

The Social Context of Mining

Mining, Resistance and Pastoral Livelihoods in Contemporary Mongolia

Caroline Upton

Introduction

Since the collapse of the Soviet Union, 'transition' from communist-era regulation of rural spaces has necessitated not only evolution of resource management and tenure regimes, but of the social forms through which they are enacted and contested. Issues of social capital (especially trust), cooperation and collective action have come to the fore in the context of growing donor emphasis on devolution, group formation and community-based tenure reform. These initiatives echo dominant policy fashions beyond post-socialist contexts (Barr, 2004; Porter and Lyon, 2006). However, questions remain concerning donor efficacy in facilitation of trust and cooperation, especially in the post-Soviet world. Although the creation and strengthening of social capital, particularly trust and social networks, have been highlighted in recent literature as integral to achievement of livelihood goals in post-Soviet spaces, transition-specific characteristics have also been portrayed as inimical to their development. Worst case scenarios suggest that communist-era informal networks have been crowded out by growing individualism and mistrust amongst citizens, in contexts also characterized by a pervasive lack of institutional trust in weak states (Letki and Evans, 2005). Questions have also been raised over normative notions concerning the equity implications and livelihood benefits of devolution, group and social capital formation and group tenure amongst local resource users (Thorpe *et al.*, 2005; Porter and Lyon, 2006). Ongoing debates over customary land tenure and community-based tenure reforms also highlight unresolved problems and concerns over their implications for poverty alleviation, social exclusion and equity (Peters, 2004). Furthermore, lacunae persist in understanding of diversity and commonality in emergent civil society, especially with regard to linkages, overlaps and mutual support between one manifestation of nascent civil society and another. Although social capital studies have sought to delineate and to document linking and bridging as well as bonding forms of social capital, scholars of emergent civil society, especially in post Soviet contexts, have rarely asked how individuals' engagement in one form of collective action and mutual support shapes or facilitates their enrolment in others.¹

In this paper I seek to contribute to ongoing theoretical and policy debates through analysis of multi-site empirical and published material concerned with reforms in Mongolia's pastoral sector, with particular reference to new and emergent forms of social organization associated with 'development' and with mining. Since decollectivization and especially since 2000 Mongolia's pastoralists (some 35 percent of the population) have been the focus of state and donor-driven developmental initiatives concerned with group formation, formal *de jure* as well as *de facto* devolution of pasture rights and the pursuit of environmental and livelihood sustainability on the commons

¹ Bonding social capital is typically characterised as exclusive and occurring amongst tight knit, homogenous groups, often linked to shared kinship and ethnicity. In contrast bridging social capital is more inclusive and denotes linkages between more diverse, heterogenous groups. A third category of linking social capital is sometimes identified, which denotes links formed by communities with 'external' often formal actors or entities, for example state institutions. See Leonard (2004), O'Brien *et al.* (2005).

(see also Himmelsbach, this volume). Indeed, according to the United Nations Development Programme (UNDP, 2002:9);

It is now widely recognized in Mongolia that sustainable land use can only be achieved through a grassroots approach based on devolving key pasture management responsibilities to the communities of herders who are the primary users of the pasture.

In many ways these initiatives present a radical departure from collective-era social organization and modes of governance, but have received little attention thus far. Similarly, donor efficacy in promotion of trust and collective action amongst emergent groups and the impacts of these groups on land use, equity and livelihoods have largely eluded critical attention.

A further twist has been added in recent years by the proliferation of legal and illegal mining activities across Mongolia, with attendant issues of effective curtailment of herders' land rights, for example through land degradation, pollution or physical exclusion of herders from previous customary grazing areas. According to Tumenbayar (2002: 13), "(in Mongolia) herders do not form voluntary associations or professional unions to advocate on their behalf..." (see also Dalaibuyan, this volume). The recent emergence of herder-led social movements, most famously the Ongi River Movement, in direct response to mining-related environmental pollution and land alienation, contradicts this statement and adds the final piece to a picture of emergent civil society, activism and new forms of social organization in rural spaces. However, despite the potential existence of multiple theoretical and practical linkages between formalized, donor-driven herders' groups, mining practices and emergent organization around resistance to mining, these have been largely overlooked to date. In particular, there has been little attempt to explore the efficacy and limitations of donor-initiated, formalized herders' groups and their attendant tenure rights in the face of mining incursions. Similarly, critical questions over linkages between and the potentially facilitating role of social capital and activism embedded in these donor-driven groups *vis a vis* the overtly politicized arena of grassroots mining resistance remain unanswered, despite the geographical overlap of these nascent social forms in particular rural spaces. Analysis of key donor projects, such as the GTZ 'Nature Conservation and Bufferzone Development' project (1995-2002), suggests that, despite primary project goals of nature conservation, it may be in social innovations through formation of herders' groups or 'communities' and in government recognition of local herders' organizations as effective actors in rural governance that the most enduring legacies of the project will be found. As one herder stated when asked to highlight the project's most important and durable contributions, "...communities can influence the government" (Schmidt *et al.*, 2002:73). However, to date there is little understanding of whether and how legacies of empowerment, social organization and activism in donor-initiated herders' groups may support other manifestations of activism, for example around land, livelihoods and mining.

In this paper I draw on empirical material from herders in Mongolia's Gobi region to examine pastureland tenure reforms related to donor-driven group formation, social innovations, emergent mining-related activism and donor influences on tenure, social capital and trust. I concentrate on three key donor projects: the GTZ 'Nature Conservation and Bufferzone Development' project (1995-2002) and the successor 'Conservation and Sustainable Management of Resources: Gobi Component' (2002-2006); the World Bank 'Sustainable Livelihoods' project (SLP) (2002-2012) and the

UNDP ‘Sustainable Grassland Management’ project (SGMP) (2002-2007). In the final section of the paper I discuss the contributions of this Mongolian case study to current theoretical and policy debates.

Study Areas and Research Methods

The empirical data in this paper draws on fieldwork undertaken amongst pastoral communities in Mongolia’s Gobi region between 2000 and 2008 and on interviews with policy makers, donors and social movement activists over the same period. Longitudinal datasets from a single *sum* (Case study area A) are used to explore the emergence of the earliest donor-driven formalized herders’ groups and attendant impacts on tenure, trust and cooperation between 2000 and 2004.² Datasets from 2006 enable explicit comparison of three major donor projects and associated herders’ groups, as case study sites (Areas A and B) were identified on the basis of the contemporaneous activities of at least two of the key World Bank, GTZ and UNDP projects. Finally, in 2008 interviews with key donors, project staff and social movement activists in Ulaanbaatar and with herders at case study sites (especially Area C) in the Gobi region enable exploration of the nature of emergent activism, the mining-herding nexus and linkages between pre-existing donor driven herders’ groups and grassroots mining resistance.

