

Land Use and Land Tenure in Mongolia: A Brief History and Current Issues

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Abstract—This essay argues that an awareness of the historical relationships among land use, land tenure, and the political economy of Mongolia is essential to understanding current pastoral land use patterns and policies in Mongolia. Although pastoral land use patterns have altered over time in response to the changing political economy, mobility and flexibility remain hallmarks of sustainable grazing in this harsh and variable climate, as do the communal use and management of pasturelands. Recent changes in Mongolia's political economy threaten the continued sustainability of Mongolian pastoral systems due to increasing poverty and declining mobility among herders and the weakening of both formal and customary pasture management institutions. The paper concludes by suggesting how history can inform current policy, and offering options for addressing current unsustainable pastoral land use patterns. A historical understanding of pastoral land use and land tenure should benefit consultants, policy-makers, and ultimately the herders and rangelands of Mongolia.

Keywords: *pastoralist, nomad, common pool resource, common property, land tenure, rangeland management*

Introduction

The premise of this essay is that history matters, and that to understand current pastoral land use patterns and policies in Mongolia, a historical perspective is useful. Further, a firm grasp of the historical relationships among land use, land tenure, and the political economy of Mongolia is essential for anyone engaged in current policy discussions over land reform and rangeland management in Mongolia. As this historical overview illustrates, pastoral land use patterns have shifted over time, partly in response to changing political and economic regimes. However, the fundamental characteristics of pastoral livelihood

strategies have not changed greatly; mobile and flexible grazing strategies adapted to cope with harsh and variable production conditions remain the cornerstone of Mongolian pastoralism. Similarly, although land tenure regimes have evolved towards increasingly individuated tenure over pastoral resources, pasturelands continue to be held and managed as common property resources in most locations, although these institutions have been greatly weakened in the past half century. The most recent changes in Mongolia's political economy threaten the continued sustainability of Mongolian pastoral systems due to changes in both pastoral land use and land tenure. Developing solutions to these problems requires an understanding of the past as well as the present.

In this essay, I will first briefly review the history of pastoral land use and land tenure in Mongolia up until the emergence of democracy and livestock privatization in the early 1990s. This account is drawn from both primary and secondary literature on Mongolian history, including the accounts of early explorers, scientists, and missionaries, as well as translations of Mongol law, and history texts in both English and Mongolian. Second, I will draw on data gathered in 1994-1995 to discuss how livestock privatization affected pastoral land use and land tenure in one particular area of Mongolia. Third, I will report on the 1994 and 2003 Land Laws and their implementation, based on my reading and analysis of the laws and interviews with herders and local and national officials in 1999. Finally, I will offer some conclusions about how history can inform current policy, and some possible options for addressing current unsustainable pastoral land use patterns.

Land Use and Land Tenure 1206-1990

The first important development in the emergence of formal rights over pasture in Mongolia took place when Chinggis Khan granted fiefs to his political allies in order to solidify his political power. The nobles to whom he granted such territories

Bedunah, Donald J., McArthur, E. Durant, and Fernandez-Gimenez, Maria, comps. 2006. Rangelands of Central Asia: Proceedings of the Conference on Transformations, Issues, and Future Challenges. 2004 January 27; Salt Lake City, UT. Proceeding RMRS-P-39. Fort Collins, CO: U.S. Department of Agriculture, Forest Service, Rocky Mountain Research Station.

assumed control over the pastures within their boundaries and had the authority to tax and demand labor from the inhabitants of these areas (Jagchid and Hyer 1974). This marked the first time that groups of herders were associated with specific or fixed territories.

The second major development followed the reintroduction of Tibetan Buddhism into Mongolia in 1586. A religious social hierarchy was established that mirrored the quasi-feudal secular social order. Powerful lamas were granted their own territories and commanded labor and tribute from their subjects, or *shabinar*, who tended the monasteries' herds. The Buddhist church became a dominant political and economic force in Mongolia, with monasteries serving as the hubs of trade and centers of political power, in addition to providing education and spiritual guidance (Miller 1959). The emergence of the monasteries is important because they became among the largest livestock owners and land holders in Mongolia, and had significant influence on pasture use and allocation.

