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WEEKLY



DeFacto **ARTICLE**

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Jargalsaikhan Dambadarjaa,
Mongolian political and
economic observer, columnist

Non-governmental organization and the **GREY LIST**



DeFacto **INTERVIEW**

PAUL R. CARR
FULL PROFESSOR AT
QUEBEC UNIVERSITY

“
**YOU ALSO HAVE TO
CONTEMPLATE ON
WHAT EDUCATION IS
FOR, IT CAN'T BE JUST
FOR GETTING A JOB**
”

III PAGE

DeFacto **REVIEW**

➤ **12-MONTH SUSPENSION
TO THE ISSUANCE OF NEW
EXPLORATION LICENSES**

➤ **AMENDMENT TO
ELECTION LAW**

➤ **MSE UPDATE**

VI PAGE

Non-governmental
organization and the

GREY LIST



Two months ago Mongolia has been included to the controlled Grey list of the intergovernmental organization Financial Action Task Force on Money Laundering (FATF) which was founded to combat money laundering and terrorism financing. The reasons for the inclusion of Mongolia in the FATF's list of high-risk countries in this area was explained to readers in the *"Grey government"*, *"Grey court"* and *"Grey society"* articles.

Currently, the Mongolian government has announced its commitment to leave the Grey list not only to citizens and the public, but also to other countries around the world. Last month, Mongolian lawmakers fired the chairman of the Bank of Mongolia and the Financial Regulatory Commission and replaced their deputy's.

The FATF's recommendations against money laundering and terrorism financing have long been recognized as an internationally acknowledged standard and an important tool for effective actions against the misuse of the financial system. There are 9 special and 40 general Recommendations against money laundering and terrorism financing in almost every branch of economy, society and politics of the country.

Among them, Recommendation 8 is directly related to civil society and the non-profit sector. Also each of the 40 FATF recommendations is designed to assess the activity of the country with the following technical compliance ratings: compliant – C, largely compliant – LC, partially compliant PC, non-compliant – NC.



BEHIND THE GREY LIST

► According to this standard, Mongolia was twice assessed in 2007 and 2017. Both assessments concluded that the non-profit sector of Mongolia was PC (partially compliant). After a recent additional assessment was conducted, the follow-up was released two months ago. The 2017 report recommends evaluating each sector, especially the most at-risk non-profit sector and conducting a full assessment on this sector. However, surprisingly Mongolia still not evaluated its non-profit sector, which also was expressed in the recent follow-up.

The FATF reports on each country and according to the report on the non-profit sector of Mongolia the following risks were found:

- the risks of the non-profit sector are not fully assessed
- no information was provided to the most at-risk NGOs
- the non-profit sector's control is uncertain
- the non-profit's sanctions are not clear and not appropriate
- not enough knowledge and skill to research the non-profit sector
- not provided the materials related to non-profit sector and its previous audit evidence and references

BEHIND THE FATF'S EVALUATION

Mongolia should take the above-described assessment serious and be careful with it. The requirements of the FATF and other intergovernmental organizations put forward to NGOs are demanding to limit the space of civil society, and especially governments should constantly control the NGOs.

Generally speaking, there is a tendency to limit the space of NGOs around the world. Researcher B. Hayes (2017) said that international anti-terrorism laws, especially those required by the, were initially violating human rights because did not provide democratic participation and were released too quickly. B. Hayes also said that cases of money laundering and financing of terrorism through NGOs are rare in the world. However, the number of countries that are taking advantage of the FATF's recommendations and changed laws on NGOs and restricting the voice of civil society is growing. This is true for such countries as Bosnia and Herzegovina, Croatia, Macedonia, Hungary, India, Kazakhstan, Kyrgyzstan, Poland, Serbia and Tajikistan (Hayes, 2017).

In 2012, in 159 countries assessment associated with FATF's Recommendation 8 was conducted by state monitoring and international institution. In this assessment, 85% of countries found that they were either NC (non compliant) or PC (partially compliant). It is noteworthy, that even though many Central European countries have changed their money laundering and terrorism financing laws, the assessment did not

comply with Recommendation 8 as well. In 2007, when assessment was conducted for the first time in 158 countries, non-profit sectors of only five countries (Belgium, Egypt, Italy, Tunisia and the United States) were concluded as C.

