

# LOCAL REVENUES FROM MINING DEVELOPMENT: REGULATIONS, REALITY AND BENEFICIARIES

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## Abstract

The fact that *aimags* and *soums* (provinces and counties in Mongolia) receive some cash money from mining companies as donations is not a secret. However the size and target of the donations, frequency and forms of giving, issues of transparency and mechanisms of citizens' control remain unknown and unregulated yet. This paper is based on research on mining donations in two rural *soums* and analyzes how these *soums* spend the money and benefit from it. It shows that local residents have little knowledge of the donation process and no opportunities to participate in the process of making agreements as well as spending the money from mining companies.

## Introduction

Mongolia has had a mining boom, which brought to the government both revenues and unsolved problems. Revenues for the central government are mostly open and widely studied, unlike revenues at the local level. This study was conducted in the summer of 2014 in Bayangol Soum, Selenge Aimag and Bayan Ovoo Soum, which are in the South Gobi *aimag*. The purpose of the study was to learn who are the beneficiaries of mining donations at the *soum* level and what the real benefits are. The study was self-financed. The research itself included document analysis of all local rules and regulations related to donations, and interviews with the main stakeholders at local level. The interviews included *soum* Governors, *Khural* Members and administrative personnel responsible for contracts, as well as some citizens involved in donation management.

Bayangol *soum* is located in northern part of the country, in 150 km from Ulaanbaatar. Bayan Ovoo *soum* is located in South Gobi Desert, more than 500 km from Ulaanbaatar. As shown in Table 1, these two *soums* have very different socio-economic conditions, such as population size and budget (see Table 1).

Table 1: Major Data of the Soums (as end of 2014)

<i>Soum</i> Name	Population	Total Household Number	Herder Household Number	Budget (million tugriks)	Number of Livestock	Size of cultivated areas (hectares)
Bayan	1,706	576	298	600	96,465	8.3

Ovoo						
Bayangol	5,594	1,675	397	1,100	140,946	6,478

Source: 2014 Aimag Statistical Bulletins of Southgobi Aimag and Selenge Aimag  
[www.umnugovi.nso.mn](http://www.umnugovi.nso.mn), [www.selenge.nso.mn](http://www.selenge.nso.mn) (accessed 01.05.2015).

Bayan Ovoo has an economy oriented only on nomadic animal husbandry, while Bayangol's economy is based on both wheat and vegetable cultivation and animal husbandry. As with all other *soums*, both of these have a secondary school, a primary health center, a kindergarten, a cultural center delivering major public services. Both *soums* are rich in resources such as gold, copper, coal, oil shale and other minerals. Several mining companies operate in their territories and currently are exploring gold and coal.

### Legal Framework

Donations to budget entities are allowed by law, but in a very limited condition. However donations to *aimags* and *soums* as territorial jurisdictions are not regulated and not mentioned in the laws. Article 25 of the Budget Law states that budget entities (only public organizations financed from the budget, not a territorial jurisdiction!) can receive donations. At the same time, donations should finance only organizations that provide health, education and cultural services. These donations can only finance activities lack of financial resources and capacity building programs within the organizations. Every donated *tugrik* should be included into budget reports as separate items of organizational budget, says Budget Law Article 25.

On the other side, charity foundations can be established by any individual, organization, and/or territorial jurisdiction by the Law on Non-governmental Organizations (1997) and Civic Code (2002). Article 25 of the Law on Non-governmental Organizations states that such foundations can donate only:

- To finance social programs and projects initiated by other not-for-profit and/or nongovernmental organizations;
- To provide fellowships and scholarships to researchers and students; and
- To finance social and community activities of citizens.

### Regulations at the Local Level

Citizen Representative's in *Khurals* (a local representative body in Mongolia) at the *soum*

level may approve a rule on procedures of spending and monitoring donations from mining companies. Many *soums*, where mining companies operate, make an agreement with them and jointly establish not-for-profit charity foundations.

By the rule, a steering committee led by *soum* governor and consisting of representatives from the Khural, the mining company, and local residents, should supervise all processes of planning and selecting priorities; approving the list of activities to finance; spending; controlling; and reporting.

### **Agreements with mining companies**

Making agreements with mining companies began in the early 2000s, after *Zaamar soum* lost almost all resources of gold without getting any benefits (and even with no mine reclamation made). More than 40 companies were exploring during the *Zaamar* Gold Rush from the mid-1990s until the early 2000s. Unfortunately, mining companies paid nothing to *soums* because most of these companies were registered in Ulaanbaatar and paid taxes to Ulaanbaatar. The rest of them were state-owned enterprises, taxes from which went to the State budget directly (Regular Session Documents, Khural of Central *Aimag*, December 1994). Land fees and water fees for industrial uses were established only in the late 1990s when a very small amount of money began to come to *soum* budgets.

