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Abstract:
The revenue generated from Mongolia’s natural resources has the potential to transform the Mongolian state and society. Indeed, investment in mining has already led to a spate of urban growth in Ulaanbaatar and rural development throughout the rest of the country. Yet Mongolia’s natural resources could also contribute to a ‘natural resource curse’ if not properly managed. Effective governance in relation to the state’s natural resource sector is, therefore, essential. The following article will examine Mongolia’s sovereignty in order to determine whether or not the state is capable of ‘good governance’ in relation to the mining sector. It will examine China’s role in Mongolia’s domestic mining industry and the Mongolian state’s policies aimed at mitigating dependency on one foreign actor as a case study.

Key Words:
Sovereignty; Mongolia; China; mining; ‘resource curse’; corruption.

I confirm that this article is for the Asian Journal of Political Science’s (AJPS) exclusive review and that it is not (and will not be) under review anywhere else. This includes online and non-English-language publications.
Sovereignty and Natural Resources: Can Mongolia Avoid the ‘Resource Curse’?

Mongolia’s mineral sector is both a blessing and a curse. While providing the state with the potential to fundamentally transform Mongolian society for the better, the country’s vast resource wealth could equally contribute to domestic conflict and instability. Indeed, a vast literature on ‘resource curses’ suggests that societies that benefit from natural resource rents are the exception rather than the norm (Collier, 2007). Natural resources in least developed countries can contribute to corruption, state weakness, and reduced accountability (Ross, 2003:17). Ironically, the wealth generated by natural resource extraction can lead to poverty and economic dependency on foreign actors and states. Twenty-nine percent of the world’s poorest billion people live in countries that are rich in natural resources (Collier, 2007:50).

One principle variable as to whether a state can benefit from natural resource wealth, or whether it suffers as a result, is governance (Collier, 2003:53). For democratic states, it is essential that they back up resource development with mature political institutions and political restraint. This is, of course, far easier for developed countries that have developed democracies. For weaker democracies, natural resources can actually trigger a social backlash that leads to political instability and/or dissolution. This is due to the lack of incentives in developing democracies for political restraint (Collier, 2007:52).

One way to determine whether a democracy is ‘strong’ or ‘weak’ is to examine the state’s sovereignty. If a state has strong sovereignty, it will have control over its political and social institutions to where it can, in theory, effectively institute political restraint. If a state has weak sovereignty, its political system is inherently weak and it will be more susceptible to external influence that can feed corruption and reduce accountability.

To partake of such analysis, it is necessary to employ a comprehensive account of sovereignty. Krasner’s four-part categorization of sovereignty is especially useful in this manner. This typology includes international legal sovereignty, Westphalian sovereignty, interdependence sovereignty, and domestic sovereignty (Krasner, 1999:3).
This essay will examine Mongolia’s sovereignty in order to determine whether it has the political ‘maturity’ to mitigate the negative effects of its burgeoning minerals sector. Having examined the country’s international legal sovereignty, Westphalian sovereignty, interdependence sovereignty, and domestic sovereignty, the essay will then offer China’s role in Mongolia’s mineral sector, and the Mongolian government’s stated goal of reducing foreign influence in the sector, as a case study.

**Mongolian International Legal Sovereignty**

As the stability of an independent Mongolian state is increasingly important for a balance of power in East Asia, it is safe to say that Mongolia’s international legal sovereignty is well established. Indeed, as Mongolia has become an integrated regional actor economically, militarily, socially, and environmentally for a number of states, that any one state would act overtly against the Mongolian government to undermine its legal sovereignty is extremely unlikely. Such aggression would constitute a direct challenge to the integrity of the East Asian community and likely draw intense regional and international condemnation.

In the years immediately following the country’s transition away from socialism, the Mongolian government debated how best to preserve the country’s international legal sovereignty in light of its geographic proximity to Russia and China. While not directly threatened, Mongolian policy makers and scholars understood that in order to remain independent from either one of its larger neighbours, it had to learn from the country’s history and implement a foreign policy capable of capitalising on its strengths while minimising its weaknesses. This realisation led to an internal debate as to how it could best achieve these goals (Batbayar, 2002:332).

The debate revolved around three alternative policies. The first suggested realignment with Russia, which sought to build on existing economic relations and the country’s near seventy-year position as a satellite state to the Soviet Union. The second alternative was
to pursue regional neutrality based on the Swiss model. Policy makers reject both options as essentially limiting the country’s options in pursuing international partnerships (Batbayar, 2002:332).