This happened because of the growing suspicion of funding for terrorism through a non-profit organization since the September 11 attacks. At the time, US president George W. Bush had publicized a message condemning NGOs. As a result of studying non-profit laws and regulations, international organizations began to demand the prevention of the risks of abuse of such organizations for the financing of terrorism. It has led to a wave of changes in civil society laws around the world. However, in many countries anti-money laundering and anti-terrorism laws have not improved. The above-mentioned 2017 report included 89 countries. Only four of them (Armenia, Hong Kong, USA and UK) were evaluated as C in Recommendation 8. Sixty countries were evaluated either as PC or NC.

Implementation of FATF recommendations does not require a single change in NGO-related legislation, but rather a comprehensive assessment of this area. Thereafter, it is necessary to meet and work with each of the organizations that have a high risk of money laundering and terrorism financing.



PAUL R. CARR

FULL PROFESSOR AT QUEBEC
UNIVERSITY

DeFacto **INTERVIEW**

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“ YOU ALSO HAVE TO CONTEMPLATE ON WHAT EDUCATION IS FOR, IT CAN'T BE JUST FOR GETTING A JOB ”

Paul R. Carr is Professor at Quebec University, Canada. He has a PhD in Sociology from the Ontario Institute for Studies in Education of the University of Toronto and has published a number of books on education for democracy, combating extreme national sentiments and on social justice.

Jargal Defacto: Good Afternoon. What brings you to Mongolia?

Paul Carr: I was invited by a colleague, Tungalag at the All for Education civil society coalition to give a series of lectures and workshops on global citizenship education and multicultural education to a group of about 50 educators, civil society leaders and representatives of government organization. I am here with my colleague and co-chair of the UNESCO Chair in Democracy, Global Citizenship and Transformative Education, Gina Thesee. We have only been here for three days and it has been a whirlwind tour but we spent the last two days with the group of about 50 colleagues from Mongolia.

JD: Mongolia is a young democracy and these are values that take some countries a couple of generations to develop. We have pursued these values for the last 20 years and your insight into Mongolian democracy following interactions with 50 of your colleagues would be extremely valuable.

PC: I was here for a short visit about 5 years ago for a project on education for democracy. I think there are a lot of similarities with other countries in the world and I don't believe any country has achieved a complete democracy. There are a lot of literature and research, constitutions and movements on democracy but it is definitely a process not a project. There are many similar problems around the world such as social in-

equalities, corruption, participation and types of governance but I think one of our main areas of interest is education and the forms of education that prepare people to participate through citizenship education, transformative education and social justice. I think there are a lot of similarities between Mongolia and other countries.

One thing that I have noticed in the last 5 years since I have been here is that there seems to be, at least in Ulaanbaatar, a bit of an economic boom through mining royalties. I think there has to be concerns about where the wealth is distributed. There are issues surrounding health-care, housing, and education as well as environmental issues such as pollution but in democracy, the main issue is participation and how people participate. There is social media, other forms of media, media literacy but how people engage, mobilize and influence decision making as well as social and cultural movements, attitudes and behaviors is an issue. So I think education is a key component in preparing for democracy and critically engaged citizenship.

JD: Exactly, to me, as an individual delving into these exact issues, I believe that democracy is not limited to voting but requires conscious informed participation. This requires the development of a civic society to a certain level. The civic society is meant to be more informed so what is your take on Mongolia's civic society and their role in promoting democratic values?

PC: I think that elections are probably the thinnest part of a democracy. This may sound as bit of a paradox as we put so much energy and emphasis on elections, who gets elected, how they get elected, the media attention to the rules and regulations, fundraising, debates. Increasingly, more and more people are disengaging from formal normative elections and they don't seem to respond to the needs people have to eradicate racism, poverty, sexism and major problems surrounding housing and the environment. In relation to civic society, I think civic society is fundamental as the largest movements and changes that take place usually don't come from government. For example, the Me Too movement is pushing formal decision making and political debates. Of course we have to change political systems from within but civic society is key to representing the voices of people who are marginalized.

