

**From 'Common Property' to 'Open Access'.
Changing pastoral land tenure systems in western Mongolia**

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Introduction¹

The subject of this paper are the changes in property rights in pastoral land in western Mongolia in the post-socialist period. It draws on the new institutional economics viewing property rights as a specific kind of institutions, i.e. formal and informal rules which structure economic and social interaction (cf. North 1990; Eggertsson 1990). Institutions are thereby not seen as external factors but as a product of repeated interaction among rational actors who are driven by their respective utility function. Stability of rules is not based on general satisfaction but on the fact that adherence is cheaper than misbehaviour because of the probability of sanctions. Nevertheless, any institution is under constant pressure for change since it means a restriction of alternatives available and self-interested actors will have an incentive to change institutions in a way as to better serve their individual utility.

The main function of institutions is to establish expectations about the strategies other actors will choose. This is one reason why the violation of institutions reduces their benefits not only for the persons involved but for all others who come to know about the violation. The most essential aspect in the functioning of institutions, therefore, is their credibility which depends on the probability of sanctions in case of disregard. Any change in institutions involves the building up of new expectations with regard to the strategies of other actors, and thus introduces uncertainty to social interaction (cf. Knight 1992; Ensminger 1992). This is the reason why the change of institutions is often a rather slow process.

Property rights are a specific form of institutions which structure the access to and use of resources among different actors. This includes not only ownership and rules for permissible usage but also their implementation, i.e. the degree of regard and disregard as well as the probability of sanctioning the latter. Thus, for example, taxes, restrictions on sales, or the

¹ This paper is based on continued field research in one district in western Mongolia between 1991 and 1996.

danger of appropriation by other actors are all part of a specific property rights system. Property rights are considered a main variable of the economic development of a society, and clearly defined property rights are considered a prerequisite for an efficient allocation and for the sustainable use of resources because the danger of appropriation may either disrupt investment in production or cause an incentive for exhaustive usage.

Most economists believe in the superiority of private property rights, because it guarantees that resources ultimately end up with those actors who place highest worth in them, and because this enables costs and benefits of any transaction to be fully internalised, i.e. will be borne by the same actor. The creation or change of a property rights systems, however, is not for free and therefore only occurs when its expected benefits outweigh the costs for its establishment and enforcement. In a study on the pastoral Orma in Kenya Ensminger describes the increasing exclusivity of land rights as a consequence of the increasing worth of land with the expansion of the market for pastoral products on the one hand, and of the decreasing costs for the enforcement of exclusivity on the other hand, because of a better infrastructure and a state apparatus which is capable of enforcing property rights (Ensminger 1992). Any change of relative prices will ultimately lead to a change in the respective property rights system.

A very similar model to this classical property rights approach is the „economic defendability“-model by Dyson-Hudson & Smith concerning human territoriality. They claim that exclusive strategies for a piece of land or a specific resource is dependent on the cost-benefit-relation and will only arise, "*... when the costs of exclusive use and defense of an area are outweighed by the benefits gained from this pattern of resource utilization.*" (Dyson-Hudson & Smith 1978: 23). The expected utility, on the other hand, depends on the quantity and predictability of the resource.

In arid zones exclusive property rights often do not make sense because people are in need of large and partly overlapping territories in different seasons. Moreover the high variation in precipitation makes it necessary to have access to different territories. This may either take the form of a common property regime, defined as a specific group of actors who are entitled to the collective use of a specific set of resources, or as an open access regime in which case no individual can be excluded from its use. Especially the latter is supposed to endanger the sustainable use of resources because of high incentives on the side of the individual to use up resources for individual benefit (cf. Hardin 1968). This idea of the “tragedy of the commons” was often criticized for not differentiating between common property and open access, and for neglecting the meaning of informal institutions which govern the access and use patterns.

What is happening in many parts of post-socialist Mongolia can be described as a transition from a common property regime to one of open access. It will be argued that this can be explained by a shift in relative prices with decreasing terms of trade for pastoral products on the one hand, and a decline of infrastructure and the judicial system on the other, making the existing property rights system too costly to be maintained. The changes in land tenure, therefore, could be explained by a change of relative prices. It will, however, further be argued that there are at least three aspects which have to be added to a simple cost-benefit explanation of property rights, namely the aspects of power asymmetries, legitimacy, and the problem of collective action.

Seeing institutions as a product of individual action implies that they always reflect the power asymmetries which are inherent in a given society because rational actors do not strive for institutions maximising collective benefit but for those serving their own interests. Depending on their resource endowment (including social, political, or ideological resources) actors have different bargaining power to influence the process of institutional change. Therefore, a change of relative bargaining power should cause a change of the institution as well. The new institutions, however, are not necessarily more efficient than the old ones (cf. Knight 1992).

Legitimacy and credibility are main prerequisites for any property rights system. In many cases self-organised institutions may do better than those imposed by the state, as is known from the studies by Ostrom (1992). In another conference paper I have argued that this was exactly what happened when Mongolia's livestock was privatised. Introduced by the state, this was largely a regionalized process of negotiation within individual former socialist enterprises. As regards pasture land, no such collective solution has yet been achieved.