With the exception of household surveys in 2000 and 2001, data was collected primarily through semi-structured interviews with key informants, who ranged from herding families, herders’ group leaders, and local donor project staff to state officials, donors in Ulaanbaatar and social movement activists. Interview data was triangulated through participant observation, oral histories, household survey data and analysis of project documents and other grey literature. In the following discussion *bags*, *sums* and informants are deliberately not named, in order to protect the confidentiality of respondents.

Mongolian Pastoralism: Social and Institutional Contexts

Introduction

Recent estimates suggest that Mongolia has the largest remaining contiguous area of common grazing land in the world. At present an estimated 82 percent of its 156 million hectares are classified as grasslands, these being central to the livelihood strategies of more than 35 percent of the population (World Bank, 2003a; Usukh *et al.*, 2010). Herding is based on the ‘five kinds of animals’ (sheep, goats, horses, camels and cows/yaks) and on seasonal movements between spring, summer, autumn and winter pastures, albeit with regional variations in herd composition and movement patterns. Pastureland remains in state ownership, albeit *de facto* managed as common property and with more exclusive rights for particular herding families pertaining to winter and spring camps. Thus, in Mongolia, as elsewhere amongst pastoralist societies, institutions that shape land use typically reflect social organization, with acknowledged membership of groups at diverse and multiple scales facilitating access to key pasture resources. It is the nature of these groups and their role in shaping land use and access which are highlighted below, as a necessary prerequisite to consideration of recent development-led innovations in social organization and land tenure.

² *Bags* (subdistricts) are the smallest administrative units in Mongolia followed by *sums* (districts) and *aimags* (provinces).

Historical contexts

Pre-collective Era (pre 1950s)

Prior to the communist revolution in 1921, *hot ail* constituted the basic socio-economic unit concerned with livestock production, re-emergent forms of which continue to be important in contemporary Mongolia (Mearns, 1996). *Hot ail* were herding camps, usually kinship-based, and characterized by seasonal and geographical variability in size and composition (Szynkiewicz, 1993; Upton, 2005). In any one geographical area seasonal and temporal variability in *hot ail* membership was often marked, for example where constraints on availability of good grazing necessitated smaller *hot ail* groups at particular times of year (Mearns, 1996). Nonetheless, a relatively stable core of member households, who camped together for at least some of the year, and to whom others joined at particular times, was reasonably common (*ibid*). In addition to social and ritual functions they enabled herders to achieve economies of scale through cooperation over key herding tasks such as tending livestock, seasonal movements between pastures and haymaking (Szynkiewicz, 1993; Bold, 1996; Mearns, 1996). There is little evidence to suggest substantial cooperation between neighboring *hot ail*, other than in informal observance of norms of seasonal pasture use.³ Pre 1921 pasture allocation within pre-defined herding territories (banners or *hoshuu*) was officially at the discretion of secular or religious officials, and, according to Potkanski and Szynkiewicz, (1993), usually made to *hot ail*.⁴ However, available records indicate that within smaller administrative districts (*sums* or *bags*) individual herding families or *hot ail* gained access particularly to winter camps and surrounding grazing areas on the basis of regular, customary usage, while rights for summer grazing were more flexible (Bawden, 1968; Fernández-Giménez, 1999b). Thus *hot ail* membership in many instances constituted a not unimportant factor in determination of pasture rights. Land subsequently passed into the ownership of the secular Mongolian state from the Buddhist leader, the Bogd Khan following the 1921 revolution. Customary pasture rights reportedly retained importance as means to access land for herding families and *hot ail* during this latter, pre-collective period.

Collective Era (late 1950s to early 1990s)

Collectivization of pastoralism in the late 1950s marked a transformation of pastoral social organization and practices, although ownership of land remained with the state. Under the collective or *negdel* system all herders became wage earning employees of the state, responsible for the welfare of single species *negdel* herds, in addition to small herds of their own private livestock (Sneath, 2003; Upton, 2005). Although pasture use was officially under the control of the *negdels*, customary rights and institutions reportedly coexisted to varying degrees with centralized control, and thus continued to shape land rights and pasture use (Mearns, 1996, 2002).

Transformation of institutional and social organization by *negdel* included the effective replacement of kinship-based *hot ail* by *suuri*, i.e. small, stable groups of (theoretically at least) unrelated households as basic production units. A number of *suuri* were members of one section (*heseg*), these in turn being part of larger brigades

³ *Neg nutgiinkhan*, *neg usniikhan* and *neg jalgyinkhan*, or ‘people of one place’, ‘people of one water’ and ‘one valley community’ have been identified as neighbourhood level institutions in the pre collective era. However, available evidence suggests that these were typically little more than imposed labels, with little reality by way of organised collective action or other socio-economic functions (Bold, 1996).

⁴ However, Fernández-Giménez (1999a: 323) argues that specific allocation of pastures to *hot ail* by the nobility occurred only in particular geographical areas, such as the Khangai mountains, wherein “narrow, clearly defined and highly productive valley pastures encouraged the allocation of pasture areas to small groups or individuals”.

(*brigads*), who were responsible to the centralized *negdel* administration. *Suuri* cooperated with neighboring *suuri* through *heseg*. Thus, *negdels* were responsible for the creation of intermediate level herders' groups, between the *hot ail* and state, and for initiating overt, state-led cooperation at scales above the *hot ail*.

Decollectivization and Contemporary Issues in Pastoralism

Decollectivization of the pastoral sector in Mongolia (1991-1993) marked a further transformation in the social organization and regulation of herding, although the privatization of collective assets specifically excluded pastureland. The immediate aftermath of decollectivization was marked by a return to family, including *hot ail*, based, subsistence-oriented herding units and by growing concerns over an incipient crisis in herding amongst academics and policy-makers. Reports on the pastoral sector have variously highlighted growing sedentarization of herders, conflict over pastures, the effective retreat of the state from pasture regulation, and an overarching breakdown of pasture use norms, trust and cooperation amongst herders, resulting in a nascent 'Tragedy' (Mearns, 1993; Fernández-Giménez, 2002; Fernández-Giménez and Batbuyan, 2004). A series of natural disasters or *dzud* in the late 1990s have further adversely impacted an increasingly impoverished herding sector. Finally, significant expansions in legal and illegal mining activities across the Mongolian countryside since the late 1990s have presented a further challenge to herders' livelihoods and land rights.

