

From Dreams to Dust

Examining the Impact of Mining on Herder Communities in Mongolia

FORUM-ASIA



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We would also like to thank the fact-finding team for conducting the research despite the challenging and harsh conditions in the field.

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FFM team with community representatives in Dalanjargalan soum.

FORUM-ASIA

The Asian Forum for Human Rights and Development (FORUM-ASIA) is a network of 85 member organisations across 23 countries, mainly in Asia. Founded in 1991, FORUM-ASIA works to strengthen movements for human rights and sustainable development through research, advocacy, capacity development and solidarity actions in Asia and beyond.

It has consultative status with the United Nations Economic and Social Council, and consultative relationship with the ASEAN Intergovernmental Commission on Human Rights. The FORUM-ASIA Secretariat is based in Bangkok, with offices in Jakarta, Geneva and Kathmandu.



The Centre for Human Rights and Development is a national NGO, established in 1998 for the protection and promotion of human rights and sustainable development. The CHRD works to build capacity of local communities at the sub-national level to participate in decision-making processes, monitor and evaluate implementation of laws and policies and demand accountability.

The CHRD has built the capacity of local communities in a number of provinces and districts where they effectively and sustainably engage with authorities to protect their rights, environment and livelihoods through research, monitoring evaluation, policy discussions, and campaigns.

Foreword

The Centre for Human Rights and Development has been involved for 20 years in the protection of the rights of local communities, their livelihood, and natural environment in several provinces and districts through legal empowerment, public interest strategic litigations, community organising and advocacy for improving the laws, and better implementation of policies to protect their rights.

This research was initiated by the request of local communities from Ulaanbadrakh district of Dornogovi province and involves two more districts where communities have long struggled to protect their rights and environment affected by mining operations. The research documents the impacts of mines, negligence of authorities to the concerns and demands of communities, poor implementation and violation of the laws by authorities and companies, and consequences of national development policies that are reliant and dependent on mining.

We hope that the research results will help the communities bring their issues to the due attention of those who oversee the implementation of laws and approve policies.

Mandkhaitsetsen Urantulkhur
Executive Director
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Foreword

The Asian Forum for Human Rights and Development (FORUM-ASIA) strives to protect, support, and promote human rights and sustainable development in Asia using evidence-based research, capacity building, and advocacy as tools for change. Through our work, we aim to spotlight people and communities who are often invisible in society; forgotten by the system that is supposed to protect and serve them.

This research on the impact of mining operations on the communities and the environment in three soums (districts) in Mongolia is one such effort to bring to the foreground the voices of the people. World over, countries continue to prioritise business interests over people's well-being. Mongolia is no exception. This research demonstrates the extent to which unchecked corporate greed combined with government inaction can damage the lives and livelihoods of populations who have called the land their home for far longer than the businesses seizing them.

While Mongolia is the first country in Asia to pass the Law on the Legal Status of Human Rights Defenders (HRD Protection Law) in 2021, it remains a place where fundamental freedoms such as freedom of peaceful assembly and association (FoAA), and freedom of speech (FoS) continue to be threatened.

I hope that the testimonies and stories in this report paint a vivid picture of the ground realities of mining and human rights, and inspire you to advocate for the rights of the herders and communities bearing the brunt of a country's quest for limitless economic growth.

Omer Dawoodjee
Interim Executive Director
FORUM-ASIA

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FFM team crossing the Gobi Desert in Dornogovi aimag



Introduction

Over the years, Mongolia has witnessed significant improvements in indicators on human rights and fundamental freedoms. However, the country's progress is currently being threatened as a result of its mineral wealth. In 2020, the government's commitment to re-prioritise mining and increase its contribution to the country's gross domestic product (GDP) has left many communities vulnerable to its impact. One such community—which is the focus of this research—is the nomadic herder community. Despite calling the land their home for decades, they are slowly losing their rights over it. With support from the government, mining companies are taking over not just their land but also their air, water, health, and livelihoods. Additionally, communities are being threatened into silence, with targeted attacks on human rights defenders (HRDs) becoming more commonplace.

Therefore, the objective of this research is to provide a platform to share the stories and testimonies from herders, impacted community members, the HRDs, and other key stakeholders who are directly or indirectly affected by mining, human rights, and environmental protection issues. Moreover, it aims to offer concrete recommendations for future advocacy at the local, national, and international level.



FFM team visits the Mon-Laa mining site in Khatanbulag soum



Methodology

The fact-finding mission (FFM) was undertaken from 4 to 14 October 2022. The FFM team comprised nine people, including two researchers, three representatives from local non-governmental organisations (NGOs), one interpreter, one photographer, and two drivers.

A mixed method qualitative research approach—using primary data collection and desk research—was used to conduct this research. Qualitative research was used to capture the realities that cannot be completely recorded by numbers alone, but also through the narratives of communities and HRDs who are living through the impacts of mining. A semi-structured format was adopted through interviews and focus group discussions (FGDs) with different stakeholders. Interviews were conducted in Mongolian, with consecutive interpretation in English. As part of the research process, the researchers interviewed herders, local government officials, community members, NGO representatives, HRDs, and mining company representatives in three soums in Dornogovi aimag (province) in Mongolia: Dalanjargalan; Ulaanbadrakh; and Khatanbulag. In addition to the above, interviews and FGDs with key government officials/ministries and the National Human Rights Commission were also conducted in Sainshand and Ulaanbaatar. In total, the FFM team interviewed approximately 50 participants, including 20 men and 30 women using convenience sampling, based on the amount of time available in the field.

Taking into account the sensitive nature of the topic being researched, the FFM team adhered to the ethical considerations of voluntary participation, informed consent, confidentiality, and anonymity for all the data, photo and video materials collected during the research.



Camel herder in Dornogovi aimag



Background

Mongolia—located in Northeast Asia—is the second largest landlocked country in the world,¹ bordered by Russia to the north, and China to the south.² Its capital is Ulaanbaatar (previously known as Ulan Bator).³ It spans a total land area of 1.56 million square kilometres⁴, measuring 2,392 kms from west to east and 1,259 kms from north to south.⁵ Around 75 per cent of the land is pasture land, and the remaining area is covered in forests or deserts.⁶

With a population of 3.4 million⁷ people—50.6 per cent of whom are female—Mongolia has a population density of just 2.2 people per square kilometre.^{8,9} This makes it the least densely populated country in Asia, and fourth lowest in the world.¹⁰ Of its total population, 69 per cent live in urban areas.¹¹ The population of Dornogovi aimag—the research site—is 71,233, and it covers a total area of 109,500 square kilometres.¹²

Dornogovi aimag is part of the Gobi Desert, and is located in the southeast part of the country.¹³ Its capital is Sainshand, home to some 27,000 residents.¹⁴

1 <https://www.worldatlas.com/articles/the-largest-landlocked-countries-in-the-world.html>

2 <https://www.britannica.com/place/Mongolia>

3 <https://1212.mn/en>

4 <https://www.worlddata.info/asia/mongolia/index.php>

5 <https://www.britannica.com/place/Mongolia>

6 Ibid.

7 <https://1212.mn/en>

8 <https://countrysmeters.info/en/Mongolia>

9 <https://1212.mn/en/statistic/file-library/view/47811760>

10 <https://www.worldometers.info/world-population/population-by-country/>

11 <https://data.worldbank.org/indicator/SP.URB.TOTL.IN.ZS?locations=MN>

12 <http://dornogovi.gov.mn/home/14>

13 <http://dornogovi.gov.mn/home/14>

14 https://1212.mn/en/statistic/statcate/573051/table-view/DT_NS0_0300_004V5



For centuries, nomadic herders have been the lifeblood of the country. Pastoralism is considered a sacred way of life beyond just a livelihood.

This is witnessed by the fact that the main types of livestock—horses, sheep, goats, cows, and camels—are often referred to as the ‘five jewels,’ owing to their invaluable role in maintaining this traditional lifestyle.¹⁵

The country is endowed with natural beauty and is home to the world’s largest intact temperate grassland, the Eastern Steppe.¹⁶ 21 per cent of land in the country—totalling 32.9 million hectares—is now under national protected status, with a goal to ultimately reach 30 per cent.¹⁷ Mongolia has a continental climate with harsh winters and cool to warm summers, generally experiencing little to no rainfall.¹⁸

¹⁵ <https://www.bankhar.org/the-five-jewels/#>

¹⁶ <https://www.nature.org/en-us/about-us/where-we-work/asia-pacific/mongolia/stories-in-mongolia/mongolia-s-amazing-grasslands/>

¹⁷ <https://www.wwf.or.th/?uNewsID=363290>

¹⁸ <https://www.britannica.com/place/Mongolia/Climate-and-soils>

The weather in Dornogovi aimag is characterised as extremely continental, with temperatures ranging from -40 to +40 degrees celsius.¹⁹

Buddhism is the main religion practised by 87 per cent of the population, followed by Islam, Shamanism, and Christianity.²⁰

Political context

Mongolia’s transition from a Soviet model of governance to a democratic country was a largely peaceful one, with young people taking to the streets in 1989 to demand constitutional reform.²¹

Against the backdrop of the collapse of the Soviet Union, 1990 brought with it a democratic revolution, where people organised demonstrations, protests,

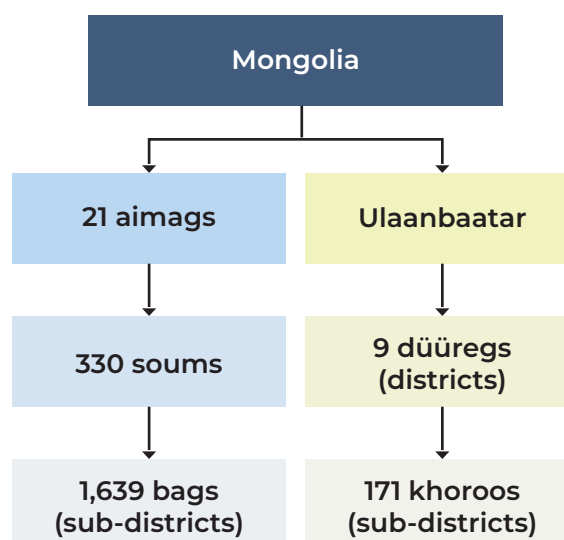
¹⁹ <http://dornogovi.gov.mn/home/14>

²⁰ <https://www.state.gov/reports/2021-report-on-international-religious-freedom/mongolia/#:~:text=Of%20those%20who%20expressed%20a,of%20Buddhists%20are%20Mahayana%20Buddhists>

²¹ <https://www.britannica.com/place/Mongolia/Reform-and-the-birth-of-democracy>



Administrative division of Mongolia



Administratively, Mongolia is divided into 21 aimags, consisting of 330 soums which are further divided into 1,639 bags (sub-districts). The capital city, Ulaanbaatar is autonomously governed, divided into nine districts (düüregs) which comprise 171 khoroots (sub-districts).²⁷ Dornogovi aimag comprises 14 soums—including Dalanjargalan, Ulaanbadrakh, and Khatanbulag—65 bags, and 20,494 households.²⁸

The country's most recent parliamentary elections took place in 2020, with the Mongolian People's Party (MPP) winning 62 of the 76 seats; a similar outcome to the elections held in 2016.²⁹ Despite Mongolian people's strong preference for an open and transparent democratic system, 72 per cent feel that ordinary citizens do not have the ability to influence decision-making at the national level.³⁰

Women play a significant role in political decision-making, not just as voters, but also in campaign offices and polling stations. In the 2021 Presidential elections, 62.8 per cent of the eligible voting population of women participated in the electoral process.³¹ This was higher than the 55.5 per cent participation of men.³² However, women's participation in political positions remains relatively low, with only 13 out of the 76 members of Parliament being women.³³

²⁷ <https://1212.mn/en/statistic/file-library/view/47811760>

²⁸ <http://dornogovi.gov.mn/home/14>

²⁹ <https://www.electionguide.org/elections/id/3286/>

³⁰ <https://www.iri.org/resources/iri-mongolia-poll-shows-strong-support-for-democratic-governance-concerns-for-countrys-direction-and-ability-to-make-change/>

³¹ <https://ikon.mn/president/2021>

³² Ibid.

³³ <https://1212.mn/en/statistic/file-library/view/47811760>

and hunger strikes, demanding for a change in how the country was governed.²²

As a result, the country's first democratically elected parliament (called the State Great Hural) adopted its new constitution in 1992.²³ This marked a shift from the single-party system to a more democratic system of governance.²⁴

Currently, Mongolia subscribes to a semi-presidential multi-party system, with clear independence and separation of powers between the legislative, executive, and judicial branches.²⁵ The constitution further guarantees human rights, equality, and freedoms to all.²⁶

²² <https://thediplomat.com/2021/12/the-fall-of-the-soviet-union-mongolias-path-to-democratic-revolution/>

²³ <https://bti-project.org/en/reports/country-report/MNG#pos1>

²⁴ Ibid.