This is partly a problem of collective action which often may be a serious obstacle to the development of efficient institutions. Collective action theory refers to situations in which different actors would benefit from an agreement on co-operative strategies but lacking information on the behaviour of other actors will miss such an equilibrium. This is especially a problem in the case of low time horizons, i.e. when the probability of dealing with the same actors in the future is low. In such situations even established patterns of behaviour often suffer from frequent free riding. Low time horizons in a period of economic crises and the frequent relocation of people and herds are one reason for this failure. Thus, the current changes of pastoral land tenure may be better explained as a problem of collective action, rather than the result of the changes of relative prices, although both aspects have to be taken into account.

The Xovd-*sum* in western Mongolia

Mongolia is a peculiar case in the former socialist world. It never experienced such extremely disruptive transformation processes as in the Soviet Union or the People's Republic of China. There was neither a forced collectivisation, except for a brief attempt in the 1930s, and no forced sedentarisation either. Especially, in the countryside many pre-socialist patterns survived, e.g. concerning land use or social organisation. At the same time, living standards increased enormously and people felt very comfortable with the system.

In the early 1990s, Mongolia became famous for most rapidly introducing democratic political structures and a market oriented economy. The rural collectives were disbanded between 1991 and 1993 in spite of widespread reluctance in the countryside. This, however, resulted in a dramatic decline of living standards partly caused by the disruption of support by the former Soviet Union. The crises was especially severe in the urban centres while the rural areas experienced a retreat to subsistence production and local barter exchange mainly based on livestock rearing. This gave rise to a massive migration out of the small towns to the countryside.

The changes in Mongolia and its local impacts on the use of pasture land will be looked at in the following by focusing on one district in the western part of the country which is predominantly inhabited by Kazaks. The Kazaks constitute the biggest minority of Mongolia accounting to approximately 130,000 individuals or six percent of the population in 1989. They live mainly in the western provinces (*aymag*) where also the other minorities of the country, in their majority belonging to the west-Mongolian Oyrats, are concentrated. The Kazaks, apart from being the most numerous, are also the only minority which forms a regional majority in one province, Mongolia's westernmost *aymag* Bayan-Ölgiy. Their situation differs somewhat from other population groups because of their status as a minority, their relatively recent arrival in Mongolia between the 1860s and the 1940s, and the large-scale emigration to Kazakhstan in the early 1990s. Nevertheless, the disputes concerning pastoral land allocation described here may be considered as being typical for many areas in Mongolia. In political respects, it seems there has never been any serious oppression of the Kazaks in spite of their greater distinctiveness as Turkic-speaking Moslems contrasted with the Mongolian-speaking Buddhist minorities. On the contrary, they are the only minority with a relatively far-reaching cultural autonomy.

Outside of Bayan-Ölgiy-*aymag*, there is one district (*sum*) in the neighbouring Xovd-*aymag* which is also dominated by Kazaks. This *sum* was my primary research area and will be

presented in the following. The *Xovd-sum* is situated in the north-western part of the *aymag* and in close vicinity to the centre of the *aymag* both bearing the same name. In ecological terms, the *sum* can be regarded as typical for most of western Mongolia. The western parts belong to the Mongolian Altay and reach an altitude of 3.800 metres, whereas the eastern parts belong to the so-called Depression of the Great Lakes and consist of desert steppes with an altitude of 1,100 to 1,500 metres. The climate is dry, with annual precipitation being less than 150 mm for the plains and about 300 mm for the upper parts of the mountains. Precipitation is concentrated in the summers, so the winters are free of snow except for the mountains. Winters are cold, with average temperatures being within a range of -24 to -28 degrees and being characterised by inversions, which means they are lower in the plains than in the mountains. This has some important implications for the pastoral economy which will be discussed below. Since spring is cold and windy, plant growth does not start until late May or even June. In summer, average temperatures are within a range of 10-20 degrees. Therefore vegetation is rather sparse.

In socialist times the *sum* territorially corresponded to one collective (*negdel*) which was divided into brigades according to occupation as well as territory. After the dissolution of the *negdel* the brigades were renamed *bag*. The *Xovd-sum* consists of five *bag*, three made up of the former livestock herders of the *negdel*, one of agriculturalists, and one of the inhabitants of the *sum* centre. Borders between *bag* are not officially fixed but the product of negotiating within the *sum* (cf. map 1). As in all *sum* in Mongolia there is one central settlement where the administrative and infrastructural facilities are accommodated. Most of these services, including education and health care, suffered severely from the general economic crises and today operate only on a minimal basis. This applies even more to the small settlement points of the rural *bag* which have almost been abandoned.

The *sum*'s population is dominated by the Kazaks, who made up almost 95 percent of a total of 4,200 individuals in 1995. In addition, there is a small group of the west-Mongolian Ööld and a number of Uygur families living there, although the latter are usually regarded as part of the Kazak community. Like in other Kazak dominated areas within Mongolia, the population density of 1,5 per square km is higher than in Mongolian-dominated *sum* due to higher Kazak birth rates in the last decades.

