

MINING, “SOCIAL LICENSE” AND LOCAL-LEVEL AGREEMENTS IN MONGOLIA

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Abstract

There is an increasing trend in the global mining industry affirming the importance of operating in accordance with a “social license.” In Mongolia, as the mining sector grew rapidly in the past decade, there has been increasing pressure from local civil society and community groups to incorporate interests of local stakeholders and communities in mining development. An important change in the mining legislation addressing community-company relations was the mandatory requirement for “local-level agreements” (LLAs) between mining companies and host local governments that was introduced in 2006. This paper reviews changes in relations between mining companies and local stakeholders in Mongolia and examines the application of LLAs and their implications for gaining a social license to operate. Agreements may be widely viewed as useful for securing or maintaining local support for a resource project from the business risk perspective. However, a broader view and dialogue that defines resource development as embedded in sustainable local development is necessary to manage well the impacts and benefits of mining.

Introduction

There is an increasing trend in the global mining industry affirming the importance of operating in accordance with a “social license.” When first coined by Canadian gold mining executive, Jim Cooney, in 1997, the term ‘social licence to operate’ (SLO) was intended to draw attention to the risks and cost associated with community resistance for mining projects (Boutilier, 2014). It highlighted a strong business case for mining companies to get it right with ‘host’ communities (Humphreys, 2000). Different interpretations of the meaning and implications of the term have since emerged. However, the core meaning of SLO as ongoing local or community support or acceptance of a company’s project development and operational presence has been largely preserved (Slack, 2012). In this sense, business leaders and risk analysts have identified securing a SLO as one of the most significant challenges mining companies are facing today (Deloitte, 2014; Ernest & Young, 2014). However, efforts to embed community engagement in the centre of extractive industry business models have not been always successful. Mistrust, strained relations and conflicts with locals remain a common occurrence in the sector (Chatham House, 2013).

In Mongolia, as the mining sector grew rapidly in the past decade, there has been increasing pressure from local civil society and community groups to incorporate interests of

local stakeholders and communities in mining development. An important change in the mining legislation addressing community-company relations was the mandatory requirement for “local-level agreements” (LLAs) between mining companies and host local governments that was introduced in 2006. This was largely a result of civil society initiative and lobbying, and was based on international experience. Under different names, LLAs between mining companies and host communities have been used in some resource-rich countries, such as Australia and Canada, to manage local impacts and benefits of mining and secure a SLO through mutually beneficial relationship building (CSR, 2011). While Mongolia is one of few countries in the world where LLAs are mandatory, there has been little effort to review the resulting processes and outcomes.

This paper aims to review changes in relations between mining companies and local stakeholders in Mongolia since the adoption of the requirement for LLAs, and to examine the application of LLAs and its implications for gaining a SLO. The data for this research comes from participant observations, interviews and document reviews conducted by the author over the past two years as part of a research project on local-level agreement-making in mining.

Settling With the Local

2.1 Negligence of the local in mining

Securing local public support for a mining project is a relatively new issue for decision-makers and most mining companies in Mongolia, representing a significant departure from the legacy of the socialist past. Prior to 1990, mines were developed according to government central planning and local compliance was taken for granted. In the centrally planned economy, mining and industry towns, which were mostly mono-industrial, served not only the industrial and economic aims of the socialist state, but also were often designed to serve the ideological aims: to legitimize the existing regime and course of development (Balockaitec, 2012). The construction of mines and satellite towns, and new settlements populated by migrant communities, were celebrated as the culmination of social progress, collectivism and a new way of life within the nation where pastoral nomadism had previously defined its entire history.

In the post-socialist period, the state was no longer a central planner. The mentality of central planning and the absence of local voices, however, lingered in the new regulations

and performance of the mining sector.¹ For example, until the mid 2000s, the role of local government and communities was very limited in environmental impact assessment processes (World Bank, 2006). This approach was in part embedded in a centralist policy-making culture. “As is often the case in capital cities that dominate national polities, politicians as well as the general population of Ulaanbaatar on the whole look down on their rural compatriots as being somewhat backward or limited in experience or (political) savvy.