²⁵ <https://bti-project.org/en/reports/country-report/MNG#pos1>

²⁶ https://www.conscourt.gov.mn/?page_id=842&lang=en



Youth in Ulaanbadakh soum

As reported in 2021, from 1,103 elected Citizens' Representative Hural (a local self-governing body), only 218 were women.³⁴ This differs across the country, with the share being 17.8 per cent in Ulaanbaatar, 16 per cent in aimags, and 30 per cent in soums.³⁵ The low levels of participation of women can be attributed to a number of factors with patriarchal roots, including difficulty in juggling caretaking responsibilities with work, lack of backing from husbands and families, inadequate support from political parties, and hesitation in funding women's campaigns.³⁶

Mongolia is usually considered a beacon of democracy, despite being surrounded by authoritarian neighbours. While many countries in Asia are experiencing a decline in fundamental freedoms, Mongolia is regarded as 'free,' where political rights and civil liberties are considered to be fairly institutionalised.³⁷ Mongolia is the only country in 2021 whose ranking was upgraded from 'obstructed' to 'narrowed' as part of CIVICUS Monitor's data on civic freedoms.³⁸

34 Ibid.

35 Ibid.

36 <https://www.undp.org/mongolia/blog/beyond-glass-ceiling-expanding-female-leadership-mongolian-politics-and-businesses>

37 <https://freedomhouse.org/country/mongolia/freedom-world/2022>

38 <https://findings2021.monitor.civicus.org/country-ratings/mongolia.html>

This was partially attributed to the passing of the 2021 Law of Mongolia on the Legal Status of Human Rights Defenders (HRD Protection Law),³⁹ becoming the first country in Asia to establish national legislation on the protection of human rights defenders (HRDs).⁴⁰ However, implementation of the law remains a question mark, considering the protection mechanisms provided by the law have not been enforced yet, and the presence of some controversial provisions that could potentially undermine HRDs and their work.⁴¹

The law was adopted during the COVID-19 pandemic, in a context where civic space met exceptional restrictions. After nearly two years since the adoption, HRDs—especially those based at the community level and living in rural areas—have scarce knowledge of the law, and how it should protect them and support their activities.⁴²

In terms of press freedom, Mongolian media lacks neutrality and transparency, with most media houses openly declaring political leanings.⁴³ This makes news reporting heavily censored due to

39 Ibid.

40 <https://forum-asia.org/?p=34902>

41 <https://ishr.ch/latest-updates/mongolia-concerns-over-restrictive-hrd-law-passed-by-mongolian-parliament/>

42 Interview with HRDs

43 <https://rsf.org/en/country/mongolia>

pressure from politicians.⁴⁴ Journalistic freedom is further hampered by threats of defamation cases, which curb independent and critical media coverage.⁴⁵ This has resulted in the country's ranking slipping from 68 to 90—out of 180 countries—in the 2022 World Press Freedom Index score.⁴⁶

Socio-economic and cultural context

While Mongolia's economy has traditionally depended on livestock rearing, in recent years, the focus has shifted to the extractives industry.⁴⁷ This has led to the country sometimes being nicknamed 'Minegolia.'⁴⁸ Currently, however, the services sector still contributes a majority 46.6 per cent to the country's GDP.⁴⁹ This is followed by mining and quarrying at 25.2 per cent; industry and construction at 15.1 per cent; and agriculture, forestry, and fishing at 13 per cent.⁵⁰ Despite the low contribution of the agricultural and livestock sector to the GDP, a large number of people depend on it for their livelihood. As of 2022, it employs 291,678 people including 43 per cent women (herding 67 million livestock),⁵¹ as opposed to the mining sector, which employs just 56,003 people, only 16 per cent of whom are female.⁵²

Dornogovi aimag follows the same pattern, where agriculture and livestock rearing employs 8,177 people including 39 per cent women (herding 2.7 million livestock)⁵³, whereas the mining sector employs only 903 people including 22 per cent women.⁵⁴ However, more than 70 per cent of the pasture land used by herders has experienced degradation as a result of climate change, desertification and deforestation, causing significant damage to their livelihoods.⁵⁵

44 Ibid.

45 Ibid.

46 <https://rsf.org/en/country/mongolia>

47 <https://ustr.gov/countries-regions/china-mongolia-taiwan/mongolia>

48 <https://foreignpolicy.com/2011/01/03/welcome-to-minegolia/>

49 <https://1212.mn/en/statistic/file-library/view/47811760>

50 Ibid.

51 https://1212.mn/en/statistic/statcate/573054/table-view/DT_NSO_1001_021V1

52 https://1212.mn/en/statistic/statcate/573055/table-view/DT_NSO_0400_035V7

53 https://1212.mn/en/statistic/statcate/573054/table-view/DT_NSO_1001_021V1

54 https://1212.mn/en/statistic/statcate/573055/table-view/DT_NSO_0400_035V7

55 <https://www.fao.org/3/ca4615en/ca4615en.pdf>

Export earnings currently contribute more than half to the country's GDP.⁵⁶ This mainly involves the export of metals and minerals, apparel, crude oil, and animal products, mostly to China and Switzerland.⁵⁷ This makes the landlocked country extremely vulnerable to changes in the mining sector. According to Investment Monitor's Mining Vulnerability Index—which ranks countries that will be most impacted if the mining industry experiences a downturn—Mongolia ranks the highest in the world, indicating a very high level of dependency on the extractives industry.⁵⁸

Due to the COVID-19 pandemic and the Ukraine-Russia war, inflation increased from 2.3 per cent in 2020 to 13.4 per cent in 2021,⁵⁹ making it difficult for Mongolians to afford basic necessities to survive. In 2021, the unemployment rate increased to 8.1 per cent.⁶⁰ This resulted in protests in Ulaanbaatar in December 2022 against rising inflation and corruption.⁶¹ The herder community—which currently comprises 305,430 people⁶² and 188,605 households⁶³—has especially been impacted by this. Herders who live in gers (traditional tents) are usually disconnected from the main power grid.

They rely heavily on coal for heating their ever-moving homes.⁶⁴ As a result of inflation, there has been a 40 per cent increase in the price of coal.⁶⁵ This, combined with the lower selling prices of livestock, wool and milk, and the increased price of gas has made it challenging for herders to travel to markets to sell their goods. Hence, herders have been struggling to make ends meet for themselves and their families.⁶⁶

56 <https://ustr.gov/countries-regions/china-mongolia-taiwan/mongolia>

57 <https://1212.mn/en/statistic/file-library/view/47811760>

58 <https://www.investmentmonitor.ai/sectors/extractive-industries/mongolia-and-australia-among-countries-that-will-suffer-the-most-in-a-mining-downturn/>

59 <https://1212.mn/en/statistic/file-library/view/47811760>

60 https://1212.mn/en/statistic/statcate/573065/table-view/DT_NSO_0400_020V2

61 <https://www.reuters.com/world/asia-pacific/mongolians-clash-with-police-protest-against-inflation-graft-2022-12-06/>

62 https://1212.mn/en/statistic/statcate/48171307/table-view/DT_NSO_1001_022V1

63 <https://1212.mn/en/statistic/file-library/view/47811760>

64 <https://www.aljazeera.com/economy/2022/12/14/mongolians-herders-feel-pinch-as-china-russia-squeeze-economy>

65 Ibid.

66 Ibid.

In terms of educational attainment, women rank higher with an adult literacy rate of 99.24, compared to 99.12 for men.⁶⁷ However, this fails to translate to a better standard of living for more than a quarter of the population (27.8 per cent) who still live below the poverty line.⁶⁸ Poverty is experienced more severely in rural areas, with 30.5 per cent living below the poverty line as of 2020.⁶⁹ Dornogovi aimag's poverty is lower than the national average at 19.8 per cent.⁷⁰

The high levels of poverty can be attributed to limited employment opportunities in the country, especially for youth and people in rural areas.⁷¹ As a result of few livelihood options, only 57 per cent of the working-age population participated in the labour force in 2021,⁷² and only half were employed.⁷³ In rural areas, lack of alternatives makes many people turn to animal husbandry and crop production.

However, these options have become increasingly precarious over the years as a result of the government's shifting priorities, lower market rates, limited veterinary services, overgrazing, and increasing natural disasters brought on by climate change.⁷⁴

Mongolia ranks 76 out of 170 countries in the Gender Inequality Index which measures three key factors: reproductive health; empowerment; and labour market participation.⁷⁵ While women in Mongolia are regarded as more equal compared to several of its Asian neighbours, discrimination remains prevalent. The country has high rates for gender-based violence, with studies showing that 58 per cent of ever-partnered women experience some form of violence, controlling behaviour, or abuse.⁷⁶ Amongst this, almost one-third (31 per cent) have experienced physical and/or sexual

67 <https://idea.usaid.gov/cd/mongolia/gender#tab-education>

68 <https://1212.mn/en/statistic/file-library/view/47811760>

69 Ibid.

70 Ibid.

71 <https://www.worldbank.org/en/news/press-release/2020/06/19/mongolia-20-million-credit-to-support-employment-opportunities-workers-and-employers-in-the-wake-of-covid-19-coronavirus>

72 https://1212.mn/en/statistic/statcate/573055/table-view/DT_NSQ_0400_006V1

73 <https://www.worldbank.org/en/country/mongolia/publication/mongolia-jobs-diagnostic-more-vibrant-and-inclusive-labor-markets-for-economic-recovery-and-diversification>

74 http://www.ilo.int/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_bk_pb_112_en.pdf

75 https://hdr.undp.org/system/files/documents/global-report-document/hdr2021-22pdf_1.pdf

76 <https://asiapacific.unfpa.org/en/news/mongolia-wrestles-violence-against-women#:~:text=Mongolia's%20rate%20is%20among%20the,%2C%20emotional%2C%20or%20economic%20abuse.>

violence.⁷⁷ Additionally, women's contribution to the economy remains undercounted, with women spending 19.1 per cent of their time doing unpaid domestic and care work.⁷⁸

However, the situation is not completely bleak. Mongolia's score in the Human Development Index is ranked 'high' at 96 out of 191 countries, which indicates holistic positive developments in standards of living including health, education, income, well-being etc.⁷⁹ Additionally, the country also experienced an 80 per cent improvement in hunger levels in the past two decades, and is currently classified as a country with 'low' levels of hunger.⁸⁰ This puts it ahead of most Asian countries, barring China and Uzbekistan.⁸¹ Internationally, Mongolia has a track record of largely respecting human rights obligations, having ratified eight out of nine core UN treaties with the exception of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.⁸²

The country can continue experiencing positive development if it invests in the well-being of its people—including the herder community, youth and women—especially related to education, employment, political participation, and social security.

Corporate accountability and human rights

Mongolia's mining boom began after it transitioned to a free market economy in the 1990s. The country was labelled a 'wolf economy' because of its untapped mineral wealth estimated at USD 1 trillion.⁸³ Mongolia is rich in coal, fluorspar, copper, gold, silver, and other metallic ores.⁸⁴ Along with its 25.2 per cent contribution to the country's GDP, the mining sector currently contributes approximately 71 per cent to foreign direct investment and 94 per cent to exports.⁸⁵ There are two types of mining-related licences in the country: one for exploration and one for extraction. Currently, there are 2,562 mining licences covering 3.8 per cent of the

77 Ibid.

78 <https://data.unwomen.org/country/mongolia>

79 https://hdr.undp.org/system/files/documents/global-report-document/hdr2021-22pdf_1.pdf

80 <https://www.globalhungerindex.org/pdf/en/2022.pdf>

81 Ibid.

82 https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=115&Lang=EN

83 <https://odi.org/en/publications/three-lessons-from-mongolias-wolf-economy/>

84 <https://www.britannica.com/place/Mongolia/Resources-and-power>

85 <https://montsame.mn/en/read/282779>



Women attending a training on human rights in Khatanbulag soum

country's territory.⁸⁶ In Dornogovi aimag, there are 339 licences spanning 9.3 per cent of its territory.⁸⁷ This includes 94 licences in Dalanjargalan, 26 in Khatanbulag and 18 in Ulaanbadrakh.⁸⁸

The Ministry of Mining and Heavy Industry (MoMHI), the Mineral Resources and Petroleum Authority of Mongolia (MRPAM), and the Ministry of Nature, Environment and Tourism (MET) are the main government agencies responsible for developing and implementing responsible mining practices.⁸⁹ Another agency that has been in-charge of national level monitoring and enforcement of standards and laws—including mining laws—is the General Agency for Specialized Inspection (GASI).⁹⁰ Together with the aimag and soum level environmental inspectors, GASI has been tasked with inspecting any complaints made by communities.⁹¹

86 <https://mrpam.gov.mn/public/pages/177/2022.09.stat.report.eng.pdf>

87 Ibid.

88 <https://ereporting.eitimongolia.mn/>

89 <https://mmhi.gov.mn/en/>

90 http://inspection.gov.mn/new/?page_id=10

91 <https://www.csr.uq.edu.au/media/docs/1171/j003551-csr-report-conceptweb-mr.pdf>

However, in an effort to reduce corruption, the government decided to dismantle GASI by 1 January 2023,⁹² leaving a lot of questions unanswered about which agency will now be responsible for fining companies or halting operations if any wrongdoing is found.

KEY LEGISLATION ON MINING AND THE ENVIRONMENT

Despite existing laws and guidelines that highlight the importance of preserving and protecting the ecology of the country, implementation remains piecemeal. The Constitution of Mongolia clearly places natural resources under state protection (Article 6.1), and entrusts the government to undertake measures to protect, sustain and restore the environment and natural resources (Article 38).⁹³ It also explicitly mentions that the government cannot allow private ownership of 'pastures and areas under public and special use' (Article 6.3).⁹⁴

92 <https://www.mongoliaweekly.org/post/mongolia-cuts-red-tape-by-breaking-up-gas>

93 https://www.conscourt.gov.mn/?page_id=842&lang=en

94 Ibid.



Mining landfill in Dalanjargalan soum

In addition to the Constitution, the main national laws governing mineral exploration, extraction, and environmental protection include:

- The Minerals Law of Mongolia, 1997⁹⁵
- The Law on Subsoil, 1989⁹⁶
- The Law to Prohibit Mineral Exploration and Mining Operations at Headwaters of Rivers, Protected Zones of Water Reservoirs and Forested Areas (also known as the Law with the Long Name), 2009⁹⁷
- The Law on Licensing, 2001⁹⁸
- The Law on Land, 2002⁹⁹
- The Law on Forest, 2012¹⁰⁰
- The Environmental Protection Law of Mongolia, 1995¹⁰¹
- The (revised) Law of Mongolia on Environmental Impact Assessment, 2012¹⁰²

95 https://legalinfo.mn/storage/uploads/process/202109/file_1632800534174845_161723922846810.doc

96 <https://mrapam.gov.mn/public/pages/16/Law%20on%20subsoil.pdf>

97 <https://www.transrivers.org/documents/rivers-and-mining/law-with-long-name/>

98 <https://legalinfo.mn/mn/detail/15788>

99 <http://www.jcm-mongolia.com/wp-content/uploads/2015/11/land.pdf>

100 <https://legalinfo.mn/mn/detail/15624>

101 <https://leap.unep.org/countries/mn/national-legislation/environmental-protection-law-no-1995>

102 <https://old.legalinfo.mn/law/details/16693>

However, because of ambiguous language and regular amendments, many of these laws are inconsistent and fail to provide clarity to stakeholders.

