

REFORMING STATE UNIVERSITY GOVERNANCE

PUBLIC STATUS AND SHARED GOVERNANCE



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EXECUTIVE SUMMARY¹

Crafting a university governance system that ensures university autonomy and faculty participation in the university governance is the urgent problem that the Mongolian state-run universities face. Thus, having identified a shared governance system of university as the best system that ensures both university autonomy and faculty participation in university governance after reviewing relevant literatures, this paper (1) identifies deficiencies of the existing university governance system by analyzing relevant legal documents and findings of interviews and observations, and (2) advances policy recommendations as to how to rectify the current system.

In this study, while the autonomy of the university is understood as the ability of the university to determine its policy and govern itself effectively without any political, religious and other factional interferences, the faculty participation in the university governance is understood as the institutionalised and autonomous participation of the faculty in the decision making of the university's academic matter.

By the mid 1990s, Mongolia has adopted a form of university governance which can be said as closer to that of the United

1 I would like to thank Dr. J. Sukhbaatar and Bill Weary for their invaluable advises and comments on the earlier draft of the paper. My thanks extend to the people who provided constructive comments during mid-term presentation of research findings. Also, I would like to thank A. Gerelmaa for her scrupulous editing of the draft paper.

States and Canada in order to make its state-run universities autonomous and self-sufficient. Nonetheless, the adopted system, because of some initial oversights and subsequent policy inconsistency, did not bring the desired outcome. As a result, neither are Mongolian state universities autonomous of partisan politics nor are they capable of pursuing preeminence. While university governing boards have not only been tied to government but also been effectively negated, academic councils of the universities have seriously been deformed. On the other hand, university administration has directly been put under the control of the government. Furthermore, because of virtual negation of university governing boards and serious deformation of academic councils, there has been created a power vacuum on both sides of the university administrations. This power vacuum creates a situation where transparency, responsiveness and accountability of university administrations lack.

Most stakeholders are aware of this situation, thus, they suggest changing the system by way of (1) granting public statuses to state-run universities by special law, or (2) granting a complete control of university to faculty members or (3) contracting out university administration to a management team on a competitive basis. However, the evaluation of the options shows that neither the faculty complete control of university nor the contracting out of university administration is not only conducive but also feasible to address the problems. While granting public status to universities is the best solution to ensure university autonomy, increasing faculty participation in university governance will not only strengthen university

autonomy but also enhance the transparency and accountability of the university administration.

Thus, the best solution to the problems that plaque the governance of the Mongolian state-run universities is to re-institute once introduced shared governance system with its proper institutions, authorities, and procedures. Otherwise, rectifying the existing governance system is the best option to ensure university autonomy and faculty participation in university governance.

In order to make the shared governance system workable it is advisable to make the university boards public and governing institutions. Furthermore, the board has to be sufficiently institutionalized and relevant institutional culture has to be fostered too.

On the other hand, existing academic councils of the state-run universities should be separated from the administrations of the universities and they should form independent faculty governance bodies composed of faculty. Furthermore, academic councils should be given full authority over academic matters and advisory and consultative authority over other matters of the university. In addition, adequate institutionalization and fostering of relevant culture are needed in the establishment of efficient academic councils.

In fact, every effort should be made to establish and foster shared governance system in Mongolian universities if Mongolian universities are to pursue educational excellence and preeminence ever, thus serving the public better.

INTRODUCTION

Since the 1990s Mongolia has embarked a policy of decentralization of its higher education. The policy aimed at building autonomous and self-sufficient higher education institutions. Thus, by the mid-1990s, Mongolia has adopted university governance system similar to that of the United States.

Nonetheless, the adopted system, because of some serious oversights on the adopters' side and, subsequent, policy inconsistency, did not bring the desired outcome. The university governing boards have effectively been negated and what remains of them remains completely dependent on partisan politics, because the majority of the board members are government appointed politicians. On the other hand, institutions of academic self-governance, an essential part of the shared governance system, remain underdeveloped or seriously deformed. The university administration, since the president of the university is appointed by the minister and accountable to the minister, is highly susceptible to partisan politics.

Furthermore, the virtual negation of governing boards and the serious deformation of the institutions of academic self-governance yield power vacuums on the both side of the administration. This not only entails power concentration at the hand of the administration but also produces less transparent and less responsive administration. In addition,

because of thoughtless distribution of power and function, the university governance institutions, especially, the board and the administration have been forced to engage conflict prone relations.

Consequently, governance of Mongolian state-run universities is, unfortunately, in a critical situation: neither are Mongolian public universities autonomous of partisan politics nor are they capable of pursuing preeminence. For instance, not only are the state universities in no position to wrestle with the government in enforcing the Educational Law that entitles them public funding (article 40) but also incapable of increasing their tuition fees. As a result, having been rejected from the most important sources for the improvement of institutional quality the universities have lost their competitiveness in recruiting and retaining the best minds of the country. They also are in no position to improve their academic and cultural environments. Consequently, the quality of the education, research and service offered by the universities has been watered down since the 1990s.

Thus, crafting an autonomous and transparent university governance system is an urgent problem if Mongolian state-run universities are to pursue educational excellence and preeminence ever, thus serving the public better. In view of this situation, this paper identifies the deficiencies of the existing governance system, and offers policy recommendations to rectify the system deficiencies.