We spent some time with colleagues here so we have a bit of an idea. We have heard that there are roughly a 1000 civic society groups and I think that it is important that they are able to develop their voices and ways and engagement outside of formal networks and processes. I think civic society groups are really the fiber of society and that it often provides a voice that is often not there in the mainstream media for example. As we know, there has been a mining boom in Mongolia for the last 10 – 20 years and the government is not going to speak out on its

negative impact to the level that is required.

JD: People are already talking about the unjust distribution of mining wealth as the natural resources belong to the Mongolian people. We understand that the individuals that invested in the extraction and processing of resources need to make a profit but people find significant injustice in the process. Those close to decision making in mining and those with mining licenses are taking more, leading to public dissatisfaction. This has also contributed to the growing stratification of society. In your view, what is the best way to get people involved in a country so dependent on a single commodity?

PC: In economic terms it is often referred to as the Dutch Disease where there is an overreliance on one commodity, usually oil. With the emphasis on mining, there are many issues at play and the exodus from rural areas to the capital creates housing issues in and around the outer layer of Ulaanbaatar. People are burning coal in their traditional gers and there are issues such as access to education and employment and transportation.

I think the mining is more than an economic issue as there is environmental problems such as what happens with the resources used to develop the water, health concerns, the relationship that people have to their environment. Therefore, civic society groups need to be included in the decision making, how mining takes place if at all as well as how the resources will be used and how it benefits society. If it is mainly benefiting shareholders who don't live or partake in Mongolian society, there is going to be tremendous upheaval. Social inequalities will increase alongside poverty and other issues. Civic society has to be part of the equation so the question is how does government ensure that they have some sort of representation in deciding particular issues.

JD: You said that people have to voice their concerns. This starts from the demand for sharing royalties, a system which is well established in Canada. As I understand, it is not only the mineral resource generating provinces that receive a share of

the royalties. How does this system work?

PC: It may seem very cohesive from the outside but from the inside, there is tremendous debate and disruption in Canada over the royalties for oil for example. As I understand, we have the lowest remittance from oil in the world and a lot of the profits from the oil primarily goes to the US. For example, the average Canadian is not able to purchase inexpensive gas. There are taxes that relate to revenue and there are jobs that are produced but there are a lot of issues about indigenous people being displaced, cancer rates, use of water and other resources to extract the oil. There are also big debates about pipelines which are not 100% safe. Pipelines can explode and there was an incident in Lac-Mégantic, Quebec where a train transporting oil exploded. Therefore, extracting oil is an issue as is transporting it and there are also debates surrounding the use of the oil with some advocating the use of domestic oil rather than importing it. In a nutshell, Canada is not a good model for royalties.

JD: Do you still import oil?

PC: Some of it is imported because it is a very large country and there aren't many refineries. The oil is also dirty oil and requires a lot of processing leading to proposals to send it to the US and the British Columbia coast through pipeline.

JD: So Canada has its own issues with participation and indigenous people. The issues of democracy are global issues.

PC: There is no country can say that it has fully resolved all the issues.

JD: We had seen the US as a shining model of democracy until now but this is not the case anymore. My concern is that the living standard is still poor in Mongolia as a third of the country lives under the national poverty line and half of Ulaanbaatar lives in the Ger district without proper sanitation. This is a big concern and we see democracy as the only tool for those people to speak up. We didn't have those means during communist times. We try to convince people that this is a valid tool but in our communist history, everyone was poor even

though they had access to education, healthcare and other safety needs. Lack of participation is a significant issue in post-communist countries so how do you see this phenomenon in post-communist countries?

PC: I think that we have to make a distinction between the notion of democracy and the operational systems we are seeing. I would call what you just described as normative representative hegemonic democracy. The fact that people can write something on social media or can express their opinion on the street does not equate to democracy. You just very clearly elucidated that under the Soviet regime, people went to school, they had housing and healthcare as well as a certain standard of living. There are other issues that weren't as desirable but the notion was that everyone would benefit from technology and massive gains in trade and the unleashing of the economy was not entirely justified as we can see that social inequalities are increasing around the world.

