

CONFLICT SENSITIVITY IN THE MINING SECTOR OF THE KYRGYZ REPUBLIC

Report by: David Gullette

Executive Summary

Rising poverty and nationalism have reacted violently against mining companies whose lack of engagement with communities has derailed projects throughout the Kyrgyz Republic. Allegations of environmental pollution and corruption have fuelled protests. Legal reforms have not abated challenges in the mining sector as gaps in legislation have led to everyday complications about the rights of communities near deposit sites and companies. The main focus of the mining sector is dominated by the protracted discussions over a new agreement at the Kumtor mine. The debate and rumours that are coming from this are having implication throughout the country and have sparked a number of protests at other sites. The challenge for the Government is to balance economic development which is equitable for all stakeholders.

Given this context and the concern to identify better approaches for conflict mitigation in training tomorrow's leaders, the Organization for Cooperation in Europe (OSCE) Academy in Bishkek commissioned teaching and learning coursework material to be developed to provide an overview of the challenges and analysis. Original field research was conducted as part of this and is presented here as learning opportunities about the issues that affect communities and the development of mining activities in those areas. This report has been developed from those teaching and learning coursework materials.

This report is divided into two sections. The first section provides general background information and an overview of the mining sector in the country. The second section provides information on the case studies.

The information contained in this report about the issues affecting the mining sector in the Kyrgyz Republic and in other places in the region is designed to provide discussion and debate. It is intended to increase awareness about conflict sensitivity and ways in which to build this into relationships and sustainable development practices. Conflict sensitivity is a crucial element of planning that is often overlooked and undervalued. The issues discussed in this report will make people reassess their approach to conflict and how to develop mitigation measures.

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Abbreviations

BCPR	Bureau for Crisis Prevention and Recovery, United Nations Development Programme
CSR	Corporate Social Responsibility
DVD	Digital Versatile Disc
EITI	Extractive Industries Transparency Initiative
GDP	Gross Domestic Product
HDI	Human Development Index
HDRO	Human Development Report Office
IFC	International Finance Corporation
KGS	Kyrgyz Som
LSG	Local Self-Government
NGO	Non-Governmental Organization
OSCE	Organization for Security and Cooperation in Europe
SSR	Soviet Socialist Republic
TCG	Talas Copper Gold
UN	United Nations
UNDP	United Nations Development Programme
US	United States (of America)
USD	United States Dollar
USSR	Union of Soviet Socialist Republics

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Introduction

A lack of communication and information between stakeholders, poor governance mechanisms and skills at national and local levels, and a widespread distrust of government bodies and companies at the community level have led to serious tensions related to mining activities and the outbreak of violent conflict in the Kyrgyz Republic.¹ These are substantial issues to address, especially as the Government seeks to improve its business environment and secure economic benefits from the mining sector. Yet, communities affected by mining do not want economic development to come at the expense of their health and livelihoods. As a result of these unresolved issues and other factors, conflict has become a frequent destabilizing aspect of the mining sector in Kyrgyzstan.

Given this context, what would a conflict-sensitive mining sector look like? How would it create a sustainable future and effectively mitigate conflict? This report provides information to examine these questions and identifies areas to be explored further. The report has been developed from original research conducted in August and September 2013 to examine the conflict context and create learning materials that would be comprehensive and engaging for teachers and students.

Conflict sensitivity

The main issue at the centre of this report is 'conflict sensitivity' the attempt to understand the conflict context and integrate measures in activities to minimize conflict. This is crucial as it should guide policy- and decision-makers on identifying the underlying root causes, proximate causes and triggers of conflict. The key to integrating conflict-sensitive methods into approaches to work and developing solutions to issues is a key aspect that requires further attention in the mining sector of Kyrgyzstan.

All conflicts are complex; however, at a basic level, conflict can be defined as a non-cooperative relationship among actors situated within a social, economic and political context. A United Nations (UN) document defines it as 'Conflict exists where two or more actors are mobilized to obtain incompatible goals where the other party is perceived to stand in the way of these goals.'² In particular, this incompatibility is marked by the relationship between 'actors, their behavior, and the attitudes and perceptions'.³ Conflict can be positive, driving change between actors of a community, or negative leading to a breakdown in relations and creating or adding to tensions. Both negative and positive forms of conflict, however, are distinct from violent conflict, when 'a disagreement or perceived threat is followed by violent or destructive actions, seeking to diminish the capacity of the other actor or groups to achieve their (perceived goals).'⁴

The situation in Kyrgyzstan is a mixture of negative conflict and violent conflict, with some small aspects of positive conflict. There have been a number of negative trends which have led to standoffs between communities, mining companies and Government. At times, as will be discussed in this report, this has turned into violent conflict. There are some positive forms of conflict as well. Disagreements in the mining sector have resulted in reforms and attempts to improve the lives of communities living near deposit sites through better development and provision of social benefit packages.

¹ Although the Kyrgyz Republic is the official name of the country, Kyrgyzstan is used interchangeably throughout this teaching and learning material.

² United Nations Development Programme (UNDP), National Human Development Report Unit (HDRO), Bureau for Crisis Prevention and Recovery (BCPR) (2004) 'Conflict Prevention: NHDR Thematic Guidance Note', p .4.

³ Ibid., p. 4.

⁴ Gullette, D. and D. Rosenberg (forthcoming), 'Not just another box to tick: Conflict sensitivity methods and the role of research in development programming'.

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This report provides two case studies, which provide views on community-level issues related to the mining sector. The focus is to provide a qualitative approach to complement other research that has been conducted, and to identify some areas for better conflict-sensitive methods to be introduced on all sides to improve relations and sustainable development through mining operations in the future.

Conflict sensitivity is an approach through which an organization, group or individual attempts to:

- understand the context in which they are operating;
- understand the interaction(s) between their intervention and the context; and
- act upon the understanding of this interaction, in order to avoid negative impacts and maximize positive impacts.⁵

Following other authors, 'context' is used rather than 'conflict' to highlight that 'all socio-economic and political tensions, root causes and structural factors are relevant to conflict sensitivity because they all have the potential to become violent. "Conflict" is sometimes erroneously confused with macro-political violence between two warring parties (as with a civil war between a national government and a non-state actor).⁶ 'Context' also captures a broader set of understandings that contribute to people's experience of their everyday lives and relationships established with a range of local and external actors. The often unspoken personal feelings that inform people's views extend well beyond 'conflict', but continue to influence their actions. Throughout this report, these terms are used so as to incorporate all aspects of conflict.⁷

A full understanding of the conflict context, however, can only be gained by looking beyond the contested issues of an identified conflict. Detailed research into all of the related sectors and stakeholders is needed. In any fragile environment, this kind of comprehensive factor analysis should be a regular aspect of programming work, supported by a dedicated research unit which actively solicits input from field staff and stakeholders. While this level of detail requires more time than usually allowed by development actors, this kind of information is essential to more targeted and sensitive project preparation to reduce risks, blockages, and unintended negative outcomes. This is a particular approach to researching and analyzing conflict that is not often achieved. Reports are usually sporadic and only examine specific issues and are not able to piece together the influences that are felt in other areas and how people react to them.

A broader view taken in this report is that an assessment of socio-economic conditions and the perceived quality of life is essential to responsible programming if stakeholders in mining activities are to avoid conflict. This involves creating conflict through a lack of communication and establishing clear agreements. It also involves conducting research to understand the context so that any activities will not unintentionally contribute to a latent conflict or exacerbate existing tensions. Kyrgyzstan is a fragile state, meaning that the government is, at times, unable to provide basic services for the population and has avoided accountability for policy decisions that have had a negative effect on the well-being of the population. Poverty is slowly increasing, and, thus, deepening the sense of vulnerability among the population, which are more susceptible to sudden changes in global food supplies and economic trends which can have a devastating effect on their quality of life.⁸

A basic principle for conflict sensitivity work is that an intervention should 'do no harm'.⁹ In this regard, the goal of a conflict-sensitive approach is to determine how 'international humanitarian and development assistance can be provided so that rather than exacerbating conflict, aid helps local

⁵ Africa Peace Forum, Centre for Conflict Resolution, Consortium of Humanitarian Agencies, Forum on Early Warning and Early Response, International Alert, Saferworld (2004) *Conflict-sensitive approaches to Development, Humanitarian Assistance and Peacebuilding: A Resource Pack*, p. 1.

⁶ Ibid., p. 1.

⁷ It is important to note that conflict sensitivity is not the same as early warning. For more on early warning, see FEWER Secretariat (1997), 'Forum on Early Warning and Early Response: A New Collaborative Effort', *Refuge* 16(1): 24.

⁸ Mcloughlin, C. (2011), *Topic Guide on Fragile States* (Birmingham, International Development Department, University of Birmingham).

⁹ Anderson, M. (1999), *Do No Harm: How aid can support peace or war* (Boulder, CO: Lynne Rienner).

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people to disengage from violence and develop systems for settling the problems which provoke conflict in their societies.¹⁰

Adapting this to the mining sector, all stakeholders have an obligation to work together to resolve problems related to mining activities. This means that the local community (or communities affected by mining operations), local and national government bodies, civil society and mining companies must have an equal voice in negotiating the collaborative development and implementation of mining activities in an area.

Resource nationalism

One of the main issues that are driving tensions and violent conflict in the Kyrgyz Republic is resource nationalism, or people's or governments' move for exclusive control over resources on a country's territory. This is one of the biggest issues in the mining sector around the world. Ernst and Young, a multinational professional services firm, described resource nationalism as the primary risk for mining and metals businesses, 'with many governments around the world going beyond taxation in seeking a greater take from the sector, with a wave of requirements introduced around mandated beneficiation, export levies and limits on foreign ownership.'¹¹

Government's attempt to strike a balance between the investors and defend the interests of the state is fine. Too little and the country does not earn as much as it could, limiting spending in other areas. Too much and the country seems to be giving away their wealth. One aspect of this is to increase taxes. Irina Dudka noted 'The desire to absorb interests from the mining industry leads to resource nationalism and makes exporters reverse working conditions for importers.'¹²

The concept of resource nationalism encapsulates the desire to obtain greater assets but has also become associated with trying to reverse what many politicians regard as corrupt practices of the past that involved Kumtor and other mines. As the price of gold has risen, there has been a greater focus on securing more of profits from this for the country, in particular from the Kumtor mine operations. This has taken place during a long process to address failings to secure a better agreement beginning with the negotiations between the then owner Cameco Corporation and the Akaev government. The Bakiev government is regarded as responsible for giving away more when it concluded a new deal with the new owners Centerra Gold Inc. which resulted in a reduction in the overall stake that the country had in the mining operations.

The previous Kumtor agreements represent a rally call to nationalists who seek to increase the country's stake in the mine while also discrediting the previous regimes. There had been debates in the past about control over the Kumtor mine, but Akaev and Bakiev established agreements that benefited the foreign owners. However, the turbulent events in 2010 allowed those people who called for Kyrgyzstan to increase its stake in the mine to strengthen their arguments in two ways. First, in April 2010 President Bakiev was ousted and an end came to an unpopular regime in the country. Politicians pushed for a renegotiation of the mine and sought recompense for alleged infringements and benefits secured through corrupt practices. Second, in June 2010 there was a week-long fight between Kyrgyz and Uzbeks in the south of the country resulting in the many deaths and widespread destruction. For Kyrgyz nationalists, this signified an attempt for Uzbeks to carve out greater autonomy in the country.¹³ This led nationalists to promote Kyrgyz identity and included demands to increase control over projects, including the nationalization of Kumtor, so that the state could benefit over a foreign company. Many people have supported these calls for change in the mining sector as these

¹⁰ International Alert, Saferworld, and International Development Research Centre (2001), 'Conflict-Sensitive Approaches to Development: A Review of Practice', Cynthia Gaigals with Manuela Leonhardt.

¹¹ Ernst & Young (2012), *Business risks facing mining and metals 2012-2013*, p. 7.

¹² Dudka, I. (2013) 'Resource nationalism: do not go too far', *24.kg*, 27 February 2013, <http://eng.24.kg/business/2013/02/27/26133.html> (accessed 14 December 2013).

¹³ Gullette, D. and J. Heathershaw (forthcoming), 'The Affective Politics of Sovereignty: Reflecting on the 2010 conflict in Kyrgyzstan', *Nationalities Papers*.

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events have provided a framework to address people's questions and concerns about the mine and the future wealth of the country, and is combined with a swelling of national sentiment.

An overview of conflict issues in the mining sector

Based on research in eight communities in Kyrgyzstan that are affected by mining operations in 2011 and 2012, Oxus International provided an overview of some of the main conflict issues surrounding mining issues. A primary concern that people have about the mining sector is that it causes environmental damage. Some people expressed concerns over the long-term effects, such as 'residual cyanide poisoning from gold mining [...] or on the risks of radiation released from the ground causing birth deformities.' Other people voiced concerns over more immediate hazards, such as 'dust and noise pollution, or degradation of pasture land'.¹⁴ These concerns, however, incorporate a number of other issues and changes. For some environmental changes means potential changes in crop production. For others, it means that they can no longer access pastures for their animals. Both of these situations mean a loss of livelihoods in a context where there are few other opportunities for employment. The environmental debate also highlights the power of rumour and speculation on processes that are not transparent. In some cases people's claims may be supported by strong evidence, but, in general, the lack of communication between stakeholders and the minimal engagement by companies with local communities allows for rumours to grow as people express their concerns. The environment is something that people can see changing and attribute (negative) changes to the mining industry, even if the answer is much more complicated. It serves as a vehicle for criticism and concern. Here, the situation in Kumtor provides a model that people have adapted for their own communities.

People also noted high distrust of the government. This is the result of poor communication between stakeholders and a lack of engagement. 'Whereas mining companies see local government as the legitimate representatives of the local population, the population does not view engagement with local government as equivalent to community engagement.'¹⁵ The role of Government, both at national and local levels, in the mining sector is formally engaged, but practically distant or ill-equipped to deal with everyday issues.¹⁶ This has led to frustration among many communities in that their concerns are not listened to and little mediation from government representatives between the community and the mining company.

Another major issue is that mining companies were not sufficiently engaged with the local communities and did not contribute enough to local budgets.¹⁷ There are two issues here. First, there is not clarification or legislation that states with which communities a mining company must work. Second, the development and implementation of a social benefit package is also not clear from the legislation. Companies must negotiate some agreement with the local community to provide some sort of social benefits package from the proceeds of their activities, but exactly what this includes and how it is to be implemented is to be based on an agreement between the community and the mining company. The lack of guidelines creates confusion and sometimes demands are made of companies that they cannot commit to because they may only be at the surveying or exploration phase of work and do not have large budgets to support more comprehensive social benefit packages.

¹⁴ Oxus International (2013), 'Extracting Sentiments: The Effect of Mining Exploration and Extraction on Eight Communities in the Kyrgyz Republic' (Bishkek), p. 3.

¹⁵ Ibid., p. 3.

¹⁶ National Strategic Research Institute of the Kyrgyz Republic (2013), 'Fakторы negativnogo (nepriyaznennogo) otnosheniya mestnogo naseleniya k investoram, razrabotchikam mestorozhdenii poleznykh iskopaevykh, vzaimootnosheniya nedropol'zovatelei i mestnykh soobshchestv' ['Factors of the local population's negative (hostile) attitudes towards investors, developers of mineral deposits, and the relationship between subsoil users and local communities'] (Bishkek: National Strategic Research Institute of the Kyrgyz Republic), pp. 3-4.

¹⁷ Oxus International (2013), 'Extracting Sentiments: The Effect of Mining Exploration and Extraction on Eight Communities in the Kyrgyz Republic' (Bishkek), p. 4.

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Examples of other mining communities

A number of studies conducted in 2011 and 2012 found that the environmental issues played an important part in the conflict context in villages near deposit sites throughout the country. In an analysis of issues in Talas Oblast, researchers from Oxus International found that there were more than just environmental concerns. '[T]here is evidence to suggest that these environmental concerns are overplayed, and symptomatic of the fractious relationship between ordinary citizens, local elites, foreign companies and the Kyrgyz state. In fact, some commentators suggest that local people's concerns are manipulated by actors at local and national levels for personal gain.'¹⁸ As described in this example, as well as in the case studies in this report, the environmental argument is loaded with a number of issues that need to be examined as part of the conflict context, but wrapped up into a seemingly straightforward argument.

In a case study from Jalalabad Oblast, the authors examine results of a social impact assessment¹⁹ of mining in the area. The authors noted that in this example the conflict context is worsening. The report findings indicate that the economic benefits from mining have not been able to spur the development in other sectors.²⁰ A significant problem is the lack of dialogue and communication between the companies and the local communities. This has led to poor participation by local communities in the mining activities that affect their communities. A part of the lack of communication and interaction has led to some unrealistic demands of the companies by the local communities. This is a lack of awareness about what obligations the companies have at different stages of mining and their ability to meet additional demands. The local authorities have largely been ineffective at intervening as there is weak governance related to the mining sector and the laws are vague on certain issues that often create obstacles in furthering relations between companies and communities. There are environmental concerns as well, which contribute to further resistance by local communities to allow companies to develop deposit sites.²¹

In a larger study on the mining industry in eight mining-affected communities across the country, Oxus International has given more support to the views presented above. The lack of information about the company and its activities creates confusions and discontent with the local communities. In many cases, there are no formal mechanisms for engaging with the community. At times, there is no direct contact with the community as it is conducted through intermediaries. The development of the mining activities is therefore done without much community input. In some cases, engagement with the community only begins after the company has started developing the deposit site.²² The lack of communication generates mistrust, resistance and opposition. It is important to note that there is often miscommunication created in various forms of media, which also contribute to confusion and concern about what activities are being conducted on deposit sites. However, in communities where people engage in artisanal mining (small-scale, subsistence mining activity), people often present arguments, such as environmental concerns, as a way to avoid revealing their interests in developing the sites for themselves, which in some cases is not permitted by the Government.

¹⁸ Oxus International (2011), 'A Social Study of the Causes of Conflict between Citizens and Outside Investors in Talas Oblast – August 2011' (Bishkek: Oxus International), p. 2. Oxus International has conducted other case studies, but the final results have not been published. For information on their work, see http://www.oxusinternational.com/?page_id=475 (accessed 15 December 2013).

¹⁹ A social impact assessment 'includes the processes of analysing, monitoring and managing the intended and unintended social consequences, both positive and negative, of planned interventions (policies, programs, plans, projects) and any social change processes invoked by those interventions. Its primary purpose is to bring about a more sustainable and equitable biophysical and human environment.' IAIA (2003), 'Social Impact Assessment: International Principles', Series No. 2, <http://www.iaia.org/publicdocuments/special-publications/SP2.pdf?AspxAutoDetectCookieSupport=1> (accessed 15 December 2013), p. 2.

²⁰ It is important to note that there is artisanal mining in this area. While general socio-economic development in the area may not have been achieved yet, this may not be the same situation for individuals who may have profited from artisanal mining activities.

²¹ Tiainen, H. and R. Sairinen (2012), 'Mining in the Chatkal Valley – Lack of Dialogue and Poor Governance Resulting in Local Resistance – Policy brief' (Zoi Environment Network, University of Eastern Finland, Gaia Group Oy); Tiainen, H. (2012), 'A case study on social sustainability in the Kyrgyz mining industry' (University of Eastern Finland).

²² Oxus International (2013), 'Extracting Sentiments: The Effects of Mining Exploration and Extraction on Eight Communities in the Kyrgyz Republic' (Bishkek: Oxus International).

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Conflict tools

In such cases, how can stakeholders start dialogue and develop conflict-sensitive measures to address existing issues and mitigate further tensions and conflict? There are toolkits to guide stakeholders to engage in dialogue and develop plans that would mitigate conflict.²³ These guides provide methods to help identify:

- structural or root causes of conflict: 'pervasive factors that are built into the policies, structures or fabric of society and may create the preconditions for violent conflict (e.g. illegitimate government, lack of equal economic and social opportunity, lack of political participation);
- proximate causes of conflict: 'factors that are symptomatic of the root causes of conflicts or may lead to further escalation (e.g. light-weapons proliferation, human rights abuse, objective of political actors, role of diasporas); and
- triggers of conflict: 'single acts, events or the anticipation thereof that set off violent conflict or its escalation (e.g. elections, behaviour of political actors, sudden collapse of currency, increased food scarcity)'.²⁴

The identification of the various causes of conflict can be made and steps to foster dialogue to mitigate any potential conflict during the mining operations can be made through a number of methods. This usually involves a situational analysis, stakeholder engagement and integrated impact assessments.²⁵

In Central Asia, the Eurasia Foundation of Central Asia (EFCA)²⁶ has developed a project in which they have opened Public Reception Centres near six mining communities to help bridge the communication gaps. EFCA provides materials about mining and guides on environmental protection. They have also done trainings and assisted with public hearings.

Methodology

This report provides more information on the conflict factors that could contribute to the more effective use of conflict tools. The methodology was selected to be able to gain a better understanding of local issues and experiences to reflect how people view mining issues in their communities. Thus, the research for this report was based on qualitative methods. The research team was based in communities for nearly a week discussing with villagers, local administrators and others about mining issues. The main method for this research was participant observation, a form of intensive field-based engagement with a community to learn about the complexity of issues on a given topic.²⁷ It is based on the attempt for the researcher to participate in the everyday life of the host community, but also to be able to maintain a degree of objectivity to analyze their experiences.²⁸

The research team also conducted interviews with key informants and organized focus groups in the case study villages. These were done to discuss specific issues and gain views by people directly

²³ Bogdetsky, V. and V. Novikov (2012) 'Mining, Development and Environment in Central Asia: Toolkit Companion with Case Studies' (Zoï Environment Network, University of Eastern Finland, Gaia Group Oy); International Alert (2005), 'Conflict-Sensitive Business Practice: Guidance for Extractive Industries' (London: International Alert); Sairinen, R., P. Rinne, M. Halonen, O. Simonett and Ch. Stuhlberger (2012) 'Responsible Mining: A toolkit for the prevention and mediation of conflicts of the mining sector' (Zoï Environment Network, University of Eastern Finland, Gaia Group Oy).