After a comprehensive review on the existing best practice of university governance, the research analyzes relevant legal documents relevant on Mongolian state-run university

governance. In addition, the research uses the data collected through interviews and observations. For the sake of efficiency the research selected the National University of Mongolia as a case, thus, the results of the research might not be generalizable to other higher education institutions, especially, to the ones that emphasize on knowledge dissemination only. However, it is my belief that the results of the research are applicable to other comprehensive universities like Mongolian University of Science and Technology etc.

The main focus of the research was on the governing board of the university. However, treating the governing board in isolation from the faculty participation in the university governance, and the administration was inadequate for these three are closely interrelated and without an adequate understanding of their interrelation university governance cannot be fully captured. Thus the research also covers the faculty participation in the university governance and the administration however it might seem bit sketchy for the analysis on these important parts of the university governance based only on manifest findings.

2. POLICY INCONSISTENCY IN STATE UNIVERSITY GOVERNANCE

With the democratization of the country Mongolia started a comprehensive reform in its higher education governance since early 1990s. The reform was basically that of decentralization: less state control more autonomy and self-governance of the higher education institutions. For this end, the government has tried different approaches including establishment of governing boards, privatization of management and privatization.

Yet, the reform has been highly inconsistent. Within this rather short time span Mongolia has changed its educational and higher educational laws six times (1991, 1995, 1998, 2000, 2002, and 2006), and each time the governance system of higher education institutions were affected. Initially, 1995 educational and higher educational laws introduced a governing board but with advisory and screening function (Educational Law article 13, 30, Higher Education Law article 13.7) into Mongolian higher education institutions, yet, government still retained the authority to select university presidents (Educational law article 13; Higher Educational Law article 12). The law also introduced an advisory body, academic council, (Higher Education Law article 13.5, 13.6) on academic matters consisting of faculty members. According to the law, presidents of universities were to authorize the bylaw and composition of this body. Thus,

the seeds of the shared governance system were installed in Mongolian higher education.

Then, 1998 changes to educational (article 30), and higher educational law (article 13) strengthened university autonomy further. The changes granted the authority to appoint and dismiss university president to the governing board thus the university governing board become a governing board by definition. However, it was reversed in 2002, when the authority to appoint and dismiss presidents of the universities was concentrated at the hand of the government. Yet, it did not dissolve the governing boards of the universities which expected to fulfill the duties other than the appointment and dismissal of the presidents of the universities (combination of two systems).

Because of this conflicting policy, now, the initial objective to strengthen the autonomy and self-governance of the state higher education institutions has effectively been cancelled. Theoretically, the state-run universities did not achieve any autonomy and self-governance. Instead, they are now put under dual control of the government in the face of the minister of education and the governing board majority of which are the government appointed politicians.

2.1 NEGATED GOVERNING BOARD

The governing boards of Mongolian state-run universities are governing board in name only. They lack the necessary authority, autonomy and continuity. Furthermore, they suffer under-institutionalization and inadequate institutional culture. Thus, they have effectively been negated.

Lack of Authority

By definition, a governing board is the board that exercises the authority to appoint, review, evaluate and dismiss the executive of an institution². However, the 2002 Educational law, by delegating the power to appoint and dismiss the president of the university to the minister of the education, effectively negated the university governing board; however it did not alter the name of the board (Educational law 28.1.12; Higher education law 11.3).³ Accordingly, the university governing board's authority and duty, consequently its relation with the university administration has fundamentally been altered. The nature of the board and administration relation has become transactional but not hierarchical.

Furthermore, the existing dual and rather ambiguous governance structure puts the university governing board into uneasy relations with the university administration. The university board's main duty⁴ is to review and evaluate university annual report, to approve its budget and to set its tuition fee. This always entails conflict between the board and the administration because the administration's aim is to defend its proposed budget and tuition fee and the board's duty is to review it. Thus, the board has become an reviewing and screening body since it approves the university long-range plan,

2 The main authorities and duties of the university governing board is "(1) to select and support the president; (2) to formulate and pursue the institution's mission and purposes; (3) to oversee the educational program; (4) to nurture the institution's tangible assets; and (5) to care for the institution's intangible assets, especially academic freedom, the commitment to excellence and impartiality, and its ethical standards (Freedman 2004: 16).

3 Also, the Law of Management and Financing of Fiscal Institutions enforces this situation.

4 It also approves the university long-range plan etc (Educational Law 36.11).

budget, and sets the tuition fee, and reviews and evaluates the executive's performance (Educational Law, 36.11.1-36.12).

Lack of Autonomy

In any democratic country “partisan politics – the politics of party and interest – is pursued with great passion”. Thus one of the central questions of university governance “has been to what extent it is either desirable or possible to insulate any public institution from the influence of party politics”⁵ (Trow 267). And the devising of public boards to govern universities was one of the fundamental mechanisms to assure university autonomy, that is, its capacity to direct its own affairs. Thus, one of the hallmarks of the university governing board rests on its autonomy of partisan politics. And, university governing board has to be devised in line with this overarching principle.

According to the Educational Law, the university governing boards consist of the representatives of the founder of the given university, faculty, alumni, and student body. The representatives of the founder should make up 51-60 percent of the board thus the law secures permanent majority to the founder (Educational Law 36.2). For instance, in May 11, 2007, ten out of eighteen members of the Governing Board of the National University of Mongolia were the representatives of the founder of the university.