We also see a mass exodus of people from Eastern Europe for example. The increasing tendency towards xenophobia is also an emerging concern around the world. You would think that this would be entirely incompatible with democracy so this is why I say that we have a normative representative hegemonic democracy rather than a functioning critically engaged participant based democracy. Elites and oligarchies run in controlled elections which are often end points in societies without broad engagement. Without broad based formal, informal and non-formal education, it is very hard to cultivate the levels of resistance we need. For example, in Canada, the conditions for aborigine's people in general but specifically in certain areas people are abysmal as some fight for portable water and housing, against discrimination, unemployment without a critically embedded movement for reconciliation.

JD: You are involved with UNESCO. What do you do there?

PC: Actually, we have a UNESCO Chair on Democracy, Global Citizenship and Transformative Education. We are not with UNESCO but there

are 27 UNESCO chairs in Canada and roughly 700 around the world sponsored and supported by universities. We are part of the UNESCO network and we do research, engage with civic society as well as the Global South. We also adhere to UNESCO priorities and values in relation to human rights, democracy and so on. We engage in research but we are not funded by UNESCO.

JD: UNESCO has this network with the values of UNESCO travelling to every country through the network. You have seen all these countries and you have a network so what is the best manner in which to deliver education for democracy to people?

PC: A central focus needs to be on formal education in critical engagement, democracy and citizenship education. You have to cultivate democracy by opening the curriculum, incorporating critical engagement experiences, involving civic society with schools, making the educational experiences more aligned with bona fide meaningful critically engaged issues in society. It needs to involve different people, contexts, be open and respectful, mindful of the diversity of issues around the world. The environment is a key issue and we need to go beyond recycling. Look at some of the major causes, we can stop warfare which is not good for the environment, we can stop over-consumption, we can try to stop social inequalities and poverty, we can distribute food and we can work in solidarity.

JD: These actions in of itself constitute democracy.

PC: Yes, by doing democracy and you can open the door for people to

engage in this way.

JD: How can we incorporate democracy education into the curriculum at the earliest possible stage?

PC: We have to move past the chant that democracy is good. It has to be infused in all grades, all schools, throughout the institutional culture, the hallways, the recreational areas, and lunchrooms. You also have to contemplate on what education is for, it can't be just for getting a job. That would be the antithesis of meaningful citizenship. We have to also reconsider teachers and educators, the way that they are supported and trained, allowing them to evolve and be more creative. When we think about what is happening in social media, it is going way beyond the concept of a small classroom.

It is also worth considering that we have teacher shortages in a lot of countries with people not going into teaching and we have to look at the reasons such as salaries, values and support. I think we also want to consider the leadership epistemology, inclusion, all of the dynamics that come into the school experience. It is not just about one class or one technique and we have to resist the temptation to think of democracy as elections. We have to teach how we can work together, think together and there are many examples we can find. We can develop parks, community gardens, we can have what Paulo Freire called generative themes where students can bring ideas from their own areas. Of course if you are living in a ger on the outskirts of the town, it is not the same as living in a condo in the center. So how do we connect people and how do we share these is-

sues and problems. One thing we can consider is students not graduating from schools individually but having to work together to do so.

JD: You are broadening the concept of education for democracy to encompass more communication, networking and creativity. I am not sure when we will start to see it in this way in Mongolia. There was even a democracy curriculum that was initiated which encompassed human rights, freedom of speech and freedom of assembly. The curriculum was discontinued with a change in government. Your work with the 50 civic society representatives to will contribute to the path towards a more functional democracy and a better quality of life. So I would like to thank you for coming to Mongolia and sharing your knowledge with us on this program.

This interview originally aired in November 2019.

It has been edited here for space and clarity.

You can watch the full 30-minute interview at www.jargaldefacto.com



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12-MONTH SUSPENSION TO THE ISSUANCE OF NEW EXPLORATION LICENSES

A 3-month review of all current mining licenses was conducted and the cabinet reached a decision on Thursday, December 19th to suspend the issuance of new licenses for a year based on the findings of the study. This comes at the heels of over 700 licenses being suspended over the last 3 months due to violation of laws and regulations.