In the end, the Mongolian government adopted the third option, the ‘balanced relationship’ concept (Batbayar, 2002:332). Through this policy, the Mongolian government sought to ensure its independence by balancing Russia and China through bilateral agreements with each and building an extensive ‘third neighbour’ policy of working with other foreign states such as Japan and the United States. While Mongolia’s ‘balanced relationship’ approach has been largely successful in ensuring the country’s international legal sovereignty, it is worth noting that the Mongolian government’s position remains inherently weak in so much as its future is largely dependent on Russian and Chinese internal initiatives (Elleman, 1997:113).

**Westphalian sovereignty**

Westphalian sovereignty is a measure of the state’s legitimacy and effectiveness in limiting the influence of external actors over domestic authority structures (Galligan, Roberts, & Trifiletti, 2001:21). A country enjoys Westphalian sovereignty when the development of its domestic institutions is propagated and implemented by the state in direct relation to the state’s own perceived priorities and needs.

The effects international actors had on the development of Mongolia’s political system, including its legislative, administrative, and judicial institutions, were especially pronounced as the country’s 1989 transition left it vulnerable to foreign influence (Rossabi, 2005:46). Specifically, Mongolia’s weak economy, lack of diverse international partnerships, and general inexperience with a market economy all created a higher than average dependency on external actors (Zweifel, 2006:5). While it is arguable that such interference does not constitute external involvement in domestic affairs because Mongolia accepted the institution’s conditions voluntarily, such a perspective fails to take
into account the country’s needs and the seeming lack of choice it had under the desperate economic circumstances engulfing the country.

The remaining section will examine Mongolia’s political system in order to determine the degree of Westphalian sovereignty the state holds over its institutions of control. In doing so, it will address the lasting effects external influence has on the Mongolian state’s capacity for autonomous action and the degree to which its legislative, administrative, and judicial institutions can be considered to be under its control (Borzle & Risse, 2005:207).

**Legislative**

Changes to the legislative system were at first modest and internally driven. In response to widespread student protests, the Mongolian People’s Revolutionary Party (MPRP) established a ‘two-tier’ assembly based on the USSR Congress of People’s Deputies elected in March 1989 with the Supreme Soviet as the executive body. It then announced the first multiparty democratic election at which it succeeded in securing 357 of 430 seats in the Great Khural, and 33 of 53 in the Small Khural (Karatnycky, Motyl, & Graybow, 1999:423). This reform, though gradually moving towards a more representative system than socialism, allowed the country’s leadership to remain remarkably unchanged. This, in turn, lent an air of stability and continuity to existing socialist programmes focused on social welfare. In addition, the election also allowed for a move towards a multi-party system as the MPRP allowed the newly formed opposition parties—the Mongolian Democratic Party (MDP), the National Progress Party, and the Mongolian Green Party—to participate in the elections. All of the new parties won seats in the newly elected Parliament (The International Institute for Democracy, 1997:324).

Despite this initial adaptation of the country’s political system, a large number of institutions dominated by the developed states, including the International Monetary Fund, World Bank, and Asian Development Bank, exerted pressure on the Mongolian government to ‘deepen’ reform in a show of solidarity with capitalist and democratic
norms (Carothers 1999:187). As the pressure to reform was conditional to continued aid and foreign expertise, the MPRP-led Mongolian government acquiesced and responded by drafting a new constitution in line with international democratic and capitalist norms rather than the more familiar ‘two-tier’ system (Rossabi, 2005:55). The result was that radical political reform in Mongolia came more quickly than the MPRP had originally intended and that the break between the former system and the new system was larger and more drastic than had been initially comfortable.

The MPRP underwent what Rossabi calls a ‘transmogrification’ in order to remain a competitive party within Mongolia’s newly established liberal democracy, undermining its previous accomplishments and contributing to a growth in corruption and nepotism and an increasing inability to deliver public goods (Rossabi, 2009:243). At the same time, the MDP received funding and directive from foreign NGOs aimed at undermining the MPRP’s ‘socialist’ policies, which it successfully did in the country’s 2000 elections by forcing the MPRP from power (Rossabi, 2009:238-239). Despite translating this victory into political reform that contributed to the country’s post-transition development, the MDP adopted a pure market economic strategy that led to limited economic growth and a general deterioration of the country’s social welfare. The MDP also became embroiled in corruption changes and lost power in 2004.