In the case of the state-run universities, the government of Mongolia is understood as the founder and the minister of education represents the government, however, the educational law does not explicitly say who the founder of the state-

5 Creating a civil service and treating faculty members as civil servants is the way that most European countries devised.

run universities is. The minister of education appoints all the representatives of the government who are government officials consisting of political electives and appointees. The political appointees are basically *ex officio* members because their membership in board tied to their governmental posts; however, they are not explicitly *ex officio*. For instance, while in 2003, five parliamentarians, and four appointed officials were representing the government of Mongolia at the Governing Board of the National University of Mongolia and by 2007 one parliamentarian, 8 appointed officials replaced them.

Since the governmental representatives make up the majority of the board they are the chief decision makers at state-run university governing boards. Thus they are the chief decision makers at the board. Indeed, because of their power and prestige the government representatives basically dominate the meeting of the board. Yet, this crucial fraction of the board is not only completely dependent on politics but also dependent on political contingency in terms of its selection and period of service as we will see below.

Because of its complete dependence on politics, the board basically conforms to the politics of the day. The elected members of the board have to keep their political promises, which runs against the increase of tuitions and fees, for instance. Consequently, it is in their interest to keep student tuitions and fees as low as possible. The appointees basically follow whatever the government of the day decides.

This practice, exactly, contravenes to the idea of making the university board autonomous of political influence, thus guarding the autonomy of the university. Instead, it ties

the university to politics closely. Thus, Mongolian state-run university board is not an apolitical public body that defends the university from the possible political influences. The boards instead of buffering the university from various political forces have become conduits for political issues beyond the campus (Duderstadt 2004: 143) Consequently, Mongolian state-run university governing board is, certainly, not the university's self-governing body, as it says in the Educational law, but a quasi-governmental body that oversees the university under the minister of education. Thus, the university people see the governing board as "another clout" of the government, as one representative of a university administration says. Consequently, the university administration tends to keep distance from its board.

Lack of Continuity

The term of the service in the board is staggered 3 years for all board members so that one third of the members has to be renewed each year. It, obviously designed to ensure both the continuity and change of the board. However, the governmental representatives' membership in the board rarely comply with their legally prescribed term of 3 years because the appointment of the government representatives is very much dependent on politics and, it seems, no one pays much attention in enforcing the law.⁶

Usually, major changes among the representatives of the government occur either with the general election or with change of the minister of education. Thus, for instance, in the case of the National University of Mongolia, after 2000 (8 out

⁶ Same is true to other members of the board.

of 9) and 2004 (7 out of 9) general elections the government representatives of the board had completely been changed. And, the government representatives that came after 2000 election served interruptedly for 4 years. Furthermore, the government representatives tend to be changed with the appointment of new minister of education. Thus, eighty percent of the government representatives who were appointed in May, 2005 have been dismissed in May, 2007. In addition, whenever the appointed officials leave their government posts they also give up their membership in the board automatically. For instance, 3 members of the government representatives appointed in 2005 have been changed in 2006. Thus, to make the bad situation worse, the board lacks continuity. Discontinuity is a disruption of the board. As a result, the board has turned out to be an *ad hoc* committee but not a permanent and evolving institution. Because of this, the board's working capacity has greatly been reduced and in fact, the board lacks the necessary conditions to discharge its duties. Not only the board has to be permanent and continuous but also the individual board members have to have enough time to acquire the necessary knowledge, expertise and experience in order to effectively discharge their duties.

Under-Institutionalization

Any organization has to have a proper institutional or organizational arrangement in order to achieve its missions and objectives and discharge its duties both efficiently and effectively. The institutionalization provides a framework of action and interaction and it channels ambitions into specific functions. Thus, adequate institutionalization is essential to board. Consequently, boards have developed its own institutional framework including leadership, bylaw,

manual, and various organizational forms to carry out its duties. Certainly, Mongolian state-run university boards have their chairman, secretary and bylaw. A board meeting is the basic organizational form that a Mongolian university board discharges its duties and it meets no less than 2 times a year. In addition, commission and working (or task) group can be established to assist the board in carrying out its activities.

However, in practice, university governing boards in Mongolia suffer under-institutionalization. In the case of the National University of Mongolia, the board barely meets twice a year whilst its American counterparts meet 7.4 times a year in average (Kaplan 2004: 186)⁷. The board has no schedule or plan of work to carry out its business. And the board rarely meets its initially convened date; postponing of the meeting is commonplace.

One of the most efficient way to organize business of the board is to have various standing⁸, coordinating and special committees so that “they provide the opportunity to make needed investigations and clarify policy; to use the special talents of board members in a focused fashion; to carry out essential functions that do not require the time of the full board; to aid in the involvement of individuals; to help train board members for positions of responsibility; to strengthen weak board officers; to speed up decisions; to permit the discussion of confidential matters not appropriate with the whole board; to give recognition to board members; and to proclaim the board’s interest in a certain subject or field of work” (Houle 1997: 81).

7 The author has been told that governing boards of some of Mongolian higher education institutions rarely meet.

8 Program, personnel policy, nominations, buildings and grounds, investment, and budget committees are most prevalent standing committees of a university board (See, Houle 1997).

However, this important organizational feature is virtually absent in the boards of Mongolian state-run universities. For instance, the Governing board of the National University of Mongolia has never established any committee to discharge its duties throughout its existence. Therefore, the board lacks the necessary channels to efficiently carry out its duties.