In the context of the above concerns, the early years of the twenty-first century have seen the emergence of legislative and developmental initiatives focused around enhanced, legible tenure security for herders. Formal devolution of rights to herders' groups, albeit often grounded in calls for the revival or strengthening of customary rights and practice, have typically been integral to such initiatives (Mearns, 2002; Ykhanbai, 2004). These donor-driven initiatives have thus occasioned social innovations through the formation or formalization of herders' groups as foci for devolution of rights and for cooperation over commons management. However, even while donor projects are being implemented with state support, the Mongolian government has been active in allocating extraction and exploration licenses to foreign and domestic mining companies across an estimated 32 percent of the country's land area (Farrington, 2005). Critical questions remain concerning the extent to which new donor-driven group tenure solutions and social innovations can enhance herders' livelihoods and land rights, facilitate resistance to mining incursions and prompt herders' engagement with grassroots mining-related social movements. These issues are explored in the following sections.

HERDERS' GROUPS, SOCIAL CAPITAL AND LAND RIGHTS

Introduction

With the demise of the *heseg* and *brigads* of the *negdel* era, an institutional void developed between individual households or *hot ail* and the state, which *neg usniikhan* and *neg nutgiinkhan* failed to fill.⁵ Similarly, overt state-initiated and grassroots attempts to facilitate cooperation amongst herders beyond established *hot ail* or close family and friendship networks met with little success in the immediate aftermath of decollectivization (Sneath, 2002). Specifically, both *kompani* (companies) and herders' cooperatives (*horshoo*) typically failed within one or two years. These failures have been

⁵ The emergence of these as active neighbourhood level institutions was predicted by some commentators in the aftermath of decollectivisation (Mearns, 1996). However, the many critics of this view agree that *neg usniikhan* and *neg nutgiinkhan* fulfil no significant functions on the post-decollectivisation herding commons (Potkanski and Szykiewicz, 1993; Bold, 1996).

attributed to the adverse economic conditions extant in the early 1990s, but also to the inability of these new institutional forms to command herders' allegiance, being, unlike *negdel*, purely economic entities with no wider social or political foundation (Sneath, 2002).⁶ Recently articulated ideas concerning post-Soviet social capital and the specific characteristics of Mongolian herders suggest a more insidious context. In addition to the perceived problem of low social capital in post-communist states, Bruun (2006:196) argued that Mongolia's Buddhist and Communist heritages had combined to produce "a general lack of responsibility, particularly at the community level", expressed in an unwillingness to help or support others. Thus, prospects for emergence of herders' groups and for cooperation over livelihoods, pasture use and pasture rights appeared somewhat bleak in the Mongolian countryside at the end of the 20th century. Nonetheless, by 2007 more than 2000 herders' groups, associated with donor projects worth some \$77.5 million US and with community-based reforms in land tenure, were present across 19 of Mongolia's 21 provinces (UNDP, 2007). The nature and efficacy of these social and institutional innovations are considered below.

Herders' groups, cooperation and social capital

Groups such as GTZ 'communities' or *nöhörlöl* now present throughout Mongolia's Gobi region, constitute institutional innovations, albeit drawing on aspects of customary practice and social organization. By 2006, 83 *nöhörlöl*, including some 1175 households were active across the 13 *sums* of the 3 Gobi *aimags* involved in the project (NZNI, 2006). This equates to some 20 percent of herding households in project implementation areas. Typically *nöhörlöl* in case study areas A, B and C comprised some 10-15 herding households, with members living in geographical proximity to one another for at least part of the seasonal movement cycle, and thus sharing key seasonal grazing areas and/or water sources. Membership was via individual choice, but typically required financial or other contribution to secure membership, for example through donation of cashmere, a goat, or up to 50,000tg in cash.⁷ Most *nöhörlöl* had community funds derived from membership contributions, which were used at least in part as a source of micro-credit for members. Community activities centered around shared labor and cooperation over timing of seasonal movements, mending winter shelters, shearing livestock and processing and marketing of livestock products. Livelihood diversification, for example into vegetable growing or tourism-related activities, was also integral to the activities of particular communities. Overt conservation activities, such as protection of rare and medicinal flora, were also evident amongst some communities across the project implementation area, reflecting more closely GTZ's declared goal of the promotion of biodiversity conservation in conjunction with the facilitation of sustainable livelihoods. Elsewhere, as project staff argued, "project goals of nature conservation...translated into the Gobi herders' objective of 'mobility'", which in itself was integral to achievement of more sustainable use of resources (Schmidt, 2006:20).

Prior to the arrival of the GTZ project, Area A was dominated by single herding households (75 percent, n=108), with a minority of small *hot ail*. Reported cooperation beyond own households and *hot ail* members over herding related tasks was occasional and sporadic and involved less than 50 percent of households. Overall, less than four

⁶ Specifically, Sneath (2002) argues that in difficult times, members of fledgling *horshoo* or *kompani* would typically revert to preferential reliance on enduring kinship and friendship networks, rather than continuing to invest their energies in these novel institutional forms.

⁷ 1,400 tugrug (TG) is equivalent to 1 USD (summer, 2010). In 2004, the exchange rate was 1,000 TG to 1 USD.

percent of herders identified neighbors as important sources of cooperation or support (Upton, 2008). Despite widespread interest in more formalized and extensive cooperation with neighbors over herding tasks and/or marketing of livestock products (55 percent, n=111), herders in Area A did not have any specific plans or strategies for initiating such action in 2000, and indeed highlighted lack of trust, leadership and shared understanding amongst herders as inimical to future emergence of such cooperation. Nonetheless, by 2001 new herders' groups in the form of GTZ *nöhörlöl* were beginning to emerge and to engage in cooperation and collective action in the case study area. By 2004 six *nöhörlöl* characterized by overt, regular cooperation amongst their members were present in Area A. The formation of these groups was widely attributed by members to peer group example, through exchange of experiences with adjacent established *nöhörlöl* and thus ultimately to the facilitating role of the project as a 'trust broker' or catalyst in social capital formation amongst herders (Upton, 2008). Herders in Areas B and C concurred that project activities were integral to facilitating structured interaction and enhanced trust between herding families. Specific adverse livelihood and climatic contexts were also implicated in changing herders' calculations of the risks associated with involvement in these innovative undertakings.