The history of the district is characterised by frequent migration movements. The Kazaks started to come to the area in the 1930s, partly from Xinjiang and partly from Bayan-Ölgiy. Most of them were rather poor. Until that time the population mainly consisted of Mongolian herders and Uygur farmers, most of whom left the *sum* in the late 1950s, in connection with

collectivisation. In the early nineties, the *sum* was affected by new waves of migration. With the economic crisis in Mongolia many Kazaks decided to move to the newly independent Kazakhstan. Between 1990 and 1994, more than one third of all Kazaks left Mongolia and the same holds true for the Xovd-*sum*. As is generally the case, the out-migration was more pronounced among agriculturalists and the inhabitants of the *sum* centre (*bag* 4 and 5) while herders (*bag* 1 to 3) left only in small numbers (cf. table 1). One could say that among the Kazaks a migration to Kazakhstan replaced rural migration of impoverished Mongol city-dwellers.

In 1994, emigration stopped, and in the following years about 100 families returned to the Xovd-*sum*. In the meantime, however, Mongols from the *aymag* centre and other *sum* immigrated into the Xovd-*sum*. Most of them are Ööld who were born in Xovd-*sum* and have returned after retirement, or due to unemployment. They are trying to build up a new livelihood in the pastoral sector. Apart from 50 Mongol families officially registered as inhabitants of the *sum*, there are approximately another 100 households who settle in Xovd-*sum* all year round but who are formally registered with other administrative units like the *aymag* centre. Most of them settle in the third *bag* where also the local Mongols are concentrated. Due to their unstable movement patterns, However, their actual number may change from year to year (cf. Finke 1995).

Economic developments

The economy in the *sum* is based on livestock rearing with the same five species which are kept throughout Mongolia: sheep, goats, cattle (including yaks), horses, and camels. Farming is of secondary importance, although the *sum* comprises some of the major agricultural areas in the whole of western Mongolia. Other economic activities are of minor importance.

Traditionally, families used to tend herds of mixed species which would minimalise losses because of natural calamities or diseases, and provide them with a broader spectrum of livestock products. This changed with the establishment of the socialist system. Since the final collectivisation in the end-fifties, all herders in Mongolia have been members of particular *negdel*. These distributed the herds by species as well as by age and sex of the animals. Each herder had to deliver a fixed amount of youngborns and animal products to the *negdel* every year. In return he was paid a monthly salary according to the number of animals herded and the amount of products delivered, and was provided with foodstuff, clothing, and the like (cf. Goldstein & Beall 1994). In terms of property rights analysis this meant little

incentives for productivity and low risk for the individual herder whose lack of ownership was contrasted with secure purchase of animal products and reliable supply of other goods. Besides every herding family was allowed to keep up to 75 private animals.

In 1991 privatisation was started in spite of widespread disapproval among the rural population who were in fear of the higher risks of a private economy (cf. Goldstein & Beall 1994; Schmidt 1995). The chosen modus was one of free mass privatisation per voucher, as in some Eastern European countries as well. The total value of the country's assets was calculated and divided by the number of citizens. During a first phase 30 percent were to be distributed, while the rest would be left for allocation until the second phase which was to be carried through in 1992-1993.

Formally the *negdel* were collective enterprises with livestock and other assets being the property of its members, not of the state. Therefore, the actual mode of distribution was left to the devices of the individual *negdel* which were to re-organise themselves into stock-holding companies. As a consequence, privatisation differed within the country and was always the result of extensive bargaining between various interest groups (cf. Potkanski 1993; Müller 1995). In the *Xovd-sum*, as in other *sum* with a low per-capita number of livestock, 70 percent of the total herds were allocated during the first privatisation phase, because the recommended 30 percent would have left too many families with a number of animals insufficient to build up a herd of their own. The remaining 30 percent were then distributed during the second phase in the spring of 1993. Another feature of the distribution modus, which was similar to other *sum* with few livestock, was the exclusion of state-employees like teachers, physicians and those functionaries who had not been members of the *negdel*. Among *negdel* members their former occupation was not decisive. Therefore, herders, farmers, drivers, or functionaries were considered by the same ratio. The amount of livestock each family received was determined firstly by the number of years its members had been working for the *negdel*, and secondly by family size. The number of animals delivered during collectivisation was no major criterion for the apportioned number (cf. Finke 1998).

Privatisation resulted in a general decline of living standards which was mainly caused by the withdrawal of subsidies from the Soviet Union and by the collapse of the common socialist market. In contrast to urban unemployment, during the first years the rural population benefited from relatively high prices for agrarian products. As a consequence livestock numbers increased steadily since the early nineties. This was somewhat different with the *Xovd-sum* where herd sizes decreased due to the large emigration to Kazakstan but almost recovered in the following years because herders now try to build up their herds (cf. table 2).

The increase in livestock numbers, however, was not equally distributed. Rather it resulted in a stratification of wealth, although in the early years the herd sizes even of poor families increased because of the livestock obtained during privatisation. They were, however, not able to sustain this level because of a lack in experience or labour force.