In 1691, the northern and western Mongols submitted to the authority of the Manchus (or Qing Dynasty) and became their colonial subjects for just over 200 years. A Manchu colonial administration was superimposed on the existing Mongol political and social organization, rigid territorial lines were drawn and enforced around principalities, and a colonial legal code was issued. The Manchus divided the *aimag* of the three Khalkha khans into first 34 and later 100 military-territorial units called *khoshuun*, which replaced the principalities (Bawden 1968). (*Aimag* are the largest administrative division in Mongolia, equivalent to provinces or states.)

During this period, new written laws codified aspects of the customary law of the steppe, including the "first come, first served" rule of claiming campsites and adjacent pasture. Herders, who had previously been allowed to move from one *khoshuun* to another, changing allegiances between princes, were prohibited from leaving the *khoshuun* of their birth (Riasanovsky 1965). The land within a given *khoshuun* was under the exclusive authority of its prince, and was controlled by the hereditary nobility, unless they ceded a portion to a monastery. The nobility thus had the right to allocate pasture within the *khoshuun*, and this was done with varying degrees of specificity (Vladimirtsov 1948). Even in these early times, access to pasture was sometimes limited for the poor, not because they were explicitly excluded, but because they lacked the resources to move to the best pastures. Dispute resolution mechanisms existed and, despite the rigid boundaries, provisions for reciprocal interterritorial use agreements among *khoshuun* existed in the case of droughts or *dzuud* (severe winter storms) (Natsagdorj 1963). In some areas, quasi-private rights to hay, winter shelters and winter camps began to emerge, particularly the more fertile northern areas of Mongolia (Maiskii 1921, Natsagdorj 1963).

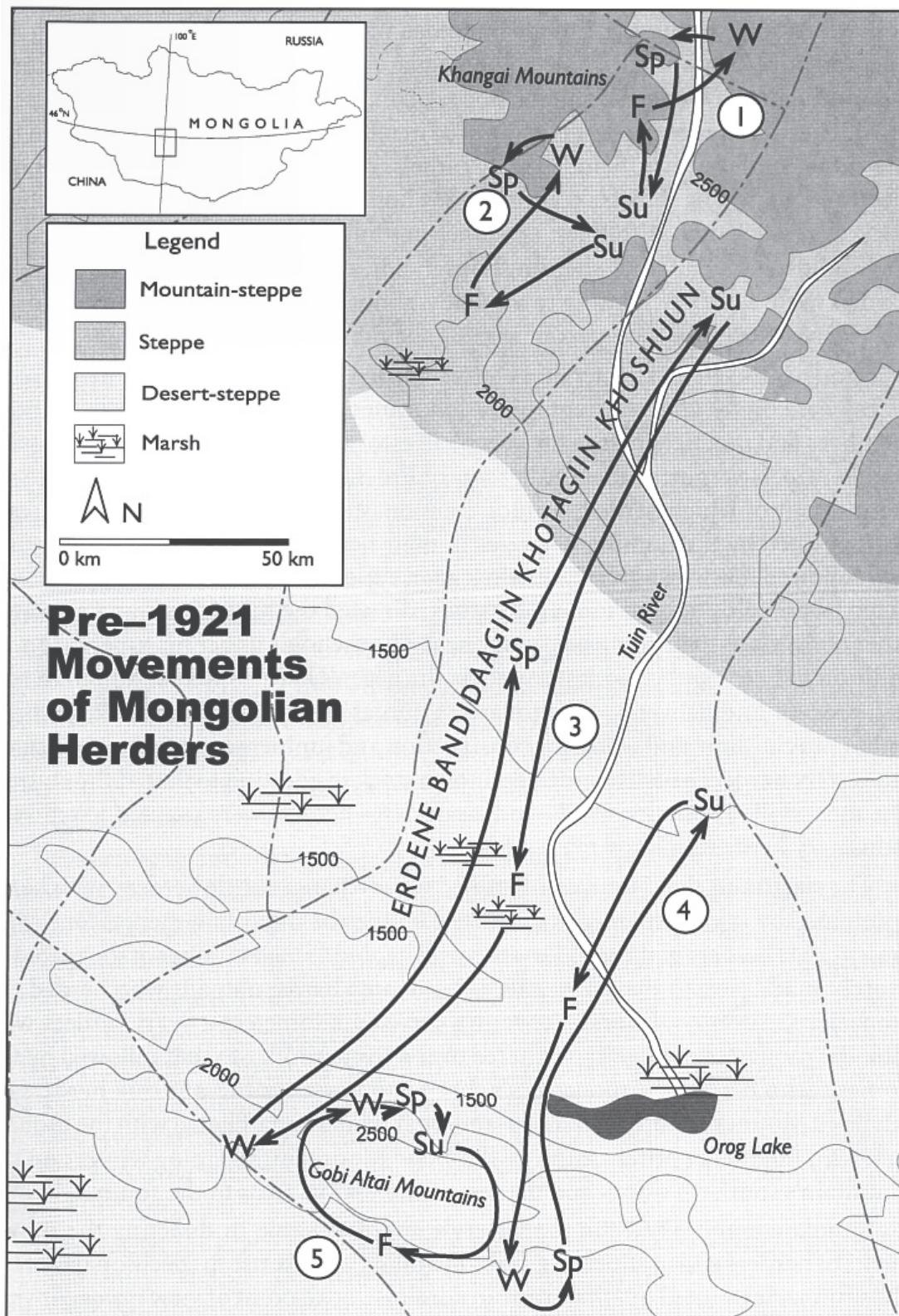
Patterns of pastoral land use varied widely across Mongolia depending on local geography, ecology and politics. However, in virtually all areas of the nation some repeated pattern of seasonal movement (transhumance) took place between winter, spring, summer and autumn pastures. Transhumance,