The UNDP SGMP project (2002-2007) focused less explicitly on conservation than its GTZ counterpart, but shared similar goals and mechanisms of implementation. Specifically, its stated aim was;

to increase the welfare of herding families through the sustainable management of Mongolian grasslands...(through)...strengthen(ing) and formaliz(ing) existing customary herder community institutions, and strengthen(ing) linkages between them and formal governance structures and the private sector (UNDP, 2002).

On conclusion of the project 67 herders' groups involving 780 herding families had been established in project *aimags* (UNDP, 2007). My own empirical work in Area B in 2006 revealed social innovations comparable to GTZ *nöhörlöl*. SGMP herders' groups typically comprised 10-15 households, who shared at least some of the same seasonal pastures, in other words who had the geographical characteristics of *neg usniikh* or *neg nutgiikh* groups. Typical community activities focused on labor sharing for herding tasks, cooperation over pasture use and management and processing and marketing of livestock products. Community structures also resembled *nöhörlöl* with elected leaders and community councils forming a core part of most herders' groups. In practice, despite explicit commitment in UNDP project documents to extending membership beyond established donor-initiated groups, empirical work in Area B highlighted that of the six groups claimed by UNDP, two were originally GTZ *nöhörlöl* and indeed continued to be claimed by both projects.

Results from Phase 1 (2002-2006) of the World Bank Sustainable Livelihoods Programme (SLP) indicate the creation, formalization and/or support of some 544 herders' groups across seven *aimags* (World Bank, 2007a). Geographically, the project overlaps with GTZ and UNDP projects in two *aimags*, Bayankhongor and Overhangai, and with the GTZ/NZNI project only in Omnogov *aimag*. Empirical data derived from fieldwork in Area B in 2006 indicated that of six *nöhörlöl* affiliated with GTZ, three were also listed as World Bank NGOs. Herder groups associated with the SLP, perhaps not

surprisingly, thus share a number of key characteristics with GTZ and UNDP projects.⁸ These include geographical proximity of members, development of community funds, presence of elected leaders and groups' *raison d'être*: the latter typically including (enhanced) cooperation over pasture use, livestock husbandry and marketing in addition to attempts to diversify into non-herding based income streams, for example through vegetable growing.

For all of the three key donor projects, only a minority of herders had elected to become members of formalized herders groups by 2006. The involvement of only 20 percent of the local herding population in GTZ *nöhörlöl* is replicated in UNDP and World Bank projects. In case study areas where these projects overlapped, the same herders were often recruited and claimed by all three projects, while the majority remained uninvolved. The reasons for and implications of this lack of broader engagement on herders' livelihoods and land rights have received little attention in project documents thus far. Empirical data from Area A suggests that for the minority of herders who had chosen to become members of *nöhörlöl*, the development of social capital, particularly trust, was integral to initiation and maintenance of collective action amongst members.⁹ However, the bonding social capital developed between *nöhörlöl* members in a 'virtuous circle' of interaction and activity, appeared exclusionary in nature. For example in Area A, residual social norms of mutual consideration and avoidance of conflict were rebuilt following the advent of donor projects into stronger and more active forms of social capital, but only amongst *nöhörlöl* members. For non-members, who variously attributed their non-membership status to complex combinations of poverty, lack of labor power, social and geographical isolation from established communities, a progressive hardening of social boundaries around *nöhörlöl* was apparent. Non-members expressed concerns that it was becoming increasingly difficult to join established communities where these had reached an optimum size for working and/or where increasing emphasis was placed by leaders and other community members on preferential recruitment of wealthy members in the future. Concerns over decreasing flexibility of social boundaries amongst non-group members were mirrored by perceptions of declining flexibility in access to grazing attendant on group-focused tenure reforms, as explored below.

Herders' groups and land tenure

A key assumption underscoring the UNDP SGMP is that "an adequate legal environment (already) exists...to provide for the allocation of meaningful tenure rights to herder organizations..." (UNDP, 2002). This is highly debatable. Particular donor interpretations of the 2002 Land Law, the key piece of legislation at the time of writing, variously permit herders' groups to negotiate use or possession contracts with *sum* governors for winter and spring pastures and campsites only or for all four season's customary pastures. However, such interpretations may go beyond the letter of the law (Ykhanbai, 2004; pers. comm. CPR Mongolia, 2008).¹⁰ Ykhanbai (2004) argues that;

⁸ In this *sum* and elsewhere SLP produced pasture use maps which divided all herders into groups solely on the basis of geographical location. These 'geographical groups' typically included more than 30 households and had no activities or structure. Only where sub groups had decided to form NGOs for pasture management or other purposes were more active groups evident. It is to these latter that 'World Bank herding groups' refers, except where otherwise indicated.

⁹ As I explore elsewhere (Upton, 2008) the external donor agency acted as a bridging organisation or catalyst for development of social capital, with trust in this third party facilitating the growth of interpersonal trust and cooperation.

¹⁰ CPR denotes the Centre for Policy Research, an Ulaanbaatar-based NGO and think tank, closely involved in work on pasture management and legislative reform in Mongolia.

...allocation of pasture to communities or groups of herders is not yet fully legal. The new Land Law allows herder's groups to contract with *sum* governors only for communal use of winter and spring pasture which can exclude outsiders in those two seasons only. For summer and autumn pastures informal contracts only exist.

Clarification and strengthening of legislative provision pertaining to herders' land rights has emerged as a key recommendation for future action from donor projects and policy advisors. Reforms to pastureland legislation were under consideration by the Mongolian Government at the time of writing (see also Himmelsbach, this volume).