Others were more successful and started to build up large herds as an insurance against the perceived higher risk of a private market economy. Further risk-avoiding strategies include the return to mixed-species herds and attempts to diversify one's economic activities by combining livestock rearing with the growing of vegetables and trade. Contrary to that, the changes in herd composition in favour of goats is more an adaptation to a market economy, since cashmere became the main source of income in the rural areas of Mongolia (cf. table 3). During the last years, pastoralists suffered increasingly from a steady decline of their terms of trade. Even more problematic is the lack of marketing structures attributed to the dissolution of the *negdel*. The end of the redistributive socialist system of compulsory delivery and supply resulted in high transaction costs for the individual herder, which caused a general retreat to subsistence production and local barter exchange. Not only is it the difficulty and uncertainty to find trading partners, but also the unreliability of prices, which are criticised.

Pastoral land tenure in socialist times

Pastoralism in Western Mongolia is still based on free-range grazing throughout the year and sedentarisation, so much propagated in socialist times, had no deep impact on the countryside. Herding families change their place of residence seasonally according to the nutritional needs of their herds, and use the yurt as a portable homestead. Even a major proportion of the agriculturalists as well as part of the inhabitants of the *sum* centre settle in yurts - at least seasonally - and change their place of residence over minor distances. A minority of Kazaks has permanent houses in their winter quarters, although this is less common in the Xovd-*sum* than in Bayan-Ölgiy. Winter and spring quarters are equipped with shelters which also serve for stocking hay and winter fodder.

Several families, in most cases patrilineal relatives, join together to form camps, called *awil* in Kazak. These may range from one single up to ten households, although more than five households are very rare among the Kazaks. The significance of these residential units and the degree of internal co-operation is by far superior to that of Mongolian camps, both within the Xovd-*sum* as well as compared to other parts of Mongolia (cf. Finke 1995; Potkanski 1993; Szykiewicz 1993).

The overall conditions for animal husbandry in the *Xovd-sum*, i.e. pasture quality and the availability of water, are considered medium as compared to other parts of the country (cf. Nyamdavaa 1995). As in most parts of western Mongolia, three basic patterns of migratory movement exist, depending on which species is predominant within the herd. The most widespread type is that of the former small stock herders of the *negdel*. They spend the winters in the lower parts of the mountains which give shelter and which are warmer than the plains due to inversions. In spring they move down to the slopes, while in summer they use the high mountain meadows. Autumn pastures are located in the lowlands (cf. figure 1). The second type is represented by the former large stock herders. During three seasons they settle in the plains and go up the mountains only during the summers. The third type is represented by the specialised yak herders who stay up in the mountains all year round. The number of camp sites and the distances involved vary according to the basic type as well as within one type. While some of the former large stock and yak herders move only two or three times per year, others move up to eight times regularly. The distances covered vary between a few kilometres in the case of many yak herders and 300 kilometres among some of the small stock herders. These basic patterns, of course, are only ideal types which in fact vary from year to year and with every single household for a multitude of ecological, social, and other reasons. They, nevertheless, pose some constraints on pasture allocation systems. In socialist times the territory of one *sum* was allotted to the corresponding *negdel* which distributed the pasture areas between its herding brigades to graze its animals. *Negdel* members, herders and agriculturalists as well as city-dwellers had the usufruct to graze their own animals as well without paying any rent (cf. Lungwitz & Harcke 1988: 224f.). It was again left to the individual *negdel* to organise internal distribution within its allocated territory and therefore migratory cycles as well as land tenure arrangements differed widely within Mongolia (cf. Bazargür 1996; Mearns 1993a, 1993b; Nyamdavaa 1995). In general, herders were supposed to restrict their seasonal movements to the territory of their respective *brigade*. Therefore, these territories were designed to include all seasonal pastures necessary for the yearly cycle. In the case of the *Xovd-sum*, this meant that herders had to have access to the mountain pastures of the Mongolian Altay as well as to the lowland desert steppes in the eastern part (cf. map 1). Thus the *sum* substituted former territorial units like the *xoshuu* (cf. Szykiewicz 1982; Müller & Bold 1996) or more informal ones like clan or lineage (cf. Khazanov 1984: 150; Casimir 1992).

Today's 330 *sum* in Mongolia are, however, in average smaller than the formerly 100 *xoshuu*. This created regional shortages of seasonal pastures making the crossing of *sum* borders a

necessity (cf. Mearns 1993a: 91f.; Müller 1995: 186; Schmidt 1995: 92ff.). The Xovd-*sum* is reasonably equipped with pastures for all seasons although there is a certain lack of spring and autumn pastures. In those seasons herders were allowed to settle in other *sum* territories according to the negotiations between the functionaries of the *negdel* involved. By reciprocity, herders from neighbouring *negdel* used the territory of the Xovd-*sum* in summer and winter.

Within the *sum* pasture allocation rules in socialist times functioned much like in pre-socialist times (cf. Bazargür 1996; Mearns 1993a: 79f., 92). The situation was somewhat different for the Xovd-*sum* because the recent arrival of the Kazaks made a re-arrangement of allocation rules easier than in other *sum*. The *negdel* designated grazing areas for every season. Within these areas, the choice of camp sites and pastures was generally free. Only the date of movement was fixed to a certain degree. Winter and spring quarters, which were equipped with shelters and, eventually, permanent buildings were considered as belonging to individual families or camps, and were often treated as inheritable property. But even in that case the surrounding pastures were accessible to any herder camping in a given area in a particular season. Individual pasture areas may not only overlap but also change on a daily basis.