punctuated by occasional movements outside the typical seasonal pattern, appears to have been a critical adaptation to the harsh and highly variable climatic conditions in Mongolia, and enabled herders to take advantage of a variety of different habitats at different times of year, according to the nutritional demands of their animals. Regulation of seasonal movements unofficially controlled land use and access to resources, constituting a de facto tenure system. In many areas the timing of movements was signaled by the movement of the noble's camp and herds. In some *khoshuun*, grazing was prohibited in certain areas. For example, in what is now eastern Bayankhongor *aimag*, marshlands around Orog Lake were used for fattening monastery animals in the fall and were patrolled and strictly protected at other times of year (Simukov 1935 (1993)). Communities also played a role in informally regulating seasonal movement, as the following quotation from the journal of Russian explorer Pozdneyev illustrates. This passage also indicates that the poor were hindered by lack of access to transportation. "This was a nomadic move from winter pastures to summer pastures; it was, of course, very late, but in general the very poor Mongols here seldom move, first, because it is very difficult for them, due to the lack of transportation, and second, because of the extremely limited scale on which they raise cattle, the community does not press their moving, taking into consideration the fact that they do not consume much grass..." (Pozdneyev 1892 (1971)).

To provide one concrete example of movement patterns, figure 1 shows a map of pre-revolutionary seasonal migration routes in the Erdene Bandidaagiin Khotagiin Khoshuun, which comprised several *sum* (administrative districts) in present-day Bayankhongor Aimag. This *khoshuun*, the territory of the powerful Buddhist lama, the Lamiin Gegen, stretched from the crest of the Khangai to the arid expanses south of Ikh Bodg Mountain in the Gobi Altai. Soviet geographer Simukov, who documented the migratory patterns of six distinct groups of herders and livestock through interviews in the 1930s, emphasized the monastery's important role in directing the movements of herders and in allocating and controlling pasture use in specific parts of the *khoshuun* (Simukov 1935 (1993)).

In 1924, after ten years of autonomy from Chinese rule and three years of transition, the Mongolian People's Republic was founded. By 1925 both secular and religious feudal systems had been abolished, together with the administrative unit of the *khoshuun*. Three hundred *sum* were established as administrative districts (Bawden 1968, Cheney 1966). During this period, there was little formal regulation of movements. Instead, herding communities enforced customary rights and movements within their territories (Simukov 1935 (1993)).