For example, the Minerals Law classifies minerals into strategic, common, and conventional minerals of importance, which determines how their exploration and extraction is carried out. However, there is no clear criteria on which minerals can be considered ‘strategically’ important.^{103, 104} Another example is the Law on Subsoil which mentions terminating the right to subsoil use if ‘potentially dangerous’ conditions to the health of the local people emerge, but does not specify who defines what is considered ‘dangerous’ and how it can be proved.¹⁰⁵ These vague provisions leave a lot to subjective interpretations, which can result in misuse by the government or mining companies at the cost of human rights.

The Law on Licensing, which was amended 69 times, is another example of confusion being created as a result of repeated changes, making it difficult to keep up with the revisions.¹⁰⁶ In an effort to simplify the licensing process, a revised Law on Licensing was approved by the State Great Hural. Effective from 1 January 2023, this law aims to combine all the pieces of the licensing puzzle into a unified system for issuing, renewing,

103 <https://www.iisd.org/system/files/publications/mongolia-mining-policy-framework-assessment-en.pdf>

104 <https://policy.asiapacificenergy.org/sites/default/files/Minerals%20Law%20Of%20Mongolia.pdf>

105 <https://faolex.fao.org/docs/pdf/mon42189.pdf>

106 <https://gratanet.com/publications/introduction-of-law-of-mongolia-on-licensing>

suspending, revoking, and cancelling licences. Amongst other things, it also aims to reduce the number of licences issued through corruption,¹⁰⁷ and introduces new grounds for revoking licences based on the ‘harm and extensive damage to national security, public interests, human life and health, or the environment’.¹⁰⁸

National agencies are also supposed to work collaboratively with aimag and soum level governments to ensure adherence to laws and regulations. For example, according to Article 17 of the Minerals Law, the state is supposed to provide written notice to the governor of the aimag for any new plans to grant a licence.¹⁰⁹ It is then the governor’s responsibility at the aimag level to accept or refuse a licence upon consultation with the Citizens Representative Hural of the soum.¹¹⁰

Similarly, it is the soum governor’s approval that is required for the environmental protection plan submitted by the mining companies, which is supposed to provide a comprehensive plan for protection and reclamation of the surrounding environment.¹¹¹ And it is the soum governor and local environmental inspection agency who need to be made aware of any ‘adverse environmental impacts resulting from the exploration activity’ as part of the annual environmental management plan report.¹¹² However, in reality, there is a notable disconnect between national policies and local level implementation, which leaves a lot of room for corruption, misinterpretation, and mismanagement.

THE HRD PROTECTION LAW

In addition to these laws, an important complementary law that aims to protect communities from exploitative mining practices is the ‘Law of Mongolia on the Legal Status of Human Rights Defenders’, or the HRD Protection Law, which the Mongolian Parliament adopted in April 2021. The drafting of the law was led by the National Human Rights Commission of Mongolia (NHRM) and came into force on 1 July 2021.¹¹³

107 https://gratanet.com/laravel-filemanager/files/3/Legal_alert_Licensing_law_EN_20220824.pdf

108 https://www.pwc.com/mn/en/tax_alerts/pdf/tax_alert_en_06_2022.pdf

109 https://legalinfo.mn/storage/uploads/process/202109/file_1632800534174845_161723922846810.doc

110 Ibid.

111 Ibid.

112 Ibid.

113 For a more comprehensive timeline of the HRD Protection law, please visit <https://forum-asia.org/wp-content/uploads/2019/10/2019-Mongolia-FFM-Report-Final-02122020-Compressed.pdf>, p. 38

It marked the culmination of an over two-year drafting and reviewing process that saw the participation and support of civil society and United Nations agencies and mechanisms.¹¹⁴

The HRD Protection law has been welcomed as a historical achievement for Mongolia by civil society at the international level and the human rights community at large.¹¹⁵

It offers a legal definition of human rights defenders and their work that is in line with the 1998 United Nations Declaration on HRDs,¹¹⁶ provides a legal status for HRDs, and sets out a mechanism for their protection.¹¹⁷

Some of the rights that the law bestows to HRDs include the right to assemble, to engage with national and international human rights bodies, to provide recommendations on new laws, and to lodge complaints in case of human rights violations. State actors are obliged by the law to recognise HRDs and to respect their work, securing an enabling environment for them and refraining from interfering with their work. The law also provides for the creation of a Committee on Human Rights Defenders within the NHRM, and defines the Committee’s composition and modalities of its members’ election. The Committee’s tasks include receiving complaints on and collecting evidence of violations faced by HRDs, as well as indicating the protection needs of HRDs and providing a subsequent risk assessment. The Committee is also tasked with assessing the implementation of the law and the status of HRDs, and to present its findings in an annual report to the NHRM.

114 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/356/00/PDF/G2035600.pdf?OpenElement>

115 <https://www.ohchr.org/en/stories/2021/04/mongolia-new-law-protect-human-rights-defenders>

116 The United Nation Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms - commonly known as the Declaration on human rights defenders - was adopted unanimously by the United Nations General Assembly on 8 December 1998, marking the 50th anniversary of the adoption of the 1948 Universal Declaration of Human Rights. It represents the main normative reference for the recognition and protection of HRDs. The Declaration can be accessed here: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/770/89/PDF/N9977089.pdf?OpenElement>

117 https://www.focus-obs.org/?jet_download=1074



Freight train in Dalanjargalan soum

Aside from these positive aspects which set the basis for the stronger protection of HRDs, the law has also drawn concerns from civil society for two controversial provisions that could pose limitations to the work of HRDs.¹¹⁸ Article 8.1.3 of the law prohibits HRDs *'to defame honour, reputation and fame at the working field of others.'*

Similar provisions, characterised by a vague formulation, are regularly used in several Asian countries to target HRDs who legitimately voice their opinions and disseminate critical information, in a bid to silence and criminalise them.¹¹⁹ In the past years, FORUM-ASIA has documented that business actors—such as mining companies, a key player in Mongolia—summoned HRDs who dared to speak out against the detrimental impact of their operations on the environment or communities' rights.

Defamation lawsuits are typically used to pursue legal actions, including in the cases of strategic lawsuits against public participation (SLAPPs).¹²⁰

118 <https://ishr.ch/latest-updates/mongolia-concerns-over-restrictive-hrd-law-passed-by-mongolian-parliament/>

119 Bangladesh' Digital Security Act, and Indonesia's Electronic Information and Transactions (ITE) Law are only two examples of laws often used to criminalise government critics and dissident voices, including HRDs.

120 <https://www.forum-asia.org/uploads/wp/2021/06/Defending-in-Numbers-A-Message-of-Strength-from->

The article—ironically included in the law that is intended to protect HRDs—could potentially be used to silence or threaten Mongolian rights defenders with legal actions, leading to alarming restrictions to their right to freedom of expression.

The second problematic provision of the law is article 7.2.1, which prohibits HRDs from receiving funds from international intelligence service, or from organisations that *'conduct activities harming the national unity or money laundering, terrorist, or extremist activities'*, as well as funds from unknown donors. While foreign funds are oftentimes vital for the work of HRDs and the functioning of human rights NGOs, in the past years a rising number of countries in Asia have enacted laws setting restrictions to their access, or defining cumbersome reporting procedures.¹²¹ Article 7.2.1 could potentially be used to impose similar funding limitations to Mongolian HRDs and NGOs, particularly if linking them to organisations broadly-defined as terrorist and extremist, or allegedly conducting money laundering and activities against national unity.

[the-Ground-for-web.pdf](#), p. 18

121 Some examples inter alia are India's Foreign Contribution (Regulation) Act and Cambodia's The Law on Associations and NGOs (LANGO). FORUM-ASIA's Repressive Laws Mapping and Monitoring includes laws restricting access to foreign funds: <https://hrlaw.forum-asia.org/>

Despite the existence of laws that recognise fundamental rights and freedoms, citizens and groups engaged in the protection of rights and the environment do not always operate in a context free from challenges and harassment. In their last country visit in 2019, the former Special Rapporteur on the situation of HRDs defined Mongolia as a 'relatively safe country' for HRDs, but added that their work was hindered by a series of obstacles, which in the next years have continued to take place.¹²²

'In general, Mongolia is a relatively safe country for human rights defenders [...] However, this relatively safe environment does not translate into a situation where human rights defenders are encouraged, enabled and empowered in their activities.' – Report of the Special Rapporteur on the situation of human rights defenders

Likewise, in an FFM in 2019, FORUM-ASIA identified various violations being committed against defenders. An emblematic case was that of Tuvshinjargal Sambuu and Mungunkhun Dulmaa, community-based HRDs who had opposed the operations of a gold mine in eastern Dornod Province. In August 2018, when protesting the setting up of a fence impacting herders' pasture land, Mr. Tuvshinjargal was handcuffed and beaten up by security personnel of the mining company. Ms. Mungunkhun, who recorded the incident with her phone, was beaten and forcefully dragged to the security post of the mining company, where she was detained for hours and sexually harassed.¹²³ Ms. Mungunkhun later faced further violations, including death threats via phone calls.¹²⁴

The past few years showcased a growing number of violations against HRDs, with some key trends becoming even clearer.

Stigmatisation in online spaces, physical violence, and judicial harassment were documented forms of harassment against defenders. Munkhbayar Chuluundorj, writer and independent media worker, was sentenced in June 2022 to a 10-year prison term for alleged collusion with foreign agencies.¹²⁵ Mr. Munkhbayar stood up as a critical voice of the government, and has consistently advocated for the rights of ethnic Mongolians living in the Chinese region of Inner Mongolia.

The FFM team interviewed a prominent and long-term woman human rights defender (WHRD),

¹²² <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/353/62/PDF/G1935362.pdf?OpenElement>, p. 5

¹²³ <https://forum-asia.org/wp-content/uploads/2019/10/2019-Mongolia-FFM-Report-Final-02122020-Compressed.pdf>, from p. 46

¹²⁴ <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=25368>

¹²⁵ <https://asianhrds.forum-asia.org/en/entity/2cemj69i8hq>

who was facing an ongoing investigation on similar charges, likely due to her criticism of the Government and staunch opposition to mining and other development projects harmful for the environment. The WHRD was also the target of a simultaneous smear campaign on social media. In October 2022, a group of herders—including WHRDs—were violently dispersed by the police when staging a rally to halt hydroelectric power plant operations in Uvs Province. The development project is expected to cause the herders' forced displacement.¹²⁶

Nevertheless, the actual number of violations is likely higher than those documented, and other cases might be unreported, especially in remote areas.

The government's long-term goal for the mining sector can be seen in Prime Minister Luvsannamsrai Oyun-Erdene's plan to transform the country into a 'modern minerals exporter with an investor-friendly environment.'¹²⁷ His 'Vision 2050' document works as a blueprint to actualise this plan through the development of 'responsible mining and increasing the level of processing'.¹²⁸ However, his efforts to 'create conditions to boost export of mining products'¹²⁹ without a solid foundation of human rights and environmental safeguards could lead to dire consequences for the communities surrounding the mines.

Nevertheless, in a promising move in 2022, Mongolia became a part of the Extractive Industries Transparency Initiative's Opening Extractives Programme, which aims to provide transparent data on ownership in the extractives sector.¹³⁰ This move could help strengthen accountability and prevent any conflicts of interest, leading to lesser corruption in the sector.¹³¹ In addition to the above, the government is in the midst of consultations for developing a national action plan on business and human rights, with the aim to adopt it in 2023.¹³²

This has the potential to reduce harmful practices in the mining sector, and hold businesses responsible for damages to communities and the environment.

¹²⁶ <https://asianhrds.forum-asia.org/en/entity/j4id64kqOi>

¹²⁷ <https://time.com/6203487/mongolia-prime-minister-luvsannamsrain-oyun-erdene-interview/>

¹²⁸ https://cabinet.gov.mn/wp-content/uploads/2050_VISION_LONG-TERM-DEVELOPMENT-POLICY.pdf

¹²⁹ Ibid.

¹³⁰ <https://eiti.org/news/mongolia-implements-beneficial-ownership-transparency-programme#:~:text=The%20law%20requires%20companies%20to,role%20in%20the%20country's%20economy>

¹³¹ Ibid.

¹³² <https://www.ohchr.org/en/press-releases/2022/09/committee-economic-social-and-cultural-rights-welcomes-mongolias-efforts>



Herders during an FGD in Ulaanbadrakh soum

Findings

The FFM team collected testimonies and data from a wide range of stakeholders in Dalanjargalan, Ulaanbadrakh and Khatanbulag soums. They shed light on the harmful and sometimes fatal impact of mining operations on the communities' rights, including their health, livelihoods, and environment. The findings below illustrate not only lack of care towards the well-being of mining-affected communities, but also the systemic silencing and intimidation of those who try to challenge the status quo and fight for their rights.