The main restriction of this general freedom of pasture use was the invulnerability of pastures adjacent to winter and spring quarters in other seasons (when the occupant is away). The reason for this was that winter and spring pastures are often located in the immediate neighbourhood of summer and autumn camp sites and serve as intermediate stay on the passage to other seasonal pastures, when they are allowed to be occupied for a few days. Therefore, those pasture areas which are used during the most crucial period of the year are also most exposed to the danger of misuse.

Changes in pasture allocation in post-socialist time

In contrast to the privatisation of the herds, there has been no fundamental change in the allocation of pastures, the other crucial resource in pastoral economy. By law, all land in Mongolia is still state property, although it seems that the plans for the introduction of a lease on pasture land was finally put into practice (cf. the paper by Fernandez-Gimenez).

Three issues are of importance concerning changes in pastoral land management. These are the crossing of territorial-administrative borders, changes in the animal-land ratio, and the contestation of internal allocation rules as a consequence of a re-organisation of migratory cycles.

The necessity of border crossing has already been mentioned. Within the *Xovd-sum* the borders of *bag* are crossed quite regularly and most herders do not see any problems with that. One issue in this context is that the fourth and fifth *bag*, i.e. the farmers and the inhabitants of the *sum* centre, have no territory of their own, because the *negdel* had divided its pasture areas among the three herding brigades. This was no problem in the past when the former had only small herds which were tended by related herders. Now that they have obtained own livestock during privatisation, they are in need of a territory of their own. With the shifts of economic activities, however, affiliation to a specific *bag* is not very strict anymore and few people see this as serious problem. Most herders advocate free migrating within the *sum* for all its inhabitants.

The crossing of borders with neighbouring *sum* is also frequent in both directions, although this is a matter of some dispute. For example, almost half of the herders of the first *bag* regularly move to the *Buyant-sum* in autumn. Recently, the administration of the latter has threatened to impose heavy fines on those herders. Nevertheless, a lot of them crossed the border again in the following year. A similar situation exists at the border of the second *bag* to *Erdenebüren-sum*. In both cases this is based on reciprocity, with the *Xovd-sum* being used as summer pasture area by herders from *Buyant* and *Erdenebüren*. This is different for the inhabitants of the nearby *aymag*-centre, the city of *Xovd*, to which also most of the „new nomads“, the former city-dwellers who nomadise on territory of the *Xovd-sum*, may be reckoned. They have no territory of their own and so need to be accepted by *sum* authorities and herders without being able to offer reciprocal advantages.

Border crossing should be the result of agreements between the respective *sum* administrations. But today many herders are reluctant to ask for permission, and since there is little authority, abuses are seldom punished. This creates discontent on both sides. The uncontrolled and unpunished influx of other herders is an often lamented fact. The affected herders, on the other hand, insist on customary law since they have been used to cross these borders for years. The situation is even more complicated with the “new nomads” who are not backed by any territorially endowed administration. In many cases, they simply ignore appeals for territorial integrity by *sum* authorities.

The second issue concerns the danger of pasture degradation because of a rise in livestock numbers. In the *Xovd-sum* the emigration to Kazakhstan has given way to a temporary relaxation. In general, however, this is a serious problem as in all Kazak-dominated areas because of the high population density and a high animal-land-ratio. Moreover, the influx of former city-dwellers as well as the phenomenon of “*absentee ownership*” whereby rich

herders invest their savings into livestock which is herded by rural relatives, may contribute to an acceleration of this phenomenon. At the moment, however, this is of minor importance since most Mongols in the nearby *aymag* centre prefer their herds to be pastured in Mongolian dominated *sum*.

The extent of pasture degradation is hard to measure. There are degraded pastures next to *aymag* and *sum* centres, but in general it is claimed that the *sum* territory might sustain still more herders. It is rather the lack of water sources which is often claimed as the main problem. This may be seen in congruence with the findings of Behnke and Scoones (1993). According to them, in so-called „dis-equilibrium environments“, like the Xovd-*sum*, the amount of vegetation is less dependent on livestock density but on average precipitation.

There are, however, a couple of changes in pasture management because of the need to adapt individual migratory cycles to the demands of a private herding economy. This includes attempts to reduce frequency as well as distances of movement, in order to stay closer to urban centres for the access of infrastructural services and marketing facilities. One strategy is the reduction of movements, with two or three seasons being spent at the same site, in order to save transport costs which in the past had been covered by the *negdel*. This is especially common for poor herders, among them most of the „new nomads“. If the number of movements can not be reduced because of the seasonal requirements of different species, as is the case with most of the camps wintering in the mountains, herders try to look for new camp sites closer to each other without changing the basic type of cycle. Thus, many herders restrict summer moves to the lower parts of the mountains, which are nearer to the *sum* centre where their children attend school and where medical and other services are located.