By the 1950s herding collectives gained momentum in Mongolia as the government learned to use taxation and social incentives to encourage participation. By 1959, 99 percent of all households in the nation had joined collectives (Rosenberg 1977). Collectivization led to a number of changes in livestock production, too numerous to detail here. Herders tended state-owned livestock for a salary and were allowed to keep a limited number of private animals for subsistence. Herds



were segregated by species and labor was specialized. There was a campaign to build wooden shelters to protect animals from harsh winter and spring weather, and veterinary services and emergency fodder were provided (for more details see Fernandez-Gimenez 1999).

The collectives allocated pasture, resolved disputes and were empowered to enter into reciprocal, cross-boundary agreements. The collectives also regulated land use and seasonal movements, provided transportation for moves and set aside emergency reserve pasture areas (Butler 1982). Although the scope of seasonal movements was much reduced from pre-revolutionary times, herders were encouraged or forced to make *otor* moves, short-term, long distance moves of a portion of the herd and household (Batnasan 1972, Humphrey 1978). Figure 2 provides an example of seasonal migration routes in Jinst and Bayan Ovoo and several neighboring sum during the collective era. These data are based on the work of Dr. Bazargur and others at the Mongolian Institute for Geography (Bazargur, Chinbat and Shirevadja 1989).

To summarize, with each successive political-economic regime in Mongolia territories shrank, controls over pastoral movements and pasture allocation increased, tenure over resources became more individuated, and the gap between formal and informal regulation widened. Nevertheless, in each of these past eras political institutions allowed flexibility of movement during climatic disasters and enforced movement within territories even as the size of territories diminished. It is also worth noting that throughout much of the past (with the exception of the collective era) lack of transportation limited poor herders' movement and access to pasture. Finally, there is clear evidence that dual formal and informal regulation of seasonal movements existed and was apparently successful in maintaining sustainable patterns of pastoral land use. For the most part formal regulation was enforced by the state or other formal governing institution (e.g. the Buddhist church) while informal regulation was carried out within local herding communities.

Impacts of Privatization on Pastoral Land Use and Land Tenure

In 1990, Mongolia became a democracy and began an abrupt transition to a free-market economy, which included, in 1992, the dismantling of the herding collectives and the privatization of livestock and other collective assets. This transition had several immediate and some lasting impacts on herders' livelihoods, their land-use patterns, and property relations. The combination of increasing poverty and numbers of herding households, coupled with declining terms of trade, lack of social services, and the loss of the formal regulatory institution, led to a decline in the distance and number of seasonal movements, an increase in out-of-season and year-long grazing, and, as a result, an increase in conflicts over pasture and "trespassing" behavior (Fernandez-Gimenez 2001). This set of circumstances can be understood as a vicious cycle or positive feedback loop in which declining mobility leads to

increasingly unsustainable grazing practices which exacerbate tensions and lead to conflict. In order to protect their access to key resources in a high-competition environment, some herders then move even less, so that they can maintain control of key pastures and campsites, even if they graze them out of season themselves as a result.

Current Law and Land Use Patterns

In 1994 Mongolia's Parliament, the Ikh Khural, passed the Law on Land, which contained provisions for the regulation, management, and monitoring of pastureland, including of leasing campsites, and possibly pasture (the latter is unclear). Leasing of winter and spring campsites began in 1998. The law was revised and the new Law on Land went into effect in 2003, unfortunately preserving some of the ambiguities of the earlier law. Without going into detail, both laws include provisions for certificates of possession, essentially leases, over winter and spring campsites, and potentially over winter and spring pastures. Summer and fall pastures are to remain open to use by all. Similarly, water and mineral licks explicitly remain open access resources. *Sum* and *bag* (the smallest administrative unit) governors are empowered by the law to regulate seasonal movements and stocking rates; however, as I will illustrate, few of them perceived that they possessed this authority. (For a detailed analysis of the law see Fernandez-Gimenez and Batbuyan 2004 and Hanstad and Duncan 2001.)