Administrative

Following the state’s transition, international agencies put pressure on the government to fundamentally restructure the country’s administrative system. The most drastic reform came in 1992 as the result of the United Nation Development Programme’s (UNDP) Management Development Programme (MDP) which it formulated in conjunction with the MPRP (Nixon & Walters, 1999:164). The MDP aimed at instituting four major administrative reforms that marked a dramatic break from the country’s previous system. These were: ‘(1) Public administration and civil service reform; (2) Decentralisation and local administration strengthening; (3) Privatisation and local administrative strengthening; (4) Private sector development’ (Nixson, 2000:32). In an attempt to
implement the UNDP’s programme, the MPRP decentralised a wide range of tasks to local level governments including the privatisation of cattle, machinery, farms and small businesses, as well as the administration of land, physical infrastructure, health, education, and poverty alleviation (Bruun & Odgaard, 1996:171).

This decision to decentralise was hastily made and implemented without due consideration to the consequences. Indeed, no aspect of the UNDP’s reform addressed the potential effects it could have on social welfare, whether provincial governments had the expertise to implement administrative duties previously handled by the central government, or how these provincial officials would find revenue to implement formerly state funded programmes. Both the UNDP and MPRP even failed to consider what would happen if, in the 1996 election, opposition parties came into power and disagreed with the administrative development path. When the Democratic Union Coalition (DUC) came to power, therefore, no safeguards or multiparty consensus were in place to ensure continuity of the newly established programme. As a result, the DUC immediately abandoned the efforts made to institute the MDP reforms to push forward its own administrative agenda.

At the suggestions of the World Bank, ADB, and the UNDP, the DUC launched a second round of administrative reform in 1996 (Laking, 1999:221). The DUC stated it would abandon the UNDP’s original, more modest programme and instead adopt reform based on the widely admired New Zealand administrative system.¹

From the very beginning the DUC’s plan was flawed. While New Zealand’s administrative reform was a praiseworthy system, its government had modelled it on a developed country with highly skilled, highly competent ‘manager’ administrators at the local administrative region as well as an established formal sector (Schick, 1998). In this regard, it was largely inappropriate for a developing country in transition from socialism to democracy. Nevertheless, the DUC pushed ahead with the reform despite warnings from experts who believed Mongolia did not have the prerequisite personnel with the necessary training in place to support such a system (Nixson 2000:37).
The results, particularly in rural areas, were disastrous. Between 1989 and 1999 government expenditures declined from 50.2 percent of GDP to 26.9 percent, substantially outpacing the decline in GDP. This sharp decrease reflects a widespread disinvestment in public goods in rural areas such as social services, health care, and education over the same period. It further emphasises the government’s failure to support the decentralization of administrative reform with action other than ideologically driven words (Chuluundorj, 2004:236).

The consequences of the New Zealand reforms have never been adequately mitigated. Indeed, Mongolia’s administrative system remains greatly aligned with the DUC-led reform. The result has been a steady fall in rural residents’ health, literacy, and overall standards of living, as local governments lack necessary finances to maintain these essential social services (Asian Development Bank, 2005).

Judiciary

Judicial reform and a move towards a rule of law began with the 1992 drafting of the state constitution. The constitution in turn led to the establishment of a National Security Council, a Constitutional Court (called the Tsets), and the General Council of the Courts (Batbayar, 2003:46). These institutions, and the state-guaranteed rights expressed in the constitution, marked the first instance in the history of the Mongol state where the government expressed a willingness to limit its power while extending civil liberties.

Yet the Mongolian government has failed to live up to its commitments and has thereby undermined most of the gains made in constitutionally guaranteeing judicial regularity. Indeed, the Tsets, or Constitutional Court, is widely regarded as being politically aligned and unable to impartially fulfil its expressed role (Davis, 2008). The constant re-writing of election laws before a new election, as well as the failure of the Tsets to remain neutral in intra-party conflicts, has created a sense of anarchy around the way in which the
judiciary is composed and fears the political elite are manipulating the rule of law system to remain in power (Freedom House, 2007).