Discussions in the Great State Khural generally also adopt this Ulaanbaatar-centric attitude. The great majority of Khural members who represent electoral districts outside of Ulaanbaatar are themselves Ulaanbaatar residents and do not always seem to add a rural perspective to decision-making” (Dierkes, 2012, p.298). Mining’s economic benefits to local communities were often discussed by policy-makers from the perspective of Mongolia’s unitary government system and inter-regional equity. Maximising economic benefits from mining to host soums or *aimags* through additional taxation and payment revenues was discouraged by some because that could create inter-regional fiscal and development imbalance (Bayar, 2008), and discouraged by some because that in part could create enclave local economies and political ambition.² Thus, sharing natural resources revenues with host local governments or communities was not a priority of the central government. For example, the allocation of additional payments or support to local governments or communities in mining affected areas to offset the social and environmental costs of mining was not incorporated in budget laws.

Furthermore, the constitutional ownership of land by the State and the ambiguity of herders’ land and pasture access rights gave an unprecedented advantage to mining for the access to and control over natural resources (Tumenbayar, 2002). In legislation related to mining, herders’ socio-economic and deep cultural connections to land were not seriously considered in defining regulations on the impacts of mining. A stereotypical or romanticized view that Mongolian herders, as nomads in an open space or ‘free- roaming nomads,’ are easily adaptable to any land and environment is shared by many, domestically and internationally (Orhon, 2011). When linked with the understanding of the land as state property, such a view may have served to justify the absence of local voices and disregard

¹ The well-known Mongolian legal scholar B.Chimid explained the discrepancies between the constitutional recognition of local self-governance and reverse trends towards centralization in Mongolia by referring in part to the legacy of the socialist regime (Chimid, 2008).

² This issue has been often raised in relation to the major minerals deposits and projects in Umnugovi Aimag

basic rights of mine-affected people in many areas. Conversely, as land-connected people who are immediately affected by mining, herders need to be treated as rights holders, not just stakeholders. It might be noted that the concept of indigenous people, as defined in international documents, has recently been used by human rights NGOs in Mongolia to advocate the rights of herders to access land, water and pasture. However, describing Mongolian herders as indigenous people is problematic, given that the term is usually applied to traditional inhabitants whose lands have been subject to colonization by settlers or other societies, and who collectively self-identify as distinct from the mainstream population (See, Langton & Longbottom, 2012).

It has been common that local people were not aware of resource projects coming to their areas because their participation and voice were very minimal or absent in the mining approval processes. Environmental impacts assessments (EIAs) are an important mechanism whereby 'host' communities are consulted and their concerns are incorporated into project development. However, it is widely known that many EIAs in Mongolia have not been carried out adequately. Anecdotal evidence shows that many EIAs have been done without a site-specific assessment. For example, an EIA of a mining project located in the Gobi included a section on biodiversity that exists in the Khangai Mountains. The dysfunctional EIA system has had serious consequences. Studies conducted in the 2000s showed that the environmental protection agencies failed to identify severe environmental degradation that resulted from poor environmental practices by mining companies that had a direct impact on local livelihoods in Mongolia (Stubblefield et al., 2005; World Bank, 2006).

2.2 The primacy of the local and hesitant policy changes

The first 'wake-up call' to the mining sector that it needed to re-think its environmental and social performance and obtain local host community support for resource development in order to create or maintain a favourable business environment came when a number of small-scale local protests emerged across mine-affected regions in Mongolia in the mid-2000s. These conflicts occurred mostly in rural areas where local communities had experienced mining impacts for the first time. The protests resulted from the discontent caused primarily by adverse environmental impacts and perceived impacts of mining on the security of people's livelihood, much of it associated with the small and medium scale mining sector (Byambajav, 2014). The failure of authorities and developers to respect human rights and engage people involved or affected by resource projects seriously undermined their

trajectories. Many mining companies became involved in conflicts due to their intentional and unintentional ignorance of rights and interests of local people and communities.