Soum I - Dalanjargalan

Dalanjargalan is located in the northern part of Dornogovi aimag with 17.34 per cent of the land currently occupied by mines.¹³³ As a result, residents face a variety of challenges to their health, livelihoods, and surrounding environment.

ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

Shrinking of pasture land

The reduction of usable pasture land for livestock was noted as one of the most significant impacts of increased mining operations in the area. Before operations began, there was abundant land available for grazing. However, the unoccupied pieces of land available now are few and far between.

'We used to send livestock in four different directions to eat grass and graze, but now we can only send them in one direction, limiting the size of the pasture land.'

– Interview with female herder

Since the law recently changed to a tendering system for awarding licences, this has made the process of licence allocation easier, adding to the decreasing pasture land. Local government officials informed the FFM team of a situation where 10 licences were issued

¹³³ <https://ereporting.eitimongolia.mn/>



Main road crossing Dalanjargalan soum

based on a tendering system. But when they saw the coordinates, they realised it interfered with 100 herders' pasture land, and more than 70 groundwater wells. This system of issuing licences could lead to an even faster disappearance of land available to herders. This forces them to either move to far-off locations away from mining sites or to give up this livelihood altogether.

'Continuing this livelihood of nomadic herding is difficult because of the decrease in pasture land. Relocation to new places has also been a problem because there is no available land and if it is there, it is already taken by the mining companies.'

– Interview with female herder

Another reason for shrinking of pasture land is because licences are being awarded to areas designated as special protected areas. This adds to the uncertainty of herders, as no area is safe from potential mining operations, despite the existence of laws meant to preserve special protected areas. Additionally, once exploration or extraction is completed, companies fail to rehabilitate the land, making it barren, toxic, and unusable for years to come.

Impact on income and livelihoods

During the FFM team's interviews and FGDs with herders, one of the most significant findings was related to the economic impact of mining on their income and livelihoods. The herder community is completely dependent on the quality of their livestock and its market value in order to earn a living and provide food for themselves and their families. However, as a result of dust from the trucks and mining operations, and dried up wells and barren pasture land, many interviewees reported a deterioration in the quality of their animals. The lower quality of livestock results in lesser income for the herders. Additionally, the quality of cashmere and wool also reduces, affecting their market price. As a result, the animals become unfit not just for sale but also for consumption, making it difficult for families to survive on their own livestock.

'Due to dust, there were many health damages to livestock. Eyes of livestock are damaged, contaminated, and infected. Newly born animals also have disabilities. Their reproductive holes are damaged, and some blind livestock have also been born. Therefore, lately, we cannot eat the inner organs

because they are damaged and contaminated. We also cannot sell them which results in no money generated. Additionally, the quality of the cashmere is also lower because of the contamination, which results in lower household income.'

– Interview with female herder

In an interview with an older herder, she mentioned that along with lower income, a large part of her monthly pension of 500,000 tugrik (147 USD) is used to pay off her medical bills arising from health issues caused by the mining operations, leaving very little for basic needs. She mentioned that she cannot afford proper medical services because it costs 80,000 tugrik (23 USD) per day, and she cannot hold the mining company responsible for her ill health because of lack of evidence. Her economic situation makes it difficult for her to get the proper medical care she needs.

'I also cannot ask the mining company for help because there is no evidence to prove that my asthma and lung problems are caused by mining. I think it

will get worse in 5 to 10 years. Who knows if I will even be alive then.'

– Interview with older female herder

In addition to lower levels of income, herders must relocate further away from the soum centre to avoid being on pasture land allocated for mining. This results in significantly higher travel costs to and from their homes, increasing expenditure and lowering savings.

'Because of the issuing of new licences and reduction of pasture land, while before we used to travel two to three kilometres to reach the soum centre, now we have to travel 10 to 12 kilometres so that our land does not overlap with the mining licence area. So, we have to pay more in travel costs.'

– Interview with female herder



FGD with local government representatives of Dalanjargalan soum



Livestock in Dalanjargalan soum

The decreasing income for herding leaves community members in a difficult situation, since there are very limited livelihood opportunities in the soum. During the FGD with local government representatives, they highlighted that agriculture, livestock rearing and mining are the only major occupations. For those working in the mines, most skilled labour is hired from Ulaanbaatar, leaving only lower paying unskilled jobs for local people.

‘There are not enough employment opportunities in the soum. Not enough jobs for people. Salaries are not enough for basic needs. Women work overtime but never get paid extra for it. Even when both men and women work in a household, the money is not enough.’

– FGD with local government representatives

Women working in the mines experience additional layers of vulnerability, since they are expected to balance their role of primary caregiver with a full-time job. This was especially visible during COVID-19, with health and safety measures making it challenging for women to go home to their children and families.

‘Mining companies enforced a 14-on 14-off roster where workers were expected to work for 14 consecutive days and then rest for the next 14. Families were forced to be separated for a long time, and it is especially problematic for women workers as they are the primary caregiver of their children, since the husbands are usually working in the pastures.’

– FGD with local government representatives

Deterioration in community's health

As a result of mining operations, interviewees reported various physical and mental health issues. Most common was the short and long-term impact on their lungs and breathing.

'There is no one left with healthy lungs in our community. We have allergies, asthma, burning throat, and no medicines have been able to help us.'

– Interview with female herder

Others also reported weakened immune systems as a result of prolonged exposure to dust and chemicals, making them more susceptible to illnesses.

'I suffer from a blocked nose, so I cannot sleep well at night, and feel vulnerable as I get the flu and cough easily.'

– Interview with male herder

However, since there are no regular preventive health check-ups organised by the mining companies, it is challenging for community members to address their problems in a timely manner. This makes it difficult for them to prove that their health issues are caused by the mining operations. As a result, mining companies refuse to accept responsibility for their part in the community's deteriorating health.

Most people only visit the hospital when they are already experiencing symptoms of an illness, and are forced to bear the burden of treatment themselves. During the FGD with local government representatives, they mentioned that in 2021, a medical test was conducted on 30 people from one bag, and the results showed that 17 were impacted by heavy metals. However, despite the results, nothing was done about it.



Female herder in Dalanjargalan soum



Residents of Dalanjargalan soum attend a workshop on human rights and the HRD Protection Law

Some interviewees also reported increased skin infections and rashes from the pollution. A few highlighted the negative impact on young children.

‘My nine-year-old son has some allergies and throat problems. In the day, the dust doesn’t look bad because mining companies do all the transportation at night. When we wake up in the morning, there is a heavy cloud of dust.’

– Interview with female herder

Along with physical health problems, many of the female interviewees also reported prolonged mental health issues. This included feelings of stress and depression, brought on by not just having to relocate regularly to unfamiliar neighbourhoods in search of pasture land, but also constant worry about the survival of themselves and their families.

‘After the mines leave, we still have to stay. So, a few years of mining is threatening long generations of agricultural produce. How are we going to sustain?’

– Interview with female herder



However, interviewees expressed a sense of resignation since emotional damage is not covered by law.

‘There is no law covering emotional damage, so what can I do?’

– Interview with female herder

Sometimes, the mining companies try to pacify community members by organising medical drives, but interviewees reported that they only conducted a blood pressure check, made them sign an attendance sheet, and then left.

Health problems in livestock

At the centre of the community’s grievances is the negative impact of mining on their livestock. Without healthy animals, the herders lose their main source of sustenance and income.

As revealed during the interviews and FGDs, mining operations in the area have severely threatened the quality of livestock. Their organs, including skin, eyes, lungs, and liver have developed abnormalities.

Whenever the livestock travel in herds, it has become a frequent occurrence to see some walking slowly because they cannot keep up.

‘When walking, it is very common for some livestock to be left behind because they cannot keep up with other animals. They release white foam from their mouth because of toxic substances in their lungs.’

– Interview with female herder

The presence of a ‘blue liquid’ in the lungs was also noted by a male herder. Another interviewee mentioned a case of abnormal birth in livestock, where one was born with two heads. Holes drilled during mining operations are also often left uncovered, leading to an increased risk of livestock falling in and dying.

‘Before the mining operations began, there were no events of this type.’

– Interview with community member

In addition to the pollution impacting their organs, their weakness is exacerbated by a reduction in pasture land and water sources because of mining. This often leads to fatalities, impacting the herders’ access to food as well as income.

‘Animals do not get fat enough; some new-borns have mutated genetics. It eventually results in income loss for the herders. Also, the families raising racing horses are affected because horses have damaged lungs as they inhale smoke.’

– Interview with male herder

During the FGD with local government representatives, they mentioned how animals were developing smaller in size and weaker because of mining operations.

The consequences of migration

Mining in the area threatens to change the way the herder community has functioned for decades. Interviews pointed to an increase in the frequency of migration of herders to places with more pasture land, as well as permanent migration to cities like Ulaanbaatar, since their lives and livelihoods are currently at risk.

‘No generation is going to continue this livelihood. My children do not want to continue herding because they cannot live in this dust. They want to migrate to Ulaanbaatar.’

– Interview with female herder

The interviewees noted that continuous migration to greener pastures can also have a direct impact on the education levels of children in the community. As noted during the FGDs with local government representatives, only 75 per cent of children attend kindergarten. For the remaining 25 per cent, their parents have to migrate farther to gain more pasture land. Reduction in education levels can have a profound impact on the types of opportunities available to them in the future, resulting in difficulty rising above poverty.

As a result of decreasing pasture land, families migrating to different areas in search of land have started arguing over who has claim on the available land, leading to fracturing of otherwise strong familial bonds.

‘We are forced to relocate but there is not enough land for relocation. This leads to some fighting within families between siblings for the same available plot of land.’

– Interview with female herder



A nearly dried-up well in Dalanjargalan soum

ENVIRONMENTAL RIGHTS

Reduction in water sources

Another consequence of lesser pasture land is overgrazing, leading to increased surface run-off and evaporation of water. Interviewees reported a significant reduction in water available for their livestock and their own survival. As a result, herders have to travel greater distances ranging from 10 to 30 kilometres to find a potable water source.

‘Drinking water for humans was first one kilometre away, but now it is 30 kilometres away.’

– Interview with female herder

Travelling such distances on a regular basis—despite lower income and with livestock whose health is already diminished—proves to be an even greater challenge.

‘In order to find drinkable water, we now have to travel 10 to 12 kilometres, as this is a key resource also for livestock, so it is not sustainable.’

– Interview with female herder

The monopolisation of available water for mining-related activities only adds to the community’s grievances. In one instance, when they complained to the company about the dry wells as a result of mining, the company dug a new well for the community. However, the well they provided worked on an engine which used electricity and fuel, so the company started charging community members to use it. Therefore, instead of solving the problem, the company ended up profiting from the well, adding to the economic burden of the community.

Increase in dust and noise pollution

Since the start of mining operations, community members have been suffering the consequences of dust brought on not only by the mines but also from the trucks transporting materials to and from the mines.

A main reason for increased dust pollution is that trucks use unpaved roads to transport material. A representative of the local committee of residents said that he tried to tell the mining companies to only use paved roads for transporting material, but his efforts were pointless. After multiple attempts, one mining company replied saying it is not economically feasible to build paved roads considering the amount of fluorspar they are extracting from the site.



Truck transporting mining material in Dalanjargalan soum

‘According to the law, transportation of mining materials should be done in paved ways. But it is not always implemented. Heavy trucks cross unpaved ways causing dust and smoke.’

– FGD with local government representatives

Sometimes, mining companies water the roads to reduce dust particles in the air, but it does not provide longer-term relief to surrounding communities. One interviewee mentioned that she has not been able to sleep peacefully at night because of the dust and noise levels.

‘Since the mines started operating, the dust and smoke and noise has been bad. I live at the intersection of four main roads, so it’s impossible to sleep at night with the trucks passing.’

– Interview with older female herder

A few interviewees also complained about a foul odour emanating from the mining areas, especially when it is windy, making it unpleasant for community members to breathe. The smell is mostly from the sulphur used as part of the extraction process. Interviewees also reported blue clouds from the sulphur creating a layer of fog in the air. A few local government representatives attributed the high pollution levels to the use of outdated technology in the mines.

‘Before, urban people used to escape to the countryside for fresh air. But now, the countryside is also polluted. So where will people go?’

– Interview with female herder

CIVIL AND POLITICAL RIGHTS

Information gaps and lack of communication

During the FGD with local government representatives, they highlighted that decisions regarding licences and mining operations were not communicated to them in a transparent and timely manner. This goes against the provisions of the Minerals Law, which explicitly states that aimag and soum level governments must be actively involved in the decision-making process around the issuing of licences.

‘There is no consistent information on the licences issued between the central government and the local offices.’

– FGD with local government representatives

Additionally, there is little to no communication with community members on decisions directly affecting them, including on the issuance of licences and adoption or revision of laws. In some cases, they only get to know about new mining projects once the work commences.

‘I was just informed about a new cement mine about to come up. I feel like I am being threatened by the new cement mine. I was asked to relocate because the newly issued licence overlaps with the spring and winter locations for livestock grazing.’

– Interview with female herder

Throughout the interviews and FGDs, there was a resounding need for greater inclusion and participation of community members in discussions related to mining. Interviewees expressed interest in being included in surveys or evaluations on their experiences of living in mining-affected areas. Despite legislation around community engagement for environmental management plans and environmental impact assessments (EIAs), very rarely is that done. On the contrary, we were informed that some mining companies try to buy the communities’ approval close to the time of conducting EIAs.



Sport and cultural centre of Dalanjargalan soum



A herder's home in Dalanjargalan soum

'Just before the EIA date, mining companies come and give flour, vegetable oil, and other groceries. They don't ask any questions but just give the groceries. That's when I guess it's time for the EIA. I assume they are trying to buy my vote to extend the licence for the next few years.'