By 1999, the reality of implementation of the 1994 law was the following: In the two *sum* I studied in Bayankhongor *aimag*, there were generally many more households than there were campsites and the campsites allocated through contracts had been given, generally, to the most prominent or wealthy household in the *khot ail* (herding camp), leading to inequities in distribution. Trespassing, however, was much lower after implementation in 1999 than it had been in the same areas in 1995. Interviews with local officials suggested that many of them were misinformed about their powers under the law and both herders and local officials confirmed that local government seldom enforced seasonal movements or stocking levels (Fernandez-Gimenez and Batbuyan 2004).

Proposed Solutions to Unsustainable Pastoral Land Use Patterns

Several solutions to the current scenario of pastoral land use have been proposed from different quarters. Some Mongolian scholars, officials and herders view reunification of *sum* into large *khoshuun*-like territories as an answer. This approach would assure that each *sum* had suitable pasture for each season's grazing, overcoming some of the problems with the socialist-era divisions (Fernandez-Gimenez and Batbuyan 2004, Bold 1997). However, this proposal would not seem to solve the problem of unsustainable grazing patterns in areas where

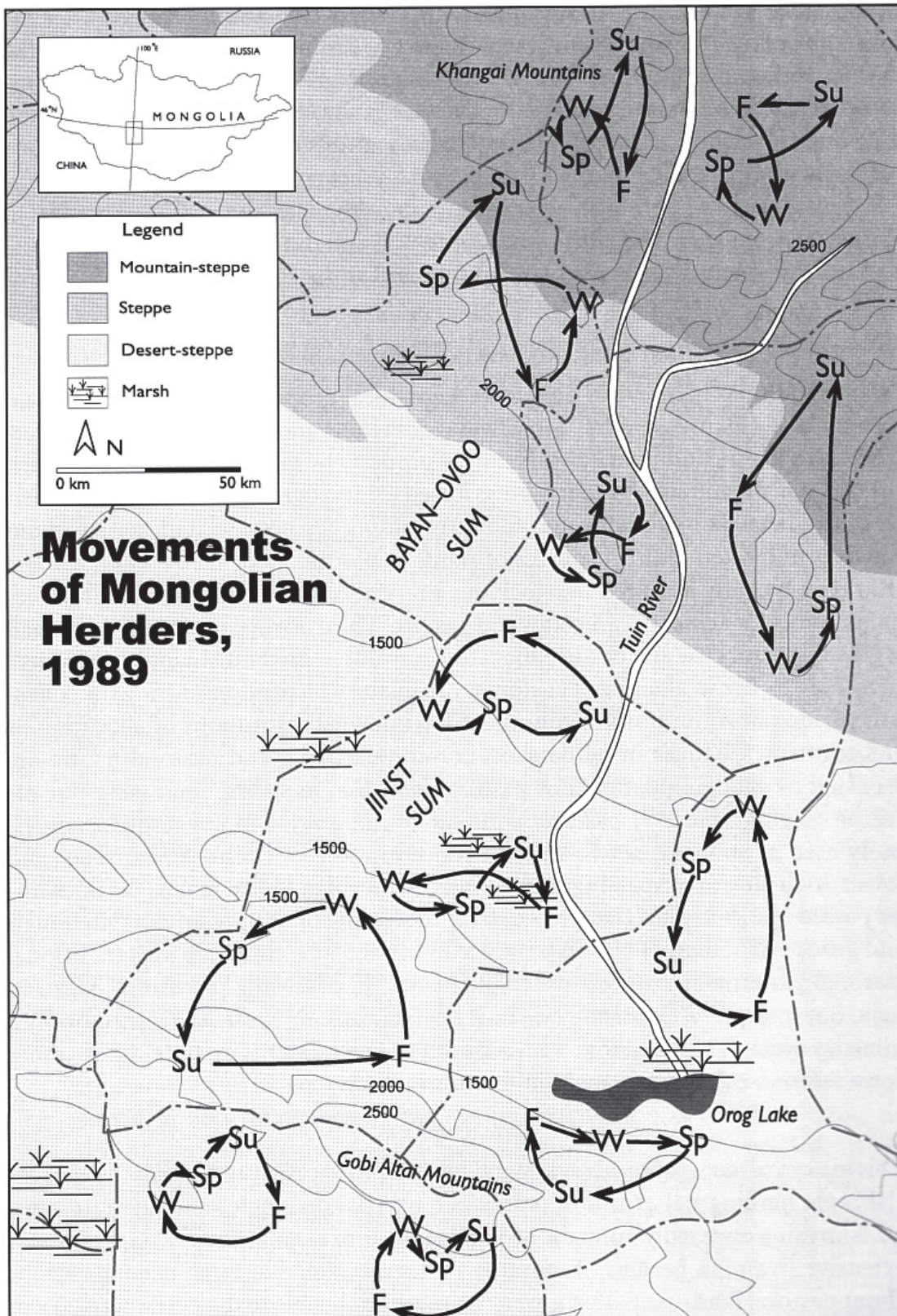


Figure 2—Seasonal movement patterns of herders in Jinst Sum and Bayan-Ovoo Sum and neighboring districts of Mongolia in 1989. Source: Adapted from Bazargur, Chinbat and Shirevadja 1989, 50. Reprinted with permission from The Geographical Review 89(3), p. 336.

landscape-scale overstocking may exist rather than problems with spatial and temporal distribution of grazing, enforcement of movements, or lack of appropriate seasonal pastures.

Other officials, researchers and some pastoral development proponents (both Mongolian and expatriate consultants) advocate a variety of co-management schemes in which groups of herders or herding associations would be granted exclusive rights over pasture areas and would develop rules and regulate use within their boundaries, perhaps with local or *aimag* oversight (Agriteam-Canada 1997, Buzzard 1998, DANIDA 1992, Fernandez-Gimenez 2002). Another group of consultants and some Mongolian officials believe that land registration and titling is the solution and that eventually, Mongolia must look towards privatization and a market in all types of land (GISL 1997). While land registration may be feasible, if costly, privatization of pastureland in