Lack of Institutional Culture

Finally, human potential of the board is paramount for the board to discharge its duties efficiently and effectively. “Neither the selection of the board members nor the increase of their knowledge should be left to chance” (Houle 1997: 58) Personal attributes, the future board members should possess, like “commitment to the importance of the service or function with which the new board is to be concerned, a respected position in the community, intelligence, courage, capacity for personal growth, the ability to influence public opinion among significant sectors of the community, willingness to serve, and readiness to work with others” (Houle 1997: 28-29) has to be taken seriously in the selection of the board members. Furthermore, every board has to have means to continuously educate its new members such as giving orientation and providing board manual etc⁹.

All of these are virtually non-existent in Mongolia. The majority of the boards are contingent political electives or appointees. In fact, there is no clearly spelled out procedures as to how to select the board members who represent the government. The most of the board members are appointed either on the basis of political

9 One prominent board chair flatly rejects the idea of giving orientations to new board members and educating them subsequently on the ground that any board member should have all the necessary knowledge and expertise at the time of selection.

calculation or on the basis of *ex officio*. Thus, the selection of the government representative members of the board is not only not transparent but also very much contingent and arbitrary.

The government representative members of the board show little or no commitment to the university development. Instead, they pursue their own political or personal agendas without concern for the welfare of the institution or its service to broader society. In fact, the university board makes no significant attempt to develop the university. For instance, the board members who represent the government, instead of trying to secure various funding for university including state appropriation for university, tries to keep student tuition and fees as low as possible, currently the only source of funding of the universities. Thus, in effect, the boards' attitude is at least not supportive of the university. In fact, the board lacks necessary institutional culture¹⁰.

On the other hand, understandably, the university administration, instead of collaborating with the board, approaches it with distrust, and tends to keep it at arms length. The university administration basically sees the board as an idle, yet, noisy institution¹¹. All in all, the university board is very much alienated from the university administration, consequently, from the university. Thus, in effect, there has been created a power vacuum at board level¹².

10 Board manual and the idea of providing orientation and continuous education of board members is non existent in Mongolia.

11 In fact, the board is very much politicized institutions due to its composition and representative characteristics.

12 Furthermore, in current political instability that forces the minister of education resign quite often the minister lacks the ability to keep the university administration accountable. Thus the power vacuum is present at ministerial level too.

2.2 ACADEMIC COUNCIL: AN EMBRYONIC FACULTY SENATE

One of the essential parts of shared governance system is faculty participation in the university governance. And the faculty senate is the most important institution of faculty involvement in the university governance¹³. Academic Councils of Mongolian higher education institutions, an advisory body, can roughly be identified as a local version of faculty senate; however, it is not always the case.

The Academic Council of the National University of Mongolia is one, perhaps, the best case in Mongolia. Yet this institution is not only completely dependent on the university administration but also under-institutionalized. The president of the university, who is the chairman of this institution, authorizes the bylaw and membership of the Academic Council and serves as its speaker. The president appoints the secretary of the council, the only officer of the council except the president, and currently one of the vice-presidents of the university occupies this post. The senior administrators (the president, the vice-presidents and the deans) make up almost the third of the council. In effect, the university administration completely dominates the Academic Council.

In addition, most of the department chairs, who were appointed by the president of the university, sit in the Academic Council. Thus, in fact, the Academic Council looks like an extended

13 In academic matters like criteria for student admissions, faculty hiring and promotion, curriculum development, and awarding degrees faculty exercises decision making authority. And these academic matters decided at various faculty committees (promotion, curriculum, and executive) typically at the department, school, or college level. In non-academic matters of the university faculty has advisory and consultative authority. This form of faculty governance occurs at the university level and usually involves an elected body of faculty representatives, such as an academic senate, that serves to debate institution-wide issues and advise the university administration (Duderstadt 2004: 140-1).

meeting of the university administration. Furthermore, because the bylaw of the Academic Council requires “prestigious scholars” to be the member of this body, old professors make up the great majority of the council¹⁴. Because of its composition and its complete dependency on the university administration the Academic Council never constitute independent forum of meaningful debate and constructive discussion. Thus the institution turns out to be an auxiliary to the university administration body.

In fact, many members of this institution see the Academic Council as a ceremonial body and its meeting as a waste of time. In fact, apathy and lack of understanding of university affair are important barriers to meaningful faculty participation, which is caused by a chronic shortage of information and knowledge about how university really works.

The basic organizational form that the Academic Council discharges its duty is its meeting, which convenes usually twice a year. The Academic Council, like the governing board, has no other organizational form to discharge its duties: it has no schedule or work plan, no office, no manual, no executive, coordinating or standing committees. And it rarely sets up special committee or commission.

Thus, it can be argued that a faculty senate as such virtually does not exist in Mongolian universities. Furthermore, admission, promotion, curriculum, and executive committees, which operate at the departmental and school level, are virtually non-existent in Mongolian universities. Therefore, faculty

¹⁴ As of this year only 5 out of 71 members of the Academic Council are under 40 years of age.

involvement in university governance is very limited. Indeed, there is no institutionalized body that keeps the administration accountable and responsive to the faculty. Thus, the idea of faculty participation in the governance of the university is in its embryonic stage. It again creates a power vacuum on the side of the faculty.

2.3 ADMINISTRATION: POWER CONCENTRATION AND LACK OF TRANSPARENCY

As it has been discussed earlier, university presidents are appointed by the minister of education and accountable to the minister. Theoretically, therefore, the president of the university, consequently the university administration, is very susceptible to partisan politics. In fact, in the case of the National University of Mongolia, not only the current president's appointment was clearly politically motivated but also his retainment of the office can be attributed to his newly converted political allegiance¹⁵. Otherwise, because of its susceptibility to partisan politics the president of the university is forced to seek some degree of political patronage among the politicians in order to maintain his office.