As a result of growing public pressure, the Mongolian State Khural (parliament) approved the 2006 Minerals Law. Among other important changes, it introduced some new requirements to improve the environmental and social performance of resource developers, including introduction of mandatory LLAs, local revenue sharing, and voluntary community consultation. Voluntary initiatives to improve the environmental and social performance of mining companies and their relations with local people were also developed at the time. For example, the term “responsible mining” was advocated by civil society at the time. As a result of a series of multi-stakeholder forums held in Ulaanbaatar in 2007, the following eight principles of “responsible mining” were agreed on and, thereafter, were adopted by many mining companies and the key industry associations in Mongolia: law abiding and enforcing; humane and ethical; transparent and open; environmental and human security; technologically advanced; efficient; investing in the future; and multi-stakeholder participation (Darling, 2009). Although the term “responsible mining” became common parlance in the mining sector, the principles of responsible mining were not scrutinised to the extent that key stakeholders remain committed to developing specific guidelines or assessment tools to translate them into practice.

These statutory and voluntary regulations did not have a significant impact on companies’ performance or on rather adversarial company-community relationships in many mine-affected areas at the time (Byambajav, Dierkes, & Mendee, 2011; Erdenebolor, 2012). In other words, the government and industry as a whole did not respond to community demands to better manage impacts of mining in a constructive and pro-active way and continued business as usual. That led to some civil society organizations and politicians preferring more direct action and extreme policy measures, such as banning mining in some areas. Local community and civil society pressures in part led to the parliamentary approval of “The Law with the Long Name” in 2009 and a moratorium on new mining exploration licences in 2010.³ The former revoked over 200 existing exploration and mining licences, which were mainly for small and medium-sized alluvial gold deposits (LRCM, 2014).

³ The Law of the Prohibition of Mining Operations in the Headwaters of Rivers, Protected Zones of Water Reservoirs and Forested Areas is commonly referred to as "The Law with the Long Name."

Approval of these laws posed complicated challenges to the government and resource developers. These included credibility among investors, compensation for investors, informal operations and illegal small-scale mining. These highlighted to the government and the minerals industry that mismanagement of relations with local community and government mining could be very costly and that mining licences obtained from the central government might not be sufficient for operational approval (Oxford Business Group, 2014).

The draft Minerals Law, developed in late 2012 by a working group established under the presidential office, clearly sought to give greater control to host communities and local governments over managing the impacts and benefits of resource development (Mendee, 2013). For example it devoted separate sections on mandatory community consultation and local-level agreements for exploration and mining companies. Discussion of this draft Minerals Law, however, was postponed in 2013 and replaced by amendments to the 2006 Minerals Law in 2014. These amendments made a modest change regarding local employment quotas and a framework for local-level agreement.

The government became very cautious about local authorities and community and civil society organizations placing excessive pressures upon mining companies. Stories of excessive pressure or demand from local community groups or government officials on resource projects are told by mining companies and reported in the media. Some commentators tend to use terms like ‘shantaajchin’ (racketeers or extortionists) to define some protest groups. For example, a Google search using keywords “mining and racketeer” (uul uurkhai shantaajchin) showed 1210 results in December 2014. Unfortunately, this label has come to be used more frequently to reject any local activism or opposition to mining in the media.

The term ‘*shantaajchin*’ is also used to denote rent-seekers or those who allegedly use their political and administrative power to acquire benefits from mining companies for personal or public purposes. According to some company managers, it has been common in company-community relations that local government officials request a donation or financial aid for the use of the local government. The governor of a mine-affected soum noted that when he was elected in 2008 he was informed about numerous cases in which soum

authorities had used their power to gain material and financial aid from mining companies. “Some people got petrol from a mining company sufficient for almost a year,” he noted.⁴

Some legal measures towards responsible governance have been introduced recently. The Law on Conflicts of Interest, which became effective from January 2012, placed some clear restrictions on the power of local authorities. Under the Article 17 of this law, “a public official, or a state or local institution, is prohibited from requesting or accepting any form of donation or financial aid for public use from a natural or legal person.” Interviews by the author with *soum* government officials in Umnugovi and Bayankhongor *aimags* in 2014 indicated that they were very cautious regarding any breaches of this prohibition and possible investigations by the Mongolia’s Anti-Corruption Authority. Moreover, amendments to the Environmental Law that were made in 2010 provided for citizens and civic groups to hold the responsible parties accountable for environmental damage. Until 2010, only state prosecutors had the right to initiate lawsuits for cases involving environmental damage on behalf of the public interest. There was a condition that the lawsuit be approved by the relevant government authorities, and lawsuits were rarely filed.

