must be clear criteria for selecting which reports the NAO should audit.
4. Stipulate a timeframe for party finance oversight that takes place continuously and throughout the electoral cycle, with reports submitted annually to the relevant oversight authority. The control and reporting of political finances should not be restricted to the post-election phase, but should also take place before and during elections. Parties should be

encouraged to publish their incomes and expenses in real time on their own websites, and the oversight authority should be given the mandate and means to review and publish them in full.

5. Centralize oversight authority into a single body to avoid overlapping controls, quarrels and misunderstandings. Legislation that governs the functioning of various oversight authorities should be amended to enhance cooperation and remove contradictions—particularly laws regulating elections, political parties, taxation and auditing. For example, the MTA and GASR could be tasked to support the NAO by assessing donors’ financial backgrounds to determine whether they are acting as third parties to disguise the true origin of the funds.
6. Require the oversight authority to provide parties with clear reporting guidelines, including the type of supporting documents that need to be submitted with the financial report. Oversight agency personnel should be available to advise political party finance staff on how to collect and file the necessary documentation.
7. Ensure that party finances are public and transparent. Post-electoral and annual reports, as well as all reviews by the oversight authorities, should be made accessible to the public, ideally online in a searchable database as well as scanned copies, but at a minimum on the oversight authorities’ websites, and on the parties’ websites, if available. This information should be available for a reasonable period (e.g. five years).
8. Guarantee the timely control of political party finances. The law should specify dates and periods for reporting, reviewing and disclosing required information. It should also stipulate when parties must respond to any queries or appeal the decision of the oversight authority, and when the parties’ reports and the oversight authority’s reviews should be published.

Sanctions

Mongolia’s current system of sanctions against political finance mismanagement has a limited effect. Financial punishments are insufficient to serve as a deterrent and are rarely imposed. Administrative sanctions, namely electoral de-registration, are subject to critiques on constitutional grounds, and are not always proportional, particularly in cases of minor infractions.

Accordingly, legislators should consider the following:

1. Impose monetary sanctions to discourage parties, candidates and donors from making cost–benefit calculations on possible infractions.

2. Remove de-registration as a penalty altogether; alternatively, seek to apply it proportionally, only for the gravest infractions (e.g. submitting reports with misleading or fake information).
3. Withdraw all or some public subsidies, provided these are extended to non-parliamentary parties. However, these sanctions should not affect subsidies earmarked for the promotion of women, youth or civic education.
4. Introduce criminal liability for the gravest types of illegal political finance activities, targeting both donors (including corporate managers) and political representatives (e.g. party head, treasurer).
5. Require the oversight authority to maintain a database on the number and types of sanctions applied, for the sake of transparency and effectiveness, and to inform the degree to which current policies are effective and point out the necessary direction of future reforms.

Other issues

One of the main expenditures for parties is media advertisement. However, the law does not provide a clear formula for calculating spending caps that is linked to the country's inflation rate. Regarding public media, the principle of equal distribution, as currently applied, has caused electoral debates to become ineffective by including too many people in them. Finally, and more importantly, private broadcasters reportedly fail to comply with the legal limits on fees charged. Accordingly, legislators should consider the following:

1. Provide a spending limit with a clear formula that can be adjusted for inflation.
2. Create a proportional system for public media access, for example linked to the number of votes received in the previous election. This would focus debates among the most representative parties and make them more informative and engaging.
3. Require private broadcasters to dedicate a minimum number of minutes per day to all parties and candidates, in prime time and proportionally. This could be combined with limiting each party to a maximum amount of airtime.
4. Oblige private broadcasters to regularly report to the oversight authority the amount of money received from each political party, candidate or third

party for political purposes, and to disclose this information in full, ideally daily and on their own websites.

5. Include more realistic limits for private media time, ensuring that the time allotted allows coverage of all parties and candidates.

Regarding income and asset declarations, the main issue relates to a lack of transparency, as declarations are not publicly available in their original format, but only their statistics. Another challenge is that the entity charged with receiving the asset declarations for MPs, the parliamentary Ethics Committee, may have a potential conflict of interest, since MPs receive their colleagues' declarations. An independent authority would be better able to fulfil this role impartially.

Accordingly, legislators should consider the following:

1. Make candidate's income and asset declarations publicly available, even before elections.
2. Give the IAAC full authority to collect, review and inspect all declarations of assets, including those of MPs.
3. Mandate the IAAC to fully publish the asset declarations, including from MPs.

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About the organizations



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Mongolia's political finance regulatory framework faces significant challenges. Lack of enforcement, influence of private business interests and various loopholes have eroded people's confidence in politics and posed obstacles for women and youth to access positions of power and decision making at all levels.

This report provides insights into Mongolia's political system in general, and its political finance legal framework in particular. It describes how candidates and parties receive, use and report on private and public funding, how authorities oversee these financial flows, and how sanctions are imposed to deal with violations.

The authors argue that, as part of the current efforts to improve Mongolia's political system, some reform of the current political finance framework is required. Priority should be given to improving the oversight, disclosure and transparency of political finance information.

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