²⁴ International Alert op cit., p. 4.

²⁵ Sairinen, R., P. Rinne, M. Halonen, O. Simonett and Ch. Stuhlberger (2012) 'Responsible Mining: A toolkit for the prevention and mediation of conflicts of the mining sector' (Zoï Environment Network, University of Eastern Finland, Gaia Group Oy).

²⁶ For more information, see <http://www.eurasia.org/countries/kyrgyzstan> (accessed 15 December 2013).

²⁷ For more on this, see Atkinson, P., A. Coffey and S. Delamont (2003), *Key Themes in Qualitative Research: Continuities and Changes* (Oxford: AltaMira Press); Clifford, J. and G.E. Marcus (eds.) (1986), *Writing Culture: The Poetics and Politics of Ethnography* (Berkeley, CA: University of California Press); Coffey, A. (1999) *The Ethnographic Self: Fieldwork and the Representation of Identity* (Thousand Oaks, CA: Sage); Denzin, N. K. (1997) *Interpretative Ethnography: Ethnographic Practices for the 21st Century* (Thousand Oaks, CA: Sage); Geertz, C. (1973), *The Interpretation of Cultures: Selected Essays* (New York, NY: Basic Books); Hammersley, M. and P. Atkinson (2004) *Ethnography: Principles in Practice* (London: Routledge); Jackson, M. (1989) *Paths Towards a Clearing: Radical Empiricism and Ethnographic Inquiry* (Bloomington, IN: Indiana University Press); Marcus, G. E. and M. M. J. Fischer (1986) *Anthropology as Cultural Critique: An Experimental Moment in the Human Sciences* (Chicago, IL: University of Chicago Press); Whyte, W. F. (1984) *Learning from the Field: A Guide from Experience* (London: Sage).

²⁸ Although, this is quite difficult and the analysts' own views are predicated on a number of personal and professional issue. See Bourdieu, P. (2003), 'Participant Objectivation', *Journal of the Royal Anthropological Society (N.S.)* 9(2): 281-294.

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involved in some mining issues. At the same time, other members of the research team conducted interviews with key informants in Bishkek.

Security was a prime concern when choosing the case study villages. Through discussions with professionals in the sector and witnessing outbreaks of violent conflict in 2012 and 2013, the research team sought locations where tensions were known, but where communities were still receptive to research teams and would be more likely to explain their views. There had been cases when communities were not welcoming of researchers, not certain who they were or whom they represented. This created problems in obtaining information and for ensuring the safety of the researchers. Thus, it was decided to choose locations where the possibility of the outbreak of violent conflict was low, but also where sufficient local contacts could be made in order to facilitate meetings and provide other assistance as required. In addition, members of the research team met with Mr Naken Kasiyevich Kasiyev, Director of the State Agency for Local Self-Government and Interethnic Relations, to seek support in providing official introductions to the local self-government bodies (Kyrgyz, *aiyl okmotu*) in order that national-level officials were aware of our activities and for assistance if required.

In the field, the research team met with members of the *aiyl okmotu* to describe their research agenda and to receive support. They team made a condition that all interviews would be anonymous. This was to protect the identities of those that kindly gave their time to assist the team with their questions to ensure that at a time of high tension that they should not fear repercussions from speaking openly on mining issues. The research team had all interviewees sign a form (see Appendix A) acknowledging the research topic, their willingness to speak to the research team and contact information of the research team leaders in case of any questions or queries.

The analysis of the field research findings were discussed among team members in several meetings and through presentations with members of the OSCE Academy. This report is a summary of those discussions and a reflection on broader issues in the mining sector in the Kyrgyz Republic.

Structure of report

This report is structured in three sections. The first section provides an overview of the Kyrgyz Republic and the mining sector. This begins with an introduction to the country and followed by a brief discussion on development indicators. The following chapter examines the mining sector in the country and the conflict context at the time the research was conducted. In the second section, the two case studies are presented with a summary of similarities and differences at the end. In the third section, simulation exercises are offered that can be used in classroom settings to act out different roles in mock mining situations and to debate specific aspects of conflict.

Throughout this report, questions for debate are offered to help spark classroom debate or to be used as the basis of course assignments.

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Country Context

History

The Kyrgyz Republic is located in Central Asia, with much of its territory covered by the Tian-Shan mountain range. It borders the Republic of Kazakhstan (to the north), the People's Republic of China (to the east), the Republic of Tajikistan (to the south), and the Republic of Uzbekistan (to the southwest). It has an area of 199,949 square kilometres with almost 90 per cent of the territory above 1,500 metres above sea level. In 2012, the population of the country was more than 5.5 million people.²⁹

Map of the Kyrgyz Republic



According to some historical accounts, the Kyrgyz are one of the oldest ethnic groups in the region.³⁰ A statement made by the Chinese chronicler Sima Qian has been used to support the claims that the

²⁹National Statistical Committee of the Kyrgyz Republic (2012), *Demograficheskie ezhegodnik Kyrgyzskoi Respubliki: Godovaya publikatsiya 2007-2011 gg.* [Demographic Yearbook: Annual Publication 2007-2011], Bishkek: National Statistical Committee of the Kyrgyz Republic, p. 6.

³⁰For a more detailed discussion of Kyrgyz history, see Abazov, R. (2004), *Historical Dictionary of Kyrgyzstan* (Asian/Oceanian historical dictionaries; No. 49) (Lanham, MD: Scarecrow Press); Asankanov, A. (1996) *Kyrgyzy: Etnogeneticheskie i etnokul'turnye protsessy v drevnosti i srednevekove v tsentral'noi Azii. Materialy Mezhdunarodnoi nauchnoi konferentsii, posvyashchennoi 1000-letniyu eposa 'Manas', 22-24 sentyabrya 1994 g., g. Bishkek* [The Kyrgyz: Ethnogenetic and ethno-cultural processes in ancient and middle ages in Central Asia. Materials of the International Scientific Conference, dedicated to the 1000th anniversary of the epos 'Manas', 22-24 September 1994, Bishkek] (Bishkek: Kyrgyzstan); Asankanov, A. and O. Osmonov (2002), *Istoriya Kyrgyzstana (S drevneishikh vremen do nashikh dnei)* [The History of Kyrgyzstan (From Ancient Times to Our Days)] (Bishkek: Uchkun); Baktygulov, Dzh. and Zh. Mombekova. 2001. *Istoriya kyrgyzov i Kyrgyzstana s drevneishikh vremen do nashikh dnei* [The History of the Kyrgyz and Kyrgyzstan from Ancient Times to Our Days] (Bishkek: Kyrgyzstan – Mektep); Butanaev, V. and Y. Khudyakov (2000), *Istoriya yeniseiskikh kyrgyzov* [History of the Yenesei Kyrgyz] (Abakan: Izdatel'stvo Khakasskovo gosudarstvennogo universiteta im. N. F. Katanova); Chorotegin, T. and K. Moldokasymov

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Gen'gun (which has been taken to mean 'Kyrgyz') had their own state in 201 BC. Apart from this reference, little is known of the extent or influence of this polity. The next time the 'Kyrgyz' are said to have political and military independence was in 840 AD when they formed a khanate on the Yenisei River in southern Siberia³¹ by defeating the Uighur Khanate. The end of the Kyrgyz Khanate came with the rise of Chinggis Khan in the thirteenth century. The military power of the Mongols was too great for the Kyrgyz who were incorporated into Mongolian rule. Displaced from their territory in Siberia, the Kyrgyz slowly migrated south, towards the territory of what today is Kyrgyzstan.

In the late sixteenth and seventeenth centuries, many people throughout the Fergana Valley converted to Islam. It was not until the nineteenth and twentieth centuries that Sufi missionaries were able to convert many of the mobile pastoral people in the mountainous areas of contemporary Kyrgyzstan.³² Many nomads in northern Kyrgyzstan had converted to the Sunni form of Islam (predominantly belonging to the Hanafi school of thought) by the early twentieth century.

In the 1700s, many Kyrgyz came under the control of the Kokand Khanate. The borders of the Khanate stretched northwards to southern Kazakhstan, but the ruling dynasty had weak control of this region. The Russian Empire turned the Khanate into a vassal state in 1868. Heavy taxes caused the surrounding populations, including the Kyrgyz to revolt, with disturbances lasting from 1873 to 1876. Northern Kyrgyz leaders sent petitions to Russia for support. Further, Kokand Khanate's Muhammad Pulad Beg Khan's increased anti-Russian stance provoked the Empire to annex the khanate. The Russians then abolished the Khanate in 1876, assuming full control of the region.

In October 1917 the Bolsheviks took power in Russia, and soon thereafter new administrators were sent to Central Asia. Soviet authorities created the modern boundaries and initial state structures of the Kyrgyz Republic in the mid-1920s. On 14 October 1924, the Kara-Kirgiz Autonomous Oblast was formed after the delineation of borders within the Russian Soviet Federative Socialist Republic. The designation of the territory as an autonomous oblast still meant that the land and people were subject to the Supreme Soviet of the Union Republic.

On 1 February 1926, the country was renamed the Kirgiz Autonomous Soviet Socialist Republic, which formally recognized the Kyrgyz as having a distinct ethnic identity and granted them the power to exercise the powers and administration of the Union of Soviet Socialist Republics (USSR) on its own territory.

Finally, on 5 December 1936, the country was made a full Soviet Socialist Republic (SSR). The country was now a full member of the USSR and had jurisdiction over all its cultural and domestic affairs; but its foreign policy, security and defence were centrally controlled by administrators in Moscow. In a new constitution in 1937, a section was added allowing Kyrgyzstan the formal right to secede from the USSR. However, this was not an actual power to be exercised.

The government of the Kyrgyz Republic (Kyrgyz: *Kyrgyz Respublikasy*, Russian: *Kyrgyzskaya Respublika*) declared independence from the Soviet Union on 31 August 1991.

(2000), *Kyrgyzdardyn jana Kyrgyzstandyn kyskacha tarykhy: Baiyrky zamandan tartyp bügünkü küngö cheiin* [A Brief History of the Kyrgyz and Kyrgyzstan: From Ancient Times to Modern Days] (Bishkek: Mektep); Mokrynin, V. and V. Ploskikh (1995), *Istoriya Kyrgyzstana* [The History of Kyrgyzstan] (Bishkek: Kyrgyzstan); Omurbekov, T. and A. Dzhorobekova (1998) *Istoriya kyrgyzov i Kyrgyzstana* [The history of the Kyrgyz and Kyrgyzstan] (Bishkek: Poliglot); Soucek, S. (2000), *A History of Inner Asia* (Cambridge: Cambridge University Press).

³¹ Butanaev, V. and Y. Khudyakov (2000), *Istoriya yeniseiskikh kyrgyzov* [History of the Yenesei Kyrgyz] (Abakan: Izdatel'stvo Khakasskovo gosudarstvennovo universiteta im. N. F. Katanova).

³² Haghayeghi, M. (1995), *Islam and Politics in Central Asia* (New York, NY: St. Martin's Press), pp. 76-7.

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From 1991-2010, the Kyrgyz Republic had a presidential form of government. The disproportionate power held by the president and presidential administration gave rise to political discontent and social unrest due to widespread poverty and anger over perceived corruption in government. Two mass protests (in 2005 and 2010) managed to oust the incumbent presidents and ushered in a period of instability. In 2010, as members of the interim government struggled to assert control over one another, a fight between Kyrgyz and Uzbek youths in Osh city began a five-day battle between the ethnic groups, which caused widespread destruction.³³ In 2011, a new president was elected in the first peaceful transition of power since independence. Despite the hopeful new beginning for the country, poverty, infrastructural problems and corruption continue to hamper efforts to improve lives and livelihoods in the country.

As for external relations, Kyrgyzstan has found itself in the midst of the global war on terror and increasingly tense relations in the region. Following the attacks in the United States on 11 September 2001, the Kyrgyz government granted permission to the United States (US) to open the Transit Center at Manas (formerly the Manas Air Base) to support US military operations in Afghanistan in December 2001.³⁴ In September 2003, the Kyrgyz Government granted permission to the Russian government to use the Kant Air Base as part of the Collective Rapid Deployment Forces of the Collective Security Treaty Organisation. This has ignited what many experts have called a geopolitical tug-of-war between the Russian Federation and the US. The continued presence of American forces at the Transit Center at Manas has caused heated debates within politics in the Kyrgyz Republic, and the termination of the leasing agreement for the centre as a military transit hub have been rumoured as a condition of receiving money from Russia for infrastructure projects. It is planned that the Transit Center will no longer function as a military transit centre after the lease expires in 2014. Scandals surrounding the former presidential families have been linked with exclusive fuel contracts to the base, increasing public anger at government corruption and dissatisfaction with the American use of Manas as a base for military operations.³⁵

Kyrgyzstan's relations with neighbouring countries are generally good and the republic participates in a number of regional political forums. However, several issues have arisen due to incomplete

³³ For more on 2010 events, see AKIpress (2011a) 'Zaklyuchenie Natskomissii po rassledovaniyu sobytiy v iyune 2010 g. na uge Kyrgyzstana' ['Conclusion of the National Commission into the investigation of events in June 2010 in southern Kyrgyzstan'], 20 January 2011, <http://kg.akipress.org/print:317951>, (accessed 20 January 2011); AKIpress (2011b) 'Shest' otchetov ob iyun'skikh sobytiyakh' ['Six reports on the June events'], 25 May 2011, <http://kg.akipress.org/news:373331/>, (accessed 26 May 2011); Akun, T. (2011) 'Spravka nezavisimoi komissii Ombudsmena (Akyikatchy) Kyrgyzskoi Respubliki po izucheniyu tragicheskikh iyun'skikh sobytiy 2010 goda, proizoshedshikh v Oshskoi, Jalal-Abadskoi oblastiakh i g. Osh' ['Official document of the independent commission of the Ombudsmen (Akyikatchy) of the Kyrgyz Republic on the investigation of the tragic June events 2010, which took place in Osh and Jalalabat oblasts, and Osh city'], 13 January 2011,

<http://www.ombudsman.kg/en/ourwork/monitoringandinvestigations/148-prisonersrightsdepartment/338--2010-.html> (accessed 13 July 2011); Government of Kyrgyzstan (2011) 'Comments in response to the report of the Kyrgyzstan Inquiry Commission into the events in southern Kyrgyzstan in June 2010' (Bishkek); Gullette, D. (2010), 'Institutionalized Instability: Factors Leading to the April 2010 Uprising in Kyrgyzstan', *Eurasian Review* 3: 89-105; Human Rights Watch (2010) "Where is the justice?" *Interethnic Violence in Southern Kyrgyzstan and its Aftermath*. (New York, NY: Human Rights Watch); International Crisis Group (2010) *The Pogroms in Kyrgyzstan*, Asia Report N° 193; International Crisis Group (2012) *Kyrgyzstan: Widening Ethnic Divisions in the South*, Asia Report N° 222; Kyrgyzstan Inquiry Commission (2011), 'Report of the Independent International Commission of Inquiry into the Events in Southern Kyrgyzstan in June 2010', <http://www.k-ic.org/en/news/364-kic-final-report-published.html> (accessed 14 July 2011); Myrzakmatov, M. (2011) *V poiskakh istiny. Oshkaya tragediya: dokumenty, fakty, interv'yū, obrashcheniya i zayavleniya [In Search of the Truth. The Osh Tragedy: documents, facts, appeals and declarations]* (Bishkek: Turar); Megoran, N. (2012) 'Averting Violence in Kyrgyzstan: Understanding and Responding to Nationalism' Russia and Eurasia Programme Paper: 2012/03, (London: Chatham House); Reeves, M. (2010), 'A Weekend in Osh', *London Review of Books* Vol. 32(13): 17-18.

³⁴ For more information, see the official site of the Transit Center at Manas at: <http://www.manas.afcent.af.mil/> (accessed 5 December 2013).

³⁵ For more on this and links to previous articles on this topic, see Deirdre Tynan, 2011, "Kyrgyzstan: Bishkek Will Try to Follow the Pentagon's Money", *EurasiaNet.org*, 15 September 2011, <http://www.eurasianet.org/node/64177> (accessed 5 December 2013).

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demarcation of the state boundaries and natural resources.³⁶ In 2000, the border with China became a point of contention between members of the opposition and the government. Üzönggü-Kuush, the largest area of disputed land – approximately 87,200 hectares – named after the river running through the disputed territory covering part of At-Bashy Province (Naryn Oblast) and Jeti-Oguz District (Issyk-Kul Oblast), was given to China together with three other small plots of land.³⁷ There have also been clashes on the Kyrgyz-Tajik border, largely over access to land.³⁸ There have also been tensions over the use of water resources between Kyrgyzstan and Uzbekistan, as Uzbekistan is downstream from Kyrgyzstan and depends heavily on water for its monoculture cotton crop.³⁹

Geographical context

The Kyrgyz Republic is divided into seven oblasts and two cities with national status. The oblasts are: Batken, Chui, Issyk-Kul, Jalalabat, Naryn, Osh, and Talas. The two cities with national (or 'republican') importance are Bishkek and Osh.⁴⁰ Each oblast is divided into districts (*raions*) and each district is divided into *aiyl okmotu*. An *aiyl okmotu* is a local territorial division which encompasses one or several villages (usually three, but can be as few as one or as many as eight). The *aiyl okmotu* is the smallest administrative unit. In the Kyrgyz Republic, there are 40 districts, 25 cities, 28 urban-type villages, 3 settlements, 440 *aiyl okmotus* and 1,834 villages.⁴¹

Demography⁴²

Of the more than 5.5 million people in the country, slightly more than half are women. According to statistics in 2012, over two-thirds of the population live in rural areas. Also, just over half of the population lives in southern Kyrgyzstan. However, as the southern oblasts are small in terms of territory and the population is slightly higher than the rest of the country, it means that there are around 36.5 people per square kilometres in the south (excluding Osh City).

Also at this time, over 72 per cent of the population is Kyrgyz. The next largest ethnic groups are Uzbeks (14.3 per cent), Russians (6.9 per cent), Dungans (1.1 per cent) and Uighurs (0.9 per cent).

³⁶ The Kyrgyz government has published materials related to work conducted on the Chinese and Kazakh borders. Ministry of Foreign Affairs (2003) *Kyrgyz-kytai mamlekettik chek arasy jönündö materialdar jana dokumentter - Materialy i dokumenty o kyrgyzsko-kitaiskoi gosudarstvennoi granites* [Materials and Documents on the Kyrgyz-Chinese State Border] (Bishkek: Ministry of Foreign Affairs); Ministry of Foreign Affairs (2004) *Kyrgyzstan jana Kazakstan: dostuktun jana yak kongshulashtyktyn chek arasy - Kyrgyzstan i Kazakstan: granitsa druzhby i dobrososedstva* [Kyrgyzstan and Kazakhstan: Borders of Friendship and Good Neighbourliness] (Bishkek: Ministry of Foreign Affairs and the Friedrich Ebert Foundation).

³⁷ For more on this, see A. Beknazarov, 2001, 'Chto delat' dal'she?' [What to do next?], *Obshchestvennyi reiting*, 28 June 2001, pp. 8-9; *ResPublica*, 2001, 'Vopros of kyrgyzsko-kitaiskoi granites na ostrie' [Question of Kyrgyz-Chinese boarder on an edge], 29 March 2001, p. 1; and D Gullette, 2010, *The Genealogical Construction of the Kyrgyz Republic: Kinship, State and Tribalism* (Folkestone: Brill – Global Oriental).

³⁸ *EurasiaNet.org*, 2009, "Kyrgyzstan: Ambiguous Kyrgyz-Tajik Border Increases Risk of Conflict", 1 February, <http://www.eurasianet.org/departments/insightb/articles/eav020209b.shtml> (accessed 5 December 2013).

³⁹ Shtraks, G., 2010, "Is the Uzbekistan-Kyrgyzstan standoff the first of many?" Jamestown Foundation Blog, 15 March, <http://jamestownfoundation.blogspot.com/2010/03/is-uzbekistan-kyrgyzstan-standoff-first.html> (accessed 5 December 2013).

⁴⁰ The term 'national significance' (or sometimes written 'national importance') has a specific meaning in the legal codes of the country. 'The category of national importance can be assigned to a settlement that has a special national significance or is the administrative, economic and cultural centre of national importance, with industrial and social infrastructure and a population of at least 250,000 people. Particular ways of self-government organisation can be set up in these cities. The powers of self-government bodies in these cities may be different from the powers of local self-government bodies of other communities and their relations with the state authorities have a special character.' Law of the Kyrgyz Republic No. 65 'On the administrative-territorial organization of the Kyrgyz Republic' (25 April 2008), Article 6. Naryn Town, for example, is considered a town of 'oblast significance' (or 'oblast importance'). 'The category of a city of oblast significance can be assigned to a settlement that is the administrative, economic and cultural centre, with industry, utilities and housing, an extensive network of educational, social, medical and commercial institutions, with a population of at least 20,000 people.' Law of the Kyrgyz Republic No. 65 'On the administrative-territorial organisation of the Kyrgyz Republic' (25 April 2008), Article 6.

⁴¹ There have been discussions about redefining the territorial divisions in the Kyrgyz Republic, although there has been nothing publicly stated about this. Potential redefinitions have not been considered in this report.

⁴² Information for this section comes from National Statistical Committee of the Kyrgyz Republic (2012), *Demograficheskiy ezhegodnik Kyrgyzskoi Respubliki: Godovaya publikatsiya 2007-2011 gg.* [Demographic Yearbook: Annual Publication 2007-2011] (Bishkek: National Statistical Committee of the Kyrgyz Republic).