In the meantime, lack of clarity over recent legislation has translated into diverse tenure arrangements on the ground in response to state and donor-driven initiatives, and has informed attendant lack of clarity over the actual nature and strength of herders' rights. Under UNDP SGMP 27 herders' groups concluded 15 year contracts for user rights over pastureland with local *sum* officials, with most contracts pertaining only to winter and spring pastures (UNDP, 2006, 2007). However, at least one UNDP herders' group in case study areas secured a use contract for all four seasonal pastures under the Land Law. Empirical material also revealed confusion amongst and between local project representatives, *sum* land officers and herders over the number and nature of pasture use contracts in Area B. Similarly for the World Bank SLP, project documents suggest that by 2004 some 160 herders' groups out of a sample of 335 had concluded contracts with the local *sum* administration for "long term use of winter and spring pastures" (World Bank, 2007a). However, empirical work in Areas A and B revealed at least three instances in which contracts were made between herders' groups and *sum* administration for all four seasonal pastures, while confusion amongst herders concerning the existence, nature and meaning of such contracts was widespread. According to one SLP local project representative interviewed by the author in 2006, "In fact, herders can't the understand meaning of pastureland contracts...", an observation borne out by interviews with local herders.

The GTZ/NZNI project adds further complexity to the picture. The geographical overlap between the three key projects resulted in more than one instance in case study areas in which GTZ *nöhörlöl* had concluded land use agreements with *sum* administration for all four seasons' pastures, under the Land Law, and as World Bank NGOs. *Nöhörlöl* also claimed to be stewards of Community Managed Areas (CMAs) (NZNI, 2006). At present a CMA is not a category of protected area extant in Mongolian conservation legislation, despite the designation of some 26 million km² as CMAs through the GTZ project, both within and beyond national parks in the region. However, despite the admittedly 'rather weak' legal basis of these agreements, at least in the initial years of their usage, some CMAs have been officially recognized by local *sum* administrations, under legislation pertaining to protected areas, and through pilot contracts drawn up between the *sum*, Protected Area (PA) administration (for land in National Parks) and *nöhörlöl* members (NZNI, 2006). Since 2006 a decree by the Ministry of Nature and Environment (MNE) theoretically allows for group possession of natural resources for conservation purposes, albeit with an initial focus primarily on forests, and has been applied in some CMA agreements. Delineation and agreement of CMAs primarily reflects GTZ agendas of nature conservation in addition to 'proper use' and protection of pasturelands. Where formal contracts have not been concluded, project staff argue that the delineation of CMAs enhances herders' sense of ownership and responsibility, hence promoting conservation-oriented behavior.

Interviews with *nöhörlöl* that have concluded CMAs reveal differing expectations and experiences concerning their efficacy. In Area C one *nöhörlöl* had concluded a formal

CMA agreement, covering all four season's pastures and for a 15 year period. The contract required members to use pastures seasonally, and to protect them from use by outsiders or non-members, particularly in the case of key winter grazing areas. However, the *nöhörlöl* leader was quick to stipulate that non members were not necessarily excluded from the CMA, but should only use the CMA following discussion and in agreement with community members (a position echoed by *nöhörlöl* leaders for their CMAs elsewhere in the *bag*). In practice, since agreement of the CMA contract in Area C in 2002, outsider herders have reportedly ceased coming to this area, a situation ascribed by the leader and also by local project representatives to growing awareness and recognition of this pastureland as a particular *nöhörlöl*'s CMA. In Area B *nöhörlöl* who had agreed CMAs with the project articulated more exclusive notions of their pasture rights. Typically, members and leaders of *nöhörlöl* expressed the view that non-members should not use their CMAs. In more than one instance they also expressed concerns over their ability to enforce their perceived rights. Complaints that non-members did not listen to or obey them were widely articulated.

Amongst non-members concerns over declining mobility and pasture access have become apparent. As one non-member herder in Area A observed: "...the community people have gathered and stay close to each other ...it's difficult to move to these community areas...other people can't move there...". A number of recent manifestations of successful collective action by functioning communities or *nöhörlöl* in Area A, notably the repair of old mechanical wells and creation of new surface water points in dry steppe areas, had also contributed to a sense of more exclusive rights to surrounding summer pasture, thus extending notions of exclusivity in pasture use from winter and spring to other seasons' grazing areas. During interviews in 2004 a non-member herding family complained that "community herders...are mainly just relatives...they don't involve other people and behave as if their community owns the pasture". Another cited a specific incident in which a non-member family were refused permission to stay in summer pasture around one of the new water points by community members. While these are isolated incidents, they serve to highlight the potential for and arguably nascent forms of both social and spatial exclusion linked specifically to recent development-led institutional transformations and associated incremental changes in norms and rights of pasture use. In Area A three *nöhörlöl* had also formed NGOs under the auspices of the World Bank project by 2004 and concluded land use contracts with the *sum* administration for an initial period of five years. Under the contract, NGO members were supported in protecting their pastures from lengthy periods of use by non-members, with the option of informing *sum* and *bag* governors of problems, where necessary. However, contracts also included a provision requiring *sum* governors to make provision for those on *otor* from other group territories and to assist them in negotiating with resident herders.¹¹

Clearly, the intention of such contracts is to facilitate more sustainable use of pastureland and enhance tenure security, while retaining a degree of flexibility in group/ NGO membership and in land use rights. *Nöhörlöl* membership in particular appeared to confer a variety of livelihood and land-use benefits. However, the position of non-member herders who rely on the same pasture areas as NGO or other formalized herders' groups remains unclear, as does the ability of these new NGO groups and institutional forms to respond flexibly in times of *dzud*. Thus increasingly complex social boundaries (membership/ non membership of GTZ *nöhörlöl*, World Bank and UNDP

¹¹ *Otor* is long distance migration in search of pasture. In recent years it has been carried out primarily in response to *dzud* or adverse climatic and environmental conditions in herders' usual pasture areas.

groups and NGOs), the diverse relationships of these groups to the spatial boundaries of seasonal grazing territories and lack of clarity over the pasture rights associated with their membership create very a complex terrain in which possibilities for exclusion of particular herding households or *hot ail* are enhanced.

Therefore, although recent community-based tenure reforms had yet to be tested, for example through *dzud* at the time of writing,¹² empirical evidence suggests a degree of hardening of social and spatial boundaries associated with group formation and an attendant decline in flexibility where herders' groups are more active, indicative of strengthening of members' pasture rights. In more densely populated areas, however, group members have on occasion suggested that they are unable to defend these rights fully or that these rights have insufficient strength to protect them against trespassing by non-member herders. A more fundamental limitation of these recent tenure reforms is with respect to mining activities, an issue to which I turn below.