– Interview with older female herder

Unfortunately, the law has a blurry clause that EIAs should be 'discussed' at the local level, but there is no definition of what 'discussion' means in this context. Since it is not a voting system, there is no concrete method of taking the community's preference into account. Many expressed that the entire system works backwards, because mining companies are already given licences before any community involvement starts.

The only opportunity for the community to contribute is the EIA, but that is more of a checkbox exercise. Interviewees also expressed frustration on the lack of follow-through from points raised during meetings with the bag and soum governments. For months, the same points are raised repeatedly without any concrete plan of action. This contributes to the feeling of helplessness and dejection that communities feel. For some, when action is taken by the local government, the relief is only temporary.

'When I express my grievances to the bag governor, he reprimands the mining company, and the company stops their work for a few days and then starts again.'

– Interview with older female herder

This points to a larger issue around the limited power of soum and bag governments in influencing policies and practices. Very often, they are at the mercy of national laws and vested interests, with very little ability to push for change.



During the FGD with local government representatives, they not only showed a deep awareness of the issues plaguing their communities, but also a realistic understanding of their capacity to help them even if violations occur.

‘Most of the mining companies actually start extraction of resources during the exploration phase, but it is difficult for us to stop them.’

– FGD with local government representatives

Threats, intimidation, and pressure

Sometimes, the disconnect between the priorities of communities and the national government is so severe that when complaints are submitted to the national government, they respond by instead threatening those fighting against mining with legal charges.

Cases of pressure from mining companies were also noted. During the mining company’s local recruitment drive, an interviewee’s family requested to get a job at the company’s mine nearby. The company said they would only hire someone from her family on the condition of obedience and compliance.

‘They told us that if someone from my family is selected, then the family cannot go against the company.’

– Interview with female herder

Another interviewee witnessed three to four cases of forced relocation of families living in areas impacted by mining. All these examples allude to a larger issue where the well-being of herders is sacrificed in the name of economic wealth.

Soum II - Ulaanbadrakh

Ulaanbadrakh is located in the eastern part of Dornogovi. Currently, mining licences cover 8 per cent of the land. A distinct characteristic of the mines in this area is that some of them are uranium mines, adding the component of radioactivity to the side effects experienced by the surrounding communities. Additionally, the soum is located 60 kilometres from the China border on the south, making its location strategically significant for exporting minerals across the border.

Our research in this soum focused on Badrakh Energy's three uranium mines in Dornogovi, and their impact on the environment and the community. Badrakh Energy is jointly owned by the French company, AREVA Mongol LLC, which owns 66 per cent; and Mon-Atom LLC, on behalf of the Government of Mongolia, which owns 34 per cent.¹³⁴

ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

Incentivisation of mining

Ulaanbadrakh's geographical proximity to its key export partner China has made the soum a cash cow for the country's GDP. During our interview with the soum governor, he highlighted that the amount allocated for the local development fund of the soum is directly impacted by the number of mining companies operating and the royalties paid by them. This puts them in a catch-22 situation where even though they continue to suffer the negative consequences of mining, they are also dependent on the mines for community development projects like building roads, fixing street lights, digging new wells, and purchasing grass, etc.

'There is a specific formula used by the Ministry of Finance on how to calculate money distributed to each province for the local development fund. Compared to the other soums, Ulaanbadrakh receives more money because of the number of mining and exploration licences.'

– Interview with soum governor

¹³⁴ <http://www.badrakhenergy.com/EN/>

The community's dependence on mining gets even more complicated since it is one of the livelihoods that provides the highest salaries. This creates a dilemma for community members who are trying to make ends meet, dis-incentivising them from taking action against the mining companies.

'Mining pays more money compared to other professions, so I think this is also a reason we are not able to attract human resources to other jobs in the soum.'

– Interview with the soum governor

By hiring some locals, the community feels that the company tries to divide and conquer to create tension within the community. This adds to the already fracturing relationships, with many people fighting for the same piece of available land.

Problematic burden of proof and blame game

One of the most significant barriers to justice for communities was the inadmissibility of evidence gathered. During almost all the interviews and FGDs, interviewees voiced their frustration at being unable to prove direct cause and effect related to the impact of mining on their lives and livelihoods.

'We do not have the appropriate laboratory test confirming that the uranium is impacting human health too, but we believe it does.'

– Interview with herder family

This makes it difficult to hold the mining companies legally accountable for their actions. During one instance, a veterinarian was brought in by the soum governor to test the animals for any abnormalities. The results revealed that animals were being poisoned by radioactive material. However, instead of holding the company responsible, the vet who diagnosed the issue was fired two months later. In another instance, when Badrakh Energy was shown evidence of radioactive contamination in livestock, the company turned the tables and blamed the herders themselves.



Basketball court in Ulaanbadrakh soum

‘Badrakh Energy responded to the claims saying the negative impact is because we have mixed blood in our livestock arising from improper breeding. The company has been blaming us for the deaths of livestock.’

– Interview with female herder

The strategy to cover up any negative impact from mining does not only stop at the company level. Interviewees accused the government of colluding with mining companies by spreading false information and deflecting blame.

‘The Prime Minister said uranium is not poisonous. When it is in yellow form, you can even eat it with bread. Another government official tried to convince us that it is not poisonous. Instead, they blamed the x-rays and ultrasounds we have done in our lifetime for our problems. They told me not to be irrational and not to exaggerate.’

– Interview with female herder



Gate of Ulaanbadrakh soum

Another similar far-fetched story was narrated during an interview. A laboratory was hired to check the levels of radioactive substances in nearby wells which communities use for their livestock and their own consumption. The results revealed that there was more than the accepted amount of heavy metal in six wells. However, when the community presented this evidence to Badrakh Energy, their response was completely baffling.

‘When we told Badrakh Energy, they said we must have put urine and faeces of animals in the well to increase the levels of heavy metals. I argued back saying we have been using the same well for centuries, so how did this start only recently? We kept going back and forth, arguing non-stop, to no avail.’

– Interview with female herder

In many cases, the legitimacy and impartiality of the laboratory is used as a reason to dismiss any evidence against the mining company. This strategy successfully protects the mining company from any legal action, creating a fool proof plan to effectively block the community from any further action. As a solution, one of the bag governors suggested sending the samples to an independent laboratory in a third country, so that they can issue results without accusations of bias and favouritism on either side. Interviewees also stressed the importance of hiring lawyers who represent the community.

‘We do not have a designated person to advocate for our rights but the mining company does. There is a special committee for advocates in Mongolia but no one is brave enough to represent local communities because it will be perceived as going against the government which could impact their family.’

– Interview with female herder

When the FFM team spoke to representatives from the Provincial Veterinary Authority in Sainshand—which is in-charge of investigating and determining whether mining activities are impacting livestock health—they mentioned that there were no verified cases of livestock being impacted by mining activities. Instead, they turned the tables and pointed out that the herders' own negligence could be the cause of livestock fatalities, since there are only one to two herders for every 1,000 livestock. They also said that the available pasture land is not enough to sustain the increasing number of livestock, which could also be contributing to their poor health.

The mining company's stance can be perfectly summed up through this quote:

'We need to be rational. If there is a dead animal on the road, and a truck is found nearby, how can you prove that it was the truck that killed it?'

Financial losses from sick livestock

Similar to Dalanjargalan soum, herders continue to suffer from loss of income because of poor livestock health. This includes the birth of 'two headed, three legged and one-eyed infants,' premature deaths and the contamination of lungs, liver, and heart. One interviewee witnessed a goat born with eight legs while others were born without any hair, and regularly suffered from foaming mouths and diarrhoea. The severity of poisoning led to the death of all infant livestock born in the spring season in 2021. This has a significant economic impact on the herder community, as explained by one herder:

'If we lose one sheep, we lose 150,000 tugrik (44 USD). And if we lose one goat, we lose 100,000 tugrik (29 USD). Other provinces now discriminate against our meat. We cannot sell or eat our own products. How can we continue to live our lives?'



Entrance of Badrakh Energy in Ulaanbadrakh soum



Symbols used by families to mark their livestock in Ulaanbadrakh soum

When herders slaughter their animals, they see that organs are contaminated, including pus infections and abnormal texture in their lungs and liver.

They must throw away bad parts of the animals and collect the ones that are less contaminated either for sale or consumption.

‘Before the mining activities, there was an incidence of one to three out of 10 infected lungs of livestock, now the incidence is 10 out of 10. We have also witnessed early births and miscarriages in camels, whose gestation period is normally longer.’

– Interview with male herder

For some herders, they have to resort to lying about the origins of the meat because there is a stigma associated with meat from Ulaanbadrakh.

‘The mining operation also causes economic loss because when we sell the meat outside the soum, we have to lie about which province the meat comes from. Otherwise, buyers would ask for a reduced price or not buy it.’

– Interview with male herder

Many interviewees mentioned that they have raised this issue with Badrakh Energy countless times, both individually and with other affected families. They even brought the dead bodies of newborn livestock as well as their infected organs

with them. However, the company's standard response has been to ask them to prove that it is directly caused by mining, since they firmly believe that their operations cannot cause such impact. This is challenging for the community to prove, taking into account their awareness of the law, financial capacity, and access to independent laboratories.

'We are not professionals. We cannot generate evidence that meets all the legal requirements nor do we have the capacity or legal knowledge on this.'

– Interview with community member

In one instance, when samples of dead livestock were sent for analysis, the veterinary laboratory found that they were poisoned with radioactive elements. This, however, was not accepted as proof. When the FFM team spoke to representatives from Badrakh Energy, they echoed the same need for proof.

They said that local communities have never shown them photos of three-legged cows or other deformed animals. As for the photos of lungs and liver with green pus, they do not believe that it is from uranium poisoning. The representative claimed that Badrakh energy has a local sustainable development team who are on call to go to the community to take photos as proof, but they have never been called to do so.

'The local sustainable development team is open and transparent, and ready to cooperate and listen to complaints.'

– Interview with Badrakh Energy representative

However, herders claimed that the so-called local sustainable development team does not exist at all, stressing how they have never witnessed any activities of the said team.

In an effort to prove that the meat is not contaminated and to provide more income for herders, Badrakh Energy started buying meat from Ulaanbadrakh for their local office. However, they would purchase live animals and send them to a slaughterhouse in Ulaanbaatar, where the meat was checked by a veterinary laboratory before being sent back to the company for consumption.

Because of the long and thorough process of verifying meat quality, interviewees expressed scepticism whether the meat consumed by the company is actually from Ulaanbadrakh, or if this is merely another tactic employed by the company in order to claim that the animals in the area are actually healthy.

Increase in women's health issues

The health issues plaguing the community in Ulaanbadrakh are similar to the stories in Dalanjargalan. This includes allergies, breathing difficulties, asthma, hair loss, persistent cough, and an itchy throat. One interviewee's mother developed a cyst in her lungs, but the doctors were not able to figure out the cause.

The most significant impact was recorded among pregnant women. Multiple interviewees shared the story of four women residing in the same area who were pregnant at the same time, and all four had miscarriages. Instead of trying to investigate the reasons behind the incidents, the aimag government tried to hide it.

'At the province level, they hide these cases. TV8 came to the province to ask for an interview to investigate this, but the province medical centre said there are no such cases.'

– Interview with female herder

The FFM team also interviewed one of the men whose wife experienced a pregnancy loss. Their story was similar, where the hospital who analysed the case blamed the woman 'for not taking enough care of the baby.'

Another woman—who was five-months pregnant with twins—suddenly experienced pregnancy loss. Her 'womb water had turned green'. However, when they took the foetus out and sent samples to a medical laboratory in Ulaanbaatar, the doctor blamed the parents for it, accusing them of being blood relatives even though that was not true.

CASE STUDY - THE STORY OF GANA

Gana (name changed) is a mother of three. Her first two children were born in different provinces, away from any mining sites. They never experienced any health issues. Her third child was born in 2021 in Ulaanbadrakh. He was born with facial abnormalities, more specifically, a hole in his mouth. This disrupts the connection between his nose and mouth. Gana believes this is because of the impact of uranium. She raised this issue with local authorities and Badrakh Energy, but she did not receive a positive response. Her son had already been through two surgeries in South Korea, and by the time he reaches the age of 18, the total number of surgeries would be six to eight. She sent a petition to Badrakh Energy to sponsor 50 per cent of her child's operation.

After a long period of silence, the company eventually replied, saying that they could not cover the operation costs with just one claim but they would have been able to cover the cost if there were multiple requests from different people. Gana and her husband have been surviving because of their livestock for the past four years, but the income is not enough to sustain their family of five. To make things worse, they experienced a lot of loss and disease in their livestock during the spring season because of the mining operations, adding to their economic precarity.

Gana mentioned that her neighbour was also pregnant at the same time, but her baby was born with a lung issue, needing a tube to breathe. Unfortunately, the operation to strengthen the baby's lungs was unsuccessful and the baby eventually passed away.

ENVIRONMENTAL RIGHTS

Poisoning of water, air, and land

All interviewees mentioned the contamination of water sources as one of their chief complaints. The pollution of surface and underground water from the uranium mine has made it difficult for community members to find potable water for themselves and their livestock. Despite claims from Badrakh Energy that the process of generating the yellow powder during the mining process does not contaminate water, the testimonies collected reveal the contrary. One herder mentioned that they have a 40-litre well that they need to empty within two days because the water develops an odour if left stagnant longer than that. When the government sent experts to evaluate the water as part of the Prime Minister's working group, the report said that heavy metal levels were three times higher than the acceptable amount, highlighting that if humans and livestock continue to drink that water, it may lead to fatalities. However, no follow-up actions from the report were ever undertaken.

'We are already poisoned and we will be even more in the future. I cannot even imagine how bad it will get, with food and water contaminated.'