Furthermore, it is the president of the university who appoints all the administrative and academic officers of the university including vice-presidents, deans, and even chairs of the departments. In addition, as it has been discussed earlier, the president of the university is the chairman of the Academic

15 The current president of the National University of Mongolia, Ts. Gantsog, was appointed by the Democratic Union Block government even though he lost the university wide election to incumbent D. Dorj, a member of MPRP, then the main opposition, by 27:34 percent. Yet, Mr. Ts. Gantsog saw it necessary to join the MPRP after its landslide victory in 2000 election.

Council of the university and he/she authorizes its bylaw and membership. Thus, not only all the academic and non-academic administrators of the university but also the university Academic Council serve at the discretion of the president¹⁶. This unusual power concentration not only violates the hierarchical delegation of authority and accountability but also result in rather opaque administration.

This creates a condition where arbitrariness and cronyism can develop. In fact, in the case of the National University of Mongolia, during 1998-2002 eight of nine senior and important positions of the university had been filled by physicists, except the vice-president of finance and economics, including two vice-presidents, and chiefs of the academic affairs, foreign relations, and maintenance etc¹⁷. To date the legacy of this pattern continues, however it has been rectified to so some extent¹⁸.

Because of power concentration at the top, the mid level administrators, especially, deans, find it very difficult to keep department chairs accountable. In fact, they find themselves essentially in a position of intermediaries who transmit decisions made at top level to down. This contributes to the opaqueness of the administration and creates accountability disorder: it is difficult to determine who is accountable for bad decision.

16 This means, theoretically, partisan politics is penetrable to ivory towers to its academic core, the departments.

17 The president himself is a physicist. One of the vice-presidents was a mathematician; however, physics and math had long been under one faculty.

18 It is said that the Dean of the School of Social Science has publicly reproached by saying that the president has to appoint another physicist as a dean of the School of Social Sciences when he gives up his position.

Furthermore, the power vacuum created on the both sides of the administration enforces this situation, thus, in effect the control of the university had fallen into the hands of an administrative group of senior officials who, in fact, ran the university without any genuine accountability. Many faculty members and lay people including politicians express the concern that in some cases these administrators, who enjoy powerful political patronage, ran the university as though it were their own private establishment by effectively displacing the governing boards and the academic councils.

All in all, in effect, the existing arrangement effectively negates the governing board and the academic council, the two chambers/pillars of university governance, and concentrates the power at the hand of few senior administrators who are very susceptible to partisan politics for their retainment of office, who, thus, conform with the politics of the day instead of defending and advancing the university interests.

3. THE BEST OPTION: PUBLIC STATUS AND SHARED GOVERNANCE SYSTEM

Mongolian state-run universities need an autonomous and transparent governance system. While the autonomy of the governance will not only keep the partisan politics out of the universities, which is one of the prerequisites of academic freedom, but also endow university governors with the capacity to direct the university affairs and defend university interest, that is, the interest of the academic community, effectively. At the same time, the transparency and accountability will ensure that the university and its administration manage the university resources efficiently and effectively so that the university achieves its missions and goals, thus serving the public better. In effect, Mongolian universities need a transparent shell¹⁹ that serves better to the interest of the university, thus, the public at large.

And, not surprisingly, all of the direct stakeholders involved, that is, policy-makers, university administrators, faculty members and students who are immediately affected by the university performance, recognize these needs; however, their suggested options to address the problem differ. (1) Granting

¹⁹ The researchers see university administration as a shell that protects the university core, that is, the academic community. "The shell mobilizes and distributes resources that support the work of the guilds, and it protects the guilds from harmful external forces. The shell manages the interactions between guilds. Most importantly, the shell manages the university's money and creates the incentives that motivate guild behavior" (Lombardi 2001: 7).

public status to state-run universities, or (2) delegating the authority to govern the university to the faculty, or (3) privatizing the university management, that is, contracting university management out to a management team on the basis of a competitive selection are the solutions suggested by various stakeholders.

While few policy makers and some faculty members advocate that the authority to govern university should be given to the faculty, very few administrators hold that contracting the university management out to a management team for a certain period of time enhance university autonomy and performance. However, the most advocated and popular option is to grant public status to state-run universities, that is, making the universities independent of government. In fact, all these options are familiar to the stakeholders for these options have been implemented in Mongolia with varying degree of successes since the 1990s. Thus, groups with their vested interest and understandable biases have emerged: faculty members favor the faculty governance of the university while university administrators lean toward the privatization of the management of the university. Furthermore, except the privatization of the management of the university, a somewhat unconventional and transitory approach, the other two options are widely practiced in some of developed countries, faculty governance being most prominent in Japanese universities, while public boards being predominant in North America.

Therefore, all three options deserve due treatments. First, I will consider the privatization of management options. The privatization of management or contracting the management of the university out to a management team on a competitive

basis is one of the approaches of both decentralization and privatization. It is basically aimed at making the university under question self-sufficient. Thus for the contract period the team enjoys the autonomy in its management of the institution as long as the team meets the conditions of the contract. Thus, in implication, the option temporarily guarantees the autonomy of the university management. However, the autonomy of the management of the university does not guarantee the autonomy of the university. Instead, there is a possibility that the university become dependent on the management team and its patronage. Furthermore, it is very likely, at least in theory, that the university will loose its public funding for this method aims at enhancing institutional self-sufficiency. In addition, it is a kind of provisional method which basically leads to privatization of the university under consideration.