After this local leaders understood that mining companies on their territory may bring huge problems. They began to require some conditions to let them explore their territory, such as providing money for celebrating the Naadam Festival, organizing the training of *soum* officials, or buying equipment for local schools or hospitals. Requirements were based on routine issues and on benefits for today. Unfortunately no *soum* required a development plan to be financed,

Agreements between *soums* and mining companies consist of purpose, form and frequency of donations, the rights and responsibilities of both *soum* governing bodies and the company, and forms of monitoring and reporting. The company is usually responsible for financing local projects under the approved goals for the donations and has a right to set up the target for particular donations in a given year. The *soum* is responsible for providing information about local needs that need financing and has a “right” to spend

the money.

### **Size of Donations**

The size of donations depends on both the agreement made and relations between the *soum* and the company. In other words, the size of donations is based mostly on “*ad-hoc*” decisions. According to *Bayan Ovoo soum* officials, agreements don’t have any concrete amount of money desired to donate per year. This *soum* has an agreement with a mining company which states that 0.01 per cent of the net profit made in the *soum’s* territory per year goes for donations. However the size of the donations is not clear because no one in the *soum* knows the real amount of the net profit made in the territory for a particular year. Decisions by the steering committee are based on the amount announced by the company.

According to *Bayangol soum* officials, the *soum* has no concrete number in the agreement. Representatives of the company announce the amount of donations for a particular year, but from time to time the *soum* requests some extra money for some other activities. For example, recently the company provided extra money at the *soum’s* request for organizing a Naadam Festival celebrating the *soum’s* 90th anniversary.

Relations between the *soum* officials (especially the *Soum* governor) and the company may play a very important role. The mining company’s representatives in one of two *soums* studied have relatively cold relations with the *soum’s* officials, which have a big influence on the size of donations, according to one official from the *soum*. When a new Budget Law was approved, the company began to talk about terminating the donations, while *soum* officials tried to negotiate to increase the sum. If the owner and high-level officials of the company have roots in the *soum*, the *soum* may have an advantage for receiving more donations, as pointed out by the Governor of the one the two *soums* studied.

### **Targets of Donations**

There are no specific targets for mining companies’ donations. In most cases they donate with one primary aim: to keep warm relationships with the *soum*. This is the primary goal for mining companies donations, but some companies are likely to have more specific

targets, such as scholarships and social welfare programs.

Targets may be different, but in practice, there are very few target areas: health, educational and cultural services, as mentioned the Budget Law, plus some low-interest, start-up loans for small-sized entrepreneurs, if mentioned in the agreements. Four types of targets are the most popular: (1) buying equipment and furniture; (2) financing construction/renovation of buildings; (3) paying tuition and fees for university and college students from the area; (4) financing celebration of local Naadam Festivals.

One of two *soums* studied has a rule approved by the *soum Khural* that small-scale enterprises and household businesses within the *soum* can get low-interest loans. The Steering Committee decides who will receive funds, and what amount. Unfortunately, there are practically no criteria for making a selection. The rule says that local residents must submit a specific project to receive a loan and loans should be spent for development of household business, not for other expenses. In reality, low-interest loans, surprisingly, were “distributed” mostly among people who are close to the *soum* governor and members of the *Khural*. Almost all members of the *Khural* somehow have received low-interest loans at least once. This is an issue of “conflict of interest”, but no one wonders about it and there appear to be no controls on it.

Understandings of social responsibility are very limited among miners and *soum* officials, so they think that donations are most suitable and are the major form of social responsibility. If the mining company ignores requests for donations, *soum* officials usually begin to talk about social responsibility. They talk publicly about how the mining company digs out mineral resources from their homeland, and how the miners ignore local interests and the mining company has no social responsibility.

### **Transparency**

Surprisingly, information about donations is not accessible to everyone. In most cases a mining company and a *soum* make an agreement about donations about which only a few decision-makers on both sides have detailed information: size, frequency, form of donating and so on.

*Soum* officials announce donations from mining companies to residents, but in vague terms. They talk more about donations to schools, hospitals or cultural centers

rather than funds for low-interest loans. They emphasize achievements and the good things that the mining company did. In other words, *soum* officials give only the information that they want to deliver. Donations to schools, hospitals, or cultural centers *must* be included as budget items, so *soum* officials keep this open and accessible. Information about overall amounts and other forms of donations are not accessible to ordinary residents.