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National Government

Following the adoption of a new constitution through a referendum on 27 June 2010, the Kyrgyz Republic has moved from a presidential to a parliamentary system.⁴³ However, the country retained a presidential role with power to veto and appoint heads of state bodies. The new constitution introduced an enlarged parliament with 120 seats (from 90 seats) based on a party-mandate basis. The new president, Almazbek Atambayev, was sworn in on 1 December 2011, concluding the interim presidency of Roza Otunbayeva who led the country after the uprising on 7 April 2010.

As of January 2014, the Government of the Kyrgyz Republic consists of 15 ministries, 1 state committee, 7 state agencies, 10 state services, 3 funds and 2 state inspectorates (see Table 1).⁴⁴

Table 1 – Government bodies of the Kyrgyz Republic

Ministries	4. State Agency for Environmental and Forestry Protection
1. Ministry of Agriculture and Melioration	5. State Agency for Geology and Mineral Resources
2. Ministry of Culture, Information and Tourism	6. State Agency for Local Self-Government and Inter-ethnic Relations
3. Ministry of Defence	7. State Agency for Physical Education and Sport
4. Ministry of the Economy	State Services under the Government of the Kyrgyz Republic
5. Ministry of Education and Science	1. State Border Service
6. Ministry of Emergency Situations	2. State Corrections Service
7. Ministry of Energy and Industry	3. State Customs Service
8. Ministry of Finance	4. State Registry Service
9. Ministry of Foreign Affairs	5. State Service for Intellectual Property
10. Ministry of Health	6. State Service for Narcotics Control
11. Ministry of Internal Affairs	7. State Service for the Regulation and Supervision of the Financial Market
12. Ministry of Justice	8. State Service of Financial Intelligence
13. Ministry of Labour, Migration and Youth	9. State Service of the Fight against Economic Crimes (Finance Police)
14. Ministry of Social Development	10. State Tax Service
15. Ministry of Transport and Communications	Funds and Inspectorates under the Government of the Kyrgyz Republic
State Committees of the Government of the Kyrgyz Republic	1. Fund for the Management of State Property
1. State Committee of National Security	2. Mandatory Medical Insurance Fund
State Agencies under the Government of the Kyrgyz Republic	3. State Reserves Fund
1. State Agency for Antimonopoly Regulation	4. State Inspectorate for Ecological and Technical Safety
2. State Agency for Architecture, Construction and Housing and Communal Services	5. State Inspectorate for Veterinary and Phytosanitary Safety
3. State Agency for Communications	

⁴³ This is the eighth version of the constitution to have been approved. The first constitution was approved by the government in 1993, and changes and amendments were enacted in 1996, 1998, 2001, 2003, 2006, 2007 and 2010.

⁴⁴ Information from <http://www.gov.kg/?cat=35> (accessed 17 December 2013).

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The head of the oblast is a governor. On 17 July 2012, the government passed a new decree in which governors became known as plenipotentiaries (*polnomochnyi predstavitel'*) of the Government of the Kyrgyz Republic.⁴⁵ *Akims* are the head of districts and mayors preside over towns. The *aiyl okmotu* (village council or council of villages depending on size) or mayor's office are the executing bodies of the local self-government administrations.

Local self-government administrations⁴⁶

Local self-government administrations administer executive power in oblasts, districts (*raions*), and towns as stipulated by the constitution and relevant laws. The main responsibilities of local government administrations are the implementation of Kyrgyz laws, Presidential Acts, government regulations, and the general management of organisations funded from the local budget. At least once a year they account to the local assembly about the situation in their territory, relations with higher government organs and international relations.

The *aiyl okmotu* oversees the social and economic development of the territory given the power by the relevant state authorities and approved by the village council.⁴⁷ The *aiyl okmotu* is responsible activities in one or several villages – depending on the administrative grouping of villages – and is presided over by the head of the *aiyl okmotu*. The boundaries of the *aiyl okmotu* are sometimes founded on the former *kolkhoz* (collective farms) or *sovkhos* (state farms), which may include lands, such as remote summer pastures, that are not adjacent to the village.

Assembly of local representatives (or local self-government bodies)

Local self-government (LSG) bodies comprise representatives elected by and accountable to the local population and work with the local government administration. The head of the local assembly is also the head of the local self-government. LSG bodies confirm the local budget and account for its utilization, conduct hearings on the utilization of extra-budgetary funds, and approve acts related to their activities. LSG bodies and other local organs are responsible to the government for correct implementation and application of laws. Representatives can, by a two-thirds majority, express a vote of no-confidence in the head of local self-government.

LSG bodies' administrations are overseen by the State Agency for Local Self-Government and Inter-ethnic Relations (*Gosudarstvennoe agentstvo Kyrgyzskoi Respubliki po delam mestnogo samoupravleniya i mezhetnicheskikh otnoshenii pri pravitel'stvo Kyrgyzskoi Respubliki*) which seeks

to implement government policy in democratic governance, by creating the necessary conditions for the development of local self-government, developing an optimal system of interaction and division of responsibilities between public authorities and local self-government, improving the legal framework of local government, strengthening its financial and material base, as well as creating conditions for socio-economic development of local communities of the Kyrgyz Republic.⁴⁸

Other associations in aiyl okmotus

Independent of local self-government bodies, there are a number of associations based in *aiyl okmotus*. These address community issues and the use of local resources. Such associations and organisations include community prevention centres (*koomduk aldyn aluu borboru*), courts of elders (*aksakaldar sotu*), pasture committees (*jaiit komitet*), farmers' unions (*fermerdik koshuun*), and

⁴⁵ See Resolution of the Government of the Kyrgyz Republic 'On the Plenipotentiary of the Government of the Kyrgyz Republic in oblasts', 17 July 2012, No. 506.

⁴⁶ For more on local self-government administrations see the Law of the Kyrgyz Republic 'On Local Self-Government', 15 July 2011, No 110.

⁴⁷ Law of the Kyrgyz Republic 'On Local Self-Government', 15 July 2011, No 110, Chapter 6, Articles 46 and 47. This is an old version based on the previous mandate of the National Agency for Local Self Government. This represents an expansion of the original mandate to engage in specifically inter-ethnic issues at the local level.

⁴⁸ See http://namsu.org.kg/index.php?option=com_content&view=article&id=14&Itemid=6&lang=ru (accessed 1 July 2011).

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cooperatives (*jamaattar*). The cooperatives range in their activities, for example some are focused on farming, others on handicrafts.

Economy and employment

Agricultural sector remains dominant in Kyrgyz economy, however, country's GDP heavily hinges on gold exports and working migrants' remittances. In 2012 the gross domestic product (GDP) of the Kyrgyz Republic was USD 6.473 billion.⁴⁹ The GDP, however, shrank to -0.9 per cent due to a slowdown in production at the Kumtor mine. A walkout by miners caused a halt in production, which was resolved after 10 days of discussions. This caused related problems on the site as the glacier had encroached on the mining operations and needed to be cut back so work could begin again.⁵⁰ This ultimately caused a 54.1 per cent shrinkage in the volume of production compared to 2011, according to the National Bank of the Kyrgyz Republic. All other sectors saw growth on the previous year. The processing industries sector, of which the Kumtor mine is the largest contributor, experienced an overall slump of 27.2 per cent. Nonetheless, gold still accounted for 33.4 per cent of all export value. Agriculture, the main form of livelihood for most people in the country, represented 17.5 per cent of the GDP.⁵¹

In addition to this, there are a range of factors that create challenges for the country to meet its debts and maintain and improve the level of services. In 2012, there was a deficit in the national budget of 6.6 per cent in 2012. Also, the external debt of the Kyrgyz Republic in 2012 was USD 5.4 billion. Despite a rise in the GDP in 2013, the debt for the country makes it dependent on investment and foreign aid.

Unemployment in 2011 was 8.5 per cent of the population aged 15 and older.⁵² In 2012, this shrank to around 7.7 per cent.⁵³ At the same time the average monthly salary increased. In 2012, the average was KGS 10,726 (USD 228) per month.⁵⁴ Also in 2012, inflation was 2.7 per cent, which is significantly lower than previous years.

Unemployment and better wages elsewhere have encouraged many people to migrate for work. Official figures indicate that there are high numbers of internal and external migration. In 2011, external migration figures, predominantly to Kazakhstan and Russia, indicated that 45,700 people left the republic and only 6,200 people returned. From 2007 to 2011, the numbers of migrants went down in 2009 due to the global financial crisis. Other than this, the numbers are relatively comparable.

The remittances that migrants send home are a critical boost to the economy. In 2012, remittances amounted to USD 2.06 billion, which represents 31.9 per cent of the gross domestic product.⁵⁵

⁴⁹ World Bank Kyrgyz Republic country information <http://www.worldbank.org/en/country/kyrgyzrepublic> (accessed 5 December 2013).

⁵⁰ Trilling, D. (2013) 'Kyrgyzstan: Did One Walkout Shrink GDP?', *EurasiaNet.org*, 17 January 2013, <http://www.eurasianet.org/node/66419> (accessed 4 December 2013).

⁵¹ National Bank of the Kyrgyz Republic (2013), *Godovoi otchet 2012 [Annual Report 2012]* (Bishkek: National Bank of the Kyrgyz Republic).

⁵² National Statistical Committee of the Kyrgyz Republic (2012), *Zanyatost' i bezrobotitsa: Itogi integrirovannogo vyborochnogo obsledovaniya byudzhetoj domashnikh khozyaistv i rabochej sily v 2011 g. [Employment and Unemployment: Results of the Integrated Selected Study of Household Budgets and Working Force in 2011]* (Bishkek: National Statistical Committee of the Kyrgyz Republic).

⁵³ Trading Economics, 'Kyrgyzstan Unemployment Rate', <http://www.tradingeconomics.com/kyrgyzstan/unemployment-rate> (accessed September 5, 2013). It is important to note that this does not take into consideration farmers who are considered employed irrespective of their ability to sell their crops.

⁵⁴ National Statistical Committee of the Kyrgyz Republic, <http://www.stat.kg/stat.files/din.files/trud/1070013.pdf> (accessed 5 December 2013). The average exchange rate for 2012 was USD 1 = KGS 47.005. Exchange rates from the National Bank of the Kyrgyz Republic are used throughout this report, unless otherwise stated. For information on exchange rates, see <http://www.nbrk.kg/index1.jsp?item=1562&lang=RUS> (accessed 17 December 2013).

⁵⁵ National Bank of the Kyrgyz Republic (2013), *Platzhnyy balans Kyrgyzskoi Respubliki 2012 god [Balance of Payments of the Kyrgyz Republic 2012]* (Bishkek: National Bank of the Kyrgyz Republic). It should be noted that remittance flows are calculated based on money sent through money transfer companies in Kyrgyzstan. These are: Allyur, Anelik, Blizko, Bystraya pochta, Contact, Lider, Migom, MoneyGram, Sibkontakt, Unistream, Western Union, Zolotaya Korona, and other money transfer

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Nonetheless, approximately, 38 per cent of people in the country live in poverty (urban – 35.4 per cent, rural – 39.6 per cent) in 2012. At this time, a further 4.4 per cent of the population lived in extreme poverty (urban – 4.2 per cent, rural – 4.5 per cent).⁵⁶ This has resulted in almost 45 per cent of children living in poverty, with many children living with other family members as parents work abroad.

These and other factors have contributed to a low human development index (HDI) ranking for Kyrgyzstan.⁵⁷ In 2013 Kyrgyzstan had a HDI ranking of 125 out of 187 countries and territories.⁵⁸

Investment climate and legislature

As a small economy, Kyrgyzstan depends heavily on foreign investment for development. In 2012 and 2013, the Government introduced considerable changes to the legislation to improve the business environment. Specifically related to the mining sector, the Government adopted amendments to the Law 'On Subsoil' aimed to make the mineral resources sector more attractive for investment. In July 2013, the Government proposed further draft amendments to the Law giving licence holders more time to meet their commitments.⁵⁹ Important amendments were also made to the Land Code simplifying the procedures and giving equal rights for temporary land use for foreign and local subsoil users. In addition, changes were introduced to the Tax Code and went into effect in 2013 such as the reduction of the tax base size for mining enterprises increasing from 5 to 15 per cent in case of spending funds by these entities for research, development and exploration works related to their economic activity. Tax on income was introduced for some companies to prevent declaring a lower level of tax base by gold mining companies. Also, some provisions of the law have been made clearer such as on taxable deposits or bonus payment in cases of passing rights for subsoil use to third parties. Amendments to the Law 'On Non-tax Payments' allows the Government to establish the terms of payment for holding license for subsoil use in accordance with the Law 'On Subsoil' and the what portions of these payments are to go to budgets of local self-government administration (Kyrgyz, *aiyl okmotu*) budgets. Subsoil licensing regulation has been adjusted to lessen the effects of unnecessary bureaucracy.⁶⁰

These reforms were possible due to the constant support and contribution of such international organizations as the International Finance Corporation (IFC), which has been assisting Kyrgyzstan since 2008 through its Investment Climate Project. However, Serhiy Osavoluk, IFC Project Manager, in his evaluation of the county's progress acknowledged that 'despite the many reforms carried on over the past decade, the Kyrgyz Republic is facing a number of challenges in attracting investment, growing, and diversifying the economy.'⁶¹

systems and transfers through the Kyrgyz Postal Service. It does not take into account cash or other purchased goods sent back to recipients in Kyrgyzstan.

⁵⁶ The level of poverty is calculated by the consumer price index on goods and paid services to the population, which 'characterizes the change in general price level for goods and services over time. The index measures the correlation of the value of actually fixed set of goods and services during the given period to the value during the basic period.' For 2012, the level of poverty was set at KGS 26,182 (USD 557) per year per person. This means that 38 per cent of the population lives on approximately USD 1.53 per day. Extreme poverty was set at KGS 15,434 (USD 328.35) per person per year. This means that over 4.4 per cent of the population lives on approximately USD 0.90 per day. Information from National Statistical Committee of the Kyrgyz Republic (2013), *Informatsionnyi byulleten' Kyrgyzskoi Respubliki po prodovol'stvennoi bezopasnosti i bednosti [Food Security and Poverty Information Bulletin of the Kyrgyz Republic]*, second quarter 2013 (Bishkek: National Statistical Committee of the Kyrgyz Republic). The average exchange rate for 2012 was USD 1 = KGS 47.005. Visit http://www.nbkr.kg/index.jsp?res=high&scr_res=1366 (accessed 2 December 2013) to get more information on exchange rates from the National Bank of the Kyrgyz Republic.

⁵⁷ The Human Development Index is a 'summary measure for assessing long-term progress in three basic dimensions of human development: a long and healthy life, access to knowledge and a decent standard of living,' <http://hdr.undp.org/en/statistics/hdi/> (accessed 5 December 2013).

⁵⁸ See <http://hdrstats.undp.org/images/explanations/KGZ.pdf> (accessed 5 December 2013).

⁵⁹ Kalikova & Associates (2013), 'Mining Industry and Legal Update', Issue 20, September 2013, http://www.k-a.kg/sites/default/files/ilu_min_0913_eng.pdf (accessed 5 December 2013).

⁶⁰ Kalikova & Associates (2012), 'Mining Industry and Legal Update', Issue 14, September 2012, http://www.k-a.kg/sites/default/files/ilu_mining_sep2012eng.pdf (accessed 5 December 2013).

⁶¹ Swiss Agency for Development and Cooperation (2013), 'Kyrgyzstan: IFC Helps the Kyrgyz Republic to Improve Investment Climate', 25 September 2013, http://www.swiss-cooperation.admin.ch/centralasia/en/Home/News/News_Detail?itemID=224504 (accessed November 5, 2013).

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According to the Investment Climate Statement, Canada remained the largest foreign investor in Kyrgyzstan in 2012 followed by China, United Kingdom and Germany.⁶² Foreign investment is mainly oriented towards the mining sector of the republic's economy. Russia also remains a strong investor in the country.

The Bureau of Economic and Business Affairs annual report of the State Department of the United States of America praised positive developments in Kyrgyzstan including no expropriation or nationalization acts in 2012, democratic presidential elections and steps to ease regulatory barriers to attract foreign inflow. However, the report also discusses widespread corruption existing at all administrative levels,⁶³ weak property right protection, social unrest and constant threats of renegotiating active contracts negotiations that remain acute problems for foreign investment.⁶⁴

This uncertainty remains a primary concern for foreign investors. A slight drop in the Foreign Direct Investment in 2012 comparing to 2011 may further continue falling in 2013 as a result of Parliament's attempt to renegotiate the Kumtor mine deal as well as the closure of the Transit Hub at Manas. Irrespective of the final decision on the Kumtor mine agreement, the long process and instability will likely have a negative impact on future investment in the country. As prominent businessman Emil Umetaliyev has said "What's happening with Kumtor signals to the world that we cannot secure property rights and have normal relations with Western countries."⁶⁵ Later, the possibility of nationalization was underlined by President Atambayev, who said "Even if it is very hard and harmful for Kyrgyzstan, maybe, for the sake of pacifying people, we might take a harmful action...like nationalization."⁶⁶

As one industry expert noted, the investment climate needed to be 'de-risked', meaning that there needs to be greater stability in the country, consistency in reducing risk and that large governments or financial organizations should be involved to providing financing. This person noted "banks should invest, not just take money."⁶⁷

⁶² Bureau of Economic and Business Affairs op cit. See also the National Statistical Committee of the Kyrgyz Republic (2012), *Investitsii v Kyrgyzskoi Respublike (2007-2011) [Investment in the Kyrgyz Republic (2007-2011)]* (Bishkek: National Statistical Committee of the Kyrgyz Republic), p. 10.

⁶³ Kyrgyz Republic ranked 150 out of 176 countries in 2012 according to the Transparency International (2013), *Corruption Perception Index*, <http://cpi.transparency.org/cpi2013/results/> (accessed 12 December 2013).

⁶⁴ Bureau of Economic and Business Affairs, '2013 Investment Climate Statement: Kyrgyz Republic', U.S. Department of State, February 2013, available at: <http://www.state.gov/e/eb/rls/othr/ics/2013/204673.htm> (accessed 23 October 2013).

⁶⁵ Trilling, D. (2013), 'Kyrgyzstan: At Kumtor Mine, "No Light at the End of the Tunnel"', *EurasiaNet.org*, 14 November 2013, <http://eurasianet.org/node/67765> (accessed 17 November 2013).

⁶⁶ BBC (2013), 'Kyrgyzstan president: Key goldmine may be nationalised', 7 November 2013, <http://www.bbc.co.uk/news/world-asia-24852753> (accessed 8 November 2013).

⁶⁷ Interview, mining expert, August 2013.

Mining Sector in the Kyrgyz Republic

The development of the mining sector and the increasing tensions throughout the Kyrgyz Republic in reaction against some mining practices have created a complex environment. This section examines the background to many issues, but focuses on the specific events that happened during the time the research for this report was conducted. It examines the conflict context presents a number of issues that need to be addressed in conflict is to be mitigated in the future.

Mining sector overview

The territory of the Kyrgyz Republic is rich in mineral resources. These include gold, coal, mercury, antimony, lead, rare earth metals and uranium, among others. Evidence suggests that gold, both alluvial and ore deposits, and other minerals have been mined for a long time in the territory of the modern republic. When Kyrgyzstan was already a part of the Soviet Union, there were two known gold deposits: Altyn-Gilgeam and Chalkuyryuk in Turkestan-Alai. In 1938 the Kyrgyz Geological Office was created to lead all the geological studies in the country, including gold. The Second World War suspended all research. Nonetheless, gold extraction continued from Naryn, Kumbel Bashi, Uzunahmat deposits, and by the end of the war when many of the richest sites had been mined and extraction stopped in 1946. After the Second World War research was revived and by 1983 a large-scale evaluation of gold and silver resources had begun. Geologists mapped all gold and silver-bearing areas and provided an overall assessment of reserves and resources of gold.⁶⁸

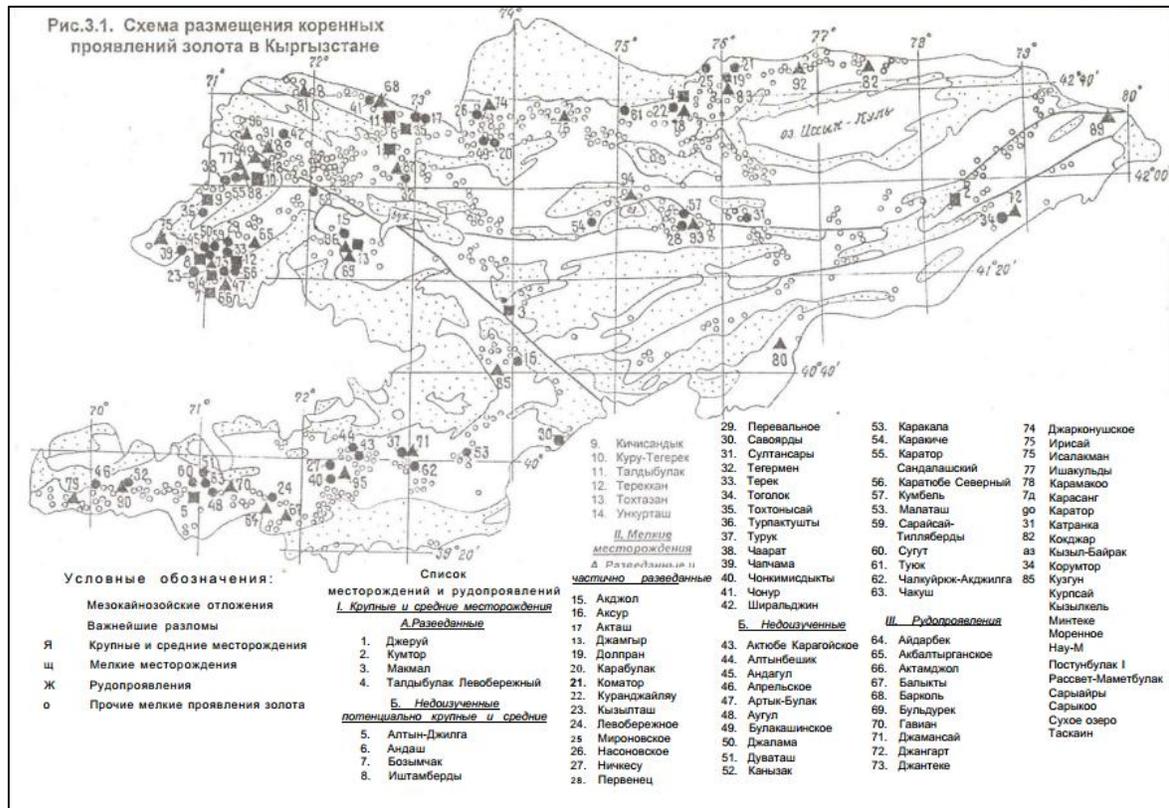
Important to note

The Kyrgyz Republic is rich in alluvial gold and gold ore deposits. Alluvial gold is gold distributed by water movement. This type of gold is usually sought in waterways and people wash clay, silt or gravel to sift out gold flakes. Gold ore deposits are found in stone and must go through a milling and separation process to extract the gold from the stone and other minerals. In the country there is little alluvial mining; much of the focus is on ore deposits.