2.3 Local dynamics

In most mining projects in Mongolia, the *soum* government is the most immediate and influential local stakeholder. In the case of small and medium size mining operations, a single *soum* (county) is generally regarded as ‘the host community’. Effectively the chief executive officer of the *soum* government, the *soum* governor is nominated by a majority in the *soum*’s Citizens’ Representatives Khural (CRK) and endorsed by the *aimag* (provincial) governor. In turn, the CRK of the *aimag* nominates the *aimag* governor, who is endorsed by the Mongolian Prime Minister.

The political rivalry between Mongolia’s two major political parties, the Mongolia’s People’s Party (MPP) and the Democratic Party (DP), has influenced local politics. The rivalry intensifies during local elections as the number of voters per candidate is many fewer than in *aimag* level State Khural elections, which have relatively large electoral districts. In

⁴ From a broad perspective, such behaviour may be related to the fact that the meagre budget of the *soum* government is insufficient to deliver proper local government services. Fiscal centralization could lead “impoverished” local authorities to seek alternative channels and manoeuvres in part to gain financial and material resources in order to exercise their power, especially their socially prescribed behaviour (See, Chimid, 2012 on the challenges for fiscal centralisation and local self-governance, and Zimmermann, 2012 on local leaders and social obligations).

some cases, especially at the *soum* levels, winning local elections becomes in part dependent on the network of personal connections, including kinship ties, because of the limited number of voters per electoral district and the low turnout during local elections. For this reason, some *soum* CRKs are comprised mainly of people representing local business interests and kinship groups, who are less concerned about their political party differences. In some cases, the majority of *soum* CRK members have little involvement in expressing and advocating community interests when mining companies and affected communities disagree over the impacts and benefits of mining.

In contrast, the role of the *soum* governor is seen to be more important. Once the process of issuing a mining license is completed by the Mineral Resources Authority in Ulaanbaatar (in which the *aimag* government has a minimal role), direct interactions with the *soum* governor's office become prevalent in company-community relations. Aside from their proximity to resource projects and vulnerability to negative effects, the *soum* government has the ability to affect a mining operation through its rights to grant a range of permits, especially permits for the use of land and water.⁵ These rights have often been used by local authorities in bargaining with mining companies over the benefits that will flow to the local economy or budget.

Aimag governments also express their own interests in managing the impacts and benefits of mining. When both the *aimag* and *soum* governments are interested in benefit sharing, mining companies find themselves in a quandary over how to manage the different expectations. Some governments take a pro-active approach to building relations with mining companies. For example, the Governor's Office of Bayankhongor *aimag* organizes an annual mining forum to which it invites all mining companies operating in its territory. One purpose of this forum is to better monitor and coordinate mining company interactions and voluntary contributions to development projects, rather than allowing separate *soum*-level interests to dominate. Competing interests over the share of benefits from mining are also evident in Umnugovi, the main mining region, where the *aimag* government sees itself as the manager of local benefits from the large-scale mines.

By law, only the *aimag* governor has the right to comment on an exploration license statement, which is sent from the Minerals Resources Authority in Ulaanbaatar in relation to

⁵ Under the Law on Land (2002), the *soum* governor has the authority to issue land use permits within the *soum* territory. The Law on Water (2004) enables the *soum* governor to issue water use permits in accordance with the relevant government approval agencies.

the areas within the *aimag* territory. By law, the governor is required to consult the *aimag* and *soum* CRKs within 30 days. Research shows that the procedures are often not followed, and required consultations did not occur in a consistent way across different *aimags* (Centre for Human Rights and Development, 2008). There have been situations where the lack of transparency for *aimag*-level decisions caused conflicts at the *soum*-level when the resource developers commenced their operation in the lease area. Article 19.5 of the Minerals Law states that the *aimag* governor can reject the exploration license issuance only by referring to reasons stated in the law. It seems that defining some areas as the Land for Local Special Needs is one of the most common reasons that the governors reject exploration license issuance.