Mining is the only sector in Mongolia that can attract large-scale foreign direct investment. It is therefore a very important sector with which the government, civic society and people should be very careful as it is the avenue through which we earn 85% of our foreign currency. Therefore, the decision to suspend the issuance of new exploration licenses for an entire year does not help in this regard.

However, there is a need for order in the sector and Prime Minister Khurelsukh's government is trying to bring some semblance of order. Firstly, they inspected all existing 2889 licenses out of which 1225 are exploration licenses and 1664 are production licenses. A third of the production licenses are for gold, 20% for construction materials and 18% for coal production with the remaining licenses covering metals, rare elements and minerals.

Each license was checked against the requirements which include the presence of a feasibility study, the environmental impact of the mine and whether the opinions of the local population are taken into account. It also covered whether the mine was reporting on its exploration or production activities and the renovation of



land as well as other criteria totaling a total of 38 criteria. These inspections will conclude soon and the Minister of Mining and Heavy Industry, Mr. Sumiyabazar was requested to take appropriate measures following the inspections.

The government also attempted to establish a common database on mining licenses which did not previously exist. A number of agencies such as the Ministry of Mining and Heavy Industry, Mineral Resources Authority of Mongolia, the Professional Inspection Agency, customs, law enforcement and tax authorities had independent databases that were not interconnected.

This all suggests that Mongolia lacks a stable policy on the Mining sector as the government changes almost every 18 months since 2000. With every change in government, there is generally a shift in policy leading to chal-

lenges in enforcing exploration and production licenses as well as renovating land following mining operations. In addition to this, the proceeds from mining are not dedicated towards the diversification of the Mongolian economy leading to systemic corruption and increased inequality within Mongolia.

We must also be mindful that only 1% and 3.7% of Mongolian land is utilized for production and exploration respectively. This is a modest amount compared to developed nations as every country should be aware of what is underground, the manner in which to utilize it and what we can leave succeeding generations. Mongolia therefore has a long way to go in terms of exploration and production.

Overall, the mining sector performed similarly to previous years with some notable differences. Before moving onto the numbers, it would

like to touch on state sponsored exploration which has not been adequately funded over the years. Even with a funding of 24 billion MNT this year, the quality of work and results left much to be desired due to a lack of qualified personnel and an inefficient management structure. Going back to the performance of the industry, as of last month, 83% of our 7.1 billion USD export earnings come from mining products.

Discussions on the mining sector need to take place regarding only coal and copper. We have sold 35 million tons of coking coal to China, 1.4 million tons more than last year,

earning 2.9 billion USD. However, we must be mindful of Russia becoming more involved in the export of thermal and coking coal, becoming a strong competitor in the area. Regarding copper, we sold 1.3 million tons of copper concentrate, 20 thousand tons less than last year and the 1.8 billion USD we earned was 100 million USD less than last year. Therefore, we expect coal earnings to constitute 3 billion USD and copper earnings to reach 2 billion USD. We should however look at the international environment in which China is importing more copper despite stagnating economic development.

AMENDMENT TO ELECTION LAW

On Friday, December 20th, the Mongolian Parliament adopted amendments to the Election Law, expediting the process as changes to the Election Law are not allowed within six months of the election. Since the 2016 election, Members of the ruling party, the Mongolian People's Party have demanded these amendments.

These amendments to the Election Law constitute little more than a mockery of the public as the Election Law was amended immediately prior to each of the last seven elections. The fact that the ruling party changes the rules of the game just before an election and the public in a democratic system allows this to take place perplexes me. Under the new system, there will be 26 constituencies, six of which will be in Ulaanbaatar despite the fact that it houses half of the population.

Each constituency will elect three members of parliament putting smaller parties who may have difficulty putting forward three candidates in each constituency at a disadvantage. The fact that people are voting for their Members of Parliament and not political parties demonstrates that they, as an institution are not strong or recognizable enough to make a system like Party List feasible in Mongolia. Finally,

Mongolians living abroad will not be given the opportunity to participate in the election.

The amendments to the legislation will lead to some notable changes in the election system such as the provision whereby individuals responsible for significant indiscretions during their time in public office would be barred from standing in the election. This provision was specifically designed for Mr. Enkhbayar, the head of the Mongolian People's Revolutionary Party and the third President of Mongolia. In addition to this, the campaign period was extended from 18 to 22 which is a step in the right direction but not nearly long enough. This places candidates that are not widely known at a significant disadvantage.