⁶⁸ For more history on the mining sector in Kyrgyzstan, see Bogdetsky, V., K. Ibraev, and J. Abdyrakhmanova (2005), 'Mining Industry as a Source of Economic Growth in Kyrgyzstan', PIU of World Bank Grant for Building Capacity in Governance and Revenue Streams Management for Mining and Natural Resources <http://siteresources.worldbank.org/INTOGMC/Resources/336099-1156955107170/miningsourceeconomicgrowth.pdf> (accessed 12 December 2013); Dzhunushalieva, G.D. (2012), 'Stanovlenie gornodobyvayushchei promyshlennosti v Kyrgyzstane' ['Becoming of Mining Industry in Kyrgyzstan' (sic)], *Nauchnye vedomosti Belgorodskogo gosudarstvennogo universiteta. Seriya: Istoriya, Politologiya, Ekonomika, Informatika* [Belgorod State University Scientific Gazette. Series: History, Political Science, Economics, Information Science] 21(1); Sarygulov, D.I. (2000) *Gold of the Tien Shan Mountains* (Bishkek).

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Map of mineral resources in the Kyrgyz Republic⁶⁹



State bodies and other organizations engaged in the mining sector

In 1938 Soviet administrators established the Kyrgyz Geological Office and employed 43 different specialists. Since then, this office has been restructured and renamed, but its main focus was on geological research and the management of mineral resources.⁷⁰ On 26 October 2009, by Presidential Decree, the State Agency on Geology and Mineral Resources of the Kyrgyz Republic became the Ministry on Natural Resources.⁷¹ In 2012, the Minister was transformed again into the State Agency for Geology and Natural Resources under the Government of the Kyrgyz Republic. There are proposals again, however, to change the agency back into a ministry, so that all mining issues can be controlled by one state body.⁷² By not having ministerial status and tasks related to the mining sector distributed among different state bodies, some argue that the State Agency does not have sufficient authority to regulate the sector properly.

At the time of this research, the Ministry of Economy, the State Agency for Geology and Mineral Resources, the State Agency for Environmental Protection and Forestry, and the State Inspectorate

⁶⁹ Nikonov, V.V., Yu.V. Karaev, F.I. Borisov et al. (2007), *Gold Resources of Kyrgyzstan*, Bishkek: The Kyrgyz Methodological Expedition for Geological & Economical Research.

⁷⁰ Gainanov, R. (2013), 'Geologicheskoi Sluzhbe Kyrgyzstana ispolnilos' 75 let' ['Geological Service of Kyrgyzstan turns 75 years old'], *Kabar*, 25 October 2013, <http://www.kabar.kg/rus/society/full/65316> (accessed 8 December 2013).

⁷¹ Government of the Kyrgyz Republic Decree No. 734 'On the Ministry of Natural Resources of the Kyrgyz Republic' (4 December 2009).

⁷² Aralbaev, A. (2013), 'V Kyrgyzstane predlagayut sozdat' ministerstvo prirodnykh resursov' ['Recommend to create a Ministry of Natural Resources in Kyrgyzstan'], *Tushtuk.kg*, 6 September 2013, http://www.tushtuk.kg/society/461_v_kyrgyzstane_predlagayut_sozdat_ministerstvo_prirodnih_resursov/ (accessed 8 December 2013).

Conflict Sensitivity in the Mining Sector of the Kyrgyz Republic

for Environmental and Technical Safety all share responsibilities and duties related to mining, in accordance with the Law 'On Subsoil' adopted in 2012.⁷³ The Government of the Kyrgyz Republic is the owner and manager of the state subsoil fund.

The Ministry of Economy is engaged in the mining sector through its Administration on Natural Resources Policy, with its sub-offices the Department of Analysis and Monitoring on Natural Resources and the Department for Subsoil Use Policy. State Agency on Geology and Mineral Resources is responsible for regulation of the subsoil use, coordination, supervision and control, licensing, investment attraction and development of the mining industry. The State Agency for Environmental Protection and Forestry is responsible for ensuring mining enterprises follow environmental safety regulations. The State Inspectorate for Environmental and Technical Safety supervises environmental and industrial security within the geological, mining and land sectors, and is in charge of state control over the observance of environmental legislation.⁷⁴

Sub-national state administrative bodies and *aiyl okmotus* also carry out functions of state mining policies. Among their duties, they should provide access to licence holders to their mining areas, prevent unauthorized extraction and participate in the work of the commissions on tenders and auctions for mining licences on deposits located within the boundaries of their administrative-territorial units.⁷⁵

The State Agency for Geology and Mineral Resources is the main body engaged in subsurface resources, control over the rational use and protection of mineral resources of the republic. In addition to this, the Agency is involved in a number of development activities. The Agency's departments are involved in conducting complex studies, preparation of forecasts and metallogenic maps, evaluation of mineral deposits, development of technical projects, as well as providing services for the construction of roads, dams, bridges and power lines. With its expertise, the Agency also provides training and re-training of engineers involved in the sector. In addition, the Agency's Central Laboratory, which has been functioning since 1940, provides the analysis of ores and minerals and precious and semi-precious stones.

The State Agency also collaborates with the Kyrgyz Mining Association and the Mining and Metallurgical Trade Union of the Kyrgyz Republic. Created in May 1996, the Kyrgyz Mining Association is an independent public organization that aims to create favourable conditions for the development of the mining sector in the country. In addition, the Association has also positioned itself as linking relevant state agencies and foreign investors, geological and mining enterprises. The Mining and Metallurgical Trade Union of the Kyrgyz Republic was begun in 1984 and serves to defend the rights and interests of people in the mining industry. In recent years, the Union has worked for more favourable conditions in relation to activities at the Kadamjai Antimony Plant, Talas Copper Gold Mining Company, Kumtor Operating Company and others.

Laws regulating the mining sector

The main law governing mining activities in the Kyrgyz Republic is the Law 'On Subsoil'.⁷⁶ This builds on measures introduced in the 1997 version of the law, but the changes introduced are designed to lighten the 'command and control' method over the mining sector that had been inherited from Soviet laws.⁷⁷ This law outlines the procedures and duties of all engaged in mining activities. Revisions made to the law in 2012 also outline the duties of the local state administration and local self-government

⁷³ Law of the Kyrgyz Republic No. 160 'On Subsoil' (9 August 2012).

⁷⁴ Government of the Kyrgyz Republic Decree No. 136 'O Gosudarstvennoi inspeksii po ekologicheskoi i tekhnicheskoi bezopasnosti pri Pravitel'stve Kyrgyzskoi Respubliki' ['On the State Inspectorate for Ecological and Technical Safety under the Government of the Kyrgyz Republic'], (20 February 2012), http://www.geti.kg/index.php?option=com_content&view=article&id=111:postanovlenie-pravitelstva-kyrgyzskoj-respubliki-o-gosudarstvennoj-inspeksii-po-ekologicheskoi-i-tekhnicheskoi-bezopasnosti-pri-pravitelstve-kyrgyzskoj-respubliki&catid=12:legal-acts&Itemid=108&lang=ru (accessed 8 December 2013).

⁷⁵ Decree of the Government of the Kyrgyz Republic No. 834 'Provision on the Procedure and Arrangements of Tender for Subsoil Licence' (14 December 2012), Section II, Article 6; Resolution of the Government of the Kyrgyz Republic No. 834 'Provision on the Procedure and Conditions of Conducting an Auction for a Subsoil Licence', Section III, Article 23.

⁷⁶ Law of the Kyrgyz Republic No. 160 'On Subsoil' (9 August 2012). Further changes are planned to be introduced in 2014.

⁷⁷ Honkonen, T. (2012), 'Environmental Security, Mining and Good Governance: Mining Regulation in the Kyrgyz Republic – A Review' (Zoi Environment Network, University of Eastern Finland, Gaia Group Oy), p. 13.

Conflict Sensitivity in the Mining Sector of the Kyrgyz Republic

authorities. Their duties include 'providing licencees free access to licence area', 'to discontinue unauthorized mining' and 'to work with local people in order to discontinue illegal interference in the affairs of mineral rights holders'.⁷⁸

As outlined in the Law 'On Subsoil', licences are needed for all stages of work: surveying and prospecting, exploration and development of a deposit (i.e. mining).⁷⁹ An exploration licence can be issued initially for two years with a 10 year extension. A licence to develop mineral deposits can be issued for a period of 20 years and can also be extended.⁸⁰

Interested parties and companies can obtain licences in three ways: through a tender, auction or direct negotiations with the Government.⁸¹ In a tender, interested persons or entities submit documentation to a Tender Committee for review. The licence can be issued or, if a winner is not identified after two rounds, it can go to an auction. An auction is a public forum for bidding on a subsoil licence. If two companies have the same bid, the licence will go to the company with the longest working history in the country. If only one company submits documents for a tender or participates in auction, the Government can enter into direct negotiations with a company for a licence for a deposit site. The Government also retains the right to hold direct negotiations with companies and not go through a tender or auction process. If a company has a licence to explore a deposit and has found reserve there, it has the exclusive right to apply for a licence to develop the site.

Important to note

In 2008 there were 2,005 mining licences in the Kyrgyz Republic. In 2011, the Government cancelled many, leaving only 850 licences. The National Institute for Strategic Research stated that this was 'linked to the global financial crisis in 2008 and some ambiguity in the state policy on subsoil use'.⁸² The economic situation may have been one reason, but many investors and companies saw this as an arbitrary cancellation of licences, especially in places where companies have not been able to gain access to their sites and fulfil their workplans. In 2012, however, 105 new licences were issued. In 2012, over 60 per cent of all licences had been issued for the development of mineral resources.⁸³

There are a number of fees related to mining activities.⁸⁴ According to the Tax Code, all companies are required to pay bonuses and royalties. Bonuses are 'one-off payments for the right to use subsoil for the purpose of geological survey and exploration of mineral deposits.' Royalties are 'recurrent [monthly] payments for the use of subsoil for exploration purposes'.⁸⁵ Bonuses are based on the value

⁷⁸ Law of the Kyrgyz Republic No. 160 'On Subsoil' (9 August 2012), Chapter 2, Article 9, Paragraphs 2, 3 and 7, respectively.

⁷⁹ While a majority of companies will be involved in developing ore deposits, licences are also required for mining of alluvial deposits.

⁸⁰ Honkonen, T. (2012), 'Environmental Security, Mining and Good Governance: Comparison of the Mining Laws of Finland and Kyrgyzstan – Main Features', Briefing Paper (Zoi Environment Network, University of Eastern Finland, Gaia Group Oy).

⁸¹ According to mining sector sources, new changes to the Law 'On Subsoil' will be introduced in 2014. The proposed changes will make auctions the only way in which to obtain a licence. There has already been a parliamentary discussion on this on 29 October 2013, 'Law Project of the Kyrgyz Republic "On the introduction of additions and changes to the Law of the Kyrgyz Republic "On Subsoil", approved by the Decision of the Government of the Kyrgyz Republic No. 432 (30 July 2013)', http://www.kenesh.kg/Articles/18480-POVESTKA_DNYA_Zasedanie_Komiteta_ZHogorku_Kenesh_Kyrgyzskoj_Respubliki_po_toplivnoenergeticheskomu_kompleksu_i_nedropolzovaniyu.aspx (accessed 17 December 2013). For a brief discussion on other proposed changes, see Kalikova & Associates (2013), 'Mining Industry and Legal Update', Issue 20, September 2013, http://www.k-a.kg/sites/default/files/ilu_min_0913_eng.pdf (accessed 5 December 2013).

⁸² National Strategic Research Institute of the Kyrgyz Republic (2013), 'Faktory negativnogo (nepriyaznennogo) otnosheniya mestnogo naseleniya k investoram, razrabotchikam mestorozhdenii poleznykh iskopaevykh, vzaimootnosheniya nedropol'zovatelei i mestnykh soobshchestv' ['Factors of the local population's negative (hostile) attitudes towards investors, developers of mineral deposits, and the relationship between subsoil users and local communities'] (Bishkek: National Strategic Research Institute of the Kyrgyz Republic), p. 13.

⁸³ *Ibid.*, p. 13.

⁸⁴ The Kumtor mine is separate and does not conform to all of these fees and has some imposed only on its operations. Thus, fees related to Kumtor are considered separately in this report.

⁸⁵ Tax Code of the Kyrgyz Republic No. 230 (17 October 2008), Section XI, Chapter 43, Article 299.

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of the estimated reserves, rather than the area of land; and the values are set by the Government.⁸⁶ Royalties are paid based on the type of mineral extracted and the estimated reserves.⁸⁷

There is also a land tax, or land-use fee, is 'a kind of annual payment for licence rights. The land use fee has different rates for exploration and production.'⁸⁸ There is also a 'road tax' of 0.8 per cent of gross revenue. There is an additional payment for an emergency fund payment of 1.5 per cent of gross revenues. Both taxes are deductible from the income bases for corporate income tax.⁸⁹ This has meant that it is costly for companies to operate in Kyrgyzstan. 'The proposed introduction of a new land use fee in addition to the royalty and bonus already applied will negate the benefit of lower royalties and will maintain Kyrgyzstan's mining tax regime as one of the most onerous in the world.'⁹⁰

In 2011 a long-debated tax was introduced. Companies must pay an additional 2 per cent tax into local budgets. One of the tax law's initiators, Parliamentary Deputy Iskhak Pirmatov (Respublika Party), argued that this would allow 'mining regions of the country [to] develop their infrastructure, and reduce the Republic budget.'⁹¹ This law, however, has created some confusion as one mining expert explained the local administration does not understand how to collect the money. Then, there are frequently disputes about how to use the money.⁹²

All these taxes do not include other expenditures, such as the cost of tenders, auctions and licences, and do not include the social benefit package that must also be agreed upon with the community (or communities) near mining operations.

The country's legislation also makes provisions for environmental research to be conducted at several stages throughout mining activities. Kyrgyzstan developed its legislation to conform to the Aarhus Convention⁹³ requirements which include provision on the public's environmental rights. 'Environmental impact assessments are legally required to be carried out on new mining projects. Public participation is mandatory at all stages of the environmental impact assessment procedure. In addition, Kyrgyz mining-related regulations mention the assessment of social impacts in the instructions on the environmental impact assessment procedure.'⁹⁴ Despite these measures, this has not always worked as envisaged and community members have complained that they were not included as the legislation had intended.

Another important aspect of the law is the inclusion of the Extractive Industries Transparency Initiative (EITI).⁹⁵ Kyrgyzstan launched EITI in 2004 to improve governance in the extractive industries sector. The EITI Standard seeks to ensure that extractive industry companies fully disclose taxes and other payments to governments. Kyrgyzstan is seen as an EITI compliant country and reporting covers more

⁸⁶ Tax Code of the Kyrgyz Republic No. 230 (17 October 2008), Section XI, Chapter 43, Article 304, Paragraph 2. This amounted to 0.05 per cent off the value of estimated reserves at 2009 market prices. Honkonen, T. (2012), 'Environmental Security, Mining and Good Governance: Mining Regulation in the Kyrgyz Republic – A Review' (Zoi Environment Network, University of Eastern Finland, Gaia Group Oy), p. 19.

⁸⁷ Tax Code of the Kyrgyz Republic No. 230 (17 October 2008), Section XI, Chapter 43, Article 310.

⁸⁸ Honkonen, T. (2012), 'Environmental Security, Mining and Good Governance: Comparison of the Mining Laws of Finland and Kyrgyzstan – Main Features', Briefing Paper (Zoi Environment Network, University of Eastern Finland, Gaia Group Oy), p. 9.

⁸⁹ Tax Code of the Kyrgyz Republic No. 230 (17 October 2008), Section XI, Chapter 43, Article 339.

⁹⁰ World Bank Group (2009), 'Sector Licensing Studies: Mining Sector', p. 46, https://www.wbqinvestmentclimate.org/uploads/Sector_Licensing_Mining.pdf (accessed 11 December 2013).

⁹¹ *Ibid.*, p. 51.

⁹² Kutueva, A. (2011), 'Parliamentary Committee in three readings adopts a bill which obligates mining companies to contribute 2 per cent of incomes into local budgets of Kyrgyzstan', *24.kg*, 15 November 2013, <http://eng.24.kg/politic/2011/11/15/21525.html> (accessed 11 December 2013). This is often referred to as the '2 per cent non-tax' as it is formally not regarded as a tax, but in fact is another tax on revenues.

⁹³ Interview, mining expert, August 2013.

⁹⁴ The United Nations Economic Commission for Europe Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, adopted 25 June 1998 in Aarhus, Denmark. For more information, see <http://www.unece.org/env/pp/introduction.html> (accessed 12 December 2013).

⁹⁵ Honkonen, T. (2012), 'Environmental Security, Mining and Good Governance: Comparison of the Mining Laws of Finland and Kyrgyzstan – Main Features', Briefing Paper (Zoi Environment Network, University of Eastern Finland, Gaia Group Oy), p. 6.

⁹⁶ For more on EITI, see <http://eiti.org/> (accessed 12 December 2013).

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than 95 per cent of the revenues of extractive industry companies in the country. EITI has also been included in the 2012 version of the Law 'On Subsoil'.⁹⁶

Despite improvements in the legislation, there remain issues that are not fully explained in the Law 'On Subsoil', such as social benefit packages. These gaps in the legislation are a "place of conflict"⁹⁷ and frequently lead to further animosity between parties because of the misunderstandings that ensue. As T. Honkonen observed

Overall, the current policymaking situation in the mining sector in Kyrgyzstan is somewhat confusing. It has been the general government line that the investment attractiveness of the country should be improved, also with regard to the mining sector. A number of policy decisions have been taken in this respect, yet the actions have been rather haphazard and even confusing. Frequent changes in the country's leadership and governance structures have caused uncertainty and a lack of predictability for mining policy. It has been pointed out that the mining industry has suffered from a series of strong actions by the Kyrgyz government to limit their freedom of action and business opportunities; these include the suspension off the issuance of licences and their cancellation; closing access to geological information funds; and the fact that the established inter-agency licensing commission does not have mining professionals as members.⁹⁸

The events of 2013 have created new worries with frequent calls for the nationalization of the Kumtor mine. Together with the lower price of gold, this is further weakening investors' confidence in the mining sector in Kyrgyzstan.

Main laws regulating the mining sector in the Kyrgyz Republic⁹⁹

Subsoil Use

Law of the Kyrgyz Republic No. 850-XII 'On Concessions and Concession Enterprises in the Kyrgyz Republic' (6 March 1992)

Law of the Kyrgyz Republic No. 49 'On Agreements on Sharing of Production Resulting from Development of Mineral Resources' (10 April 2002)

Law of the Kyrgyz Republic No. 160 'On Subsoil' (9 August 2012)

Resolution of the Government of the Kyrgyz Republic No. 834 'Provision on the Procedure and Conditions of Conducting an Auction for a Subsoil Licence' (14 December 2012)

Decree of the Government of the Kyrgyz Republic No. 834 'Provision on the Procedure of Subsoil Use Licencing' (14 December 2012)

Decree of the Government of the Kyrgyz Republic No. 834 'Provision on the Procedure and Arrangements of Tender for a Subsoil Licence' (14 December 2012)

Decree of the Government of the Kyrgyz Republic No. 834 'Provision on the Procedure of the Calculation and Payment for Retention of a Subsoil Licence' (14 December 2012)

⁹⁶ State Agency for Geology and Mineral Resources of the Kyrgyz Republic, http://geology.kg/index.php?option=com_content&view=article&id=291&Itemid=266&lang=en (accessed 12 December 2013).

⁹⁷ Interview, non-governmental organization worker, August 2013.

⁹⁸ Honkonen, T. (2012), 'Environmental Security, Mining and Good Governance: Mining Regulation in the Kyrgyz Republic – A Review' (Zoi Environment Network, University of Eastern Finland, Gaia Group Oy), p. 41.

⁹⁹ For more, see Aldashev, N., S. Dumanaeva and S. Lebedeva (2011), 'Kyrgyzstan', *Getting the Deal Through – Mining*, pp. 106-109, <http://www.lorenz-law.com/wp-content/uploads/Getting-the-Deal-Through-Article.pdf> (accessed 12 December 2013). Note that this is not an exhaustive list and there are other laws that also pertain to mining companies beyond these listed here.