Corruption in the judicial sector has become endemic (Davis, 2008). Indeed, a 2006 public opinion poll on corruption identified the judicial system as one of the country’s most corrupt institutions (Asia Foundation & Sant Maral, 2006:8). This, in turn, contributes to a sense among the Mongolian public that those who can afford to bribe judges or pay high ‘fines’ are essentially above the law. Indeed, in a 2005 Transparency International poll, 93 percent of Mongolians surveyed stated that they believe rich and/or politically influential people can manipulate the judicial system while average citizens have little recourse to legitimate legal proceedings (Transparency International, 2007:229).

**Interdependence sovereignty**

Interdependence sovereignty represents the degree to which a government has managed to secure the cross border flow of ideas, goods, and people (Krasner, 1999:12). In this sense, interdependence sovereignty focuses more on control than on the authority that defines international legal and Westphalian sovereignties.

**The Mongolian Border and Customs**

China and Mongolia have nine border crossings between them: five in Inner Mongolia, four in Xinjiang (Baigalmaa, 2008). While the largest, and most utilised, is the Erliang/Zamin Uud crossing on the Beijing-Ulaanbaatar rail line, the other eight are equally important for small-scale trade and business. More relevant to any discussion on Mongolian interdependency sovereignty, the eight smaller border crossings are also more susceptible to corruption, smuggling, and illegal crossings.

Respective Chinese and Mongolian policy toward visa issuances may indirectly contribute to illegal crossings and corruption at the two countries’ smaller border posts.
Despite there being four crossings between Xinjiang and western Mongolia, there is not a consulate in Xinjiang to issue visas to Chinese who want to travel to Mongolia for business. Nor is there a consulate in western Mongolia able to issue Chinese visas to Mongolians.

In theory, anyone wanting to do business between Xinjiang and Mongolia would have to first travel several days by car to apply for a visa, only to turn around and repeat the same trip back home in order to cross several kilometres over the border into Mongolia to conduct business. In reality, of course, it is far cheaper and more practical to simply bribe a customs’ official, whose average monthly salary is around USD $200 a month, than to operate through the more formal channels (Business Times, 2007). As corruption among Mongolian border guards and officials is widespread, unchecked, and in many ways socially accepted, these smaller, under regulated crossings are a source of weakness in Mongolian interdependence sovereignty (News Today 2007a).

**Rail line and Transportation**

At present, Mongolia is reliant on Chinese goodwill not only for the use of its rail services inside China but also for use of its Tianjin port facilities (Mongolian Railway website 2008). Increased Mongolian dependency on Chinese maintained transportation lines translates into Chinese leverage over the country’s trade. This, in turn, enables the PRC to use the country’s dependency on the rail lines to influence Mongolia’s domestic affairs.

The PRC’s response to the Dalai Lama’s visit to Mongolia in 2002 made clear that the Chinese government was willing to use control of Mongolia’s access to its rail lines and ports to effectively punish the Mongolian government. Chinese government officials stopped all train traffic to and from Mongolia, and by proxy access to its port in Tianjin, for the duration of the Dalai Lama’s visit. This move essentially cut off Mongolia’s economic lifeline to the rest of the world. In response, Mongolian government officials refused to meet with the Dalai Lama in a show of solidarity with Beijing, despite what
the country’s religious leaders and public alike believed was one of the most important events to take place in the modern Mongolian state (The Economist Intelligence Unit, 2003:32).

**Domestic sovereignty**

Domestic sovereignty differs from Westphalian sovereignty as it is largely unconcerned with the international influences on domestic affairs and institutions but rather with the effectiveness of the government to exercise authority (Krasner, 1999:11). Domestic sovereignty is, therefore, more closely aligned with political legitimacy in that it focuses on effective government rather than the nature of the power that composes it.

In this regard, the two primary variables that constitute a challenge to Mongolian domestic sovereignty are the increased infighting and nepotism that have kept the Mongolian parliament from addressing some of the country’s most pressing foreign and domestic policy needs as well as systemic corruption throughout the government. Indeed, the 2008 Ulaanbaatar riots against the government indicate deep-seated frustration at the government’s inability to augment the failures caused by the disastrous shock therapy, frustration at what is considered persistent and unaddressed corruption, as well as the widening gap between the urban rich and rural poor. Moreover, increased media accounts of nepotism that leads to inefficient management or inexperienced appointees to government posts also contributes to a public sense of an ineffectual government operated by politicians more concerned with maximising their foreign and domestic contacts for financial gain than in delivering public goods (Ch.Sumiyabazar 2007).