Only the *soum* governor and members of *Soum Khural* and the Steering Committee have full information related to donations. Despite the fact that citizen representatives are members of the Steering committee, there is practically no leaking of information. There are no special channels that make donations accessible and transparent. *Soum* officials usually simply talk about donations at public meetings. They don't publish any donation numbers publicly, even on the public information boards that stand near every *soum* administration building.

According to a survey made in 2014 by *soum* officials in Bayan Ovoo *soum* approximately 70% of residents don't have any information about donations. Only people living in the *soum* administrative center (a small town with a population of approximately 700) have heard that the mining company gives donations sometimes, but they don't know how much and what for. Approximately 95% think that they don't have opportunities to control the uses of donations. They are wondering whether *soum* officials may misuse donations, but they don't any mechanism to stop it.

Company employees know about donations, but not in detail. Only few people at higher levels know the exact amount of donations and their targets. The company uses information about donations for its public relations only, highlighting how they donate to the *soum*, how they support local people, and so on.

### **Accountability Issues**

As noted earlier, there is no real-time mechanism to make the Steering Committee and *soum* officials accountable for donations. Since *soum* officials keep the information about donations to themselves, residents cannot access the information. People don't have enough information to analyze who is doing what and who has what benefits from donations.

The Steering Committee has to report to the *Soum Khural* on a yearly basis, as the rule states. However, in these two cases neither *soum* Steering Committee ever has reported since donations began. They have reported once a year only to the *Khural's* Presidium, a semi-permanent managing body inside of the *Khural* consisting of 7 members. Even though the Presidium has a right to the report, it cannot fully represent the electorate with its limited number of members.

When budget revenues decrease due to economic crises, *soum Khurals* try to obtain more benefits from donations. They send requests to the Steering Committee to hear reports, in other words, they “wake up”. In one case, for example, in March 2015 one *Soum's Khural* scheduled a hearing about the Steering Committee's reports for the last five years (the first time ever!).

### **Problems**

First, mining companies don't pay any taxes to the *soum* where it operates if the company is registered outside of the jurisdiction. Even land-use fees and industrial water use fees are paid into the state budget. The only thing that can benefit a *soum* is donations. So *soums* very actively requesting donations from the mining companies that are going to operate in their territories.

According to Ms. Bayarmaa, a popular environmental activist, mining companies think that donations give them the freedom to do anything in the territory. Donations “purchase a ticket” to feel free in the territory, they think. Many companies don't wonder about environmental protection issues like land restoration, clean water, and using chemicals and other hazardous materials. As she said, in many cases, *soum* officials, after receiving donations, “close their eyes” to mining company actions. This may lead to dangerous situations for the environment, such as soil and water pollution. Soil damage because of mining leads to decreases of pastureland in the area, which brings another challenge to nomads.

Major parts of donations are “single-use” money, such as the Naadam celebration money, welfare cash money for vulnerable groups (elders, orphans, disabled and/or single mothers), tuition for local students, and reconstruction of buildings. Other donations go to low-interest startup loans, where there are no controls over what is given or records of

payments back. Consequently, the effectiveness of donations is very low. In the current research, no single donation went to development or infrastructure projects at the *soum* level. No one except higher-level officials of both the *soums* and the companies knows the real amount of donations received. There is not enough information for ordinary residents to monitor and control the donation process and the use of donations. In most cases, *soum* officials announce donations when they are successful and/or when they went to budget entities (such as schools, kindergartens, hospitals, and cultural centers). Other details such as loans for small businesses and accountability issues usually remain unspoken. Consequently, no one knows whether *soum* higher-level officials act honestly or not.

## **Conclusion**

The problems noted above suggest that the real beneficiaries are not local residents. The case studies show that most of them don't receive any share of donations. Many of them have not even heard about donations from mining companies. They cannot monitor the process or the result of donations. At the same time, local residents cannot keep the environment safe when they cannot monitor mining companies' action. Water, soil and air pollution become realities after exploitation of their land.

Local politicians are not beneficiaries, either. Of course, we can suspect that they are receiving bribes from the mining company or using their opportunities to get extra benefits because they have easier access to donations. Such possible dishonest actions should be punished anytime. At the same time local politicians are not the real beneficiaries. The real beneficiaries are the mining companies. Owners of the companies have huge benefits based on unlimited and uncontrolled access to mineral resources and opportunities to act without any restrictions. Donations are very tiny expenses for mining companies compared to the real profits from mineral resources obtained in local areas.

Once donations are provided, they practically can do anything – they can dig out mineral resources, search for them anywhere in the territory, leave the used land without restoration, and use chemicals without permission, never wondering about the environment and giving no money for environmental protection. The money given for donations cannot restore the land, clean the water, or create wealth and a safe



environment for local people. Donations can't make a difference without transparency and accountability.