Not all changes necessarily imply a reduction of movements. One reason for a re-arrangement is the need to stay seasonally close to the agricultural areas where many herders now grow potatoes and vegetables. Another reason is the need to re-organise migratory cycles because of the return to mixed-species herds. This is especially a problem for the former large-stock herders, among them most of the Mongol herders of the *sum*. Wintering in the plains is favourable for cattle and camels. It is also reasonable for horses and goats, but sheep suffer from the cold winds and low pasture quality in the plains. In order to find suitable pastures for small-stock, camps may split up for one or two seasons. Some families or individual shepherds move with sheep and eventually goats to the mountains, the others stay in the plains. This was not a big problem in socialist times when they had little private livestock. Since privatisation some of them own several hundred of sheep and goats, and their nutritional needs have to be taken into account as well.

These changes cause severe disputes concerning the allocation of pastures within the *sum* because they result in frequent abuse of winter and spring pastures. One reason is that for the former large stock herders, who now have to split their herds, the designated winter pastures in the mountains are very far from the lowland where the mother camp is situated. Thus, many of them move with their small-stock only to the mountain slopes. This generates protest on part of those herders who have their spring camps in this area. Many of the latter suffered severe livestock losses due to this out-of-season occupation in the last years. Another source of discontent is that many herders try to extend the permitted intermediate stay in the winter and spring areas of other herders in order to spare other grazing areas.

The first issue is particularly a problem because it leads to a confrontation of Kazak and Mongol herders. The point is that the plains where nearly all the Mongols spend winter and spring are of no interest in other seasons, and hence they do not benefit from the maintenance of the rule to defend them. At the same time they have no suitable winter pastures for their small-stock acquired during privatisation, and lack the opportunity of many Kazaks to give their small-stock to relatives wintering in the mountains.

The question here, again, is whether customary rules are still valid. This is denied by some Mongols, who claim that they had been imposed by a Kazak-dominated *negdel* and doubt any legal basis for prohibiting the use of winter and spring areas in other seasons. Of course, this denial is most emphasised by the newcomers among the Mongols, who do not have winter and spring sites worth being protected. Since most of them originate from the *Xovd-sum*, they demand free access to pastures while disregarding land rights of the Kazaks. In their view, the *sum*'s administration, which is made up exclusively of Kazaks, has no legitimacy to sanction them. One argument here is that the Kazaks are recent arrivals and furthermore lost all their right to make such claims due to their migration to Kazakhstan. However, disregard of this rule happens among the Kazaks as well.

The low degree of legitimacy of authorities, especially among the "new nomads", is a general problem for the enforcement of rules. This is in general seen as a matter of the *sum* and *bag* administrators and the lack of efficient protection of winter and spring quarters is indeed the main accusation against them. Informal institutions play a very little role in this context. In the autumn of 1996, the newly elected administration tried to put more effort into an effective enforcement of pasture regulations. Several camps were removed from spring pasture areas by force and punished with heavy fines. Since mainly Mongols were concerned, this gave rise to tensions between them and the *sum* administration although both sides denied that this had an ethnic character. At this point it is interesting to note, that the newly elected *sum*

administration primarily consists of rich and well-off men, either relatives of rich herders or officials with large herds of their own. Among the Kazaks, they have a stronger interest in enforcing property rights than poor herders who have little incentive to move frequently and to protect winter and spring sites. Nevertheless, the costs of enforcements of allocation rules seem to be prohibitively high especially since they are not backed by formal law. The opportunistic behaviour of many officials to favour relatives further undermines the legitimacy of the rules.

Conclusion

The scenario described so far could be interpreted as a transition from a common property regime to one of open access where no one can be denied access. From a property rights perspective, this could be explained by a change in the cost-benefit relation of land value versus territorial behaviour (cf. Furubotn & Pejovich 1974; Dyson-Hudson & Smith 1978; Casimir 1992). While the value of land has declined with the deterioration of terms of trades for agricultural products, the costs of enforcing the present property rights regime have increased. The result was less exclusivity in land rights. In connection with the rise in livestock numbers the situation may eventually end up in a „Tragedy of the Commons“; although everybody would benefit from a corporate solution, the individual cost-benefit calculation will inevitably lead to increasing degradation. From an individual viewpoint, there is no incentive for a sustainable use of pastures as long as it is not sure that others will do as well.

It is mainly the decay of formal institutions which has made the existing property rights system so costly. In the past, the *negdel* not only provided transport facilities, but also served as a relatively clear territorial unit organising pasture allocation and efficiently sanctioning misbehaviour. The omnipresence of the *negdel*, however, resulted in a loss of meaning of informal institutions. Their re-creation will take some time. The often mentioned neighbourhoods or *neg nutgiynxan* (Mearns 1993a; UNDP 1994: 82ff.) do not exist in the *Xovd-sum* although herders think of them as a good idea.² But since the location of one camp site does not indicate the position of others, neighbourhood is only seasonal and does not entail any obligations for mutual assistance.