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Land Use

Land Code of the Kyrgyz Republic No. 46 (2 June 1999)

Resolution of the Government of the Kyrgyz Republic No. 261 'Regulation on the Provision of Land Plots for Subsurface Use' (12 April 2006)

Resolution of the Government of the Kyrgyz Republic No. 19 'Provision on the Procedure of the Transformation of Land Plots from One Category to Another or From One Type of Land to Another Type of Land (with amendments and supplements as of 8 December 2010)' (22 January 2008)

Law of the Kyrgyz Republic No. 145 'On Transformation of Land' (15 July 2013)

Environment

Law of the Kyrgyz Republic No. 1422-XII 'On Water' (14 January 1994)

Law of the Kyrgyz Republic No 51 'On Atmospheric Air Protection' (12 June 1999)

There is another issue that is not clearly laid out in the law, but is a practice that is increasingly becoming a mandatory operating practice. Corporate social responsibility (CSR) is an important aspect to meeting obligations and ensuring a responsible approach towards mining and community engagement. The Australian Centre for Social Corporate Responsibility uses the term 'social licence to operate'. This means

'The Social licence is the level of acceptance or approval continually granted to an organization's operations or project by the local community and other stakeholders. It varies between stakeholders and across time through four levels from lowest to highest: withdrawal, acceptance, approval and psychological identification.'¹⁰⁰

This places the responsibility on the companies to ensure that they have included communities affected by mining activities in their everyday practices. This statement implies that an agreement must be made on the conditions on which the mining can go ahead. In Kyrgyzstan, this means that they must go beyond what the law says as the Law 'On Subsoil' does not clarify engagement with communities and development of social benefit packages. It means that companies must be prepared to work with communities for long-term engagement. One challenge is that this is often done in the absence of facilitation by government structures. Another challenge is that based on the phase of operations and the size of revenues companies must manage expectations, but still establish guarantees and benefits that will be acceptable to the community. This is a complicated process, but one where best practices need to be held as examples to strive towards.

Land debate

The use of land is a related debate to the view of some community members and mining operations. Some community members feel that the land is theirs and mining companies must, therefore, enter into negotiations with the community about the use of the land. This view is sometimes not fully articulated, but elements of it do appear in the way people approach the issue of whether mining companies should be allowed to mine if a community is against it. Others, however, believe that the land is not their possession and attempts to stop mining are therefore illegal.

¹⁰⁰ Australian Centre for Corporate Social Responsibility, <http://www.accsr.com.au/html/sociallicense.html> (accessed 18 December 2013).

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In summer 2008, geographer Bernd Steimann was conducting fieldwork in Naryn Oblast. He came across a village alpine summer pasture that was being mined. A local herder told him that operations had begun in 2006 and were expanding the open-cast mine. 'Many herders bitterly complained that the mine would not only spoil their village's drinking water, but also destroy "their" pastures, i.e. the alpine meadows where they kept their animals during summer. Obviously, the mine severely limited local people's future prospects to make a living from animal husbandry.'¹⁰¹

Herders see that land as 'theirs', but technically this is contrary to state laws. 'Unlike arable land, pastures remained in the sole ownership of the Kyrgyz state but were assigned to rural communities. Local people were given the right to use these pastures in accordance with certain rules and regulations, including the payment of an annual lump sum or the conclusion of an area-based lease contract (depending on the type of pastures).'¹⁰² Nonetheless, few still drive their animals to the remote summer pastures and the increasing social and economic challenges to this way of life are making many consider other livelihoods, including working for mining companies which is more lucrative but damage the very pastures that they want to use.

The legal provisions do not address the practicalities of everyday life. Thus, the question remains whether mining companies should have the right to mine on land that people see as belonging to them, either by their right of residence in that area or through their use of that land for animal husbandry or other purposes. One mining expert asserted the primacy of the 'indigenous peoples' to control their land. He stated

On the basis of the norms of the [...] UN Declaration on the Rights of Indigenous Peoples¹⁰³ [...] indigenous peoples¹⁰⁴ are in full command of the territory on which they reside. Without the agreement of the population, you cannot conduct any kind of activities, especially mining activities. But our Government goes on the basis that subsoil belongs to the state.¹⁰⁵ And it ignores the opinion of the local community.¹⁰⁶

Others suggested that such attempts to block access to mining sites were worked in opposition to the development of the region and were illegal. One mining expert summarized the situation by saying that people were not interested in the state or what belongs to the state. They see it as their land, but this is their "ignorance". He later said, "If people don't want mining in their area, they have to compensate the state."¹⁰⁷ If the state cannot collect taxes and other revenues from mining operations, then the mining expert questioned why the local community should not compensate the state for the loss of earnings. He continued by asking whether the state social benefits should not also be reduced as a result of this loss of earnings. One oblast administrator stated that "The population thinks that the [deposit] belongs to them as the deposit is located close to their village. This is complete robbery and against the law."¹⁰⁸

¹⁰¹ Steimann, B. (2011), *Making a Living in Uncertainty: Agro-Pastoral Livelihoods and Institutional Transformations in Post-Socialist Rural Kyrgyzstan*, Human Geography Series, Volume 26 (Zurich: Department of Geography, Division of Human Geography, University of Zurich), p. 1.

¹⁰² Ibid., p. 221.

¹⁰³ The United Nations Declaration on the Rights of Indigenous Peoples was signed on 13 September 2007 at the 107th plenary meeting. For more information, see the United Nations Permanent Forum on Indigenous Issues, <http://undesadspd.org/IndigenousPeoples.aspx> (accessed 17 December 2013).

¹⁰⁴ This raises another issue as to whether the Kyrgyz or other ethnic minorities in Kyrgyzstan are referred to or qualify as 'indigenous people'. This term has not been used in Kyrgyzstan to refer to any ethnic group. If, however, such a term were to be used, it would raise a number of legal and social questions about the status and rights of ethnic groups. This is beyond the scope of this report and would require additional research.

¹⁰⁵ Law of the Kyrgyz Republic No. 160 'On Subsoil' (9 August 2012), Article 3 states 'Minerals are the sole property of the Kyrgyz Republic, used as a fundamental source for the Kyrgyz people's sustenance and being under special protection of the State.'

¹⁰⁶ Interview, mining expert, September 2013.

¹⁰⁷ Interview, mining expert, August 2013.

¹⁰⁸ Interview, oblast administrator, September 2013.

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This highlights the lack of communication between stakeholders in mining operations, but also sets out a challenge to the governance of pastures and similar natural resources. This view has not been taken up for debate in Parliament, but does represent a set of views that influence the way people conceptualize the issue of mining near their communities and on community land. In this regard, a mining expert suggested that the Government must work more with local communities first, then, after agreements have been reached, invite investors and mining companies into the discussion.¹⁰⁹

Kumtor mine

The Kumtor gold deposit is the largest in Central Asia. It is located in the mountains off the south shore of Lake Issyk-Kul and 350 kilometres southeast of the capital Bishkek. The deposit was discovered in 1978. Several years later the Soviet Ministry of Geology published detailed exploration results on the deposit. The feasibility study, however, indicated that mining operations would be too costly and extraction methods available at the time would cause severe environmental damage. The development of the mine was delayed until the early 1990s when an independent Kyrgyzstan could attract foreign investment to explore the deposit.

The main reserves of the deposit are located in the Central site. There are also 8 flank promising sites: South-Western, Sary-Tor, Northeast, Davidov glacier, Glacier Bold, Akbel-Boordu, Akbel-South, rivers Kumtor-Irtash. The pit has 3.6 million contained ounces of gold, total open pit reserves of 9.7 million contained ounces of gold of proven and probable reserves according to latest analysis.¹¹⁰

The General Agreement between the Government of the Kyrgyz Republic and Cameco Corporation on the Kumtor deposit was signed on 3 December 1992. Cameco acquired a one-third interest in the Kumtor Gold Company. The Government, through Kyrgyzaltyn, received the remaining two-thirds interest. Kumtor Operating Company, a subsidiary of Cameco Gold International, operated the mine. Construct and development of the site started in 1994 and was completed in 1997, and production began only in the second quarter of that year.¹¹¹

In 2004 the project was restructured and Centerra Gold Inc. was created. Then, in 2009 Centerra negotiated a New Terms Agreement between the Government and Cameco Corporation, which was signed in June. In December 2009, Cameco announced it would dispose of all its common shares. Through this process, the Government's control fell to 33 per cent of all shares.¹¹² The new Government after the 2010 events has viewed this agreement as one of the main issues to address and has been an important argument in calls for the mine to be nationalized.

The Kumtor mine represents that largest foreign investment project in the country, and the largest private sector employer. Around 95 per cent of the more than 2,500 full-time employees are citizens of Kyrgyzstan. The mine contributes to roughly 12 per cent of the GDP.¹¹³

¹⁰⁹ Interview, mining expert, September 2013.

¹¹⁰ Centerra Gold (2013), 'News Release', 7 November 2013, <http://www.centerragold.com/sites/default/files/cg-11072012-1.pdf> (accessed 5 November 2013).

¹¹¹ See <http://www.centerragold.com/operations/kumtor-history> (accessed 6 December 2013) for more on the history of the Kumtor mine.

¹¹² For a detailed discussion of this, see the three-part series of articles *Tazabek* (2013), 'Istoriya voprosa: Razrabotka zolotorudnogo Mestorozhdeniya Kumtor (I chast)' ['Background: Development of the gold deposit Kumtor (Part 1)'], 5 February 2013, <http://www.tazabek.kg/news:345493/> (accessed 7 December 2013); *Tazabek* (2013), 'Istoriya voprosa: Razrabotka zolotorudnogo Mestorozhdeniya Kumtor (II chast)' ['Background: Development of the gold deposit Kumtor (Part 2)'], 11 March 2013, <http://www.tazabek.kg/news:347114/> (accessed 7 December 2013); *Tazabek* (2013), 'Istoriya voprosa: Razrabotka zolotorudnogo Mestorozhdeniya Kumtor (III chast)' ['Background: Development of the gold deposit Kumtor (Part 3)'], 5 April 2013, <http://www.tazabek.kg/news:348589/> (accessed 7 December 2013).

¹¹³ *The Economist*, (2013) 'Gold in the Hills: Attitudes toward Foreign Investors Hold a Troubled Country back', 16 March 2013, <http://www.economist.com/news/asia/21573615-attitudes-towards-foreign-investors-hold-troubled-country-back-gold-hills> (accessed 6 December 2013).

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The Kumtor Operating Company pays a range of taxes on its operations. It pays a gross proceeds tax (13 per cent), Environmental Pollution Charge, Employee Income Tax, contributions to the Social Fund, Customs Administration Fee, Withholding Tax on non-residents, and other taxes and payments. The company also pays a 1 per cent contribution to a development fund for Issyk-Kul Oblast that is overseen by the Governor. All of this is in addition to social projects that it supports in the oblast. Since 2009, this has totalled USD 27 million. This is in addition to the social projects that the company funds in the nearby communities.¹¹⁴

Conflict over Kumtor

Tensions related to the mining industry have created a sense of asymmetrical relations between communities near mining sites, the government and international investors, and resulted in many demonstrations and outbreaks of violent conflict. In particular, the Kumtor mine, run by the Kumtor Operating Company, has seen a number of protests and actions to nationalize the mine. This has created a political standoff that is worsening. On 3 October, about 1,000 people gathered at Bishkek's Ala-Too Square for a rally, organized by Ata-Jurt (Fatherland) party members of parliament Sadyr Japarov, Kamchybek Tashiev and Talant Mamytov. They called for the nationalization of the Kumtor Operating Company.¹¹⁵ The rally denigrated into an attempt to break into the building housing the Parliament and Presidential Office after an inflammatory speech by Tashiev calling for the resignation of the Prime Minister and other top officials.

All three members of parliament were found guilty of attempting to violently seize power, but given short prison sentences.¹¹⁶ As their trial continued there were demonstrations around the country in their support. On 5 March 2013, demonstrations took place in Issyk-Kol, Jalalabad and Osh Oblasts in support of the jailed Ata-Jurt members, but also increasing calls for the nationalization of Kumtor mine. Further protest actions were planned throughout March and April 2013. At the same time some politicians made calls to dissolve parliament,¹¹⁷ highlighting the growing political crisis and continued fragility of stability in the country. On 17 June 2013, the opposition leaders were released,¹¹⁸ but the Supreme Court upheld the ruling that they were to be stripped of their parliamentary mandates.¹¹⁹ This political and legal drama sent further concern throughout the country and investor community whether the country could uphold the rule of law.

The problems extend much further, affecting business environment and the economy of the country. In February 2012, workers at the Kumtor mine went on strike over a disagreement about the level of benefits they were to receive. Centerra Gold quickly settled the dispute despite arguing that the strike was in breach of the workers agreements with the company.¹²⁰ Nonetheless, after ten days the glacier at the top of the mountain had moved into the mouth of the open-pit mine causing further delays to operations. Later in the year, workers hit a difficult section when expanding the mine which further slowed extraction. These two challenges contributed to a near halving of the country's gross domestic product for 2012.

¹¹⁴ See <http://www.kumtor.kg/en/deposit/reports/> (accessed 7 December 2013) for the company's payments. See also Trilling, D. (2013), 'Centerra Gold and Kyrgyzstan: time for a marriage counsellor', *The Globe and Mail*, 25 April 2013, <http://www.theglobeandmail.com/report-on-business/rob-magazine/centerra-gold-and-kyrgyzstan-time-for-a-marriage-counsellor/article11541901/?page=all> (accessed 26 April 2013).

¹¹⁵ For more information, see <http://www.kumtor.kg/en/> (accessed 9 March 2013).

¹¹⁶ Trilling, D. (2013), 'Kyrgyzstan: Three Opposition Pols Sent to Prison, But Not for Long', EurasiaNet.org, 29 March 2013, <http://www.eurasianet.org/node/66759> (accessed 18 December 2013).

¹¹⁷ AKIpress, (2013), 'Prezident A. Atambaev vystupil protiv rospuska parlamenta' ['President A. Atambaev spoke out against dissolution of Parliament'], published 28 February 2013, <http://kg.akipress.org/news:569947> (accessed 9 March 2013).

¹¹⁸ Sabyrbekov, A. (2013), 'Bishkek Court Rules to release Three Opposition Lawmakers', *CACI Analyst*, 9 August 2013, <http://www.cacianalyst.org/publications/field-reports/item/12789-bishkek-court-rules-to-release-three-opposition-lawmakers.html> (accessed 18 December 2013).

¹¹⁹ *Radio Free Europe / Radio Liberty* (2013), 'Three Kyrgyz opposition lawmakers lose parliamentary seats', 20 August 2013, <http://www.rferl.org/content/kyrgyzstan-three-lawmakers-lose-seats/25080834.html> (accessed 18 December 2013).

¹²⁰ Trilling, D. (2012), 'Kyrgyzstan: Did One Walkout Shrink GDP?', 17 January 2013, <http://www.eurasianet.org/node/66419> (accessed 9 March 2013).

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Political interference is also creating further problems for the mining company. On 21 February, Parliament passed a decision based on the report of a state commission on the Kumtor project. Among the decisions were measures to initiate invalidation of former agreements between the Government and Centerra, especially those that were enacted during former President Kurmanbek Bakiev's tenure.¹²¹ A week later, the General Prosecutor's Office launched a criminal probe into corruption allegations during the 2009 revision to the Kumtor agreement.¹²² This focus of the criminal probe is unclear and could create further problems than establishing rights over the mine. First, it may be aimed at the foreign executives of Centerra Gold Inc. If this were the case, it could lead to significant reduction in foreign investment in the country. Second, it may be aimed at former and current government officials who received bribes during Bakiev's presidency in order to pass the mine agreement. If this were the case, it could lead to a worsening of the political situation in the country. Ultimately, the economic effects these events can have on the country are severe.

In 2012 and 2013 there were reports of a video that was said to expose all the environmental hazards and damage that Kumtor mining operations had caused.¹²³ The video, '*Uulangan Kumtor*' (Kyrgyz, 'Poisonous Kumtor') outlined a number of environmental violations at the site that were affecting other parts of the country. During the research for this report, the research team was not able to find copies of this video, except for those posted online. Some people interviewed had heard of something similar to this video, but no one showed the team a copy of this video, which is believed to have been widely distributed.

There has been one significant environmental accident which is regularly referred to in the press. In May 1998 a truck spilled 1,762 kilogrammes of sodium cyanide into the Barskoon River, which flows into Lake Issyk-Kul. Sodium cyanide is an inorganic compound used in the leaching process.¹²⁴ Some local residents said that they suffered health problems as a result of this.¹²⁵ An international group of experts conducted an impact assessment in May and June 1998 to understand the effect of the sodium cyanide spill. The authors concluded that there was a significantly high concentration to cause adverse health effects to anyone who drank the water for several hours after the spill. There were up to 16 cases of possible cyanide exposure, but these were not confirmed that there were indeed cyanide-related illnesses. There may have been some damage to crops, but tests done in the affected area indicated that there were no lasting effects, 'No carcinogenic, mutagenic, teratogenic, reproductive or neurotoxicological effects to people are expected. Cyanide concentrations in the ditches of the villages of Barskaun [sic] and Tamga do not support cases of cyanide exposure causing human health effects. Nor is there any possible cyanide exposure for the villages of Tosor, Chong-Dzargylchak and Al-Terek.'¹²⁶

¹²¹ CA News (2013), 'Parliament of Kyrgyzstan passes final resolution on Kumtor project', 21 February 2013, <http://en.ca-news.org/news:521229> (accessed 9 March 2013).

¹²² CA News (2013), 'Launch of criminal probe into corruption facts during signing of Kumtor project agreements is right, says President Atambaev', published 28 February 2013, <http://en.ca-news.org/news:521446/> (accessed 9 March 2013).

¹²³ Versions of this video were posted online in September 2012, for example <http://www.blive.kg/video:147442/> (accessed 7 September 2013). Other reports have found that this video was updated or a new video was made containing images of Tashiev climbing over Parliament's fence on 3 October 2013. In late February 2013, security officials in Jalalabat and Osh Oblasts stated that they estimated between 10,000 and 15,000 DVDs had been distributed two weeks previously. Some who watched the videos claimed that Kamchybek Tashiev and Sadyr Japarov revealed the information about Kumtor. Nurmatov, E. (2013), 'V Osh provokatory prizyvayut k vesennim mitingam' ['In Osh provocateurs call for spring demonstrations'], Azattyk, 22 February 2013, http://rus.azattyk.org/content/kyrgyzstan_politics_opposition/24909517.html (accessed 25 August 2013).

¹²⁴ Cyanide is widely used in the mining operations, and, if managed properly, poses little risk to human health and the environment. 'For low ore concentrations, cyanide is the most economical way to extract gold and, despite years of research, there is no other process which has proven to have both lower environmental risks and acceptable economic outcomes.' From Hilson, G. and A.J. Monhemius (2006), 'Alternatives to Cyanide in the Gold Mining Industry: What Prospects for the Future?', *Journal of Cleaner Production* 14 (12-13): 1158-1167, cited in Oxus International (2012), 'Cyanide Use in Gold Mining: Implications for Kyrgyzstan', Bishkek. See also Australian Government, Department of Resources, Energy and Tourism (2008), *Cyanide Management: Leading Practice Sustainable Development Program for the Mining Industry*.

¹²⁵ Trilling, D. (2013), 'Centerra Gold and Kyrgyzstan: time for a marriage counsellor', *The Globe and Mail*, 25 April 2013, <http://www.theglobeandmail.com/report-on-business/rob-magazine/centerra-gold-and-kyrgyzstan-time-for-a-marriage-counsellor/article11541901/?page=all> (accessed 26 April 2013).

¹²⁶ Hynes, T.P., J. Harrison, E. Bonitenko, et al. (1998), 'The International Scientific Commissions' Assessment of the Impact of the Cyanide Spill at Barskaun, Kyrgyz Republic, May 20, 1998', p. iii.

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Despite the findings of the report, local residents have voiced persistent concerns about the effects of the cyanide spills and other ecological hazards due to mining activities. This has also had an effect on how other people view mining activities in their own areas, irrespective of the stage of mining activities or, sometimes, evidence to support their claims. As a result of continuing concerns and as part of the Government's review of the agreement with Centerra Gold Inc., there have been a number of reports about the mining activities at the Kumtor mine and the potential environment effect. While there have been some problems, such as the cyanide spill, analysis has not indicated that there are the gross violations that have been alleged in the video. One report conducted on behalf of Kumtor, one report which reviewed a previous assessment and commentary of expert review of the mine, and two independent reports, one of which was sponsored by Kyrgyzaltyn, have found no significant environmental hazards and the mine activities have been operating within European standards.¹²⁷ Although a government commission has found that there are some irregularities.¹²⁸

The importance of these reports indicates three aspects of environmental protection in the ongoing Kumtor case. First, as part of any monitoring and evaluation work or corporate due diligence, these reports provide necessary information on the activities at the mine and their potential hazards. Second, the focus on ecological and environmental issues during the agreement renegotiation process and the timing of these reports, however, suggests that this was more than just regular monitoring and evaluation exercises, but an attempt to build up a case that there were significant concerns at the Kumtor site and that Centerra Gold Inc. had not complied with its obligations and legislation. If this had been proved, which the reports indicate otherwise, it would have put the Government in a stronger position to be able to renegotiate the terms of the agreement with Centerra Gold Inc. Nonetheless, the number of reports suggests to people that there has been no definitive conclusion to the issue.

Third, there has never been a good experience in responsible mining practices and recultivation in Kyrgyzstan, which is also a driving force behind the environmental concerns. During the Soviet era, uranium dumping sites have often been poorly covered, and this has resulted in the poor health of those around that inhale the dust from these sites and there are numerous threats in the Fergana Valley that these sites could wash into the water system.¹²⁹ Therefore, there is little precedent on which to judge how Kumtor and other mines will meet their obligations and limit environmental and health hazards.