Under the Land Law, the *aimag* CRK has the right to define the Land for Local Special Needs for a period of five years. The Land Law specifies that if the *aimag* decides to take the mine lease area or a part of it for local special needs, it should compensate the license holder. If a proposed area for exploration license overlaps with the already defined Local Needs Land, a process to exclude the area from the Local Special Needs Land register has to precede approvals from the *aimag* governor. From the local government perspective, this gives the *aimag* government a means to keep mining within limits and may sometimes offer bargaining power to negotiate with exploration and mining companies over local benefits. From the central government and business perspective, this causes significant investment and project delays.⁶

Review of Local-level Agreements

3.1 Implementation of the mandatory requirement

The 2012 Extractive Industries Transparency Initiative (EITI) report contains a section on agreements and contracts between mining companies and local authorities in Mongolia (EITI, 2012). The report does not categorise different types of LLAs, such as whether they are contracts for use of water or land and whether or not the LLAs include provision for local benefits. The report lists 196 contracts and agreements made in 2012, of which only 20 are described as ‘cooperation agreements’ having a broad purpose. The remaining are mainly narrow contracts for the use of water and land. The EITI report does not provide any details

⁶ A new draft integrated land law that was proposed by the Mongolian Government in 2013 had provisions to restrict the *soum* or district governors’ authority to define local special needs lands, and to enable the government to maintain special reserve lands for the use of major development projects. The draft law was withdrawn in June 2014.

on these agreements or information on agreements established in previous years. The report does show that mining companies tend to establish cooperation agreements with *soum* authorities rather than *aimag* authorities, and focus mainly on benefits to the economy of the mine-affected *soum*. The agreements mostly have a duration of one or two years, and in rare occasions three. It is not clear whether these agreements are one-off or allow for renewal.

An assessment of what little information is available on early agreements indicates that the main challenges have been meeting transparency requirements, citizen's participation and accountability in the implementation phase (Centre for Human Rights and Development, 2010). My interviews with some people involved in *soum*-level agreements suggest that local authorities have tended to minimize the participation of citizens in their implementation during and after agreements were established. Moreover, an assessment of the earliest multi-stakeholder agreements assisted by national NGOs showed that if there was a steering committee, the members tended to be selected according to the priority of local authorities, enabling local power holders to maintain closed decision making (Centre for Human Rights and Development, 2010).

In this sense, the quality and development value of work done by local authorities using financial contributions of mining companies to local budgets or *soum* development funds has not been monitored. In some *soums* in Bayankhongor, Selenge and Umnugovi where the author conducted research, local authorities did not fully disclose the funding and its expenditure. In doing so, they seemed to jeopardize their legitimate right to demand better socio-ecological performance and accountability from mining companies.

3.2 The case of the Khushuut mine

The developments leading to the 2014 Cooperation Agreement between Khovd Aimag and MoEnCo LLC (Khushuut mine) is presented to illustrate some implications of agreement-making in Mongolia's local context. In the past, there has been little research on the processes leading to other agreements and whether they achieved their intended objectives. The rationale for examining the Khushuut case is straightforward. First, the 2014 Cooperation Agreement between Khovd Aimag and MoEnCo LLC is one of the most comprehensive agreements that has been established between local governments and mining companies in Mongolia. Second, although little known internationally, Khushuut mine attracted much media attention during the past several years in Mongolia. Many newspaper and magazine articles, online news articles, videos and interviews were produced specifically referring to

Khushuut mine.⁷ Third, some key company documents and reports pertaining to company-local government relations including the cooperation agreements were publicly available, which is not the case of many mining companies in Mongolia. This enabled cross-checking different sources to understand company's relationships and interactions with local stakeholders. For the sake of brevity, I will cite only some key sources I used in developing the following analysis.