Mongolia is, in my view, counterproductive. In the decade I have spent working with herders in Mongolia, I have never heard any pastoralist advocate privatization of pasture. In fact, the opposite is the case. Herders understand that the viability of extensive livestock production in Mongolia depends on flexibility and mobility, which in turn rely on a common property regime (Fernandez-Gimenez 2000). Common property must not be confused with a “free-for-all” open access situation, in which there are no rules, no rights and no enforcement. Rather it denotes successful self-governance by a group of resource users who are able effectively to control access to their territory and influence the resource use behavior of group members (Ostrom 1990). As I have described in the preceding sections, grazing on Mongolia’s rangelands was regulated historically both by local common property regimes in which herders allocated pastures and enforced seasonal movements among themselves, as well as by more formal mechanisms imposed by local rulers or the state.

History Lessons and Future Challenges

As Mongolia looks towards its future, it should not forget its past. One reason that pastoralism has been a sustainable livelihood for centuries on the Mongolian steppe is that both herders and governing institutions have recognized the immutability of the environmental constraints of a harsh and variable climate, and have governed accordingly, enforcing and facilitating mobility, and allowing for flexibility in land-use patterns. We have seen that there is a precedent for dual formal and informal regulation, or co-management. We have also seen that today, as in the past, poverty constrained both mobility and access to good pasture. Thus land-use and land tenure issues can only be solved if human well-being and livelihoods are simultaneously brought into the equation. Co-management may hold the greatest promise for improving governance and management of pastures, since there is both a clear need to draw on the knowledge and experience of local herders, and to obtain their support for any regulatory regime, and a need and desire (on the part of herders) for local government to take a

more active role in regulating pastoral land use. While tenure formalization may be compatible with this approach, much can be gained by focusing on the regulatory institutions that govern where and when livestock move, rather than who has what kinds of rights. If we address the former, the latter may well take care of itself, as it has for centuries in the past.

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