**Parliament**

Within the last ten years, a growing number of Mongolians have expressed a loss of confidence in the country’s parliament (Luvsandendev, 2009). At the centre of such growing disillusionment is the perception that infighting and nepotism often force ruling parties to focus their energies on maintaining factional alliances for the sake of remaining
in power rather than delivering public goods. While such occurrences are, of course, often present in all governments, that they occur as frequently as they do in Mongolia is cause for frustration and concern among many Mongolian citizens (Ch.Sumiyabazar 2007).

While the MPRP bears the burden of criticism related to policy and legislation, the parliament in general has come under increased pressure due to the widespread belief that the majority of MPs are not acting professionally and that the institution that serves as the cornerstone of Mongolian democracy has become little more than a ‘men’s club’ of the rich and corrupt. For example, in 2008 the Mongolian media began attacking members of the Mongolian parliament with poor records of attendance. This increased media coverage highlighted parliamentary ‘abuses of power’ and came about as the result of a widely criticised law on Parliamentary Procedure passed in October 2007 (Ts.Monkhtsetseg 2007). The Parliamentary Procedure law exempted MPs from disciplinary action for non-attendance, unethical behaviour, and shortened the number of hours that Parliament must hold plenary sessions from 75 annually to 50 (Ts.Monkhtsetseg 2007).

As most sessions of parliament are broadcast live on television throughout the day that many days are poorly attended is common knowledge. Moreover, according to one journalist, those MPs who do attend often sign in for absent colleagues using their electronic attendance cards. Even more common is the practice of MPs who sign in and immediately leave. This lack of commitment is seen as stemming from MPs’ greater concern for their private business, or the business they are able to generate in their powerful positions, than the state of the Mongolian government (C.Uul 2007).

Lastly, and perhaps most representative of the Mongolian social perception of MPs and Parliament as a whole, is the widely reported upon perception that a great many MPs are drunkards with connections to organised crime (Ch.Davardorj 2007). In one widely read account in a major Mongolian newspaper, a journalist reported witnessing a drunken scene of pandemonium at a session of congress at which MPs were deciding on council
membership. In his account of the incident, rather than respectfully participating in what he believed to be a very serious matter of the country’s future, many MPs were seen staggering, slurring, and acting aggressively with blood shot eyes. The journalist called the incident a ‘tragedy’ for Mongolia and wrote that ‘from drunken minds comes drunken policy’ (Ch.Davardorj 2007).

**Corruption**

Corruption remains a widespread and tacitly accepted part of Mongolian life (Baljinnyam, 2008). It is pervasive throughout society and in many ways recognised as a political and social norm. Indeed, corruption is evident throughout Mongolian society in instances varying from workers having to pay as much as a year’s salary in order to secure a new job, residents having to pay bribes to receive a public service to which they are legally entitled, and government official’s teenage children driving Mercedes Benz jeeps through a city where the monthly salary for Members of Parliament is around USD $400 (Asia Foundation & Sant Maral 2006).

While a 2006 survey of corruption conducted by the Asian Foundation found that more than two-thirds of Mongolians believe corruption is unacceptable, two-thirds also accepted that it was a prevalent trend throughout politics and believe that the situation had actually gotten worse over the previous three years (Asia Foundation & Sant Maral 2006). The same survey showed widespread belief that government officials, far from acting to secure the people against corruption, were more likely to use their positions of power to enrich themselves at the cost of society as a whole. As corruption is directly influential on the state’s ability to function properly, it is an essential component of any discussion of Mongolia’s domestic sovereignty.

A 2005 USAID report on corruption notes that by far the most problematic characteristic of Mongolia’s corruption is that it takes place at an elite level and involves a conflict of interests between the state and private sectors (U.S.Agency for International Development 2005:3). According to the report, this high-level corruption is the result of a
lack of transparency around government work, ineffective government oversight committees, and a ‘spoils system’ that has become a widely ‘accepted’ source of additional income for civil servants and politicians alike. As the report also indicates the impetus for change among politicians and other government officials is weak, it is not surprising that most Mongolians see persistent, pervasive corruption as the country’s third most pressing concern (following poverty and unemployment).