Irrespective of the findings of the reports discussed above, on 6 December 2013, the State Agency for Environmental Protection and Forestry under the Government of the Kyrgyz Republic filed a lawsuit against Centerra Gold Inc. for USD 304 million in alleged ecological damage. The Agency claimed that this was for 'emissions of pollutants and waste dumps, particularly related to operations between 1996 and 2011.'¹³⁰ On 13 December Centerra announced that the Bishkek City Court dismissed three previous appeals initiated by the State Inspectorate for Environmental and Technical Safety for issues at the Kumtor site, amounting to USD 152 million. However, a new claim by the Green Party was filed

¹²⁷ Environmental Resources Management (2012). 'Environmental Due Diligence: Kumtor Gold Mine, Kyrgyz Republic. Final Report'; Prizma (2012), 'Nezavisimaya otsenka "Otcheta Mezhdostupstvennoi komissii" i "Kommentariyev Morana" po voprosam soblyudeniya norm ekologicheskoi i promyshlennoi bezopasnosti na zolotodobyvayushchem rudnike "Kumtor"' ['Independent assessment of the "International Commission Report" and "Commentary Moran" on questions of observing ecological and industry safety norms at the gold mining deposit "Kumtor"'], 23 April 2012; Nordmann, T. (2012), 'Analyses of samples of surface water, waste water, sediment, landfill and sludge collected in the area of the Kumtor Gold Mine, Kyrgyz Republic, in October 2012. Study Report', 29 November 2012; Stegnar, P. (2012), 'Analysis of river and stream sediments from the Kumtor gold mine area, Kyrgyz Republic. Final Report', 16 December 2012.

¹²⁸ Government Commission (2013), 'Otchet Gosudarstvennoi komissii po proverke i izucheniyu soblyudeniya ZAO "Kumtor Operating Kompani" norm i trebovaniy po ratsional'nomu ispol'sovaniyu prirodnykh resursov, okhrane okruzhayushchei sredy, bezopasnosti proizvodstvennykh protsessov i sotsial'noi zashchite naseleniya' ['Report of the State Commission for Inspection and Monitoring Closed Joint Stock Company Kumtor Operating Company norms and demands for rational use of natural resources, protection of the surrounding environment, safety of production processes and social protection of the population] (Bishkek).

¹²⁹ International Atomic Energy Agency (2007), 'Safe Management for Residues from Former Mining and Milling Activities in Central Asia', Project Results, Phase 1 (2005-2006), Draft Report.

¹³⁰ Dzyubenko, O. (2013), 'Kyrgyzstan files \$304 mln ecology damage suit against Centerra', Reuters, 6 December 2013, <http://www.reuters.com/article/2013/12/06/gold-kyrgyzstan-centerra-idUSL5N0JL3B120131206> (9 December 2013).

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in the Bishkek Inter-District Court which seeks damages of approximately USD 9 billion 'for alleged environmental damages arising from the Kumtor operations since 1996'.¹³¹ The allegations are similar to those that have been logged by the State Agency for Environmental Protection and Forestry and the State Inspectorate for Environmental and Technical Safety. This has created additional complications in the resolution of the new agreement between Centerra Gold Inc. and the Government.

Amid ongoing tensions, on 28 May 2013 protestors blocked the road to the Kumtor mine. They demanded that that Centerra Gold Inc. put more money into education and health sector in the oblast and that the Government cancel the operating agreement with the company. On 30 May, the demonstrators cut power to the mine by taking control of the electrical substation.

The following day, riot police moved in to break up the protest. The demonstration turned violent and 92 people were arrested and 55 people were wounded.¹³² The Government declared a state of emergency and roads to large towns were blocked for security precautions. The situation stabilized and 3 June the emergency measures were removed.

Also on 31 May, protestors in the southern city of Jalalabad began a protest movement in support of the protest in Issyk-Kul but demonstrators also demanded the release of the jailed Ata-Jurt party members.¹³³ Some protestors damaged the Oblast Administration building and later captured the building. One of the protest leaders, Meder Usenov, named himself the 'people's governor'.¹³⁴ On 2 June protestors blocked the main road between Bishkek and Osh. The following day Kachybek Tashiev went on hunger strike as a mark of his solidarity with the protestors in Jalalabad. Usenov was released on bail on 5 June and joined the protestors in Barpy village, Suzak District. After Usenov's release the protestors removed barricades and re-opened the Bishkek-Osh road.

More disturbances happened later in the summer after allegations of blackmail against activists from Saruu village, which is at the entrance to the Kumtor mine access road. On 28 August a video emerged on the Internet¹³⁵ of suspected extortion of money from Kumtor Operating Company. Bakhtiyar Kurmanov and Ermek Dzhunushbaev, two informal leaders who had led the May demonstration against Kumtor from Jeti-Oguz District, Issyk-Kul Oblast, were caught on film on 31 July allegedly blackmailing Douglas Grier, Director of Sustainable Development at Kumtor, for USD 3 million. Without funding their 'project' they would lead people to shut down the mine and said they had the backing of Kamchybek Tashiev and others. Later, Grier said that while he was unclear exactly how they wanted to use the money, he said that the men said that they wanted to rebuild a rehabilitation centre in Jegi-Oguz District with half the money and the other half of the money to be distributed to the people.¹³⁶ When the video emerged, around 100 people began to block the road near Darkhan village in support of the two men who argued that they had been framed for the alleged blackmail.¹³⁷ The roadblock was removed and the two men were later detained for questioning and placed under guard until 28 October. Community members defending Dzhunushbaev and Kurmanov said that unless the

¹³¹ Centerra Gold Inc. (2013), 'Centerra Provides Update on Kumtor Environmental Claims', 13 December 2013, <http://www.centerragold.com/sites/default/files/news-releases-en/20131213-nr-cg-en.pdf> (accessed 24 December 2013).

¹³² Trilling, D (2013), 'Kyrgyzstan Calls State of Emergency After Gold Mine Clashes', EurasiaNet.org, 31 May 2013, <http://eurasianet.org/node/67050> (accessed 4 June 2013).

¹³³ After continual pressure and threatening behaviour towards the judges, they were released on 17 June 2013. See Sabyrbekov op cit.

¹³⁴ Myrza, U. (2013), 'Dzhalal-Abad: Organizator iyun'skikh volnenii ne priznaet viny v zakhvate obladministratsii' ['Jalalabad: Organizer of the Jun disturbance does not admit guilt in the capture of the oblast administration building'], *Kloop.kg*, 17 December 2013, <http://kloop.kg/blog/2013/12/17/dzhalal-abad-organizator-iyun-skih-volnenij-ne-priznaet-viny-v-zahvate-obladministratsii/> (accessed 18 December 2013).

¹³⁵ A version of the video can be found at <http://www.youtube.com/watch?v=ZaHm4tCJycA> (accessed 7 September 2013).

¹³⁶ *Radio Azattyk* (2013), 'Po delu o vymogatel'stve doprosHEN menezher "Kumtor opereiting kompani" Duglas Grier' ['Douglas Grier, Manager of "Kumtor Operating Company" questioned on charges of extortion'], 13 December 2013, http://rus.azattyk.org/archive/ky_News_in_Russian_ru/20131212/4795/4795.html?id=25198294 (accessed 13 December 2013).

¹³⁷ Iskender, B. and A. Moldaliev (2013), 'Video o vymogatel'stve vzyvaet v Dzheti-Oguz' ['Video of blackmail provokes protests in Jeti-Oguz'], *Kloop.kg*, 29 August 2013, <http://kloop.kg/blog/2013/08/29/video-o-vy-mogatel-stve-vy-zy-vaet-protesty-v-dzheti-oguze/> (accessed 30 August 2013).

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Government decides the question on an agreement of shares in Kumtor Operating Company by 10 September, they would demonstrate.¹³⁸

On 9 September, Centerra Gold posted a news release on their website,¹³⁹ stating that the company and the Government had signed a non-binding memorandum of understanding regarding the restructuring of ownership of the Kumtor mine. The company said 'Kyrgyzaltyn would receive a 50 per cent interest in the joint venture company that would own the Kumtor Project in exchanged for its 32.7 per cent equity ownership in Centerra and US\$100 million which would be provided to Centerra by way of an adjustment to joint venture distributions otherwise due to Kyrgyzaltyn.'¹⁴⁰

Perhaps as part of this announcement, there were no reported disturbances near the Kumtor mine, as had been promised by Kurmanov and Dzhunushbaev, and their supporters. However, a Kumtor official noted that it is possible that after seeing the video, some people felt that the activists had not been working for the community's benefit and no longer saw a reason to demonstrate.¹⁴¹

Since then, however, there have been further disturbances. On 7 October 2013, protestors against Kumtor took hold of the Issyk-Kul Oblast Administration office in Karakol and held the Governor, Emil Kaptagayev, for several hours. The reports provided a mixed picture on the protestors' demands. Some wanted the mine to be nationalized; others wanted a new agreement in which 70 per cent of the shares in the new operating company would be owned by the state. During tense negotiations, Kaptagayev was reportedly doused in petrol and threatened that he would be set alight. After the Governor was released there were further disturbances requiring the riot police to use stun grenades and tear gas to repel the protestors.¹⁴² Later, people from Saruu village, some of whom had participated in the attack on the oblast administration building, declared without authorization a state of emergency in their village. A deputy from the *aiyl okmotu* council, Zamir Mindibaev, stated that the introduction of the state of emergency was an announcement of 'people's rule', indicating that they were supporting the nationalization of the Kumtor mine. The police stated that this was an attempt to avoid responsibility for the attack on the building and their declaration of a state of emergency had no legal basis.¹⁴³ Some villagers then threatened the police with a 'people's court' if they tried to come onto the village territory.¹⁴⁴

Since then, there have been lengthy parliamentary discussions about the new operating company agreement. Parliament rejected the Memorandum of Understanding with Centerra Gold Inc. on 23 October 2013 and later tasked the Prime Minister Satybaldiyev to drive a new deal that would secure the state 67 per cent of the shares in the new operating company.¹⁴⁵ Later, on 12 November 2013,

¹³⁸ Geine, K. (2013), 'Odnosel'chane "vymogatelei" deneg u "Kumtora" prigrozili mitingami' ['Fellow villages of the "blackmailers" of money from Kumtor have threatened demonstrations']. Kloop.kg, 4 September 2013, <http://kloop.kg/blog/2013/09/04/odnosel-chane-vy-mogatelej-deneg-u-kumtora-prigrozili-mitingami/> (accessed 7 September 2013).

¹³⁹ Press release can be found at <http://www.centerragold.com/sites/default/files/news-releases-en/cg-09092013-en.pdf> (accessed 12 September 2013).

¹⁴⁰ Ibid. See also, Trilling, T. (2013), 'Kyrgyzstan and Canadian Miner Near Gold Deal', EurasiaNet.org, 10 September 2013, <http://eurasianet.org/node/67481> (accessed 12 September 2013).

¹⁴¹ Interview, Kumtor official, September 2013.

¹⁴² See Trilling, D. (2013), 'Kyrgyzstan: Mining Violence Flares Again as Protestors Kidnap Governor', *EurasiaNet.org*, 7 October 2013, <http://www.eurasianet.org/node/67593> (accessed 5 December 2013); Makeshov, K. and Sh. Dyusheeva (2013), 'Miting v Karakole: Polpred otpushchen, militsiya razognala demonstrantov' ['Demonstration in Karakol: Plenipotentiary released, police drove away demonstrators'], 7 October 2013, <http://kloop.kg/blog/2013/10/07/miting-v-karakole-vlasti-oproverguyut-napadenie-na-polpreda-ochevidtsy-utverzhdavut-obratnoe/> (accessed 5 December 2013). Further disturbances were also reported after this. See Kulchumanov, B. (2013), 'Zhiteli sela Saruu Issyk-Kul'skoi oblasti snova mitinguyut' [Residents of Saruu Village, Issyk-Kul Oblast, demonstrate again], *K-News*, 21 October 2013, http://www.knews.kg/action/38528_jiteli_sela_saruu_issyk-kulskoy_oblasti_snova_mitinguyut/ (accessed 5 December 2013).

¹⁴³ Dzhanibekova, N. (2013), 'Mitinguyushchie iz Sruu "savovol'no" vvveli chrezvychainoe polozhenie' [Demonstrators from Saruu introduced an "unauthorized" state of emergency], *Kloop.kg*, 10 December 2013, <http://kloop.kg/blog/2013/12/10/mitinguyushhie-iz-saruu-samovol-no-vveli-chrezvy-chajnoe-polozhenie/> (accessed 10 December 2013).

¹⁴⁴ Iskander, B. (2013), 'Demonstranty iz Saruu ugrozhayut militsii "narodnym sudom"' ['Demonstrators from Saruu threaten police with "people's court"'], *Kloop.kg*, 11 December 2013, <http://kloop.kg/blog/2013/12/11/demonstanty-iz-saruu-ugrozhayut-militsii-narodny-m-sudom/> (accessed 12 December 2013).

¹⁴⁵ *Gezitter.org* (2013), 'Memorandum po "Kumtoru" ne byl odobren v Jorgorku Keneshe' ['Memorandum on "Kumtor" was not approved in Parliament'], 23 October 2013,

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leader of the Ata-Meken (Fatherland) Party, Omurbek Tekebayev, initiated a motion to nationalize the Kumtor mine.¹⁴⁶

Parliament had announced that a discussion on a new agreement for Kumtor would be held on 23 December 2013. After closed-door discussion, Prime Minister Satybaliev announced on 24 December that the Government would pursue a 50 per cent stake in the new operating company.¹⁴⁷ This deal is similar to the one that the Government rejected in October. The deal would also mean that the agreements signed in 2009, including the tax regime, would be retained.¹⁴⁸ Centerra would lease its equipment to the new company for ten years instead of requiring a payment of USD 100 million from the Government to Centerra.¹⁴⁹ Furthermore, the Government would have the option to increase its share in the operating company to 67 per cent over ten years.

At the time of the report preparation, Parliament had yet to ratify the new agreement. Heated discussions in Parliament had taken place erupting in a fist fight,¹⁵⁰ but there was more support for this new agreement. The residents of Saruu village, however, pledged to demonstrate in spring 2014.¹⁵¹

Corruption

Corruption has been a continual problem in the Kyrgyz Republic and allegations abound in the mining sector. According to Transparency International, a corruption rating organization, the Kyrgyz Republic was ranked 150 out of 177 countries for its level of corruption in 2013.¹⁵²

In the mining sector, Kumtor has been the main focus of corruption regarding corruption. Some accuse previous politicians for devising corrupt schemes to get pay offs from the company or extort money from the company with the promise that their business will be easier. Centerra Gold Inc., in many people's view, was only too happy to pay, or even suggest such a way of doing business. Whatever the reality of these accusations, it is clear that some people have used the mining sector for their personal gain.

President Atambaev has frequently stated that an important aspect of his presidency is to stamp out corruption. As foreign investors have come under greater scrutiny, so have local officials. For example, the State Agency for Geology and Mineral Resources has the duty to issue licences and to monitor progress on workplans. This has given the State Agency a central role in being able to control the mining sector and some within the Agency have used this power to their advantage. On 30 November 2012, the former Director of the State Agency, Uchkun Tashbaev, was arrested by the Anticorruption Service of the State Committee for National Safety¹⁵³ on allegations of abuse of power and procedural

http://www.gezitter.org/politic/24839_memorandum_po_kumtoru_ne_byil_odobren_v_jogorku_keneshe/ (accessed 18 December 2013).

¹⁴⁶ Arykbaev, E. (2013), 'Deputat Tekebaev innitsiroval zakonoproekt o natsionalizatsii "Kumtora"' ['Deputy Tekebaev initiated a law project on the nationalization of "Kumtor"'], *Kloop.kg*, 13 November 2013, <http://kloop.kg/blog/2013/11/13/deputat-tekebaev-initsiroval-zakonoproekt-o-natsionalizatsii-kumtora/> (accessed 18 December 2013).

¹⁴⁷ Dzhanibekova, N. (2013), 'Pravitel'stvo ne budet trebovat' 67% aktsii v "Kumtore"' ['Government won't demand 67% share in "Kumtor"'], *Kloop.kg*, 24 December 2013, <http://kloop.kg/blog/2013/12/24/pravitel-stvo-ne-budet-trebovat-67-aktsii-v-kumtore/> (accessed 28 December 2013). Text of the new draft agreement, can be found at *AK/press* (2013), 'Novyi proekt soglasheniya ob suloviyakh restrukturalizatsii Kumtora' ['New project on the agreement of conditions for the restructuring of Kumtor'], <http://www.tazabek.kg/news:364068> (accessed 24 December 2013).

¹⁴⁸ Centerra Gold (2013), 'Centerra Enters into Non-Binding Heads of Agreement with the Kyrgyz Government', 24 December 2013, <http://www.centerragold.com/sites/default/files/news-releases-en/cg-12242013-en.pdf> (accessed 28 December 2013).

¹⁴⁹ Trilling, D. (2013), 'Kyrgyzstan and Largest Mine Take Another Stab at New Deal', *EurasiaNet.org*, 26 December 2013, <http://eurasianet.org/node/67902> (accessed 28 December 2013).

¹⁵⁰ Iskender, B. (2013), 'Deputaty Tekebaev i Mademinov podralic' na zasedanii parlamenta po "Kumtoru"' ['Deputies Tekebaev and Mademinov fought during a parliamentary session on "Kumtor"'], *Kloop.kg*, 26 December 2013, <http://kloop.kg/blog/2013/12/26/deputaty-tekebaev-i-mademinov-podralic-na-zasedanii-parlamenta-po-kumtoru/> (accessed 28 December 2013).

¹⁵¹ *Kloop.kg* (2014) 'Saruu iznutri' ['Saruu from within'], 6 January 2014, <http://kloop.kg/blog/2014/01/06/saruu-iznutri/> (accessed 6 January 2014).

¹⁵² Transparency International (2013), *Corruption Perception Index*, <http://cpi.transparency.org/cpi2013/results/> (accessed 12 December 2013). Kyrgyzstan is ranked alongside with Guinea and Paraguay. Kazakhstan is the only country in Central Asia with a better ranking at 140.

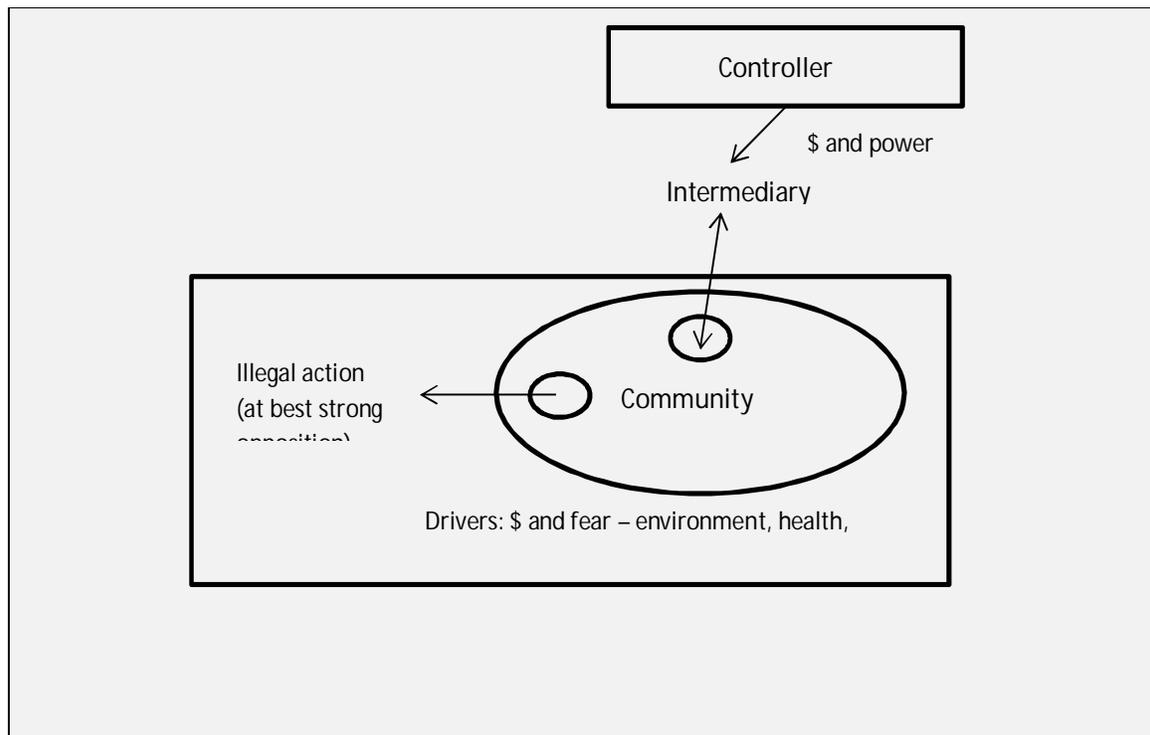
¹⁵³ In Russian, this is 'Antikorruptsionnaya sluzhba Gosudarstvennogo Komiteta natsional'noi bezopasnosti Kyrgyzstana' (GKNB).