MINING AND RESISTANCE

Introduction

Mapping of extensive copper, gold and fluorspar reserves in Mongolia, in conjunction with recent development of a favorable legislative framework for foreign investors, have propelled significant expansion of formal mining and mineral exploration activities since the late 1990s. In 2006 the minerals sector accounted for some 17 percent of GDP and 58 percent of the country's export earnings, with future growth in economic importance of the sector widely predicted (MNMA, 2006; World Bank, 2006). Current estimates concerning the extent of licensed mineral extraction or exploration activity vary between 11 percent and 32 percent of the country's land area (Farrington, 2005). Again, this is predicted to expand in the future. In addition to licensed activities, recent World Bank estimates suggest that up to 100,000 people, including herders, participate in informal, illegal (widely known as 'ninja') mining activities (for a more detailed examination of cultural dimensions of 'illegality' and the informal mining sector, see High, this volume). Current mining activities are concentrated primarily in the north eastern, central and southern parts of the country, including the Gobi region. Adverse effects of both formal and informal mining practices are felt particularly by remaining local herding populations, for example through effective loss of access to and pollution of grazing land and water resources (see also Combellick-Bidney, this volume).

Existing national legislative frameworks are insufficient to ensure that the environmental and economic impacts of formal, legal mining activities are fully addressed or compensated, although a range of initiatives, particularly the Asia Foundation facilitated Multi Stakeholder Process around 'responsible mining' are working to redress this situation. According to the World Bank (2006), requirements for compensation for land use are opaque, weak and poorly regulated, as is public or stakeholder participation in any element of the initial license allocation, subsequent activities or restoration of mine sites. Thus, prospects for acknowledgement and recognition, much less compensation, of herders' land rights under existing legislative provision appear limited, even where group tenure agreements, through the Land Law or CMAs have been concluded with local administrations (Asia Foundation, undated; World Bank, 2003b).

¹² Since completion of primary research for this chapter, Mongolia's severe winter *dzud* of 2009/2010 regrettably have provided just such a test. Given the very recent occurrence of these events, empirical data documenting the response of community-based tenure provisions is not yet available.

Prognoses for herders with respect to the burgeoning informal mining sector are equally gloomy: according to the World Bank (2003b) “local herdsmen, though resentful of the loss of pasture [associated with artisanal mining activities] are generally voiceless and powerless to make it stop”.¹³ This paper’s analysis of innovations in social organization and tenure amongst herders has concentrated thus far on their nature and impacts *vis a vis* other herding households. However, critical limitations of these reforms may be in the (lack of) ability to confer or assure security of tenure in the face of major external market, non-herding and developmental pressures. The recent countrywide emergence of herders’ resistance movements, in response to the environmental and livelihood threats posed by mining, suggests that existing tenure provisions are insufficient to protect herders’ land rights and livelihoods. However, these events also underline the development of social and political activism and social capital amongst Mongolia’s herders. In addition to analysis of the efficacy of recent tenure reforms in protecting herders’ land rights against mining incursions, the following section thus also considers the implications of these emergent social movements. Specifically, the following analysis considers whether membership of new donor-driven herders’ groups such as *nöhörlöl* may have less tangible but nonetheless important benefits in defense of herders’ land rights, namely in facilitating herders’ mobilization as members of grassroots resistance movements.

River Movements and the Emergence of Resistance

Overt herders’ resistance to mining activities first emerged in Mongolia with the appearance of the Ongi River Movement (ORM) in 2001. This movement, which now involves citizens of eight *sums* from three *aimags* of central and southern Mongolia, was initiated by local herders in direct response to environmental degradation and to the disappearance of much of the Ongi River itself, a situation subsequently attributed to widespread mining activities (Beck *et al.*, 2007). Accounts suggest that a single stakeholder, the chair of the *sum* council and a local herder, was integral to initiation of collective action and resistance (*ibid*, 2007). Since 2001, the movement has grown through local and subsequently regional campaigns amongst herders and local government officials and ultimately through lobbying of central government and the formation of an ‘interest group’ amongst Members of Parliament, the latter being designed to develop links between the ORM and the state (*ibid*, 2007). By 2008 the Ongi River Movement was one of eleven similar organizations, who together formed the Homeland and Water Protection Coalition of River Movements or the Mongolian Nature Protection Coalition (MNPC). The Movements were typically formally constituted as NGOs, with the overall umbrella organization or MNPC representing a broadening of the remit of the individual and the founder organization. Specifically, the MNPC, founded in 2006, moves beyond the ORM’s early concerns with restoration of the Ongi River Basin to explicit attempts to engage with government policy and policy-making in the broader arenas of environmental protection, pastureland management and citizens’ rights. Much of their work continues to revolve around mining and associated struggles over land, albeit with direct and indirect emphasis on the development and empowerment of “sustainable community-based organizations...”. (*ibid*, 2007:75; MNPC, 2007).

According to Beck *et al.* (p. 76) “this kind of social activism ...(is)... new for rural Mongolians in both socio-political and cultural terms”. However, I argue that despite the more overtly political nature of emergent RMs, they do share commonalities with GTZ

¹³ Since completion of research for this chapter, Mongolia has passed WHAT? Revised minerals and artisanal mining laws?

nöhörlöl and other donor-initiated social forms, specifically through concerns with herders' land tenure and livelihoods and local organization around these issues. Despite a considerable degree of geographical overlap of these social innovations, there have to date been no attempts to discern or to trace links between them. In the following analysis I concentrate on empirical material detailing practical aspects of herders' land rights in the face of mining-related incursions, on engagement of RMs with *nöhörlöl* and other donor-led herders' groups and with specific cases of mining-related land alienation. In doing so, I eschew the most well-known examples of MNPC members (River Movements) activism, for example in Töv *aimag* through the Toson-Zaamar movement, in favor of areas where these linkages may be most clearly drawn.

Mining, Donor-Initiated Herders' Groups and Land Rights

Area C in Mongolia's Gobi region has recently become subject to illegal or ninja mining activities, in conjunction with the legal development of a commercial mining operation. It has also been included within GTZ's group formation activities since their inception in the late 1990s, and since 2002 with the activities of the World Bank Sustainable Livelihoods Project. Both the Ongi River and the Uughuul Movements are active in the area.