**Case Study: China’s Presence in Mongolia’s Mining Industry**

For the Chinese government, Mongolia’s nascent mining industry is an opportunity for the PRC to ensure access to regional deposits of coal and copper that are secure in terms of supply lines without having to compete from the disadvantaged position of entering the market as a late comer (Downs, 2004:23). To this end, Chinese state-managed mining companies have actively sought permission to develop Mongolia’s key deposits or partnerships with those companies that have already secured licenses to extract minerals from the country’s most promising deposits. Indeed, Chinese firms have taken and are taking concrete steps to secure as dominant a position as possible in all of Mongolia’s most important, undeveloped large-scale mines.

Mongolia’s two most promising mines are the Oyu Tolgoi copper-gold deposit and the Tavang Tolgoi coalmine. Both are located in the Southern Gobi desert within 100 kilometres of the Chinese border and are considered among the largest known deposits in the world. While Canadian mining giant Ivanhoe Mining Ltd. has explored and begun development at Oyu Tolgoi, the Mongolian government has not yet issued Tavang Tolgoi’s mining license. The Chinese government has taken active steps to be involved in both projects.

In February 2008, the Chinese government-run Chinalco purchased a 9% stake in the Anglo-Australian mining firm Rio Tinto and in February 2009 sought unsuccessfully to increase this percentage to 18% in what would have been the largest Chinese investment in a foreign firm to date (Rio Tinto, 2009). Among the advantages of such an acquisition
for the Chinese state would have been access to Mongolia’s Oyu Tolgoi mine through a profit sharing agreement already in place between Ivanhoe Mines Ltd. and Rio Tinto. According to the two companies’ agreement, Rio Tinto has the right to acquire up to 46% in the Oyu Tolgoi mine, giving Chinalco a substantial window into the project (Tse 2007:2). Despite its failure to secure a larger share in Rio Tinto, the Chinese government’s 9% still allows it substantial involvement with the development of Oyu Tolgoi.

In a more direct fashion, in February 2009 China’s Shenhua Group Corp made a bid for 49% development rights for the Tavang Tolgoi coalmine, located just 33 kilometres from the Chinese border (Hantulga, 2009). Industry estimates believe the site to be the world’s largest undeveloped coalmine, containing more than 6 billion tonnes of coking and thermal coal (SouthGobi Energy Resources 2009). In support of its bid, the Shenhua Group Corp, a Chinese SOE, has committed to building a USD687 million dollar railway capable of transporting 60 million tons of coal and copper annually from Tavang Tolgoi to Baotou City in Inner Mongolia (Chinamining.org 2009). It has also promised to build three coal-powered energy plants in Tavang Tolgoi’s vicinity with direct lines to Inner Mongolia.

While not on the same scale as Oyu Tolgoi and Tavang Tolgoi, Inner Mongolia’s Qinghua Group has partnered with Mongolia’s largest state-owned mining company, Mongolyn Alt, to develop a number of smaller, albeit substantial, mines in the Southern Gobi. Most important in regard to the two companies’ joint development is the Nariin Sukhait coalmine thought to have 125.5 million tons of coal located on the Mongolian-Chinese border (Adorno & Wyller, 2009).

While Chinese SOEs are moving into prominent positions in Mongolia’s mining industry, the real penetration of Chinese firms into the country’s mineral sector is arguably taking place in small and medium sized mining operations throughout the country. Chinese firms and foreign direct investment now dominate Mongolia’s active small and medium sized mining industry (Batbayar, 2008; Nyamtseren, 2008). While no measurement of
how heavily Chinese firms are invested in Mongolia’s small scale mining is available (over 6000 licenses to mine are currently ‘active’), the number of ‘Mongolian’ small and medium size firms either partly or totally Chinese financed most likely make up the majority of active Mongolian mining companies (Altantsetseg, 2008).

The difficulty in determining the number of Chinese firms operating in Mongolia’s small and medium size mines comes from the lack of transparency in the smaller firms, a situation the Mongolian government has largely ignored. According to a 2006 report on transparency in Mongolia’s small and medium sized firms conducted by the Dutch Technical Bureau for Mining Engineering and Minerals Economics (TBB), more than 76% of the firms surveyed were either completely closed or ‘inadequately’ transparent, while an additional 12% were only ‘half’ transparent (Enkhjavhlan 2007). These firms, according to the report, routinely hide their management structure, funding activities, and often do not disclose their operational base. Those transparent enough to determine ownership were reportedly either wholly Chinese owned, as in the case of the Xin Bai mining company, or Chinese partially-financed, such as the Monjap, Tomortei Huder, and Hustai Eroo companies (Enkhjavhlan 2007).