But as stated in the introduction there are a couple of other issues to be regarded. One is the question of the relative bargaining power of different actors or interest groups. We may

² Other authors doubt their existence in Mongolia in general (cf. Schmidt 1995; Müller 1995).

contrast four groups of actors in this respect: rich and poorer Kazak herders, native Mongol herders, and the „new nomads”. Among the Kazaks the bargaining position of rich herders who form the majority of the *sum* administration is relatively superior to that of poorer herders. Their position is weakened, however, by a cleavage between the interests of rich Kazak and rich Mongolian herders. The bargaining power of the Mongols, on the other hand, is increasing due to their rising number and the greater meaning of nationality in the post-socialist state. Finally, the bargaining position of the new nomads is superior to all native groups because they possess few economic and social relations which could be used to sanction misbehaviour and therefore have little to lose by a disregard of local rules.

Ideology and legitimacy has some impacts on the maintenance or re-negotiation of property rights regimes as well. The sometimes aggressively advocated claim for “open access” by some of the new nomads does play a role, although one should not overestimate that. Both native groups, Kazaks and Mongols, are sceptical about this. Although some of the native Mongols also push forward a general freedom of movement, they hardly try to put this into practice. Here, maybe another ideological aspect may be relevant, namely that of peaceful social and inter-ethnic relations which stand against offending others too openly. Nevertheless, the contestation of the existing property rights regime results in a decrease of its legitimacy.

The main problem for a satisfying modus of pasture allocation, however, seems to be the lack of collective action. The low degree of mutual trust and an increasing disregard of rules lessen the incentive for all actors to follow a specific property rights scheme, because individual misbehaviour is seldom punished, while its costs in form of pasture degradation will be born by all. Therefore, free riding becomes a dominant strategy, and the situation resembles, as Mearns put it, that of "one-shot MPD (multi-person prisoners' dilemmas) games" (1993a: 100f.). Reasons are mainly the low time horizons because of the insecure future situation of all actors, and the little benefit to be expected from investing into social relations and one's reputation.

This is especially the case for the new nomads who do not know how long they will make a living as herders, and who often move between different *sum* within the year. Therefore, investing into the creation of networks and reputation may be perceived as too costly. The reason for such disregard may not be their lack of knowledge, as often claimed (cf. Swift 1994; Müller 1995; Mearns 1993a; Szykiewicz 1993), but may rather be interpreted as a rational strategy if a sanctioning of misbehaviour is not to be expected.

But also the option of emigrating to Kazakhstan may reduce the expected benefits of behaving in accordance with existing rules, since people do not know how long they will stay within a specific community. Thus, they will have less incentives to invest in social relations. If, however, rules are not followed by a significant proportion of actors, adherence does not pay anymore for the rest either. As mentioned above, the relatively high degree of legitimacy of the new property rights regime in livestock, which was the result of its regionalised execution, is lacking in the system of pasture allocation. The current system is not perceived as a self-organised institution, but as being superimposed by the former socialist organisation.

Up to now the dispute on pasture rights has not yet seriously challenged social and inter-ethnic relations. Considering the ethnic heterogeneity and the economic decline faced by most households, it might, however, be necessary to introduce neutral agents from outside the *sum* to encourage and conduct the search for new and effective informal arrangements (cf. Ostrom 1992). This has to entail an agreement on territorial borders and will thus inevitably question the influx of new nomads. At the moment, most of them possess only few animals and so their integration is not a serious problem, even more so since they predominantly settle among the native Mongols. The future development, therefore, will mainly depend on the recovery of other economic sectors. A further deterioration of urban living standards in Mongolia as well as an on-going re-migration from Kazakhstan are the main obstacles for a promising solution for pasture allocation rules in the *Xovd-sum*.

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MAP 1: Map of the XOVD - SUM