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violations.¹⁵⁴ He was later found guilty of issuing licences illegally and a number of other criminal acts. On 13 June 2013, the next Director of the State Agency, Ishimbai Chunuev, was fired by the Prime Minister for having a relationship with the Kubmel mining company.¹⁵⁵

On a local level, engagement with communities is complex with multiple actors, some of whom may represent interests external to the village. For example, some local 'intermediaries' act on behalf of external actors interested in benefitting from mining activities (or at least stopping others from profiting) and the local community. Kent Mathieson, a mining consultant in Kyrgyzstan, described this in the diagram below. In this example there is a community near a deposit site is represented by a circle. As has been seen in many examples since 2010, small groups from these communities, represented by the small circles inside the community, have taken strong opposition to mining companies' activities, or worse illegal actions. In some of these cases, someone instigates these people to take action. Here these are called 'intermediaries'. The intermediaries are often paid by a 'controller', a wealthy person that is interested in destabilizing the situation in the community to disrupt mining activities, usually for their own personal gain. They use the intermediaries by giving them money and power. In many cases, the intermediaries are able to play on people's fears of environmental pollution, their health and patriotism to get people to protest against the mining activities near their community.

Diagram of intermediaries' role in their local communities¹⁵⁶



Environmental pollution is an argument that can be used to assert that there will be health hazards associated with the mining activity, and that this could lead to a loss of livelihoods, particularly if

¹⁵⁴ *FerganaNews* (2012), 'Kyrgyzstan: Zaderzhan byvshii direktor Gosagenststva po geologii i mineral'nym resursam Uchkun Tashbaev' ['Kyrgyzstan: Former Director of the State Agency for Geology and Mineral Resources Uchkun Tashbaev Arrested'], 3 December 2012, <http://www.fergananews.com/news/19844> (accessed 5 December 2012).

¹⁵⁵ *Vechernyi Bishkek* (2013), 'Prem'er uvolik glavu Gosgeologoagentstva Ishimbaya Chunueva' ['Prime Minister fired Head of State Geology Agency Ishimbai Chunuev'], 13 June 2013, http://www.vb.kg/doc/232088_prem'er_yvolil_glavy_gosgeologoagentstva_ishimbaia_chynueva.html (accessed 7 December 2013). It is not clear, however, what the nature of his relationship was with the company.

¹⁵⁶ The OSCE Academy is grateful to Kent Mathieson for sharing his insights.

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access to pastures is restricted because of mining operations or environmental damage could harm crops. Patriotism, particularly after the events in 2010, is used as a mobilizing mechanism to have people, predominantly Kyrgyz, protest against real or perceived threats against the Kyrgyz and the sovereignty of the state.¹⁵⁷ Ultimately, however, Mathieson noted that in many cases, people often regret taking money and sometimes this makes it more difficult for the controller. "People resent being bought out. People resent selling their honour," he said.¹⁵⁸ In this way, he noted, the controller may find that the demonstrations that they initiated may work against the mine in the future if they try to gain a stake in the mining activities.

Given the above, it is important to make a few caveats. Action against a community is not always instigated by an external actor or actors. It must also be stressed that communities are rarely united and do not have entirely uniform views on a topic. It is often sub-groups within a community that act on a specific issue. Although money can be a factor in mobilizing people it is not often the main driver. People are more likely to act on their fears as opposed to money.

Other challenges in the mining sector

In June 2013, the Director of the State Agency for Geology and Mineral Resources, Isimbai Chunuev, noted that there were 43 'problem entities' in the mining sector. He noted that conflict could have and may bring problems between investors and local populations.¹⁵⁹ This report does not seek to list all past and potential conflicts, but only to name a few that happened at the time of research or selected previous events that had an impact on the mining sector at the time of research. This is to provide the context in which the research was conducted. There have been, nonetheless, a number of incidents around the country, with growing frequency since 2010.

On 18 October 2013, around 200 protestors attacked the offices of Z-Explorer, the local subsidiary of Australian-listed Manas Resources at the Shambesai gold field in Batken Oblast. The protestors destroyed the office and looted equipment. Some documents were also burned by the crowd.¹⁶⁰ There have been tensions for at the mine for some time, but this is the first report of violence.

Previous research conducted on mining operations in Talas Oblast has found that many local residents do not trust central government,¹⁶¹ which may create greater challenges for heads of *aiyl okmotus* to bridge the widening gap in people's perceptions. This concurs with the research that was conducted for this report. There are significant levels of distrust by the population towards the *aiyl okmtou* and acknowledgement by local officials about their lack of skills in being able to deal with such issues.

he conflict issues that exist in the mining sector need greater engagement by *aiyl okmotus*. Conflict sensitivity measures need to be introduced in the work of local self-government bodies and reinforced with support from higher levels of government. At present, however, there are little resources and few experts to assist with this. As a result, the *aiyl okmotu* often has little influence on mitigating potential conflict situations, in particular when it regards mining activities.

¹⁵⁷ Gullette, D. and J. Heathershaw (forthcoming), 'The Affective Politics of Sovereignty: Reflecting on the 2010 conflict in Kyrgyzstan', *Nationalities Papers*.

¹⁵⁸ Interview, Mathieson, September 20103.

¹⁵⁹ Sheraliyeva, M. (2013), 'V gornodobydayushchei otrasli Kyrgyzstana naschityvaetsya 43 potentsial'no konfliktnykh ob"ektov' ['Potential conflict entities in Kyrgyzstan's mining sector number 43'], K-News, 6 June 2013, http://k-news.kg/gornoe_delo/32969/ (accessed 5 December 2013).

¹⁶⁰ Trilling, D. (2013), 'Kyrgyzstan: Another Gold Mine Attacked as Kumtor Protests Continue', *EurasiaNet.org*, 21 October 2013, <http://www.eurasianet.org/node/67650> (accessed 5 December 2013).

¹⁶¹ Oxus International (2011), 'A Social Study of the Causes of Conflict between Citizens and Outside Investors in Talas Oblast – August 2011' (Bishkek), pp. 10-11. A larger research project conducted by Oxus International and funded by the Eurasia Foundation of Central Asia 'Conflict Mitigation in Kyrgyzstan's Mining Industries' is currently being prepared. Additional information on the role of local self-government bodies may be found here. See http://www.oxusinternational.com/?page_id=487 (accessed 10 June 2013) for basic information related to this project.

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In addition to the violence, other companies have been forced to reduce operations. Talas Copper Gold (TCG), a subsidiary of the South African company Gold Fields. TCG has not been able to work on three of its sites in Talas Oblast and have been in force majeure for several years. These three sites are only for surveying, only one site is currently being explored. The local communities have told TCG not to mine there.

TCG has also experienced violence at the one accessible site. In October 2011, 10 men on horseback beat up the security manager and attacked the camp with Molotov cocktails, burning down half the camp.¹⁶² TCG later was able to negotiate a partnership agreement¹⁶³ with the local community, and as a result they dropped charges against the alleged attackers through a reconciliation agreement.

There are other factors that have complicated TCG's engagement in Kyrgyzstan. Gold Fields has gone through a restructuring and is minimizing its operations due to the lower price of gold. Gold Fields is thus seeking to sell TCG.¹⁶⁴ The company continues to operate in Kyrgyzstan, but has significantly reduced its staff and work essentially stopped in Talas Oblast. Until this, they had been in a strong position with the Government and had a clear drilling and mining plan. With these changes, it remains to be seen whether the company will be able to continue operations in the future. Although this is one company, similar challenges exist for a number of companies in Kyrgyzstan and are creating significant challenges to continue operations and attract investment.

Legal battles

Apart from the ongoing negotiations with Kumtor Operating Company about a new mining agreement, the Government is locked in a legal battle with Visor Holdings, an Almaty-based company that has a 60 per cent stake in JerooyAltyn that was the licence holder of the Jerooy mine. Previously the then Ministry of Natural Resources cancelled JerooyAltyn's licence because they said the company had failed to start production on time.¹⁶⁵ Visor Holdings has sued the Government for USD 400 million in this case and has made an arbitration claim with the International Center for Settlement of Investment Disputes in Washington, DC.

At the same time, the Government has pushed forward with awarding the Jerooy licence through an open auction. The first auction began with a starting price of USD 300 million. It closed with no offers on 13 May 2013. The Government has since stated that a new auction will be held with a starting price of USD 100 million.¹⁶⁶

In another legal case, Stans Energy Stans Energy, a Canadian company, filed an arbitration claim in early November 2013 for nearly USD 118 million against the Government in relation to the Kutessay II rare earth project. On its website, the company announced

Since 2012, the Kyrgyz Government has taken a series of measures making it impossible to carry out activities at Kutessay II. In March 2013, the General Prosecutor's Office of the Kyrgyz Republic (SPO) filed a statement of claim against the State Agency for Geology and Mineral Resources of the Kyrgyz Republic (SGA) to invalidate the process by which Stans acquired the mining licence for Kutessay II. Subsequently, the Inter-district Court of

¹⁶² Trilling, D. (2011), 'Gold Miner Scared Out of Kyrgyzstan', *EurasiaNet.org*, 13 October 2011, <http://www.eurasianet.org/node/64309> (accessed 5 December 2013).

¹⁶³ See <http://tcg.kg/images/files/information/contract-partnership.pdf> (accessed 5 December 2013) to view the partnership agreement.

¹⁶⁴ Trilling, D. (2013), 'Kyrgyzstan: At Kumtor Mine, "No Light at the End of the Tunnel"', *EurasiaNet.org*, 14 November 2013, <http://www.eurasianet.org/node/67765> (accessed 5 December 2013).

¹⁶⁵ Mazykina, J. (2010), 'Kyrgyz government revokes Jerooy license', *24.kg*, 22 November 2010, <http://eng.24.kg/business/2010/11/22/14904.html> (accessed 8 September 2013). See also Trilling D. (2013), 'Kyrgyzstan: Amid Price Plunge, Gold Mine Auction Faces Multiple Hurdles', *EurasiaNet.org*, 18 April 2013, <http://www.eurasianet.org/node/66845> (accessed 8 September 2013).

¹⁶⁶ *K-News* (2013). 'Startovaya tsena povtornogo konkursa po prodazhe zolotorudnogo mestorozhdeniya "Dzherui" sostavit \$100 mln – Sariev' ['Starting price for repeated competition for the sale of the Jerooy gold deposit will be \$100 million – Sariev'], 13 June 2013, <http://www.knews.kg/econom/33331> (accessed 8 September 2013).

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Bishkek issued an injunction dated April 15, 2013, which bars the SGA and its officials from taking actions related to the execution and/or extension of the Company's licences for Kutessay II and Kalesay projects. These actions are aimed to impede the Company from executing its responsibilities under its licence and have actually created conditions for termination of the operations of Kutasay Mining LLC, the Company's wholly owned subsidiary.¹⁶⁷

This raises yet more concerns for investors looking to become involved in mining activities in the country.

Industry insiders note that any such legal battle may take years to settle the case and few investors will be interested in working with the resource if the Government insists the new company should bear the responsibility to pay Visor Holdings any amount awarded in the court case, or even the threat of losing the licence if the Government is found to have acted improperly in taking away the licence. This is just one of a long series of arbitration battles, but has created more uncertainty for investors as they wait to see the result of the Kumtor mine.

Gold price trends

The price of gold also plays an important role in investors' decisions to become involved in mining operations and the size of operations. Since Kumtor Operating Company began working in 1997, gold prices have risen dramatically. The average realized price of gold per ounce in 1997 was USD 323.50.¹⁶⁸ In 2011, when gold prices peaked, the price was USD 1,570. This is an increase of over 385 per cent during this time period, not accounting for inflation or exchange rates.

The price of gold on 5 September 2011 was USD 1,895,¹⁶⁹ the highest price in history. However, by 28 June 2013, gold prices had fallen to USD 1,192. Since there, there was a recovery, and on 5 September 2013, gold prices were USD 1,385. Nonetheless, this marks a nearly 27 per cent decrease in the price of gold over two years.

The fluctuation in the price is the result of a number of factors. At the beginning of 2012 'investors reacted to the US and Eurozone sovereign debt crisis, as well as slowing levels of activity in the high growth economies of China and India. With the large number of exchange traded commodity funds and products, metal prices have come under pressure due to profit-taking, rebalancing of portfolios and margin calls.¹⁷⁰ This has created sensitivity in markets' confidence and the price of gold has thus eroded.

The drop in price has meant that smaller mining operations have been forced to reduce their operations. In the Kyrgyz Republic, many mining companies are still working, but the change in price will have an effect on the whether operations are reduced or closed altogether.

The reduced profitability of gold mining must also be weighed against the difficulty of location of deposits and extraction. The more difficult it is to locate and extract gold, the less profitable it is to mine gold, particularly at lower gold prices.

¹⁶⁷ Stans Energy Corp. (2013), 'Stans Energy Commences International Arbitration Against the Government of Kyrgyzstan', 31 October 2013, <http://www.stansenergy.com/press-releases/stans-energy-commences-international-arbitration-against-the-government-of-kyrgyzstan/> (accessed 5 December 2013).

¹⁶⁸ International prices for gold are calculated per ounce. One ounce is 28.3495 grams or 0.0283495 kilogrammes. Information from Kumtor Operating Company, <http://www.kumtor.kg/en/deposit/production-figures/> (accessed 8 September 2013).

¹⁶⁹ Prices are given according to data from the World Gold Council, http://www.gold.org/investment/statistics/gold_price_chart/ (accessed 8 September 2013).

¹⁷⁰ Ernst & Young (2012), *Business risks facing mining and metals 2012-2013*, p. 32.

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The price of gold is not just the concern of mining companies, governments and investors. In our research, we found that locals were also aware of the changing price of gold. For those that do artisanal mining at home, the labour-intensive work, lack of machinery and technology, and harsh conditions in which people extract rock to mill at home must be financially beneficial.

Conflict context

The battle over a new agreement with Centerra Gold Inc. and the creation of a new operating company for the Kumtor mine has dominated the media and, thus, people's awareness about mining issues. The continuing debates, however, are only part of a broader set of issues in the sector. There are legislative issues that seek to improve investment, but at the same time have not created clear guidelines for working with local communities. Allegations of corruption continue to plague the sector and have resulted in more than a few arrests. People have also demanded a greater role in the mining debate. On the one hand, protests are a manifestation of the desire to be included in these talks and to ensure that their communities are protected. On the other hand, there are sometimes forms of blackmail. This has all happened at the same time as the price of gold has soared, making the stakes in mining gold more profitable and more contentious. This is also mixed in with concerns about the ability of the country to retain its wealth and exert control over the mining sector.

This has created a complex situation for all stakeholders. The concern is what steps can be taken to mitigate the conflict and initiate dialogue to outline a sustainable future for the mining industry and economic development in the country.

Case Studies

The following sections present the results of two case studies. These are based on original research conducted in Village A (22-27 August 2013) and Village B (2-6 September 2013). These provide a summary of interviews and focus group discussion to understand the conflict issues in each of the villages that were visited as part of this research. More research should be done and there are many interesting topics that can be followed up on as part of desk reviews and field research.

The two case studies present different aspects of communities and their relationship towards mining. In both cases, foreign companies have licences to explore and develop deposits, but the villagers have been against this for a number of reasons, such as environmental hazards and distrust of the company and government officials. In Village B, however, many villagers are engaged in artisanal mining and see the activities of the foreign company as a threat to their livelihoods. Kyrgyzaltyn does work on an adjacent plot to the foreign company and people from Village B and Kyrgyzaltyn have negotiated an agreement which people from the village find acceptable.

The details are the result of fieldwork in these communities, which included semi-structured individual interviews with a variety of people in the village and focus groups discussions. This research provides a snapshot of the issues in these villages, but does give an insight into the conflict context surrounding the mining activities. This will help to understand some of the main challenges in integrating conflict sensitivity into activities and establishing relationships to find a common vision to a sustainable future for mining in the Kyrgyz Republic.

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Case Study 1 – Village A

Introduction

Village A, examined in Case Study 1, is roughly 20 kilometres away from a gold deposit. A foreign company has had a licence to do surveying and exploratory work on the deposit since 2003. However, in 2012, villagers protested against the company's mining activities, claiming environmental pollution as their main source of concern. The villagers have a legitimate concern, but the influence of the debate on Kumtor has increased activism against mining activities, particularly when it involves foreign companies in poverty-stricken areas in the country.

Village A is located in a gorge, off the main road that runs by the village and across a river from the road. It is the administrative centre of the *aiyl okmotu*.¹⁷¹ People in village mainly rear animals. Some people grow corn and have fruit trees, but the conditions in the gorge are such that little farming is possible. According to *aiyl okmotu* documents, there are 1,350 families, which has around 8,200 people in the village.

The village houses are scattered across a rugged landscape with little available infrastructure. They are small, single-storey homes, mainly made out of mud bricks, although they are built in a way that provides some seismic resistance. The village is remote, so much so that there is little if no mobile phone reception. The climate is also harsh. There is a pervading sense of dust in the summer and significant snowfall in the winter. The area is prone to natural disasters. On 8 January 2007 there was a strong earthquake closer to the neighbouring village deeper in the gorge. This destroyed the local school and damaged houses. The gorge has steep walls meaning that there is a constant threat of rock fall. Thus the poor conditions, lack of sufficient space for farming and difficult conditions for animal rearing, as well as its location have created complex living and development conditions for the village.

As a result, villagers noted a range of development challenges that affected their daily lives. The mining activity was not at the top of this list and was talked about in the context of other problems. This chapter focuses on mining issues, which is but one of a range of local challenges and should not be understood as the main issue in the village.

Due to these challenges, villagers noted that there was high unemployment in the village,¹⁷² and figures ranging from 30 anywhere up to 70 per cent of village men travel to Bishkek or abroad for work. People did express a desire to have job opportunities created through the mining activities,¹⁷³ but this was heavily prefaced by demands for environmental safety guarantees and the specific job creation activities, such as the creation of a processing plant near the village. The environmental concerns are a practical issue for the villagers. They fear that the river would be polluted, which is their main source of drinking, bathing and washing water, and also irrigation water for crops. The debate surrounding the Kumtor mine has had a significant impact in the way people see and understand effects of mining. The fear of environmental damage is a large contributor prohibiting a broader discussion of how the mining activities could proceed. Therefore, the demands – which are by no means standardized or agreed upon by all – by the villagers that would be required for the mining company to work on the deposit create significant challenges.

¹⁷¹ The local self-government body is the lowest level of government, which manages everyday affairs in one or several villages.

¹⁷² There are no official statistics on the level of unemployment in the village. Based on data collected from the 2009 census in the Kyrgyz Republic, the district in which the village is located has an unemployment rate of 2.7 per cent. This, however, does not take into account that those who practise farming or are engaged in animal herding are usually considered to be 'employed', regardless of their level of income. The details of the demographic and employment statistics were taken from the National Statistical Committee data from the 2009 nationwide census.

¹⁷³ Although, unlike Village B, no one clearly stated that youth should be trained in mining subjects.

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Mining protests

In mid-November 2012, around 500 people from Village A and from other parts of the district gathered to protest against the activities of the foreign mining company on the gold deposit. The company had been active from 2003, but had been not able to conduct much work on the 800 hectare deposit site. The company licence was due to expire at the end of 2013.

Several days later, around 50 to 60 protestors entered the deposit site and destroyed the company's property in an attempt to make them leave the site. The protestors overturned two wagons, set fire to a bath house¹⁷⁴ and demanded that the company staff stop drilling test wells. The company estimated the damage at USD 1,500. After this, police took several of the alleged participants in the attack on the mining site into custody. Nearly a week after the disturbance, protestors gave a list of eight demands to the *akim* (Kyrgyz, district government official) demanding that all activity on the site be stopped and that a number of other issues be address, such as establish the cost of the ecological damage created by company's activities. The protestors also demanded that information be given about the people in custody. The director of the mining company argued that the people who participated in the attack on the site camp and the protest were being used by others to get deposit.¹⁷⁵

The following month, the Prime Minister of the Kyrgyz Republic, Jantroo Satybaldiev, visited the district to discuss mining issues. He visited the Case Study 1 village and talked about the protests and mining activity. He noted that the locals would work on the mining site. The Prime Minister's visit gained much attention in the district, because in the neighbouring district there is another foreign company working on a mine where locals have actively protested the company's activities. This has received less attention. People from Case Study 1 village have suggested that the attention is due the village's 'link' to people who occupy high government positions and are originally from the village or the district.

Since this time, the villagers have not allowed any work to be conducted at the site and the company is continuing to work with government officials to be able to come to an agreement with the villagers and continue work.

Mining and the community

The gold deposit was discovered in 1968. In 1971 geologists drilled on the site to determine the approximate gold resources there. The administration at that time did not develop the mine. While this research was not able to uncover reasons for this, it is assumed that the remote location of the mine, difficulty to access the site and estimated resources were not that of high quality did not make it a priority for development. The company began to work on the deposit only in 2003 and was the first company to being to develop the site. The exploratory work is conducted by another company. Villagers, however, have very little information on what mining activities are being conducted on site and what this means for them. The general lack of information has created a sense of insecurity about the company's activities. The villagers are not engaged in artisanal mining (small-scale, subsistence mining) as are villagers in Village B. The quantity of the gold per tonne of rock is not very high and there seems a lack of awareness about such methods.

Villagers spoke about there is "no benefit" for the area from the mining activity. Clear links were made with the Kumtor mine largely based on what people have heard from word of mouth and radio and television programmes. One pensioner noted "They found gold here and were preparing to mine it. But we protested and close the enterprise. Really, if this [mining activity] is bad for your health, then we don't need it. We see what is going on at Kumtor and how harmful it is [for your health]. If it affects our

¹⁷⁴ The bath house, as pointed out by the director, is heated by coal, not by wood, which is an important point given that the company was accused of felling a large number of juniper trees.

¹⁷⁵ Interview, director of mining company, October 2013.