The recent arrival of ninja miners in pursuit of gold in CMAs in the northern part of Area C has served to highlight the weaknesses of *nöhörlöl* rights and their ability to resist mining incursions, even where CMAs are formally agreed with *sum* and PA staff. Ninja mining is in any case illegal, as are all mining activities in PAs. Following the incursion of a number of ninja miners to a previously unworked area in 2007, *nöhörlöl* members, on some occasions with PA staff, were initially involved in trying to chase ninjas away from the mining area and also in rehabilitation of excavations. However, as the leader of one *nöhörlöl* stated;

this kind of ninja activity is very difficult... the *nöhörlöl* has no kind of advantage in this situation...when we went to that area no-one listened to us, even though we worked with the Protected Areas people.... (pers. comm., 2006).

Further discussions suggested a change in attitude amongst a minority of *nöhörlöl* members, with a growing belief that it was better for them too to benefit from the mining, than merely to watch 'outsiders' exploit 'their' resources.¹⁴ A second GTZ *nöhörlöl* in Area C, within whose pastures most of the ninja activity was taking place, had also concluded a CMA agreement through the project with the local *sum* administration for all four seasonal pasture areas. However, as with the earlier *nöhörlöl*, limitations of their rights with respect to ninja activity soon became apparent. The *nöhörlöl* members were unable to displace ninjas, even with assistance of PAA, with the result that a minority of local, including *nöhörlöl*, herders began to participate in ninja activities.

Thus, empirical evidence suggests that devolved formalized tenure through CMAs may affect other herders' behavior, but has little efficacy in the face of artisanal mining practices. Membership of communities also presented no apparent barrier and little disincentive to participation in mining activities. GTZ project staff in the area also commented on the general weaknesses of CMA agreements in the face of mining activities. Should commercial mining activities occur in areas where CMA agreements were extant, project staff conjectured that communities would be effectively powerless,

¹⁴ Interviewees argued that most ninjas were 'outsiders', from a number of other *aimags* and *sums*.

CMAs being but “a kind of promotional activity for the *nöhörlöl*... they don’t really have full rights”.¹⁵

Empirical data also indicated a similar lack of efficacy of local herders, including *nöhörlöl* in holding commercial mining operations to account. Commercial mining activities in Area C were centered on a gold mining operation to the north of the Protected Area. Discussions with the local *bag* governor confirmed that these activities were being carried out in the winter grazing areas of three local herding families. Interviews with one of the herding families, who had been using the same winter pastures for 17-18 years, confirmed that their customary winter pastures had been effectively curtailed in extent by mining activities, with no discussion or offer of compensation from the company concerned. In this instance the family had formal contracts for the winter campsite only and was not part of a *nöhörlöl*, NGO or located in a CMA, although they had joined one of the RMs, in response to mining impacts on their livelihoods. However, after an initial meeting with local RM leaders, in which they had agreed to join, the herding family had received no further information nor been involved in any activities. Household members had also made representations concerning their situation at *bag* and *sum* meetings, to no apparent effect. Limitations of devolved land rights and activities of herders’ groups are also illustrated by evidence from nearby *sums*, wherein land designated as a CMA had reportedly been adversely affected by commercial exploration and mining activities. Despite *nöhörlöl* action in reporting this to *sum* and also to *aimag* officials, no recompense was forthcoming.¹⁶ Rather *nöhörlöl* members were informed that the mining company in question had a license according to the law - and hence no action could be taken. Empirical evidence thus suggests that, although *nöhörlöl* may initially be efficacious in promoting organized action by their members in response to mining, this is ultimately to limited effect.

Summary reports by two of the three projects considered in this paper confirmed the above indications and highlighted mining-related incursions as major issues facing herders’ groups in the future. Phase 2 World Bank reports recognize the need to reconcile competing land uses, including mining, as integral to sustainable resource use in the future, and propose an emphasis on participatory land use planning with herders as a key tool (World Bank, 2007b). GTZ/ NZNI similarly recognize mining as one of the key current and future threats to devolved tenure and herders’ sustainable use of pastures, arguing that;

the current procedure and practice of issuing licenses....to outsiders without the free, prior and informed consent of local communities...is endangering all successes of engaging communities in conservation, as they lose their stake in the natural resource base and thereby the incentive to invest in it and protect it (NZNI, 2006).

Herders’ Groups, River Movements and Activism

Reforms of legislative provision related to mining and to herders’ land rights are one of the key issues of concern to emergent RMs. MNPC members have been very active in engagement with policy-makers and stakeholders at a national level and in Ulaanbaatar, for example through the Asia Foundation facilitated Multistakeholder Forum. In addition to lobbying of parliament members, more concrete engagement with issues of herders’ legal and customary land rights has also come about under the auspices of a Mongolian

¹⁵ Pers. comm., GTZ project staff, 2008.

¹⁶ Pers. comm. GTZ project staff, 2008.

human rights NGO. In 2008 this organization was running a number of test cases for herders displaced from winter pastures by mining and at the behest of RMs. Clarification of legislative provision thus appears to be central to the efficacy of devolved tenure to donor-initiated herders' groups and to RM activities in resisting mining incursions.

However, despite activities at the national level, fieldwork in 2008 suggested that *sum* and *bag* level incarnations of RMs were rather weak in case study areas. Very few *nöhörlöl* members were also members of or interested in emergent RMs. Although two of the eleven herders' movements were established in Area C by 2008 and had local representatives, membership and awareness of the movements was generally low amongst local herders, except in the immediate vicinity of the dried up Ulaan Lake at the southern end of the Ongi River. Here, both members and non members of *nöhörlöl* expressed support for the ORM, although this did not usually translate into active engagement with initiatives such as tree planting or petitioning government over mine licensing. Further discussions with Ulaanbaatar-based and local RM activists suggested a number of barriers to broader engagement with local herders and existing social forms such as *nöhörlöl* in case study areas. For the most recently established RM, initial local meetings in 2006 in Area C involved only *sum* centre people, not local herders, with the local representative selected by leaders from the *aimag* centre and not via a participatory, grassroots process. The limited subsequent ability of the nascent RM to enroll local herders in its agenda and planned activities was associated by activists with their own lack of finance, capacity, information, for example on mining legislation and activities of other RMs, and weak links with movement leaders in regional centers and Ulaanbaatar. These problems were reportedly compounded by involvement of some local herders with ninja mining activities, a factor confirmed in interviews with local herding families. In many cases local herders had little awareness of RM goals and activities, even where household members were not involved in mining, but rather wished to oppose it. Other notable factors included a lack of horizontal engagement between RMs at the local level, despite cooperation through the recently established Coalition of River Movements in national policy arenas.