The agreement was reached in 2014 amid a series of political and community challenges surrounding the development of Khushuut mine over the past seven years. It was initially proposed by the *aimag* government as a means of increasing its direct benefits from the project.⁸ A Hong-Kong based and listed company acquired the Khushuut mine in 2007. The company confirmed reserves of nearly 150 million tonnes of good quality coal in 2008. Aside from the quality and size of the reserve, the rapidly growing economy and surging demand from the steel industry for coal in China's Xinjiang Uyghur Autonomous Region were salient factors encouraging the company to invest in the Khushuut mine.⁹ However, the early re-development of the mine stirred conflicting interests and opinions over its projected impacts, ownership and benefits.

Much media space was devoted to naming and blaming politicians who allegedly had connections to the company and were allegedly advancing its interests. As parliamentary and local elections neared in 2008, Khushuut became entangled in a media frenzy with a myriad of political interests and community concerns. The company signed cooperation agreements with 'host' *soums* and Khovd Aimag ahead of its commercial coal production planned for the mid-2012.¹⁰ However, contrary to this seemingly supportive situation, local protests against water exploration in Khovd Aimag interrupted the company's plans for mining commencement and ancillary infrastructure in the form of a power station and coal washing

⁷ For example, D.Oyun-Erdene, a journalist at the national daily newspaper *Unuudur* (Today), wrote a book titled "The Khushuut Secret Revealed" in 2013. It was based on her articles that were published from 2009 to 2013, which scrutinised various issues surrounding Khushuut mine.

⁸ "A special meeting was convened to discuss issues related to Khushuut mine," a new article published online in December 2012 (<http://news.niigem.mn/content/13178.shtml>), discussed the initial negotiations between the Khovd Government and MoEnCo LLC.

⁹ Various sources such as Annual Report of the MoEnCo published online in July 2008 (<http://www.mongolia-energy.com/website/MEC/web/financialreports.php>) and an interview with the company CEO by Mongolia Mining Journal in June 2010 (http://www.moenco.mn/index.php?module=menu&cmd=content&id=86&menu_id=55).

¹⁰ MEC's Media Release in 2012 titled "MEC Subsidiary – MoEnCo LLC recognized for its wide range of initiatives for the Khovd local community, Western Mongolia" showcases the company's community engagement efforts.

plant. Furthermore, Khushuut then became a key election issue in Khovd Aimag during the 2012 elections. The newly elected Mongolian government set up a working group to investigate demands for Khushuut to be designated a ‘strategic deposit’, which would allow the government to obtain an ownership right to the coal deposit.¹¹ The project was temporarily suspended to settle the ownership issue with the government. After a yearlong halt, discussions between company representatives and Khovd government officials recommenced in September 2012 to establish a new single cooperation agreement with Khovd Aimag that would replace previous agreements and include substantial development commitments.¹²

According to people involved in this new agreement, for the first time Khovd citizens had the opportunity to submit comments electronically through the government website. A working group comprised of members of the Citizens’ Representatives Khural (CRK) worked in several *soums* and met many local citizens to hear their opinions and reflect their comments on the new agreement. Accordingly, the CRK then granted to the Khovd governor the right to establish an agreement with MoEnCo within the approved policy framework in February, 2014. On Mar 6, 2014, a ceremony to sign a cooperation agreement between Khovd Aimag and MoEnCo LLC was held in Khovd. In contrast to previous agreements, the parties invited the State Secretary of the national Ministry of Mining and other government representatives to the ceremony.

The joint negotiation group consisted of 15 people, four of whom were company people. According to the group members, they had the framework endorsed by the *aimag* CRK, and unlike previous agreements, the new, integrated agreement included specific, implementable commitments, rather than ambiguous, general statements of intent. The agreement clearly demonstrated the three key intentions:

- Maximising local economic benefits from the project. Many commitments were stipulated in the agreement to this end, such as 50 percent of goods and services to the project and freight transport should be supplied by local companies and US\$ 0.6 (60 cents) per each ton of exported coal should be invested into the Khovd Khushuut Development Fund when its coal export reaches 100,000 tons.

¹¹ “39 candidates for the strategic deposits,” a review article in Mongolian Mining Journal, October, 2012.