– Interview with older male herder

Desertification was also reported as an issue. Interviewees felt that while climate change might be contributing 40 per cent to the issue, the remaining 60 per cent was due to mining activities. They mentioned that certain plant species are now endangered, while strange new grass is growing. The latter cannot be eaten by animals. Interviewees expressed frustration over how Badrakh Energy justified their actions by claiming that they are growing such endangered plant species in the greenhouse inside their camp.

'I am afraid to imagine how the soum will be in the next ten years if they do not stop mining. Desertification has already started in the soum, and in ten years the habitat might no longer be suitable for livestock and humans.'

– Interview with male herder

However, when the FFM team spoke to representatives from Badrakh Energy, the story was vastly contradictory. They listed all the measures they are taking to ensure minimal impact, including paving roads, enforcing speed limits on trucks, taking regular samples of water and soil, disposing hazardous waste safely, replacing flora, and providing grass for livestock.

A herder of Ulaanbadrakh soum shows the different colour of water from a packaged bottle (left) and the well used by the community (right)



The FFM team was also informed of instances where licences were issued for exploration/extraction on land that is or should be under special protection status owing to its ecological value.

‘Three bags also have special protected areas but all allow foreign companies for mining. This shows the disconnect in the law.’

– Interview with female herder

CIVIL AND POLITICAL RIGHTS

Deception and manipulation by Badrakh Energy

According to the law, the EIA is supposed to be discussed at the community level prior to approval. However, the FFM team was informed of a case where Badrakh Energy deceived the community into approving the EIA without their knowledge. The company attended a bag meeting and distributed small gifts as prizes for the ‘best herder’. When it was time to talk about the EIA, the locals were asked to sign an attendance sheet and leave. Later, they were informed that Badrakh Energy’s request was approved by the ministry without consultations with the community.



A herder showing the FFM team a horse with birth defects allegedly caused by mining operations

‘The EIA was supposed to be signed off by the community. We later found out that the attendance sheet for one of our meetings with the mining company was actually signing off on the EIA.’

– Interview with community member

Another interviewee mentioned how Badrakh Energy is trying to circumvent the law by creating a new category of mining called ‘testing mining’. As mentioned by him:

‘The law on mining defines two activities: exploration and extraction. Badrakh Energy

came up with the so-called ‘testing mining,’ which is not defined or regulated by law, and they benefit from this vacuum. They are deemed to use leaching processes, and there is no Mongolian law regulating this either.’

Some interviewees also accused Badrakh Energy of allegedly selling the final uranium yellow powder and burying the waste irresponsibly.

Despite members of the community testifying to feeling pressured by Badrakh Energy, when the FFM team spoke to representatives of the company, they insisted that ‘the company has never put pressure on herders.’



‘In particular, the lack of support is at the provincial level, where the provincial level specialised inspection agency, the water and veterinary authorities, and the provincial government office never support our testimonies.’

– Interviews with male herder

On the contrary, there were instances of the local government trying to silence community members. One interviewee mentioned that the previous soum governor requested her to take down her Facebook post against Badrakh Energy, telling her ‘to be reasonable and to do it for the sake of the soum’s reputation.’

An 80-year-old herder mentioned that for many years, he has fought for his rights with other herders, and raised his voice against Badrakh Energy including with demonstrations, but no actions were taken in response. As a result of this, he suspects collusion between the government and company. This same sentiment was echoed by a female herder.

‘Despite demonstrations and evidence being brought to the media, there has been no support from any government. They always take the side of the company and not the community.’

This was also evidenced by the fact that when some residents staged a demonstration in front of Badrakh Energy’s site, instead of protecting the community, the local police arrived and defended the company and its equipment from potential damage. According to many interviewees, this happened because the current legislation prioritises protecting companies instead of communities.

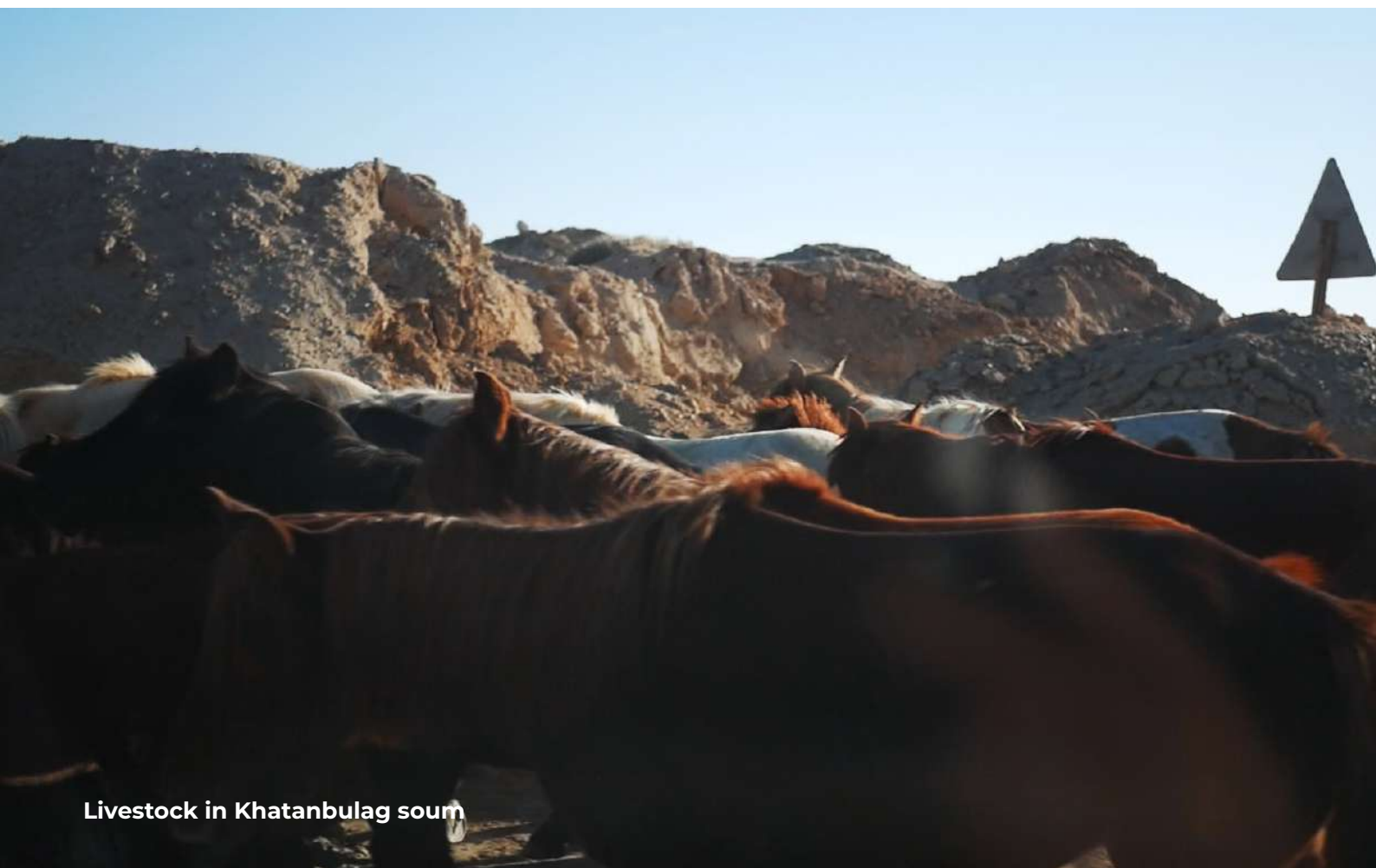
However, it is not only communities that face the consequences of lack of transparency. The soum governor told the FFM team that Badrakh Energy and Ulaanbadrakh soum signed an Engagement Agreement (EA). This document was supposed to be shared with the soum governor, but he has not yet been given a copy nor was he informed of the EA’s details.

Lack of transparency and support

Community members repeatedly expressed their frustration at the lack of support from the government, as well as continuous exclusion from any communication and discussions around mining activities in their communities. This is despite representatives from Badrakh Energy stressing that they ‘have an open relationship with the people in the community and explain all their activities and safety processes.’

The FFM team was also told about a time when the Prime Minister sent his team to conduct an evaluation of Badrakh Energy’s operations, but the evaluation report was shared only at the aimag level, with no follow-up action. When community members enquired about the report, they were told that the information was confidential, hence access was restricted.

Some community members pointed out how the provincial level authorities were against the community. They claimed that the authorities were blocking them from further action.



Livestock in Khatanbulag soum

Soum III - Khatanbulag

Khatanbulag is located in the southern part of Dornogovi aimag, and is the biggest soum in terms of area. As of December 2022, a significant amount of land—11.8 per cent is covered in mining licences. Similar to Ulaanbadrakh, its proximity to China makes it a significant contributor to the economy. As a result, the soum has a permanently functioning border facility for easier movement across the border. Interviewees reported that the transportation of material to and from mines is wreaking havoc on the lives of the surrounding communities.

ECONOMIC, SOCIAL, AND CULTURAL RIGHTS

Pressure on economic growth

Through interviews and FGDs with various stakeholders in the soum, the FFM team realised that the soum plays an important role in the state's vision for economic development.

This has resulted in a lot of pressure on the soum to generate increased revenues from mining. As mentioned by the soum governor, they were told to increase exports to support the economy:

'In 2021, the state planned to export 42 million tonnes of coal. This soum was able to contribute 1.6 million tonnes. In 2022, this soum was able to export 1.6 million tonnes by August itself. So, we have increased the goal to three million by next year. If we reach the goal of three million, it will be 10 per cent of the state annual plan.'

Community members expressed discontentment over the constant pressure to support the Mongolian economy at the expense of their livelihoods. The incessant construction of the planned paved road and railroad blocks their access to wells, making it challenging for them to get drinking water for themselves and their livestock.

‘The economy was built by herders but we have been threatened, and we do not know where we will go in the future.’

– FGD with herdsmen

The shrinking of the economy as a result of the COVID-19 pandemic only increased pressure on the soum to produce and export greater quantities of minerals. Local NGOs accused the government of leaving human rights behind under the guise of its COVID-19 economic recovery strategy.

‘The soum contributes a lot to the state budget but sees no benefits from it.’

– FGD with local NGOs

Problems in human and livestock health

The stories from herders in Khatanbulag echo those in Dalanjargalan and Khatanbulag. The two pharmacies in the soum have reportedly experienced an increase in the sale of pills for asthma, flu, and other lung problems since the start of road construction activities.

Interviewees also mentioned that their livestock do not have healthy lungs any more, as they are frequently suffering from discharge from their mouth and eyes. During an FGD with local NGOs, they highlighted that the animals do not have enough food since grass is covered in dust, leading to malnourishment and fatalities in livestock:

‘We eat the infected meat of livestock, so how can we be healthy?’

However, similar to other soums, legally proving that the health problems were caused by dust from transportation trucks was a difficult task. While some of the photo and video evidence was featured on news channels, it did not meet all the legal requirements to be admissible in court, making it hard to seek remedies for the injustices experienced by community members.

Meanwhile, a representative from the Iron Ore mining company Mon-Laa accused herders of having no real concern for their rights as they were only interested in extorting money from the company:

‘Herders stop their trucks and lie on the road, harass the company, and eventually ask for money. Their demonstrations are not held because they are worried about the environment, but they will stop only once they receive money.’

The representative went on to call herders ‘lazy,’ arguing that since they do not pay tax and receive compensation per head of livestock, herders ‘do not’ work hard’ and are increasingly reliant on social welfare schemes to support them.

ENVIRONMENTAL RIGHTS

Increased dust from transportation trucks

Residents of Khatanbulag expressed problems of reduction in pasture land as well as air and water pollution. Among the most prominent problems was the dust generated by trucks transporting materials to and from mines. The soum governor mentioned that the number of trucks passing through the soum every day is between 160 to 200. These trucks go through the coal mines surrounding Khatanbulag, travelling about 222 kilometres, passing through three bags of the soum. Since there are no properly paved roads, the trucks travel on dirt roads, hence generating even more dust.

‘Transporting coal has caused fine dust to spread to surrounding areas. There is so much dust that it is sometimes difficult to distinguish if the animal is a sheep or a goat.’

– FGD with bag governors

While construction of a paved road has been in the pipeline, the date for its completion remains unclear. Community members noted that the construction of the paved road would suddenly halt, with the company citing lack of funds. In order to increase funds to resume construction, the company claims that they need to transport more material on the unpaved roads, thereby creating more dust. This trick was used to justify the continuous use of unpaved roads for transportation. Often, when community members tried to stop the movement of trucks, they were pressured to step back with the threat of being

charged for the hours of work interrupted and losses incurred.

When the FFM team spoke to representatives from the now-defunct GASI, they were informed of a recent case they received from Khatanbulag soum, where residents complained about dust from the trucks. GASI representatives visited the soum and ‘forced the truck drivers to use existing roads and not make new ones.’ However, as mentioned by community members, the truck drivers kept changing, therefore making such measures superficial and temporary. In fact, one representative accused herders of generating increased levels of dust from their own cars.

The overall sentiment from the community was one of resentment towards the focus on economic growth.

‘The fact that there is no environmental expert at the soum level clearly indicates that the government’s priorities do not include the implementation of responsible mining.’

– FGD with local NGOs

Problematic EIAs

The bag governors stressed that mining and transportation companies are supposed to have public hearings prior to the EIAs being approved. However, in reality, they are known to start exploration and construction before such hearings. This makes the hearing purely symbolic, defeating the purpose of community participation.

When public hearings are conducted, many interviewees expressed frustration over the non-participatory way in which EIAs were approved. Mining companies in the area are notorious for simply convening ‘notification meetings’, where signatures of community members from the meetings are used as approval of the EIA.