Protective Measures

The Mongolian government has, since 2006, passed a number of ‘good’ laws aimed at curbing the state’s overdependence on Chinese firms for development of the country’s minerals’ industry and instituting more government control over the industry and profits derived from minerals (Nyamtseren, 2008). The three most significant are the government’s revision of the 1997 mineral licensing law, the Mineral Windfall Tax, and the implementation of the Citizen’s Input Law. Each is worth examining in brief in order to determine whether the Mongolian government has successfully redirected the economy so as to increase government control and decrease dependency on China.

In 2006, the Mongolian government revised the existing 1997 Law on Mineral Resources, which allowed firms regardless of nationality to mine and extract all minerals
for which they obtained a license, so that only a Mongolian citizen could obtain a license for mineral extraction. Yet this policy, conceived to restrict Chinese involvement in Mongolian mining, has largely failed (Nyamtseren, 2008). Chinese businessmen have simply skirted the restriction by using Mongolian front men for licensing purposes while retaining full control over the mines (Environmental and Social Development Department, 2007:35). In this sense, the legislation, far from regulating Chinese investment in the country’s mineral sector, has succeeded only in creating skewed statistics that make it impossible for the Mongolian government to collect reliable information on Chinese investment in Mongolian-based mining companies. This, in turn, limits the state’s ability to mitigate a growing over-dependency on Chinese companies for development of the mining sector and effectively undermines the legislation’s original purpose.

Also in 2006, the government introduced a windfall tax of 68% on all copper and gold mined in Mongolia once the value exceeds USD6500 a ton for copper and USD500 an ounce for gold (Asian Development Bank, 2007a:151). While the longer-term implementation and effects of the tax are still uncertain, the short-term effect has been an increase in cross border smuggling in order to avoid the tax and an overall lessening of investment by non-Chinese foreign firms that believe the Mongolian government is moving to nationalise the nation’s most important mines (Distelhorst, 2008). As small and medium sized Chinese firms carry out most of the smuggling as they are largely able to avoid oversight due to their size while also maintaining connections inside China for the product once it is successfully outside Mongolian borders, it seems as if the windfall tax has also empowered Chinese-based firms where its original intention was to mitigate such an effect.

Lastly, and specifically designed with small and medium sized companies in mind, is the ‘Citizen’s Input’ clause the Mongolian government inserted in the 2006 Law on Mineral Resources. The legislation was designed so that local Citizens Representative Committees (CRCs) would have the right to review, with the option to reject, any mining application made for use of their regional lands. According to the legislation, the local
community has 30 days to organise, conduct a review of the application, and submit its majority decision back to the Minerals Resources and Petroleum Authority (MRPAM) before the license is automatically issued. The measure’s purpose was to give the Mongolian people more say over the development of their lands, while empowering them with more oversight into what type of firms could operate in their regions (Finch 2008).

The ‘Citizen’s Input’ measure, too, has fallen short of its stated goals. Whereas rural communities are theoretically given a say over how their local lands are developed and whether a mining company can operate in or around the collective lands, the reality of such practice has proven elusive as oftentimes the residents are either informed too close to the end of their thirty day period to successfully organise or are simply not informed at all. During a tense ‘Citizens Lecture on Mining’ seminar at the Mongolian National University in May 2008, informed Mongolian residents attacked ministers from the MRPAM and Mongolian mining company representatives, accusing them of withholding information about potential mine developments so that communities were effectively cut off from the process. Pressed to establish a website listing all proposed mining licensing so that Mongolia’s civil society could inform local communities, a government spokesman for the MRPAM responded that such measures were too complicated and unlikely to develop. The inability, or seemingly unwillingness, of the Mongolian government to provide local communities with real tools to regulate regional mining at a grassroots level, assuming Chinese firms have a large share in Mongolia’s small scale mining as described above, has further allowed increased Chinese penetration into the domestic industry despite potential social objections against their presence.

Conclusion

While Mongolia remains an uncontested, independent state in the international system, it nevertheless faces considerable threats and challenges to its overall sovereignty. Specifically, the inability of the country’s two largest parties to bolster various dimensions of state control, particularly in regard to the state’s interdependence and
domestic sovereignties, is proof that Mongolia’s leadership is uncommitted and/or unable to create legitimate governmental institutions that outlast their tenure in office.