¹² “A draft agreement was introduced to the Citizens Representatives’ Khural,” a news article published online by the Khovd Aimag’s official website in February, 2014
http://www.khovd.gov.mn/home/index.php?option=com_content&view=article&id=1089:2014-02-19-11-38-08&catid=114:2013-03-30-08-06-08&Itemid=61

- Ensuring greater security of access to resources and avoiding conflicts. The agreement explicitly states that the company shall have no obligation to invest the money specified in this agreement if the project operation is interrupted or stopped for 14 days per year in 2014 and 2015 due to any government decisions and local citizens' protests.
- Formalising and clarifying mutual obligations and future relationships. The agreement states that the company shall not receive any requests for donations and help from political parties, non-government organizations, and government officials outside of the agreement, and shall inform Khovd Aimag immediately about any such requests.

The agreement seems to have two explicit objectives. First, it was intended to maximise local benefits from the mine through increased local content and direct budget contribution. Second, it was intended to persuade the central government that there is broad support for the project in Khovd. Thus, both parties worked very strategically in striving to obtain support and endorsement from the Khovd CRK, mine-affected communities, and the central government.

There are many unclear aspects of the Khushuut project, such as the linkage between the agreements with its EIA processes and resettlement policy¹³, and how the company contribution to a local trust fund will be managed effectively. However, the agreement was a result of a public-private collaborative process amid political and community pressure, which is rather a new development in Mongolia. It requires further research to fully describe the agreement processes and outcomes.

Conclusion

Until recently, the local community factor has been largely ignored in the mining industry in Mongolia. Local acceptance or support for mining projects was deemed helpful but not necessary. The local government, community and civil society responses to this narrow approach by mining companies led some government and industry groups to re-think the policy commitments on social and environmental performance of the extractive industry, and to seek to link them to ways to obtain local support and acceptance of mining operations.

¹³ According to a research study conducted in 2012, approximately 30 herders were displaced, 50% the herders received compensation in cash. The amount of compensation varied, but the highest amount per herder was MNT 3 Million. No other forms of compensation or assistance were provided to the displaced herders (Erdenebolor & Baigal, 2012, p.21).

In spring 2015, the Prime Minister of Mongolia, Chimediiin Saikhanbileg, stated during a televised address to the nation that local people were no longer interested in hosting mining, as indicated by the high rate of disapproval of exploration license applications by local governments. He pledged that his cabinet would introduce a new tax bill to increase the share of mining royalties for host aimags or *soums* to 30%. He noted that local benefits would help host areas develop faster than others and it should be their decision to accept or not to accept mining (GoM, 2015). This indicates that the government has begun to recognize that local acceptance through revenue sharing is important. From the local community perspective, it is about whether or not the benefits associated with mining distributed or shared fairly.

The local disapproval of exploration licences is a vivid example that the mining sector also needs to be pro-active in responding to broad societal challenges and to gain public support to maintain its sustainable presence among other sectors. This is especially the case in emerging ‘mining countries’ such as Mongolia where mining competes for land access with traditional socio-economic sectors.

Legal provisions for LLAs merely require company commitments for employment, mine related infrastructure development, and environmental protection. Even so, the implementation of the legal requirement for LLAs is weak and often depends upon the discretion of companies and local government authorities in Mongolia. It lacks follow-up regulations or enforcement levers. In some cases, agreement making is used as one way of formalising the management of impacts and benefits of mining, and it is being used by some companies to secure the support of local communities and other stakeholders. However, as the Khushuut case illustrates, cooperation agreements do not guarantee SLO. Conversely, if they fail to maintain a transparent, inclusive process, businesses may face unintended negative consequences.

Agreement making has certainly provided mining companies and local host governments an avenue for defining their relationships and responsibilities, through the process of seeking local public support. LLAs are in their nascent stage in Mongolia, and a common platform is needed through which best practices or lessons learned can be shared. For example, future EITI reports could include further details of agreements and contribute to a database of publicly accessible agreements. From such practice practical lessons and guidelines could be developed.

Furthermore, agreements may be widely viewed as useful for securing or maintaining local support for a resource project from the business risk perspective. However, a broader view and dialogue that defines resource development as embedded in sustainable local development is necessary to well manage the impacts and benefits of mining. This will require constructive integration of LLAs with policies related to procedural fairness or meaningful voice and participation of local stakeholders in decision making processes, including effective impact assessments and participatory monitoring processes.

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