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THE RESOURCE CURSE IN THE LAND OF GENGHIS KHAN

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Mongolia, one of the least densely populated countries in the world,^[i] (file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_edn1) has undergone dramatic change in its recent history. Upon the fall of the USSR, Mongolia transitioned to a democracy in 1990, opening its markets and privatizing its land. In 2010, I lived with nomadic herders in the Eastern Khentii Province of Delgerkhaan sum, a community well-aware it was only a matter of time before they could no longer live as their ancestors had for centuries.

Upon subsequent returns in 2012 and 2013, I felt, as many have, the particular pang of measuring globalization by one's own benchmarks. While globalization has led to the fast-fade of the sustainable, nomadic lifestyle, it is yet to deliver on its promise of prosperity – a trade off complicated by Mongolia's wealth of non-renewable mineral resources.

When I first traveled to Mongolia, I repeatedly encountered expressions that the Resource Curse – the idea coined by Richard Auty and developed by Jeffrey Sachs and Andrew Warner that resource-rich countries suffer from lower growth rates – was hackneyed: ^[ii]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_edn2) it had been theorized to complete understanding, its threat neutralized by promises that “it doesn't have to be this way” if only a certain socio-eco-enviro-political plan be adopted. ^[iii]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_edn3) This optimism was fueled by expert estimates that Mongolia's untapped mineral resources was worth \$1.3 trillion dollars and that the unprecedented 17.3% GDP growth in 2011 was attributable to the industry. ^[iv]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_edn4) Further, the the Asian Development Bank and the Economist Intelligence Unit predicted no end was in site as GDP growth would remain at 15% in 2012. ^[v]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_edn5) Poverty and corruption was down, foreign direct investment and private-public cooperation was up, the scrutiny of the international community was in full force – surely, with these powers combined, mining in Mongolia would do more good than harm.





To put it mildly, that hasn't happened yet. Instead, Mongolia's growth plummeted to 2.3% in 2015.[vi]
(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_edn6)

Despite the global drop in commodity prices, the impending bankruptcy liquidation of former bidders like Peabody Coal,[vii]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_edn7) the most blame for this failure has been placed on the Mongolian government.[viii]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_edn8) In 2012, the Democratic Party of Mongolia gained power on a platform of resource nationalism – that the people deserved to profit more from the mineral deposits.[ix]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_edn9) The legislature subsequently passed laws requiring the government to be a majority shareholder in any mining project and demanded renegotiation of mining contracts.[x]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_edn10) In response, operating foreign-controlled mining companies under threat of unfavorable contract renegotiation slowed or halted production, while new project bidders simply walked away from the negotiation table.[xi]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_edn11) This dance of leverage is feared by foreign investors in the extractive industry.[xii]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_edn12) Once mining companies spend on the required infrastructure and other start-up costs, their threat to pack up and leave if contracts are not respected is not credible.[xiii]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_edn13) Thus, host governments are positioned to demand higher royalties. Harvard Business School Professor Raymond Vernon labeled this phenomenon the “obsolescing bargain” and many mining companies cite the Mongolian government’s nonobservance of major contracts for why they pulled out of investment deals. [xiv]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_edn14) My sympathies are split. Had the stunt worked and had the increased government control of mining translated to well-planned roads, access to health care and education, I can imagine it being framed as a brave government standing up to powerful foreign investors and lauded as a successful case-study in private-public, profit generating mining initiatives. Instead, however, commodity prices dropped globally, copper and coal extraction became riskier than ever, and no one can blame profit-focused companies for refusing to build roads, train workers, and provide healthcare for a country whose government might hold them hostage for more royalty payment.[xv]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_edn15) Identifying a single culprit or panacea lacks nuance and appreciation for the complexity of the situation in Mongolia, but I am shocked by the absence of the international community as a player in this story. The amorphous international community is in no way ignoring “Minegolia,” but it has failed to facilitate a way forward, no doubt standing by to analyze and critique what eventually transpires.

With new political leadership, Mongolia has responded to its lost leverage by restating original terms of contracts and yielding to additional demands of mining companies – an unlikely last move of a country still embedded with the spirit of the great conqueror Genghis Khan.[xvi]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_edn16)

[i]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_ednre f1) See *The 10 Least Densely Populated Places in the World*, WorldAtlas (Sept. 19, 2016), <http://www.worldatlas.com/articles/the-10-least-densely-populated-places-in-the-world-2015.html>.

[ii]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_ednre f2) Jeffrey D. Sachs & Andrew M. Warner, *Natural Resources and Economic Development: The Curse of Natural Resources*, 45 Eur. Econ. Rev. 827–38 (2001); *See generally* Theodore Moran, *Avoiding the "Resource Curse" in Mongolia*, Peterson Institute for International Economics (July 2013), <https://piie.com/sites/default/files/publications/pb/pb13-18.pdf>.

[iii]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_ednre f3) *See generally Id.*

[iv]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_ednre f4) *See* Alicia Campi, *Mongolia's Quest to Balance Human Development in its Booming Mineral-Based Economy*, Brookings (Jan. 10, 2012), <https://www.brookings.edu/opinions/mongolias-quest-to-balance-human-development-in-its-booming-mineral-based-economy/> (stating that Haruhiko Kuroda, president of the Asian Development Bank (ADB) has proclaimed that Mongolia is at “the threshold of prosperity.”); *See also* Dan Levin, *In Mongolia, A New, Penned-In Wealth*, N.Y. Times (June 26, 2012), <http://www.nytimes.com/2012/06/27/world/asia/mongolias-coal-deposits-draw-neighbors-attention.html> (stating that an Indian investment manager has said that “all you need to mine here [in Mongolia] is a shovel.”); Samantha Brletich, *Mongolia Struggles to develop Tavan Tolgoi coal mine*, Mining.com (Sept. 21, 2015, 9:30 AM), <http://www.mining.com/web/mongolia-struggles-to-develop-tavan-tolgoi-coal-mine/>; *Id.*; Alicia Campi, *Mongolia's Quest to Balance Human Development in its Booming Mineral-Based Economy*, Brookings (Jan. 10, 2012), <https://www.brookings.edu/opinions/mongolias-quest-to-balance-human-development-in-its-booming-mineral-based-economy/>.

[v]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_ednre f5) *Id.*

[vi]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_ednre f6) *Mongolia Overview*, World Bank (Aug 26, 2016), <http://www.worldbank.org/en/country/mongolia/overview>.

[vii]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_ednre f7) *See generally*, Moran, *supra* note iii.

[viii]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_ednre f8) *Id.*

[ix]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_ednre f9) *Before the Gold Rush: Mongolia's Road to Riches is Paved with Shareholders' Tiffs*, The Economist (Feb 16, 2013), <http://www.economist.com/news/asia/21571874-mongolias-road-riches-paved-shareholders-tiffs-gold-rush>.

[x]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_ednre f10) *Id.*

[xi]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_ednre f11) *See* Moran, *supra* note iii.

[xii]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_ednre f12) *Id.*

[xiii]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_ednre f13) *Id.*

[xiv]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_ednrf14) *See Moran, supra* note iii; *Id.*

[xv]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_ednrf15) *Id.*

[xvi]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Greenwell%20Blog.docx#_ednrf16) *Before the Gold Rush, supra* note xiii.

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