It is very likely that the option will have very small room for faculty participation in the university wide governance because it is the managerial team who bears the ultimate responsibility for the management of the university. Thus, this option might be weak in ensuring transparency and accountability; however it is dependent on the conditions stipulated at the contract. Since the conditions of the contract will serve as the benchmark of measurement of the management team, the team is very likely to channel its effort to meet the conditions of the contract.

Finally, the feasibility of the method is very narrow. The option has been used to some higher education institutions in early 1990s when government was forced to make the institutions self-sufficient in order to reduce its fiscal burden. However, the government never seriously put forward a proposal to privatize the managements of the major universities like the National

University of Mongolia, Mongolian University of Science and Technology etc. because the government and the public consider these universities as national assets and achievements. Thus, it is very unlikely that the government, which becoming stronger in fiscal terms, will consider the possibilities of contracting these institutions out to a management team. Furthermore, it is certain that the major opposition to this idea will come from the faculty members of the universities. The faculty members who aim to increase faculty participation in the university wide governance squarely oppose this idea. The most of the faculty members interviewed are very critical about this idea and they think that university will fall under the influence of business and political clique and be forced to serve to their interest. They see the idea as a pretext of some interest groups who aim at taking the universities over.

Instead faculty members see themselves as the most determined guardians of the university interest on the ground that they have committed their life to academia. They argue that it is in their interest that the university perform well and be able to pursue preeminence; that is, to be able to gather the best minds of the nation and create most friendly to academia environment. Furthermore, faculty members believe that their participation in the university governance will enhance the transparency, accountability, and responsiveness of the university governance. Some politicians, disappointed with current board performance, see this idea as feasible. Thus, they propose that faculty participation in the university governance must be increased in decision making level. The most extreme position advocates faculty full control of university, that is, faculty members elect all the university administrators and keep them accountable.

In fact, faculty control of university is a well known practice. However, most experts in the field are critical about the idea of electing all the university administrators by the faculty, although they agree that “faculty should hold a substantive role in decision-making, and the most visible vehicle for faculty involvement is typically a faculty senate or some similar body with a different name (Tierney and Minor, 2003: 1). Thus the question is to what extent faculty should participate in the governance of the university and how to operationalize faculty participation in university wide decision making.

Critics of faculty governance argue that faculty members “tend to resist strong, visionary leadership and firmly defend their personal status quo.” (Duderstadt 2004: 144) They see that this option tends produce the most ineffective administration because faculty members tend to select a leadership that does not threaten their status-quo. Furthermore, faculty members lack the necessary knowledge of university wide affairs, know little about how university really works and tend to mind their own immediate departmental needs most instead of university wide concern, argue experts and university administrators alike.

Critics also suggest that excessive voting will lead to politicization of the faculty, a something that contradicts to meritocracy guided by the principle of competitive excellence, a must be fundamental principle of academia. Furthermore, internal politicization will necessarily introduce partisan politics into university wall which will erode the university autonomy.

Another, possible drawback of the faculty control of the university is its tendency to weaken the university outward accountability. Faculty control of university may lead that

the university to become a self serving body, that is, serving the interest of the faculty members but not that of the public at large to which the university intended to serve. Thus, full faculty control of the university is not likely to ensure university autonomy and outward accountability, though it will enhance its inward transparency and accountability.

Finally, the most advocated option is granting of public status to state-run universities. A public status is understood as the situation where the institution enjoys the condition of being entirely independent of all political and other sectarian influences and kept free therefrom in the appointment of its governing boards and in the administration of its own affairs and be entitled to public/governmental funding in fulfilling its mission. And Mongolian standard has been set by the Mongolian National Public Radio and Television that has been declared, by special law, as an independent of political and other influences public institution to serve for the public and owned by the public and same time entitled to public subsidy (Law of Public Radio and Television, article 21). Thanks to its public status, political electives and appointees, leaders of political parties, and government officials etc. are barred to be nominated to the governing board of the public radio and television that exercises all the authorities of typical governing boards including the authority to select the executive (Law of Public Radio and Television, article 21).

This, in fact, is the option that has partially been introduced into Mongolian higher education since the 1990s and, indeed, governing board is the institution that ensures the public status of the university that majority of the stakeholders wants to have in Mongolia. However, as it has been discussed earlier, because

of some serious oversights on the side of the adopters and, subsequent, policy inconsistency the system has basically been deformed and negated.

In fact, governing boards (known as board of trustees, board of regents, and board of governors) are inherently public institutions; they represent the public; they serve for the public in the name of the public. That is why they are commonly known as board of trustees, because trustees are the people who have been trusted by the public to oversee and protect their property. Boards of trustees are to ensure public ownership and oversight of a given institution. That is the meaning of the phrase that says, "UCLA is owned by the people of California, all 38 million of them" (for University of California is governed by 18 regents who represent the people of California).

And public boards are to ensure university autonomy; they shield university from political and other sectarian influences, and they make sure that the university serves to the public as a whole, because public boards represent the public as a whole but not its parts nor its government. This is the most crucial reason of instituting public boards. In fact, in all democracies partisan politics is ardently pursued and governments are always controlled by party or rather parties that represent a chunk of the public not the whole people ever. But universities, or any public institutions, are to serve the whole people of the country. Thus, one of the central questions of all democracies "has been to what extent it is either desirable or possible to insulate any public institution from the influence of party politics" (Trow 1998: 267). For this end governing public boards has been instituted.

