



ADVOCACY AND CONSULTATION FOR THE CO-MANAGEMENT OF PASTURE AND NATURAL RESOURCES

Policy Brief: Policy and legal base for pastureland allocations

Unofficial translation

1. INTRODUCTION

Pastureland ecosystems in the country are very fragile – dry and highly susceptible to degradation, and slow to recover from disasters. Some estimates show that more than 76% of the nation's pastureland is subject to overgrazing and desertification, and that this degree of degradation is also drastically increasing year-by-year. JASIL amongst other stakeholders have investigated what are the reasons for this kind of degradation? The situation in the country may thus be an example of the “tragedy of the commons” where land gets used without being managed to prevent further degradation. Other reasons may be an increase in herder families and animal numbers, or other global factors like climate change. While it may be difficult to point out a single factor, possible solutions to maintain and prevent further degradation of the common-use lands may be that Mongolian herders re-institute traditional methods of herding and grasslands management, or maybe even intensify agriculture.

If the reason for land degradation is the tragedy of commons, which may be the case as increasing numbers of animals graze on common lands without adequate management of the lands, international scholars suggest two methods of sustainable management of common resources to avoid the tragedy of commons, namely: (a) Improve ownership of common resources by the privatization of collective property; or (b) Private communal/community ownership of common pool resources. However, these theories have been criticized for not putting enough attention to the dynamic nature of (local) history and for embracing a “deductive model of individual decision-making and rational choice” which do not take into account the different types of property rights arrangements that emerge and change over time. In the case of Mongolia, particularly for nomadic pastureland management, private land ownership has not been practiced in the communities with respect to pastoral lands, and due to the different arrangements practiced in the use of pastoral lands on a seasonal basis. Against such a historical background, private ownership of pastoral lands at individual and community level will cause conflicts.

Instead, JASIL argues that co-management arrangements should be used in Mongolia with policies and laws clarifying roles and responsibilities of all stakeholders, including herders, their communities and local governments for the management and use of state-

owned pastureland. This arrangement can be a critical option to reduce ongoing degradation and overgrazing while respecting the rights and needs of herders who follow nomadic seasonal patterns of pastureland use. Therefore in case of Mongolia, co-management (CM) of pasture and natural resources can be the appropriate way for land use management and will legalize traditional pasture land-use rights of herders.

2. BACKGROUND OF PASTURELAND USE IN MONGOLIA

Ecological foot print of Mongolia increasing year-by-year. Main factors of that are ongoing degradation of pasture land and increased carbon emissions in the settlement areas. Herds across the country have increased rapidly, and currently 45.0 million animals exist, which exceed the carrying capacity of pasture and increases pasture land degradation. The cost of pastureland and natural resources degradation is estimated to be about 15-20 % of annual GDP, which is comparatively high indicator of unsustainable natural resources management, and indicates the cost of pasture and natural resources degradation impacting the socio-economic development of the country. Following the disastrous *zhud* of 1999-2000 and 2009-2010, the country lost almost 5-22% of herd size or 12,0 mln animals and Mongolian government requested international donor agencies to provide 18.15 million US \$ in the form of emergency and post-*zhud* recovery support. The government itself allocated more than USD 4 million during the winter months. Therefore, addressing the rights and management of pastureland use is important in the legal considerations of the Mongolian state and people.

3.CO-MANAGEMENT OF PASTURELAND MANAGEMENT IN MONGOLIA – IN PRACTICE

Firstly, in practice of co-management of pastureland, co-management actors for pastureland and natural resources management (NRM) are subdivided between “primary actors”, including herders, communities, associations and local governors; and “secondary actors”, including economic units, central governments, civil society, non-governmental organizations, private economic units e.g., mining companies, tourist stations, religious and other groups , horse keepers, households with animals other than herders from outside the area etc and are accorded different roles and responsibilities in their management roles.