Local NGOs also accused the companies of failing to rehabilitate the impacted land after completing operations. Many times, the NGOs take it upon themselves to champion the environment by leading activities to evaluate the impact of mining activities on the environment and holding the companies accountable.

Representatives of GASI told the FFM team that while their agency is meant to ensure compliance with EIAs and EMPs, they do not have the authority to overrule the approval of EIAs, since that can only be done by the Ministry of Environment.

This complex distribution of roles, responsibilities, and power within the system creates a lot of gaps that can be exploited by mining companies, often at the cost of human rights.

CIVIL AND POLITICAL RIGHTS

Flawed engagement agreements

During the interviews and FGDs, some interviewees mentioned that they had signed engagement agreements (EAs) with transportation companies as a way to get compensation for the violation of their rights. However, the process of choosing who benefits from the EAs was accused of lacking transparency and fairness. Although several households were impacted by the trucks, only a select few were given the opportunity to sign EAs with the companies.

Additionally, the EAs were prepared unilaterally by the companies, and community members were not allowed to give feedback on the clauses mentioned. They expressed some discontentment over being forced to accept the EAs and even accused the companies of not being entirely truthful about the terms and conditions mentioned in the EAs:

‘Initially, we were supposed to receive one million tugrik (288 USD) per month. However, we finally received 575,000 tugrik (168 USD) after tax deduction and state health insurance, since it is listed as a salary.’

Framing the compensation as salaries basically makes those who have signed the EAs employees of the company, creating a system of forced dependency on the very entities which are violating their rights. Additionally, according to Mongolian Law, herders can retire after 15 years and subsequently receive a pension. However, if they start getting a salary, it delays their retirement and pension, de-listing them as ‘herders.’ In the case of the EAs, because the money they are receiving is worded as a salary, they are no longer recognised as herders. This not only delays their retirement and pension, but also lends a significant blow to their sense of identity.

Increased tensions were also reported between community members who were beneficiaries of the EAs and those who were not chosen, and between community members and bag governors. This is because the bag governors were responsible for submitting the recommended list



Mon Laa mining site in Khatanbulag soum

of households for the EAs. However, the company had de-listed some households chosen by the bag governors, reducing the number of beneficiaries. Therefore, the households not chosen assume that the chosen households leveraged their friendships with the bag governors to move up the list.

A few interviewees mentioned that the EAs have a clause that prevents them from protesting against the companies. Hence, the EAs have effectively become a mechanism for silencing critical voices within the community.

‘Once we sign the EAs, we are not allowed to speak against the road construction.’

– FGD with herders

During an interview with a representative from Mon-Laa, the FFM team was informed that EAs are signed not just with individuals in the community but also with the soum itself. He stated that the company provided 100 million tugrik (28,000 USD) to the soum for its development. The decision of how the money is spent is left to the soum and bag governments based on their priorities. Additionally, he informed us that Mon-Laa has also contributed 285 million tugrik (82,000 USD) to build a network station for a mobile service provider, and is currently working with another service provider to build a similar network station.

Therefore, the EAs create a level of dependency on the company for the soum's development, making it difficult for the soum government to take a hard stance against human rights violations being perpetrated by the companies.

Lack of decision-making power at the soum level

During the FFM team's meeting with local NGOs, they highlighted that the soum and bag level authorities have little to no power to make changes. The FGD with bag governors confirmed this statement.

They mentioned that the soum governor does everything in their power to resolve issues, but it usually gets stuck at the aimag or ministry level, with minimal response despite their repeated attempts.

Community members also mentioned that the soum government is expected to blindly follow the decisions of the aimag government, without the ability to act independently. In one instance, it was reported that despite there being a resolution banning transportation of material on unpaved roads, the practice continued. Community members alleged collusion between transportation companies and the aimag level government, citing pressure to increase the soum's economic contribution. As a result, the soum government was forced to allow trucks to continue going back and forth.

‘Money and power have control over everything. Who else should we contact? Those in-charge at the provincial level are also owners of the companies, so nothing can be done at the bag and soum level to help the communities.’

– FGD with herdsmen

The approvals process for licences was also called into question. Bag governors told the FFM team that when there are requests for exploration licences, those requests come to the soum level first. In theory, the soum government is supposed to choose which licences to approve and send to the aimag level for further action. However, it was mentioned that in practice, the number of approved licences would automatically go up after the aimag government’s perusal, without consent from the soum government. As a result of such underhanded practices, the bag governors said they see their role as more of a ‘voice passing duty without much power.’

Situation of human rights defenders

Across the three soums visited, the FFM team met with several herders, villagers, and community representatives who illustrated the situation of those who engaged with mining companies and other involved stakeholders in order to gather individual and collective grievances related to mining operations.

Several of the individuals interviewed fitted the criteria of community-based human rights defenders (HRDs), in consideration of their actions to demand respect for the environment and community’s rights while also challenging the detrimental practices of mining companies. Nearly half of the interviewed HRDs were women. The findings resulting from the three soums were uniform and consistent when it came to key issues pertaining to HRDs.

‘It is almost like a genocide in my land. I am just one person trying to protect my home.’

– Interview with HRD

WORK OF HRDs IN THE SOUMS

The FFM team learned about the diverse and in some cases long-term activities carried out by HRDs on the ground. A WHRD in Ulaanbadrakh soum said that she joined peaceful on-site gatherings to halt mining operations such as drilling. As a result, she was targeted by authorities. Another HRD from the same soum drafted a petition, which was signed by 1,500 residents and sent to the Mongolian Prime Minister and the head of the Parliament. The petition requested to stop the mining operations and to revoke the licence of Badrakh Energy, which allegedly affected livestock and contaminated the water with radioactive elements.

‘The Government of Mongolia is not supportive of community issues.’

– Interview with HRD

Other interviewed defenders in Ulaanbadrakh soum said they tried multiple times to engage with the same mining company, with no positive results. They then held or took part in demonstrations together with other impacted herders. Some of which were held in front of Badrakh Energy’s mining site. A WHRD living in the same soum shared their stories on social media and with the local media because, as noted by another defender, their voice was ‘never heard beyond the soum.’

‘I engaged countless times with Badrakh Energy, but never had a positive outcome.’

– Interview with HRD

Local NGOs—that have regularly provided assistance to HRDs at the soum level—played a pivotal role in bringing forward the cause of HRDs. A WHRD in Ulaanbadrakh soum said that two NGOs have supported the community in their claim against mining companies by covering the accommodation, meals, and transportation costs for community members visiting Ulaanbaatar to stage demonstrations. In the past, the same NGOs assisted community members to facilitate a press conference with a national TV channel. Another WHRD from the same soum said that she received support from two local NGOs. An interviewed herder from Dalanjargan soum said that they learnt about the HRD Protection Law thanks to the visit of a national NGO that introduced it to local residents.



A community member from Ulaanbadrakh soum

'I engaged with the media and raised my voice on social media, as now each household has access to information. I asked the community to take action together rather than one by one, and to have a stronger voice.'

– Interview with WHRD

A resident of Ulaanbadrakh, who in 2015 founded the NGO 'The power of unity - for the Motherland', conducted extensive research on the impact of uranium mining, surveying as many as 53,000 people and 900,000 livestock in four soums of Dornogovi aimag, covering around 160 km radius around the mine site. Other NGOs—including two based in Khatanbulag soum—interviewed by the FFM team worked on the protection of the environment and the conservation of local ecosystems. Similar to the interviewed HRDs, NGO staff shared that they were ignored by the central and province-level governments, and that their engagement was not fruitful. Due to their monitoring and assessment of the impacts of an ore mining company, one of the NGOs managed to temporarily halt some of the mining operations. However, it only lasted for some days.

'With the former aimag governor, we used to raise specific issues and mention laws and clauses, so he did not take any legal action. He used to run away and avoid confrontation.'

– Interview with NGO staff

STATUS OF DEFENDERS AND THE HRD PROTECTION LAW

A common aspect that emerged from the interviews and FGDs was the lack of self-perception as HRDs. Herders and villagers from the three soums, including women, hardly identified themselves as human rights defenders. This is due to a very limited awareness of HRDs and their role. A WHRD in Ulaanbadrakh soum stated that HRDs 'only like to defend themselves or politicians,' and that when a human rights issue occurred, HRDs never show up. Even though such misconception may seem like a paradox, it reflects a common scenario in the region.

Defenders based in rural or remote areas—mostly environmental and community-based HRDs just like in this case—have lower visibility and reduced access to institutions and mechanisms that are supposed to provide them assistance and protection.¹³⁵ The challenges stemming from

¹³⁵ <https://www.forum-asia.org/uploads/wp/2021/06/>

more remote geographical locations are at times coupled with social isolation, which exacerbates HRDs' feeling of distance from the institutions.¹³⁶ In this regard, ongoing efforts by local NGOs and human rights advocates in reaching out to herders and communities as well as in disseminating the contents of the law are essential. Such efforts could help defenders gain greater awareness of their status as HRDs. It will also help them become more proactive in seeking the support they need.

'We have been demonstrating for the past ten years and with different stakeholders, including organisations. But our voice was never heard beyond the soum.'

–Interview with HRD

Within this context, defenders from the three soums had little to no knowledge about the HRD Protection Law. Majority of interviewees shared that they never heard about the law. Meanwhile, two defenders from Ulaanbadrakh soum considered the law to be a mere show-off effort, calling it 'a waste of law'.

Nevertheless, soum government representatives in Dalanjargan had basic knowledge of who HRDs are and what they do. They said that trainings on the HRD Protection Law would be useful in gaining a better understanding of the law and its venues of implementation at the community level.

'We need skills to understand the text of the law and then use it, and to learn more about the rights and opportunities of HRDs and local communities in relation to the law.'

– FGD with local government representatives

The Khatanbulag soum governor showed similar interest in the training, while the staff of a local NGO in the same soum expressed their willingness to learn more about the law content. As mentioned above, a resident of Dalanjargan soum—who heard about the HRD Protection Law from a national NGO—shared that they would take part in a training on the law to learn more about his rights as an individual and how to protect them.

[Defending-in-Numbers-A-Message-of-Strength-from-the-Ground-for-web.pdf](#), p. 51-52

¹³⁶ Ibid.

'We will study it [the HRD Protection Law] and see how it can protect us. We will need training on it. The more we can receive, the better it will be.' – Interview with local NGO staff

Another element that emerged from interviews and FGDs was the feeling of 'giving up' as expressed by HRDs when talking about the present and the challenges they endured after pushing their causes for years without seeing any positive results or improvements. All the interviewed defenders from Ulaanbadrakh soum admitted losing hope after years of struggle. They stressed how their voices and grievances remained unheard. In some cases, defenders said they have stopped advocating for their communities and livelihoods as they considered it a waste of energy and time. These accounts reflect the defenders' frustrations and low levels of trust towards available support mechanisms. At the same time, these accounts emphasise the need for an actual implementation of the HRD Protection Law on the ground.

'I conducted demonstrations and made requests to different government levels and the mining companies, and did it all with no external financial support.'

– Interview with HRD

'We have tried by all means, including petitions and phone calls. And now, we have reached the point of being tired.'

– Interview with HRD

HARASSMENT AGAINST HRDs

'We never intimidated or pressured local community members. We cannot pressurise them. The local communities come on a volunteer basis, there is no pressure at all.'

– Interview with mining company unit director

It was not rare for the interviewed defenders to have met harassment as retaliation for their activities. HRDs and NGO staff faced a range of violations that, according to the interviews, came from both state actors and mining companies. A WHRD from Ulaanbadrakh soum said the police tried to take her away when she joined a protest to ask a mining company operating in the area to stop drilling. Other villagers surrounded the WHRD to impede the police from arresting her. The police only left the spot late at night. According to the WHRD, the police were called by the mining company. Her account was confirmed by another WHRD.

‘Three police trucks came and were going to take me away. They had my name already and knew they had to arrest me.’

– Interview with WHRD

In the same soum, an HRD was the target of judicial harassment after being repeatedly sued by the company since he requested the halt of operations and the revocation of its mining licence.

‘I sent a resolution to ask for the halt of operations of Badrakh Energy, or the revocation of its mining licence. And I got sued in response. I have this constant pressure from the legal system.’

– Interview with HRD

NGO staff have equally experienced violations as result of their work. The head of an NGO from Ulaanbadrakh soum was called for an interrogation by the police, after a complaint was filed by a government official because they thought he was being funded by some international organisation. His accounts also got audited. He suspected that his phone was tapped. The personnel of an NGO based in Khatanbulag soum said they occasionally faced threats.

‘I cannot say that during the demonstrations everything went smooth nor that there was much pressure on the activists. We had to go through some threats from time to time.’

– Interview with NGO staff

The harassment that HRDs have to endure for their legitimate activities took a toll on their well-being and morale. There was a feeling of hopelessness that has driven some defenders to stop their activism.

Meanwhile, some defenders experienced poor health. Some interviewees shared about the stress and depression they endured with symptoms ranging from skin irritation to hair loss, to name a few.

‘I have been silent for one year because of high blood pressure, kidney failure, skin allergy, and rashes all over my body [...] I have physical, emotional, and mental stress.’

– Interview with WHRD



A community member from Dalanjargalan soum

CASE STUDY - HARASSMENT OF ALTAN

Altan (name changed), a defender from a soum in Dornogovi aimag, shared the details of his ongoing harassment. He requested not to reveal his name because he does not want to be 'in the spotlight,' since he is facing a pending judicial case, hence might be further targeted.

In October 2017, a mining company dug a hole in a pasture land in the soum. Altan reached the spot together with other herders and protested against the digging of the hole, which the company claimed was for research purposes. They managed to take down the drilling machine.

Two weeks later, however, Altan was called by the police following a complaint letter filed by the mining company. The letter accused Altan of putting rocks in the hole to block it. The letter claimed that Altan caused damages to the company and asked for 10 million tugrik as compensation (nearly 2,900 USD).