Moreover, Mongolia’s most stalwart aspects of sovereignty are those relating to legitimacy, not control, and have largely been imposed and strengthened by external actors. In this sense, Mongolia’s overall sovereignty is what Weng calls ‘negative’ sovereignty in that it relies on the international community for legal recognition while having allowed external influence to play too large a role in the shaping of its institutions of authority (Weng, 2000:94).

Mongolia’s legal sovereignty, while established and supported by the international community, does not convey on the state the prospect of long-term control and internal legitimacy (Jackson, 1990:22). While legal sovereignty does offer the government legitimacy in that it is seen as the head of an internationally recognised state, an ineffective democratic government, particularly one seen as corrupt, can easily lose the support of its populace and weaken the state’s institutions (Krasner, 1999:17). As the previous analysis of Mongolia’s domestic sovereignty clearly shows that the Mongolian parliament has largely become an ineffective, corrupt institution while maintaining international and domestic legitimacy as the state’s legal sovereign, the potential for future political instability is apparent.

Mongolia’s Westphalian sovereignty, the foundation upon which the bureaucracy of the modern state functions, is also weak as foreign institutions and countries constructed it externally and applied it to the country’s post-transition environment without taking identity concerns into account. The results of this transplantation are legislative, administrative, and judicial systems that were largely inappropriate for Mongolia’s post-Cold War political environment and that continue to undermine the state’s ability to function today. Growing corruption compounds Mongolia’s institutional inefficiency.

Additionally, the Mongolian government’s inability to secure it borders and to root out corruption from among its customs officials has negative effects on the state’s
sovereignty. Cross-border trade in illegal goods threatens the state’s economic and environmental sectors while issues such as human trafficking undermine the state’s ability to provide essential public goods, such as security. This, in turn, creates problems of interdependency in that the state cannot control the flow of foreign goods and ideas into the country. Nor can it frankly claim to have secured the country’s physical borders from foreign influence.

Lastly is the issue of Mongolia’s domestic sovereignty. Central to this is the chapter’s position that systemic corruption has fundamentally affected the state’s ability to act in the public’s best interest. In many ways, this issue is an entirely post-Cold War phenomenon as a driving force behind this corruption is the growing link between the state and private sector. This, in turn, weakens the state’s long-term ability to maintain sovereign control as foreign as well as domestic companies and governments can gain influence over the country’s domestic affairs through political ‘contributions’ or bribes.

The failure of the Mongolian government to implement the three key pieces of legislation aimed at curbing over-dependence of the country’s minerals sector on any one nation is indicative that the Mongolian government has perhaps already lost its ability, or willingness, to act autonomously in regard to the country’s mining sector. The implications of this inability to shape domestic affairs on the state’s mineral sector are worrying. While the country’s minerals sector has the potential to add significantly to Mongolia’s wealth, mineral resources in least developed countries can also contribute to what Collier calls a ‘natural resource trap’ (Collier, 2007:38). For poor states with weak sovereignty, rents from resources can undermine governments by increasing corruption, state weakness, and reduced accountability (Ross, 2003:17). This is particularly true for developing democracies, which often lack the centralized means of instituting strict policy to regulate national resource use (Collier, 2007:38).
Works Cited

Adorno & Wyller. (2009) “Mongolyn Alt Corporation, one of Asia's mining leaders companies, has appointed Adorno & Wyller to get loans for USD 3 billion.” Adorno & Wyller Website: Available at: http://www.mak.mn/mon/index.php


Baigalmaa, G. (2008), Second Secretary at the Embassy of Mongolia. Personal Interview, Beijing, China.


Enkhjavhlan. (2007) “Most Mining Companies Are Not Transparent (Уул уурхайн компаниудын дийлэнхи нь хаалттай)” *Mongolian Civil Society Coalition for Extractive Industries Transparency Initiative Website*. Available at: http://www.eiti.mn/old/mon/content/view/104/54/


The New Zealand administrative reform can be summarised as follows: ‘Virtually every element of reform has been designed to establish or strengthen contract-like relationships between the government and ministers as purchasers of goods and services and departments and other entities as suppliers. Hundreds of contracts are formally negotiated each year; the typical contract specifies the resources that one side will provide and the performance the other side will produce. Ministers are always on the resource-providing side of the relationship; chief executives can be on either side, depending on the role they are playing. A chief executive provides resources in negotiating employment contracts with managers but promises results in negotiating purchase agreements with ministers and performance agreements with the State Services Commissioner’ (Schick, 1998:124).