3.1. Our study and test:

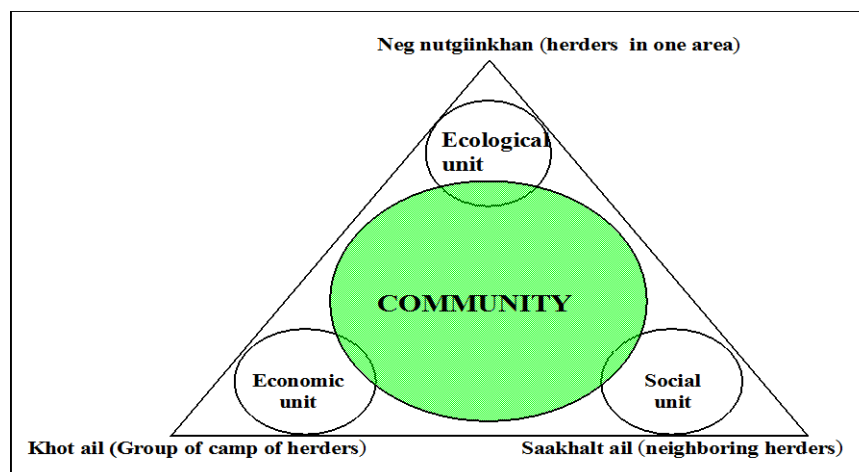
This novel natural resource co- management experiences was introduced and tested in the country during the last 10-15 years. An action research team implemented it in 2000-2011, bringing together staff from a variety of institutions, government, non-government, operating at different levels, from household to state (which was supported by International Development Research Centre, Canada) and currently, by the International Land Coalition. The team developed a holistic approach and bottom-up approach, combining insights from pasture ecology and related sciences such as livestock management, natural resource economics, and sociology, including gender analysis, and using a participatory research methodology. Since no examples were available for how to

introduce and test novel approaches for co-management and learning in Mongolia, the team adopted an experimental, learning by doing approach. The ten years of pioneering co-management have been a rich experience. Our research shows that co-management is an effective way of maintaining the natural resource base in Mongolia at healthy levels while contributing to the improvement of the livelihoods of herders. Co-management requires vision and commitment, practical tools, incentives, and an enabling environment.

Experiences and ideas of co-management of community based pasture and NR management, which was tested in 54 communities in different ecosystems of the country, included long-term leasing of pastureland by the herder groups, and included the establishment of a legal base for new institutional structure for co-management. Based on the participation of communities and associations, the rights and responsibilities were clarified and determined in co-management contracts concerning pasture use. At *soum* level we established associations of communities, which is also new structure, based on herders participation on pasture management.

3.2. The New Structures - who are the herders' communities and associations?

Over time, similar forms of organization emerged in other regions of the country, calling themselves “Community”, “Association”, “Partnership”, “Group”, “Herders’ groups”, “Citizens’ Association”, “Partnerships for Natural Conservation” or “Water Users Association”, etc. What they all have in common is that they are local forms of organization set up by local people, and are legally recognized as a “Community” and “Association”. They manage their activities as a non-profit and non-governmental organization, on a voluntary basis. All of them operate on a legal principle in accordance with the article 481.1 of the Civil Law, which stipulates that, “People are allowed to build up an association or a community and run their activities under a co-management contract.” Following the proliferation of herders' communities, the next step is to decide on how to allocate pastureland for community use.



3.3. How to allocate pastureland for community-use?

Following instances of practice as mentioned in our study above, JASIL recommends that winter and spring pastureland shall be possessed (allocated) once for free to the herder's communities, which was organized as communities and associations according to the Provision 481 of Civil Code. Also, if herder's wants, the winter and spring pasture shall be possessed once for free to the individual herder family too. This allocation is then to be on the basis of the co-management contract with the *Soum* Governor, for which the main purpose is to reduce pastureland degradation and instead make sound use, protect and restore pasture land in their areas, according the ecological capacity of pasture land. Pastureland then is to be allocated on the base of its consideration at the *Bag* citizen's *khural* first, and than shall be discussed and approved by *soum* level citizen's representatives *khurals*, which will allow local governor to contract with herder's communities. The 3-side co-management agreements among the: 1) herders, 2) Communities and associations, 3) local governments shall create legal recognition of traditional rights for communities and herders to use, allocate, and protect state-owned pasture & natural resources. With the legalizing power of the CM approaches, stakeholders will assume clear obligations, roles and responsibilities according to the co-management agreements.

The sample of co-management contract for the possession and the use of pasture land to the herder's communities and associations shall be approved by Government. Any kind of fencing of winter and spring pasture for the purpose of possession and allocation is legally prohibited. *Soum* governor is responsible to conduct land management plan for all kind of pasture land in the *soum*.

We also suggest that the separate and detailed procedure on: "Allocation of pasture land to the communities", include regional and socio-ecological specifics, and the needs of local people, which is to be approved by the Government Council, right after the approval of the draft Land law by the Parliament.

3.4. Co-management arrangements

The boundaries of the communities can be achieved in co-management: first, the cultural or customary boundaries based on ethnicity, clan or cultural differences of the communities; and second, the physical features of the pastureland, such as watersheds, mountains, or valleys, which separate neighboring communities, can be defined anticipatorily by all community members. If it is needed, organizations of Administration of Land Affairs, Geodesy and Cartography of Mongolia (ALAGaC) shall develop cadastral map and coordinates of pasture borders, with the official approval of territorial boundaries of communities.