Thus, the most recently established RM in particular appears to have only limited efficacy in case study areas.¹⁷ There is also doubt regarding the extent to which it can be considered a genuinely grassroots initiative in the area, given its lack of engagement with local herders. Re-engagement and strengthening of links with the local constituency would appear to be a priority for future successful mobilization around RMs throughout much of the case study area. To date there is little evidence to suggest that the social capital, norms of collective action and activism embedded in herders' groups such as *nöhörlöl* spill over into formal engagement with RMs, although they may underlie community-level resistance to particular mining activities. There are also question marks over the sustainability of *nöhörlöl* following the recent cessation of donor funding. Nonetheless, both donor-initiated herders' groups and RMs represent important, novel manifestations of social organization and social activism as rural dwellers struggle to articulate their own needs and rights in Mongolia's "Age of the Market".

CONCLUSIONS

Since decollectivization of Mongolia's pastoral sector in the early 1990s, donor-led initiatives in conjunction with the state have become increasingly influential, especially

¹⁷ Such lack of local activity does not reflect the experiences of all River Movements, who have successfully organised local activism in response to the deleterious environmental and livelihood impacts of mining.

in promoting tenure reforms based on the formation and formalization of herders' groups. Analysis of the processes of institutional and social transformations associated with these reforms highlights the role and efficacy of donors in facilitating development of trust and social capital. Specifically, in this case third parties had an important catalytic role in facilitating structured interactions amongst resource users, thus creating favorable conditions for the development of interpersonal trust and cooperation. However, peer group example, existence of local risk takers and adverse wider socio-economic and climatic conditions were also important in emergence of herders' groups and formalized collective action, suggesting that donor intervention alone was insufficient to overcome barriers to trust and cooperation (Upton, 2008).

The limited reach of the projects in case study areas also suggests both a lack of engagement of herders' with the basic models and premises underlying the interventions and/or their effective exclusion from participation in new initiatives. Axes of exclusion in case study areas emerged as complex, and derived from combinations of factors such as wealth, labor power, trust, geographical and kinship proximity to established groups and lack of knowledge or understanding of donor initiatives. In practice this situation has resulted in the same herders being enrolled again and again in donor projects in case study areas, while the many remain uninvolved. Thus empirical data concurs with broader concerns raised amongst development scholars and practitioners over the equity and livelihood implications of community or group-based developmental initiatives or tenure reforms. Lack of attention to non-member herders by donor projects has further exacerbated the situation and blurred wider impacts of their recent activities on land use and livelihoods in project areas. Empirical data from case study areas highlights the emergence of increasingly exclusionary forms of social capital amongst group members and suggests growing alienation of certain non member herders not only from new forms of social organization, but from resources on the ground.

Empirical material also highlights the weaknesses and limitations of recent tenure reforms. Lack of clarity over key legislation, such as the 2002 Land Law, has resulted in diverse interpretations and confusion over the actual status and legitimacy of implemented reforms under various donor projects amongst key stakeholders, not least amongst herders themselves. For example the meaning of CMAs and pasture use or possession contracts for group members or non members was widely contested amongst herders in implementation areas. The existence of multiple, contested interpretations cannot be divorced from the issue of capacity: both local state actors and project staff have struggled to enact new initiatives, to explain them to herders and to enroll herders in their implementation on the ground. The presence of multiple donor projects in the same districts, each attempting to enact variations of tenure reform, has only added to this growing complexity.

Thus, empirical material from the Mongolian case studies serves to highlight the formidable challenges faced by group-based tenure reforms aimed at enhancement of livelihoods and sustainable land use, particularly amongst mobile pastoralists. Evidence from case study areas suggests that new institutional forms such as NGOs and *nöhörlöl*, while often very beneficial for their members, have failed to address or may have even enhanced broader patterns of social and spatial exclusion, not least through changing perceptions of pasture rights supported by *sum*-level interpretation of national legislation. Furthermore, normative notions of equity and livelihood benefits of customary tenure systems may be equally misplaced.

Recent expansion of minerals licensing across the countryside has also brought the weaknesses of current legislative provisions into sharp relief. Herders' traditional or

'customary' rights, even where supported by the diverse group tenure arrangements enacted by various donor projects, seem powerless to ensure compensation or protection of herders' land rights against mining activities. The need to address lacunae in current legislative provision is highlighted in recent project documents for the key donor initiatives considered here. These issues are currently under consideration by the Government of Mongolia, as are provisions for regulation of mining activity, which currently threatens to undermine group-based conservation and land management activities.

Although there is currently little overlap between membership of the grassroots herders River Movements and donor and state-initiated *nöhörlöl* or NGOs, the former offer the *prospect* of more genuinely grassroots land reforms in the future. Current debates over land tenure and mining issues at the national level are involving leaders of River Movements for the first time, while national human rights NGOs have begun to test provisions and weakness of the legislative framework at the behest of herders and in response to mining-related land alienation. These developments highlight prospects for greater legislative clarity in the future and for the growing influence of herder-initiated social movements in future land reforms. They also illustrate the emergence of grassroots political activism in Mongolia, with direct livelihood threats as a trigger and facilitated by dynamic local leadership. However, empirical material also highlights the dangers of disengagement between local activists and Ulaanbaatar centered RM activities and, in particular cases, failure to date of RMs to secure a broad grassroots constituency.

Overall, in Mongolia prospects exist for enhanced herders' influence in land reform in the future, not least through emergent forms of social organization, trust and cooperation. However, very significant challenges remain, for example in the extent to which herders' agendas will be supported by ongoing legislative reforms and the sustainability of groups such as *nöhörlöl* following the cessation of donor funding, especially if local governments' powers and funding provisions continue to be limited. It is yet to be seen whether *nöhörlöls'* latent promise of herder empowerment and enhanced role in local governance can be realized, and whether this can be scaled up and/or transferred to more overtly political arenas, for example through RMs. Normative notions concerning the equity and livelihood implications of groups, community-based and customary tenure must also continue to be challenged. As empirical material shows, these do not offer a panacea to exclusion, inequality and poverty.

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