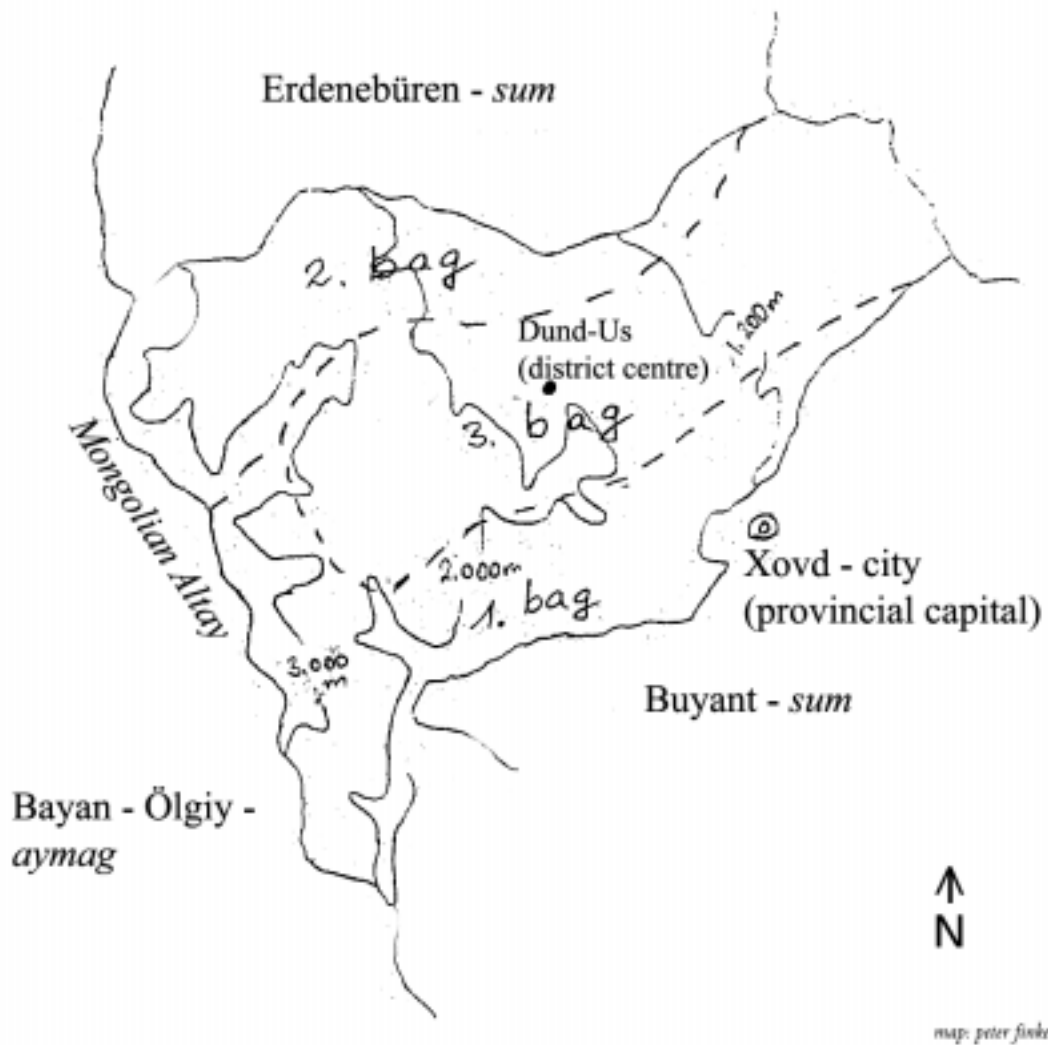
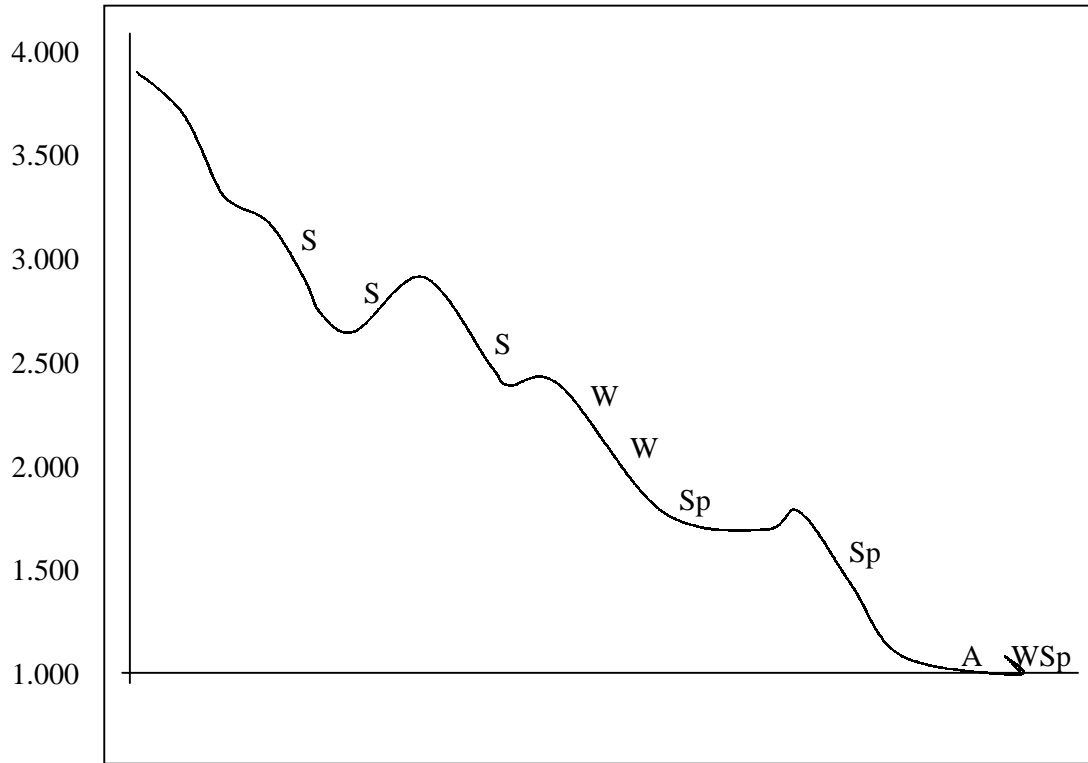


Figure 1. Yearly migratory cycle in the Xovd-sum

height (metres)



- W Winter camp sites of former small-stock herders
- Sp Spring camp sites of former small-stock herders
- S Summer camp sites
- A Autumn camp sites
- WSp Combined winter and spring camp sites of former large-stock herders