Each *soum* will include size of pasture land to be allocated to the herders groups in each year, on the base of herder's request, pasture carrying capacity, its location and *soum* level land use policies. In securing pasture land use rights for herders, one important action is to conduct co-management contracts on collective pasture land use with local governments and its land authorities on one side, and with each community member on

the other side, as in nomadic agriculture, traditionally the decision making around pasture land has bigger numbers of conflicts as well as very diverse of interests of stakeholders.

This current proposal on co-management provides an opportunity to protect rights of women and man in herders' communities, as well as the participation and support for more marginalized and lower income herders households, in particularly women-headed poor families. Further advocacy and lobbying activities include several clauses in the draft especially with reference to the community-based Natural Resource Management CBNRM and women's participation in CBRNM.

At the same time, pastureland will get managed. According to the new pasture land use taxation policy, pasture use fee will be imposed by the decision of local citizen's *khurals* by the agreement between concerned local governors and the communities. All disagreements within and the between communities and herders, other stakeholders, and the conflicts occurred between communities and outsiders, within communities, between community members and newcomers, between community members and absent herd owners, between herders and agricultural producers, and among herders jointly producing hay all shall be settled on the base of co-management contracts. To resolve disagreement on this, the team has facilitated numerous discussions and meetings, such as the People's *Khural* at *bag* level, with the involvement of all stakeholders, to agree on the best means of pasturing animals for the community as a whole. Co-management can be made to work if all stakeholders engage seriously, over a long period of time, learning by doing as they go along. Co-management encourages adaptability – a vital tool in the face of the climate-induced challenges Mongolia face today and tomorrow.

Nevertheless, some challenges do persist, which need to be addressed in laws. One of the main issues on pasture land allocation to the herder's communities is related to the migration of herders in the *zhud* period from one *soum* or *aimak* to neighboring *aimak* and *soum* area. In the practice, the receiving side of these migrating herders has negative impact, as after that, the intensive use of more users can make the pastureland more degraded, and no compensation or environmental externality cost is paid to the receiving side of the migrant herders. In the draft laws, which is subject to the agreement of related governors, we see that there should also be some higher amount of pasture land use payment for incoming herders from other areas, i.e. outside of community area. This should be very clearly indicated in the law, as otherwise disputes and conflicts will increase, without these kinds of co-management agreements.

Further, more corrections and reviews shall be made in terms of legalizing co-management of natural resources (NR), including Special Protected Areas management, water, biodiversity, forest land, mining land, as well as urban land management. The issue on pastureland use by neighbouring herders during hard climate conditions, and trespassing of animals on pastureland in *zhud* and drought period needs to be actively considered in law-making. If herders want to use some part of land under SPA for the pastoral agriculture and other activities (in the case of *zhud*), then they should pay land use tax, which shall be higher than in usual pastureland use payment in that region.

Also, if the mining companies want to get pasture land for their mining exploitation, the mining exploration activities would also be subject to land use tax. However, the mining exploration land use fee has to be increased, to see that adequate compensation is provided for loss of those lands, and that there reduction of land grabbing for mining in the country. Mining companies will also need to consult with local communities and sign the contract with local government once they has mining exploitation license. This is to keep the government informed on land use and co-exist with the land use rights of pastoral communities. This will also enable the government to sort out its responsibilities and obligations to support local level development activities, and particularly solve conflicts with herder's community on land use.

4. CONCLUSION

Co-management (CM) and Community-based natural resource management (CBNRM) can therefore be effective tool for overcoming the 'tragedy of the commons' in Mongolia, where all the stakeholders support and actively participate in such management. Co-management is important for adaptation for climate change and reducing natural resource degradation because it views local people as the unit of regional development, and maintains the tradition and land use rights of herders, which shapes the socio-political system of the country - Mongolia.

CM also builds better links and trust between the local people and government administrative organizations under the Governments' decentralization policy, linking traditional pastureland management methods with recent scientific innovations and experiences of other countries. Success of CM in Mongolia depends on the favorable legal atmosphere, long-term state supportive policy and actions, and in each of the study sites, about 85-98% of local community members support the CM arrangements. The participatory assessment shows that during the our testing period the annual income of herders households increased in forest and steppe ecosystem by 43-56%, in high mountain steppe ecosystem by 29,8-38,5%, and in steppe and prairie ecosystem by 23,2-35,9% (Participatory assessment, May, 2012).

Based on this large-scale implementation of co-management of pastureland, the unique way of our country – the herder's way of life and society – can be preserved, while at the same time maintain the land quality.

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