Another important rationale of instituting public board is to ensure that the university serves to the public, that is, board keeps the university accountable to the public thus safeguards public interest by curtailing the possibility that the university becomes a self-serving body.

Yet, the principal mission of university is to create and disseminate knowledge and it always involves questioning of existing orthodoxy. "In this tradition, knowledge is the evolving critical consensus of a decentralized community of "checkers," who adhere to the principle that knowledge claims must be capable of being checked and withstand checking, regardless of the source of the claim or the identity of the checker. ... In virtue of the academic profession's special competence in the community of checkers - including knowledge of the existing scholarship and mastery of the techniques of investigation and validation in the disciplines - the profession has sought unique conditions of employment that protect a professor's right to offend employers (and other powerful interests who influence employers) in pursuit of knowledge. Challenging existing orthodoxy has always posed risks in employment settings. Academic freedom describes these conditions of employment, whereby college and university employers, acknowledging higher education's unique mission of creating knowledge and teaching the discipline of dissent, have granted exceptional vocational freedom of speech to professors in research, teaching, and extramural utterance without lay interference" (Hamilton 2004: 95-6).

Therefore, faculty participation in university governance is essential. And, it has widely been recognized that "faculty peer collegium, exercising its peer-review responsibility, should

have primary authority over core academic issues including standards for admitting students; curriculum; procedures of student instruction; standards of student competence and ethical conduct; maintenance of a suitable environment for learning; the standards of faculty competence and ethical conduct; and the application of those standards in faculty appointments, promotions, tenure, and discipline (Hamilton 2004: 96-7)". In fact, faculty peer-review is the linchpin of academic freedom and the guarantee of meritocracy, the paramount principle of academia.

Furthermore, the needs and objectives of faculty, students, and the worlds of education and scholarship must be represented in other areas of university decision making for those decisions invariably affect the academic matters of the university²⁰. In fact, the tradition of shared governance, the best practice of university governance widely practiced in North America, rests on the assumption that faculty should hold a substantive role in decision-making, and the most important institution for faculty participation in governance is typically a faculty senate or some similar body with a different name. And the role of the faculty senate is "to react to initiatives of administrative officers: to reject them when they seem at odds with academic values or procedures, to improve and refine them, and ultimately to legitimate administrative decisions and actions for the whole body of academics who can then believe that their interests and values are being protected (Trow 1998: 272)". Thus, faculty senate is the key institution of faculty involvement in university governance.

20 To determine the degree of faculty involvement in decision making at the system level, the shared governance tradition asks first what is the mission or core identity of the system. If the system mission emphasizes knowledge creation, then the faculty's consulting role is critical to realize the mission (Hamilton 2004: 99)

In fact, public board together with faculty senate makes up the bicameral or shared governance structure of university. While the board represents the public, that is external, interests, the faculty senate represents the needs and objectives of faculty, students, and the worlds of education and scholarship to the university governance. Therefore, the administration has to be accountable not only to the board but also to the faculty. Thus, shared governance model ensures not only university autonomy, and faculty participation but also academic freedom.

Therefore, instituting or rather re-instituting once introduced shared governance system, that is, on the one hand, making the university board public and governing institution, and separating the academic council from the administration and granting it the necessary authority, on the other hand, is the best option to address the problems plagued Mongolian state-run university governance. The shared governance system will certainly enhance the university autonomy and transparency. Furthermore, this option will produce more capable and more accountable and transparent administration to universities for the system will, on the one hand, shield the university administration from political contingencies, and put the administration under public and faculty scrutiny, on the other hand. In fact, this tradition is the best proven practice that yields the most preeminent of universities of the world.

Furthermore, re-instituting or strengthening shared governance system is the most feasible option. For this option has been advocated by the most stakeholders, it is very probable that it will win their support. The country's political and socio-economic orientation favors this option. Indeed, if this nation really wants to be a community of freedom and liberty then

its universities must be free of any political and sectarian influences. In addition, the legal environment of the country, except few changes and amendments in relevant laws, is friendly to the proposed option because the basic idea of this system has already been legalized. Thus, what this paper really suggests is to transform the university governance profoundly by making incremental legal and procedural changes.

CONCLUSION

With the decentralization of its higher education system, Mongolia aimed at making its higher education institutions autonomous and self-sufficient. The policy option that was taken to make state-run universities autonomous was the adoption of the shared governance system similar to and inspired from that of United States of America and Canada. However, because of some initial oversights the adopted system did not bring the expected outcome. Frustrated with the system's deficiency, the subsequent policy makers, instead of rectifying the initial mistakes, partially reversed the adopted system by relegating university governing board's authority to select the president of a university to the government.

As a result, the state-run universities did not achieve any autonomy. Instead, state-run universities have been put under dual control of government (by implication partisan politics) in the face of the minister of education who appoint and dismiss the president of university and the quasi-governmental governing board that review the university administration. In addition, faculty participation in university governance and its institutions, the other part of the shared governance system and the custodian of academic freedom and autonomy of academic community, have been left underdeveloped and indeed the relevant legislation inhibited its further development.

Furthermore, because of the virtual negation of university governing board and the serious deformation of academic council, there has been created a power vacuum on both sides of the university administration (power devolution). This creates the situation where the university senior administrators, who, in their turn, have been forced to seek a political patronage, replace the university governing board and academic council, and run the university without genuine accountability (power concentration). This situation yields a politically susceptible thus incompetent to depend the university interest, yet opaque administration where cronyism and arbitrariness can flourish.