Therefore, the Parliament will most likely consist of familiar faces with whom the public is fed up but the system is rigged in this manner. Another new addition to the law is a provision that disputes surrounding the conduct of the election would be resolved within the year in which the election is held. Previously some constituencies would go years without a representative due to election disputes.

The ceiling for corporate donations to political parties increased despite

recommendations from the think tank IDEA to limit them. Donation limits were raised from 1 million to 5 million MNT for individuals and 5 million to 20 million MNT for political parties. This is a substantial increase but better reflects the current situation. Firstly, Mongolia has been marred by inflation over the last 10 years which averages out to 8% a year. It also stimulates transparency in the reporting of financing by political parties. Currently, the Supreme Court, tasked with examining political party financing are unable to carry out their duties. Moreover, the increase in donation limits brings us closer to the international standard in democratic countries where political parties have three sources of revenue: membership dues, state budget and donations.

Another issue regarding the head of the Election Commission was raised by Member of Parliament Mr. Chinzorig. Currently, the commission consists of bureaucrats who have served for political parties at one point and time. There are discussions to replace it with an Electoral Commission headed by independent interests. These calls have failed to gain traction however and the composition of the Election Commission will not be altered.

MSE UPDATE

The State Department Store has never distributed dividends to their small shareholders claiming that the company has been operating at a loss for numerous years. However, the Financial Regulatory Commission found that the company was profitable and the losses were by design. As of the first quarter of 2019, the State Department Store had 44,000 small shareholders who have expressed their outrage with what they claim constitutes fraud.

The Financial Regulatory Commission approached the District Court alleging that the State Department Store is misusing the interests of 44,000 shareholders whose shares equate to 15% of the store with the remaining 85% of the shares are concentrated within one family who are not distributing dividends to the smaller shareholders. The ensuing lawsuit alleges that they created Nomin Realtor to whom they rented the 20,000 square meters of prime real estate at substantially below market price. Nomin Realtor would then re-rent the space at a substantially higher rate.

This is unfortunately not a unique occurrence in Mongolian companies privatized since the 1990's as they are all marred with mismanagement. A small number of people are taking advantage over minor shareholders with impunity. The lawsuit was thrown out of the Khan-Uul District Court which claimed that the Financial Regulatory Commission did not have the standing to bring forward cases of this nature. This inevitably raises the question of who would serve to protect the interests of the minor shareholders if not the Financial Regulatory Commission. Therefore, an appeal was lodged to appellate courts by the Financial Regulatory Commission.



The regulatory commission in any sector are responsible for establishing controls over the relevant sector. Therefore, the fact that this has taken place without impunity points to the failure of the Financial Regulatory Commission. However, the Securities Trader's Union, Stock Exchange, Savings Center of Securities, Mongolian Securities Exchange and the Transactions Payment Commission have recently agreed on a need for more stringent regulations of the sector, a legal environment for private pension funds, changes to fund management regulations and a change in the price for capital market products, service fees and so on. They also called for a single information database of securities in Mongolia. NGO's taking the initiative and having more power in a capital market is a good approach.

Corporate governance is key as the capital market is based on trust and trust traditionally eludes companies with bad corporate governance. There is an NGO called Corporate Governance National Council (www.governance.mn) which the public can approach to have an independent inspection into any concern. According to the new regulations surrounding companies, a 1% stake in a company allows an individual to sue the company, a 5% stake in the company allows for issues to be brought to the agenda at board meetings and a 10% stake in the company allows for the initiation of an independent audit of the company. This is a step towards good governance in public companies without which the capital market will take longer to develop and it is the responsibility of the Stock Exchange and the Financial Regulatory Commission to ensure companies provide reports in an understandable format in a timely manner.

GOOGLE STORE



APP STORE



*This review has been edited here for space and clarity.
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CONTACT US:

✉ editor1@jargaldefacto.com
☎ +976 94109342
🌐 www.defacto.mn
www.jargaldefacto.com