Altan was then able to demonstrate that the hole

was dangerous for his livestock, who could have stepped on it. As a result, the complaint was taken down.

Nevertheless, at the time of the interview, Altan was facing another court case where he was accused by a soum resident of stealing 15 camels. Altan was repeatedly called by the soum-level police for interrogation, causing a considerable loss of time and money needed for fuel. Altan was convinced that the mining company was behind this fabricated case.

Altan believed that his phone was being tapped because he noticed a different wavelength when making or receiving calls, especially when he went to Ulaanbaatar to serve as a witness for another court case. When he was there, he was also followed by a masked man who took the same bus where he was and went to the same café. Altan's Facebook profile functions were also restricted; hence he could not communicate with others.

Altan said that the harassment caused him much stress and depression.



A community member from Ulaanbadrakh soum

ROLE OF THE NHRCM

The NHRCM was established in 2000, with the adoption of the Law of the National Human Rights Commission of Mongolia. In 2020, the law was revised by adding new provisions, including the composition, and functioning of the Commission.¹³⁷

Lastly, as illustrated above, the HRD Protection Law assigned new functions to the NHRCM, particularly with the creation of the Committee of Human Rights Defenders.

¹³⁷ For example, the number of commissioners was increased from three to six, appointed for a single six-year term: <https://en.nhrcm.gov.mn/news/national-human-rights-commission-of-mongolia/>

The NHRCM is internationally recognised. According to the peer-review-based accreditation process, led by the Sub-Committee on Accreditation of the Global Alliance of National Human Rights Institutions (GANHRI), the NHRCM is granted the 'A' status.¹³⁸ This means that the Commission is considered to embed, among others, the independence, pluralism, and accountability required by the Principles Relating to the Status of National Human Rights Institutions ("Paris Principles").¹³⁹ Aside from being a member of GANHRI, at the regional level the NHRCM is a full member institution of the Asia Pacific Forum of National Human Rights Institutions.

In fulfilling its mandate to monitor the implementation of the normative provisions on human rights, the NHRCM is assigned multiple functions. It includes, inter alia, drafting proposals and recommendations on issues related to human rights and assessing the compliance of national laws and other norms with the national and international provisions on human rights. The Commission is also tasked with promoting human rights education.¹⁴⁰

Citizens and organisations can lodge complaints to the NHRCM on human rights violations. The Commissioners are granted the power to conduct inquiries on their own initiative or based on the complaints received. They are also mandated with issuing demands and recommendations to those actors that are deemed to be responsible for human rights violations, who in turn are obliged to comply with the demands and recommendations.¹⁴¹

The NHRCM has a representative in each of the 21 aimags, who have a limited mandate and are bound to the instructions given by the NHRCM central office in the Capital. During the previous FFM conducted in 2019, FORUM-ASIA was informed that in the event that a provincial representative is made aware of a human rights violation, the NHRCM internal process requests for the violation to be reported to the head office, and that no initiative is to be taken autonomously at the provincial level.¹⁴² The FFM team was unable to meet with the NHRCM representative in Dornogovi aimag. Nevertheless, considering the human rights issues that the FFM team learned in just three out of 14 soums comprised in the aimag, one can easily imagine the challenges individuals need to overcome in order to effectively fulfil the mandate.

¹³⁸ <https://ganhri.org/membership/>

¹³⁹ <https://ganhri.org/paris-principles/>

¹⁴⁰ <https://legalinfo.mn/mn/edt/16231319734381>

¹⁴¹ Ibid.

¹⁴² <https://forum-asia.org/wp-content/uploads/2019/10/2019-Mongolia-FFM-Report-Final-02122020-Compressed.pdf> p.44





A community member from Ulaanbadrakh soum

In most interviews and FGDs held by the FFM team, defenders said they were unfamiliar with the role of the NHRCM. When asked if they had ever engaged with the Commission, some defenders replied that they did not even know about its existence. A WHRD living in Ulaanbadrakh soum said that in her opinion, the Commission is ‘a symbolic organisation’ and that it ‘only exists on paper’. Only two defenders from the same soum knew about the NHRCM, but they doubted whether the Commission was aware of the key human rights issues faced by communities. In a similar fashion, women living in Khatanbulag soum said they never heard about the NHRCM and never engaged with the institution. Conversely, the staff from NGOs based in the same soum said they were keen to cooperate with the NHRCM.

‘We are willing to send petitions to whoever can help them, including the NHRCM, the UN. I heard that they receive complaints from individuals. I hope that these institutions can hear about our suffering.’

– Interview with NGO staff

The FFM team interviewed a WHRD based in the Ulaanbaatar, who mentioned some factors that she thought are preventing the NHRCM from adequately addressing human rights issues and supporting the communities. First, the WHRD pointed out the lack of funds the NHRCM needed in carrying out its work.

In this regard, it is worth highlighting that the NHRCM is funded under the State budget, based on the annual budget proposal that it submits to the parliament.¹⁴³ The WHRD wished that the NHRCM could get funding from different sources (such as external donors), which could contribute to improving the effectiveness of its work.

‘They [the NHRCM] do not have the necessary resources to protect HRDs from violations.’

– Interview with WHRD

A second issue raised by the WHRD was the narrow interpretation of the NHRCM’s own mandate. She stated the example of an NHRCM Commissioner who did not take up the request to issue a statement on the case of an HRD who was facing harassment because they ‘do not have such

¹⁴³ <https://legalinfo.mn/mn/edt/16231319734381>



When the FGD took place in October 2022, four out of six members were appointed, and the two remaining representatives from civil society were nominated in March 2023.

‘In 2023, we will start the promotion of the HRD Law. The HRD Committee is about to be established.’

– FGD with the NHRCM Commissioner

Aside from the abovementioned investigation function, the HRD Committee would also conduct meetings with actors like local communities, trade unions, and NGOs to learn about the human rights violations faced by civil society. According to the Commissioner, the aim of these consultations would be to draft guidelines on the protection of HRDs. Likewise, the NHRCM was planning to distribute a survey among HRDs based in Dornogovi aimag in order to hear about their situation. The Commissioner shared that she was aware of the harassment faced by defenders and that they planned to conduct trainings with individuals such as lawyers who are interested in promoting the law but are afraid of the consequences.

‘I have witnessed a lot of made-up cases against those who raised their voices.’

– FGD with the NHRCM Commissioner

Another key goal of the HRD Committee would be the promotion of the HRD Protection Law, with activities ranging from training to campaigning. For both activities, the Commissioner said that support—including financial ones—might be needed. The trainings would target government and legal entities as well as professionals like police and prosecutors, with the aim of increasing awareness on HRDs and their rights.

The campaign would disseminate the law’s contents and its avenues for implementation among citizens, NGOs, and defenders themselves. The scarce knowledge of the law (and of the role of the NHRCM) that the FFM team encountered in the three soums strongly indicates the need for such activities to have the widest reach possible.

The Commissioner added that NHRCM has no direct cooperation with mining companies, but its advocacy work is intended to address the human rights issues involved in their operations.

a mandate.’ The WHRD also expressed her doubts regarding the NHRCM’s ability to act in relation to the complaints lodged by citizens.

‘The NHRCM website has a function that supposedly allows visitors to submit a grievance. There is a box to write in, but nothing happens after that and there is no follow-up.’

– Interview with WHRD

These considerations are particularly relevant when considering the role of the NHRCM under the HRD Protection Law, such as the conducting of investigations based on complaints from defenders whose rights are violated.

During a multi-stakeholder meeting organised in Ulaanbaatar, the FFM team met and heard the perspective of the NHRCM Commissioner in charge of HRD-related matters, who shared updates on the progress of the NHRCM in connection to the HRD Protection Law and its upcoming activities. The Commissioner said that the election of the HRD Committee members was ongoing and that they expected to begin to work in 2023.



Households in Ulaanbadrakh soum



Conclusion

Data collected by the FFM team sheds light on the grave and escalating human rights violations in all three research sites. Mining operations have not only jeopardised the community's health and livelihoods, but also their right to a clean, healthy, and sustainable environment. The findings demonstrate how mining companies use legal loopholes and unclear provisions in laws to work in their favour, which often have devastating consequences for the surrounding communities. In an effort to remedy the harm, while mining companies sign engagement agreements with community members, the process is often not participatory, is shrouded in secrecy and lacks transparency and fairness.

In the quest for economic growth, the government continues to choose profits over its people without any consideration for their short and long-term well-being. The fact that mining companies are able to get licences overlapping with special protected areas is testament to the government's apathy. Unclear division of roles and responsibilities between various levels of government only adds to the lack of transparency and accountability in decision-making processes, making it difficult for community members to seek remedies for the violation of their rights.

The testimonies collected also reveal repeated attempts to silence critical voices and human rights defenders using tactics of threats, intimidation, and violence. This not only goes against their fundamental freedoms, but could also lead to an environment where fear of reprisals effectively erodes democracy and civil society in the country. Considering that Mongolia has been a beacon of hope amongst its neighbours, this could set human rights back decades in the entire region.

Most importantly, at the heart of this issue, are the herders. The government's apathy and inaction towards this community is a blow to an entire population who—for so long—have found pride, purpose, and respect in their identities as herders. They are now at risk of slowly being erased from Mongolian society, without any consideration for the impact that such an erasure would have on the herders themselves as well as the country's unique pastoral way of life.



Livestock close to a mining site in Dalanjargalan soum



Recommendations

Recommendations to the national government

- Respect the Preamble of the Constitution of Mongolia, which guarantees human rights, freedom, and justice to all, and emphasises the importance of ‘inheriting and cherishing’ the history and culture of the country.
- Act in accordance with Article 6.2 of the amended 2019 Constitution of Mongolia which grants its citizens the right to a healthy and safe environment, entitling people to a majority of the benefits from the use of natural resources.
- Enforce compliance with Articles 38, 29 and 40 of the Minerals Law of Mongolia, which highlights the duties of mining companies on the protection of the environment as well as the duties of the local and relevant central government agencies to oversee the implementation of environmental protection and management plans by mining companies.
- Regularly involve communities in decisions that impact their health and livelihoods by using a truly participatory consultative process, adhering to Article 18.4 of the Environmental Impact Assessment Law 2012, which states that during the process of preparing the EIA report, the legal body that is undertaking the detailed impact assessment ‘shall organise a meeting and collect feedback from the local authority and community who will be affected by the project’.
- Provide sustainable funding to the NHRCM in line with Section B.2 of the Paris Principles, and develop a proactive working relationship with them to investigate claims of human rights violations by mining companies in a timely and transparent manner.
- Ensure that special protected areas remain free from mining and exploration permits, in line with Article 12.1 of the Law on Special Protected Areas 1994.

- Establish more detailed and well-rounded criteria for granting and renewing licences for exploration and extraction, with clear guidelines for respecting and protecting the community's right to a healthy, safe, and clean environment.
- Provide clear legal guidelines on the evidentiary requirements for communities to prove the direct impact of mining activities on their lives and livelihoods in the eyes of the law.
- Ensure that HRDs can operate in a safe and enabling environment and respect their rights to organise collectively to promote and protect their rights as well as those of the communities, in keeping with Articles 6 and 9 of the HRD Protection Law.

Recommendations to the aimag level government

- Systematically engage with communities to hear their concerns on the impact of mining on their lives and livelihoods.
- Support the soum and bag level governments to document and report violations of the rights of the community.
- Work with other stakeholders including the Provincial Veterinary Authority and the Ministry of Environment to ensure compliance with relevant laws and guidelines.
- Collaborate with local NGOs to provide capacity building to communities to increase their legal awareness and participation in policy-making processes.

Recommendations to the mining companies

- Fully comply with the UN Guiding Principles on Business and Human Rights, and all relevant national laws and regulations on mining, human rights, and environmental protection.
- Rehabilitate and restore the land once operations are completed, ensuring minimal long-term impact on the environment and surrounding communities, in keeping with Article 41 of the Law on Subsoil 1988.

- Enhance accountability with the soum and bag level governments as well as community members through regular, timely, and transparent communication, as mentioned in Article 42 of the Minerals Law of Mongolia.
- Develop a fair and transparent system for compensation for communities affected by mining.
- Ensure timely and full payment of all taxes owed to the government.

Recommendations to HRDs

- Increase familiarity with the Law on HRD Protection and its support mechanisms.
- Collaborate with local NGOs and CSOs as well as the NHRCM to amplify their concerns and increase accountability of the government and mining companies.
- Document to the best of their capacities the violations that they face and report them, including to the HRD Committee of the NHRCM.

Recommendations to the NHRCM

- Prioritise the completion of the operational procedures of the HRD Committee—including the risk assessment—so it will start to function at the earliest convenience.
- Take a leading role in the dissemination of the law on HRD Protection throughout the country, particularly at the local level, among HRDs, government officials, public servants, and other relevant stakeholders.
- Educate communities on their rights and entitlements through regular capacity building activities in order to empower them to take collective action.
- Increase the visibility and accessibility of the NHRCM for HRDs, including at the provincial level and on its website.
- Support communities when collecting legally admissible evidence on the impact of mining operations on their livelihoods and health.

- Ensure the sustainability of the NHRCM and its activities—including its finances—which is key to guarantee the NHRCM's independence in compliance with Section B.2 of the Paris Principles, and General Observation of GANHRI's Sub-Committee on Accreditation G.O.1.10 on Adequate Funding.

Recommendations to the media

- Regularly document and amplify the voices of struggles from communities using different media channels.
- Increase media coverage on the activities of the government and mining companies.
- Support NGOs and civil society organisations (CSOs) in developing counternarratives around the importance of mining by spotlighting their campaigns and advocacy actions.

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