All the direct stakeholders are aware of this situation, yet with a varying degree of understanding. Thus they suggest changing the system by way of (1) granting public statuses to state-run universities by special law, or (2) granting a complete control of university to faculty members or (3) contracting out university administration to a management team on a competitive basis. However, the evaluation of the options shows that neither the faculty complete control of university nor the contracting out of university administration is conducive to address the problems. Although both options offer some advantages over the existing situation, they do not guarantee the autonomy and accountability of the university. The faculty full control of university is likely to yield an ineffective and irresponsible, yet politicized administration (and academic community) that will necessarily tie the university to partisan politics, thus weaken the university autonomy. However, faculty participation in the university governance has to be increased but not to the level of faculty complete control of university. The privatization of management option may provide temporary autonomy for

the university administration as long as the team meets the conditions of the contract. But the autonomy of the university administration does not necessarily mean the autonomy of the university because the option is very weak in accommodating faculty participation in the university governance. Furthermore, the university will largely become out of public reach. Thus, there is a possibility that the university become dependent on the clique who won the competition. Then, the whole option is a kind of provisional measure aimed at privatization of the university because the main rationale of using this method is to make the university self-sufficient. Finally, both options are politically not feasible.

The option of granting of a public status to a university offers better guarantee for university autonomy. Yet, if we limit the option only as a method of granting public status to university governing board thus making it independent of political and other sectarian influence, it will partially solve only one part of the problem, the problem of autonomy. However, if we aim to further enhance the autonomy of the university and make the university administration transparent and accountable we have to develop faculty participation in university governance. Especially, we have to develop existing academic councils in order to make them “the central educational forum” independent of university administration and grant them with the full authority over the academic matter and consultative and advisory authority over any matter of interest to the university. Otherwise, the best solution to the problems that plague the governance of the Mongolian state-run universities is to re-institute the once introduced shared governance system with its proper institutions, authorities, and procedures.

RECOMMENDATIONS

The Board:

1. The board should be made public, that is, its members should come from the public at large. Neither the political electives and appointees nor the governmental officials should be members of the board. It should be made clear that politics and patronage have no place in the governance of public institution, but meritocracy. However, there can be few *ex officio* members at the board that hold relevant to higher education offices. The number of the *ex officio* members should be less than the quarter of the board. Furthermore, the meetings of the governing board must be public²¹.

2. The board should be given the authority to appoint and dismiss the university president, (possibly vice-presidents upon the president's proposal)²².

3. The board has to be sufficiently institutionalized in order to effectively and efficiently carry out its duties. The rule of board continuity and the change should be strictly adhered and enforced. The board should have executive and other standing committees responsible for specific institutional functions

21 Proper legislation might be desirable, yet it is not necessary within the existing educational law.

22 There is a need to repeal the 2002 changes (Educational Law, articles 28.1.12; 28.1.19; 28.2) to the educational law and re-institute the 1998 (Educational Law, article 30.6.1; Higher Educational Law, article 13.2) changes.

(finance, audit, grounds and buildings, investments human resources etc.). It might be advisable that the board has its own budget and office. However, board members should not receive any salary or compensation for their service.

4. A procedure (including the criteria that the future board members should meet) that guarantees independent and transparent selection of board members has to be developed and clearly spelled out. It is necessary to establish an independent search committee to identify potential board members. Furthermore, it might be advisable to include some representatives from the Academic Council of the given university in the search committee.

5. The institution that finally appoints the board members has to be an institution (or institutions) that does not easily yield to political and other influences. The appointment of the board members by the president of the country with the approval of the parliament might be one possible solution.

6. An adequate institutional culture has to be developed and fostered. Board website, manual, schedule, statement of conflict of interest, and other means of communication and continuing education of board members are of great use here.

The Academic Council:

1. The Academic Council should be a faculty body independent of university administration. It should have its own deliberative/legislative body elected from among the faculty members who represent the university's significant parts proportionally. The Academic Council should adopt its own bylaw subject to governing board's approval²³.

²³ Relevant legislation has to be changed (Higher Educational Law, article 11.4-5).

2. The Academic Council should be granted with the authority to make decisions over academic matters like student admissions, faculty hiring and promotion, curriculum development, and awarding degrees. The Academic Council should select the faculty members who represent the faculty at the university governing board. In addition, the Academic Council should exercise consultative and advisory authority over any matter of interest to the university including the selection of the president and vice-presidents, budget, and planning of the university.

3. The Academic Council should be sufficiently institutionalized to effectively and efficiently carry out its duties. The Academic Council should have executive and other standing committees (finance and facility, planning and budget, academic freedom, academic personnel, educational and research policy, faculty compensation and benefit etc.). It is necessary the Academic Council has its own budget and office. However, council members should not receive any salary or compensation for their service.

4. An adequate institutional culture has to be developed and fostered. Academic Council website, manual, schedule, statement of conflict of interest, and other mediums of communication and continuing education of council members are of great use here.

5. Other school and faculty level faculty committees over the matter of student admissions, faculty hiring and promotion, curriculum development, and awarding degrees should be established and their authorities and duties should be coordinated with the Academic Council.

The Administration:

1. In order to ensure accountability (and academic freedom) at mid and lower level it might be advisable to fully devolve the authority to propose (if not to appoint) the chairs of the departments to respective school deans.

2. The administration should develop a statement of conflict of interest and strictly enforce it.

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