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health, then let's not let [the company] work."¹⁷⁶ The popular conception of the ecological damage the Kumtor has brought cannot be underestimated. The pensioner also noted

"They used some kind of chemicals, and it is harmful for the health of our people, [and] our ecology. They say that the trees are even withering and drooping. This is all interconnected. If damage is brought to the ecology, then it will also be to people, animals and plants. [...] They even say that in Jeti-Oguz [District, where the Kumtor Mine is located], that women are given birth to children with abnormalities. We are afraid for our children's health. We don't need [that kind of problem]."¹⁷⁷

This pensioner's comments demonstrate the strength of perception and rumours from other parts of the country with mining activity. One farmer in the village closest to the deposit site claimed he had seen how the company had brought in drinking water from another place and refused to drink the water from the river.¹⁷⁸ This was offered as another reason to believe that the company was knowingly polluting the local water system.

The company has a licence to conduct exploratory work, including drilling bore holes. Based on the results of this work, the company will apply for a mining licence. However, the former *akim* has been quoted in the media as stating that the drilling went down four metres to where there is arsenic. The drilling caused fetid water from the bore hole flowed off of the site into the local river. Some noted that it was not just the local villagers' health was at stake, but also that of people in the district, in which over 50,000 people live, and the district in the neighbouring country. There is no available evidence to suggest that this was the case or that the mine poses a threat to others in the region. Ecological assessments, referred to by the company director, have not indicated that there has been any damaging environmental impact. Yet, the local school director feared that there could be an accident and "hazardous substances could spill out; no one can guarantee your full safety".¹⁷⁹

Other villagers see the value in mining gold and other metals and elements from the site, but should be done in a way that benefits the local community. Some villagers complained of "unknown companies" coming to mine in the region and government officials allowing this to happen. One villager suggested that the company should pay money to the *aiyl okmotu*, perhaps a minimum of five per cent (most likely of the overall earnings).

There are two points in regards to this. First, the villagers are weighing the benefits of ecological security versus financial benefit. Many argue for protecting the environment so they do not get sick, but some also agree that there could be economic benefits for the community. The lack of information, however, favours the ecological argument as the community is not actively engaged in discussions with the company and the local authorities about how to create a socially responsible mining enterprise for their community. The fears generated by polluted drinking water outweigh those that see a benefit for the community. The lack of expertise to develop a plan that involves the community is one of the greatest challenges that face the community and mining company in the near future.

The second point, and related to the first, is that state legislation is weak on how social benefit packages between the mining company and the nearby community or communities should be developed, agreed upon and managed. In many cases, mining companies seek to work with the community closest to the mining operations. In the case of the Village A, the neighbouring village was closer to the mine. It is the last village on the road to the mine. Therefore, mining staff worked more closely with that community. What is included in the social package and how it is to be managed is not standardized and is based upon the agreement of the nearby community and mining company. Whether the social benefit package should include other nearby communities is based on local

¹⁷⁶ Interview, pensioner, August 2013.

¹⁷⁷ Interview, pensioner, August 2013.

¹⁷⁸ Interview, farmer, August 2013.

¹⁷⁹ Interview, school director, August 2013.

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negotiations. In many cases, however, mining companies, particularly those in the exploratory stage on small deposits, do not have much money to invest in social benefit packages. Their small budgets are mainly for basic work on site and staff salaries. In some cases, it is not possible for mining companies to support social packages in other communities. Again, the example of Centerra Gold, which is the main owner of the Kumtor mine, distorts the reality for smaller mining companies. Centerra's social responsibility has grown from five villages on the southern shore of Issyk-Kul, to include communities from Balykchi to Karakol. This incorporates a population of possibly over 250,000 people. In addition, Centerra invests one per cent of its earnings in an oblast development fund which is managed by oblast governor.¹⁸⁰ Therefore, when other communities become aware of the investments made by Centerra, they have similar expectations of the companies operating in their area.

If the ecological issues and the social benefits packages could be addressed, the communities still have questions about the staffing of the mining company. Certainly, some specialists are needed and cannot necessarily be found in the nearby community. Nonetheless, the villagers have expectations that they will be able to find some employment in the mine. From Village A, people could only recall that one person from the village had worked on the mining site, and he had been a guard. The director of the mining company, however, disputes this claim, stating that many local men worked on the building the road to the site. In a situation where people claim high unemployment and men migrating for work, villagers want to be able to ensure that any enterprises conducting working in the area will have places available for them. This is one of the issues that Prime Minister Satybaldiev addressed when speaking with villagers in a trip to the district. Hiring local staff depends on what stage the mine is at and what kind of qualifications the mining company is looking at that time. At the exploratory stage, there is little need for large numbers of permanent staff. Furthermore, the Prime Minister accused the local *akim* (Kyrgyz, district government administrator), the *aiyl okmotu* and the company of not informing the population of their activities. This, he suggested, was an important source of conflict.

There was another issue that was not widely discussed, but was mentioned by a few people. Several villagers named one man as leading the protest movement against the mining company. The activist said that he was partly motivated to demonstrate in opposition to the new head of the *aiyl okmotu*, who took office the previous year.¹⁸¹ He said that he did not trust the new head of the *aiyl okmotu* as he had given the activist incorrect information about the mine, furthermore the new head was young and did not understand all the details of the mining activity in the region, claimed the activist.

The activists' lack of trust reflected a wider perception in the community that they did not trust government bodies. Community members expressed a general mistrust of the government in Bishkek and talked about corruption and a lack of transparency. Some wanted the company to engage in talks directly with the community, avoiding the *aiyl okmotu* or other government bodies.

The head of the *aiyl okmotu* stated he was interested in the results of the research to better understand the situation in the area, but also to understand the motivations behind the activist's actions.¹⁸² During the interview with the activist he intimated that he had links to people in government structures in Bishkek and that he was in regular contact with them about the situation in the village and regarding the mining company. This, along with the examples provided below from the mining company director, provided glimpses that there were figures standing on the margins looking to disrupt the mining business for various reasons which could not be confirmed or denied during the research for this report.

¹⁸⁰ In 2012 the official title of governor was changed to 'Plenipotentiary of the Government of the Kyrgyz Republic'.

¹⁸¹ Interview, activist, August 2013.

¹⁸² Interview, head of the *aiyl okmotu*, August 2013.

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Local views about the mining company

The community generally has a negative impression of the mining company. The main factor is that there has been an information vacuum. No one from the central- or oblast-level government bodies, or the company had explained what activity would take place on the deposit site. One villager said “no one has thought about the interests of the people”. This person continued

They should have told us that a company will work here, these are the problems that will be resolved, these are the kind of activities that will be carried out, there will be so many jobs created for the local villagers, there is this kind of benefit [for the people] and the benefit for the state, [also] some kind of environmental guarantee. All of this should have been given to the people at the very beginning. An agreement needed to be created and there would not have been these kinds of problems.¹⁸³

For this villager, and others, the whole process was not done properly. Another villager said that the meeting with the village population was treated as a formality. The villager claimed that the company came with the district authorities and told the head of the *aiyl okmotu* to gather some *aksakals* (Kyrgyz, older respected informal leaders). The head of the *aiyl okmotu* gathered 20 *aksakals* and had a feast together and then the *aksakals* gave *bata* (Kyrgyz, blessings). The person said that the young people were “absolutely not informed” on what was going on.¹⁸⁴

Others doubted that the mining company obtained its licence in a transparent manner. The former district *akim* said “At the beginning [the mining company] through some means got a licence. The licence should have been issued openly. The local administration did not give any information about the issuing of licences. I think that the government is obliged to give some information to the people.”¹⁸⁵

This person continued by stating that he had spoken with members of the local administration and found that they were informed about the issuing of the licence and were aware of what was going on with the companies work. However, none of this information was passed on to the local self-government body or to the villagers. This person said “This psychology is left over from the Soviet Union – to dictate the conditions from the centre.”¹⁸⁶

Some villagers suggested that the company wanted to operate in the shadows. One person said “They are not able and do not want to work openly. They must pay taxes to Kyrgyzstan, and tell how much they leave us and then they could have continued their work. Then their work would have been legal and legitimate.”¹⁸⁷

There is also an image problem for the company. As one person stated “the company staff drive around in [off-road cars], and people are indignant. What are all these cars? Who are all these people? Then we hear about the workers at the mining company. And no one knows who they are. They are usually Chinese, Turkish, Russians, and the local population is not informed about this. They come quietly, work and mine all our wealth.”¹⁸⁸ The perception of foreigners taking jobs that local people could have is a recurring theme in the mining industry, but also points to frustration by Kyrgyzstani citizens about not being able to obtain work in their own country. Furthermore, some villagers said that they suspected the company was claiming to be doing exploratory work while really mining the gold. People doubted that the company could have the licence for 10 years and only do exploratory work. People have seen a number of cars and trucks pass to the mine and assume that the company is secretly mining the gold.

¹⁸³ Interview, local entrepreneur, 26 August 2013.

¹⁸⁴ Interview, focus group participant, August 2013.

¹⁸⁵ Interview, former district *akim*, August 2013.

¹⁸⁶ Interview, former district *akim*, August 2013.

¹⁸⁷ Interview, advisory services expert, August 2013.

¹⁸⁸ Interview, non-governmental organization representative, August 2013.

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Despite the negative image portrayed of foreign companies in the country, the school director noted “It’s not important where the company comes from, whether it’s local or foreign. In any event, it must fulfil all the demands. It can’t have an easy time just because the company is Kyrgyz. What is important is to establish conditions for us and then no one will be able to drive them out just because it is a foreign company. People don’t divide between local and others.”¹⁸⁹ This is an important point and was a rare voice advocating for the equality of companies, whether local or foreign, in meeting their obligations to the country and the local community.

The rare positive memory villagers had of the company was that during the 9 May holiday (Victory Day commemorating the end of the Second World War) the company gave small gifts to the *aksakals*. Some also recalled that the company once gave 40 school bags to children in the neighbouring village when the school year began.

Mining company activity

The director of the mining company, however, provides a different picture to that presented by the villagers. He maintained that there has been a good relationship with the people the village closest to the deposit site. He has had less interaction with the people from Village A, because it is located across the river from the main road, unlike the next village, through which the trucks must pass to access the mining site. In general, however, the directors aid that the relationship in that area had been good. What has happened, he claimed, was a series of attacks on the company, mainly coordinated from outside the region.

The director claimed that when the mining company received their first licence, they were the only foreign company other than Kumtor to be working in the gold mining sector in the country. This particular deposit, however, was a much larger risk than Kumtor. It was developed during the Soviet era. After its discovery in 1969, geologists noted that there was not much gold and that it was difficult to obtain. There were other challenges, for example, there was no road to the deposit site, and many other issues to be sorted out before they could effectively begin survey and exploratory work. The director claimed that they have “loaded themselves” with risk, making an initial investment of USD 400,000 on a deposit where they were not sure how much gold they would find and what quality it would be.¹⁹⁰ This was also at a time when the price of gold per ounce was around USD 300, which meant that it was not overly profitable. They built the road and have done exploratory work digging about five bore holes and have estimated that there may be more gold deposits than originally suggested by the Soviet geologists.

The success of the exploratory effort, however, led to what the director referred to a series of attempted ‘raids’ on the mining company to have their licence taken away and reissued to someone else.¹⁹¹ The director said “As you know in Kyrgyzstan, the main problem is that just when you make something out of nothing all sorts of people appear, wanting to take it away from you, in other words ‘raiding’.”¹⁹² Despite the challenges of conducting the exploratory work and developing work plans, these raids have made it very difficult for the company to do any real work on the site since 2008.

The first raid, the director claimed, was in 2005. The then Prime Minister Nikolai Tanaev attempted to have their licence taken away from them. Despite attempts to have the company stripped of its licence and then later attempt to sell the deposit site to companies in Moscow, it did not work as the company

¹⁸⁹ Interview, school director, August 2013.

¹⁹⁰ Interview, director of mining company, October 2013.

¹⁹¹ In this context, ‘raid’ means ‘forcing owners to sell their businesses at below value prices, or face investigation by the tax police or other law enforcement agencies’. See International Crisis Group (2010), *Kyrgyzstan: A Hollow Regime Collapses*, Asia Briefing No102, p. 2, f. 7. The only addition to this definition in the context of this particular mining company, there was not attempt to have the licence sold to someone else, but attempts to manipulate government bodies by individuals to have the licence taken away from the company, so that it could then be given or sold to someone else.

¹⁹² Interview, director of mining company, October 2013.

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had been fulfilling their licence agreement and there were no grounds to take such action against the company.

During the Bakiev era, however, the director claimed that the situation improved, which is the opposite trend from what has been reported about other companies during that time.¹⁹³ The director claimed the business was too small for the Bakiev family to attack. Furthermore, President Bakiev had secured investment for the company which has probably been the greatest factor in helping the company to continue working. Bakiev's first working trip abroad was to Moscow where he met President Vladimir Putin.¹⁹⁴ During the trip, Bakiev asked Putin to help find investors to come to Kyrgyzstan. According to the director, Putin asked then Moscow Mayor Yuriy Luzhkov to gather a delegation of investors from Moscow to travel to Kyrgyzstan.¹⁹⁵ A group of investors did come and the mining company in Kyrgyzstan received direct investment from one of the companies in the Moscow delegation. The Russian company, according to the director, is under the protection of the Ministry of Economic Development of the Russian Federation as a state investment. Therefore, this has made it more difficult to strip the mining company of its licence, but has not prevented, what the director claimed, as continued attempts to prevent the company from doing its work and to extend its licence.

The company director said that from the time the company started working on the deposit, they had good relations with the village nearest to the deposit site. In 2007, when the earthquake happened, the director said that they were one of the first people to arrive in the village. They brought in bulldozers to clear the area to build the new school and they repaired the damaged bridge. They received another letter in 2011 asking the company to help repair the bridge again. The company director demonstrated in a series of letters and act of completed work how the company had bought the materials needed and repaired the bridge. People expressed distrust of the company in this case. The preschool director said that there was a rumour that the earthquake was caused by explosions on the mining site.¹⁹⁶

The company had little interaction with Village A because it was off the main road and across the river. On the 9 May holidays in 2005 or 2006, the director said, they had given KGS 1,000 (approximately USD 20.60) to each of the veterans of the Second World War and gave KGS 500 (USD 10.30) to other pensioners.¹⁹⁷ Other than that, the relations with the administration and people in Case Study 1 village have been limited.

In 2008 the State Committee for Resources of the Kyrgyz Republic reported that there was a high quality of geological material on the deposit site and the company received a high rating for their work. Since then, however, the company has not been able to conduct much work on the deposit site. They built the road and dug bore holes. They spent two years trying to locate and purchase technical equipment to continue with the exploratory work. By the time the company purchased the equipment and brought it to Kyrgyzstan in 2010, the April events had taken place and the violent conflict in Osh had just started. The company was unable to bring the equipment on site and could not ensure the safety of their staff. They were forced to delay operations further.

Since 2010 the company has encountered more problems. The director said that since the overthrow of Bakiev, people have been trying "to pinch" (Russian, *ushchiptut*) investors.¹⁹⁸ The company experienced greater difficulties in extending its licence. The director claimed that six different groups were trying to prevent him from extending their licence. The company had been fulfilling its licence agreement and should have been given first chance to extend its licence for two years at a time. The

¹⁹³ See International Crisis Group, op cit.

¹⁹⁴ RIA Novosti (2005), 'Bakiev recognizes Russia's influence with visit to Moscow', <http://en.ria.ru/analysis/20050901/41270021.html> (accessed 22 November 2013).

¹⁹⁵ Although no concrete information for this can be found, this was most likely on 11 October 2005, see <http://www.kyrgyzstan.sk.uz/news/news141005.htm> (accessed 22 November 2013).

¹⁹⁶ Interview, preschool director, August 2013.

¹⁹⁷ During the time of fieldwork, the average exchange rate was USD 1 = KGS 48.537067. See the National Bank of the Kyrgyz Republic for information on daily exchange rates, http://www.nbkr.kg/index.jsp?res=high&scr_res=1366 (accessed 2 December 2013). Unless otherwise indicated, the National Bank's data has been used to calculate the exchange rates.

¹⁹⁸ Interview, director of mining company, October 2013.

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State Agency for Geology and Mineral Resources only extended the licence for a few months at a time.

The director also claimed that during this time other investors had been tricked by 'shady dealers' (Russian, *aférist*). He claimed that one Chinese investor had paid USD 200,000 as a down payment on the deposit licence and a further USD 8,000 for a mining project to be developed. When the company was able to extend its licence, the Chinese investor met with the company director to tell him what had happened and showed all the documents and receipts for money transfers.

The director also noted that people had gained access to confidential files within the State Agency for Geology and Mineral Resource and published the company's commercial secrets. In a report published on alternatives to mercury mining at an existing plant that is in the same oblast as Village A.¹⁹⁹ The company that processes the mercury wanted to phase out mercury and concentrate on non-metallic mineral deposit and gold deposit development. The authors of the report concluded that it would be best to cluster gold processing at the existing plant as the most economically and environmentally viable option. This option would help retain jobs of those that were employed at the existing plant and create new positions. The plant would process the gold from nearby gold deposits, which also include the one near Case Study 1 village.

Details of the gold reserves published in the report, according to the director, stated that the present (at the time of publication) net value is USD 15 million. The director disputed this number and stated that this was not a fact. Furthermore, other aspects of the company's operations were published that should be secret. The director refused to discuss further who had done this or why. The report also states that the gold deposit has nearly 10 tonnes of gold reserves with over six grams of gold per tonne of mined rock. The State Commission for Reserves did not give the deposit a similar rating, suggesting that less than this amount, with much of the rock containing very few grams of gold per tonne of rock. Again, the director said that it was a 'raid' on the company because the quality and amount of gold had been inflated.

The recommendations of the report suggested that phasing out mercury processing and introducing non-metallic and gold deposit processing is another point of contention between some people in Village A and the mining company. It is not the object of this report to establish a connection between the report and the company's negotiation with the village about the establishment of the processing plant. The director did not make a direct link between these two issues. It is noteworthy, however, that the two discourses occur simultaneously. More research would need to be conducted to identify whether one discourse has had an impact on the other. A mining expert, however, suggested that the information provided in the report could be an estimation of reserves based on the information available.²⁰⁰ In other words, the exploratory work is not an indication of amount of gold ore that could be found. Depending on the number of bore holes, their depth and location, the information will only an estimate until excavation work has begun and the ore processed to see how much is actually in the ground.

Since surveying work began in 2003, the company has considered two options about how to process the mined ore. In the first option, the company could take the ore to the neighbouring country which has a plant there that could process the metal. In the second option, the company would take the ore to an existing antimony plant to be processed. In discussions with the Village A, some wanted a plant be built near the village so that they could process the ore there and taxes be paid into the *aiyl okmotu* budget. This was also the view that the director of the mining company conveyed.

¹⁹⁹ Bogdetsky, V. (ed.) Zoï Environment Network (2012), *Khaidarkan Alternatives: Towards a Mercury-Free Future*, Feasibility Study, Development of gold and other mineral deposits near Khaidarkan (Bishkek: Ken-Too project Design and Research Centre, Kyrgyz Mining Association).

²⁰⁰ Interview, mining expert, December 2013.

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There have been other accusations levelled at the mining company. As part of the document preparation for the deposit site, the company had to account for juniper trees that grow in the region. Before the company began to construct the road, the State Inspectorate for Ecology and Technical Safety under the Government of the Kyrgyz Republic recorded 51 juniper trees on the deposit site. When the company had completed the road, another inspection found that the company had felled 198 juniper trees during construction. The company protested the results and the local general prosecutor had found in favour of the company and that there were errors in the reporting. Despite protesting the company's innocence, he said he would comply with a request from the Prime Minister to pay money to compensate for 'spoiling the land and removing trees'.

The company director also disputed the persistent claims by villagers that they have used chemicals that have damaged the surrounding environment and polluted the waterways. Two environmental studies have been conducted which have produced no evidence to suggest that there has been any pollution. He noted that since they have not been able to conduct much work on the site since 2008, he said "What could we have violated there? What kind of chemicals [did we use]?"²⁰¹ As a measure of good will, the company director said he was ready to pay for people to be checked at a clinic of their choosing to determine the source of their illnesses. If, however, the analysis does not prove that the illnesses were the result of environmental pollution caused by the mining company, he said he would demand of the Village A to find a way that they can continue to work.

All of this, according to the director, was in addition to the attack on the site camp and protest that happened in 2012. This was another attempt, he claimed, by others to get the deposit. The people that came onto the site destroyed everything and ransacked the food supply. When the company started a criminal case the people blocked the road. This has created further problems for the company.

The company director said that they still need four to five years to conduct more tests to do more exploratory work before any mining can begin. He disputed that no local people had ever worked on site. People from the village closest to the mining site had worked in the past.²⁰² He also discussed ideas social support that could be provided to the community. He wanted to support five young students to enrol in university and study subjects related to mountain industries. He would support them throughout their undergraduate course and would let them work in the company when they graduate. He also stated that the company was negotiating a social benefit package with the local population and was supporting a clean water project for the region that was requested by the central authorities.

Neighbouring district – similar problems

In a neighbouring district, there is another community demonstrating against mining activities. The company is foreign, but the mine is operated by a local subsidiary. Since 2011, people have protested and blocked access to the deposit site in 2012. In October 2013 there was violent conflict on the mining site. The company claims that 'activists' purposefully disturbed peaceful negotiations between the company and the community. The community's grievances are similar to Village A and several other communities. There is a lack government involvement, an absence of information and they are concerned about the environment.

²⁰¹ Interview, director of mining company, October 2013.

²⁰² The company director showed photographic evidence of people working on the road construction which he claimed had come from the nearby village. He also claimed to have video evidence of this as well.

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The head of the *aiyl okmotu* complained that when Satybaldiev came to Village A's district, he did not speak with people in their district about similar problems.²⁰³ The head of the *aiyl okmotu* claimed that this was because people in Village A have people from the village in the President's Administration and, therefore, have better access to government officials. "There is not link between the people and the state, no person who can explain to the people in an understandable language the policies that are conducted by the government. If the deposit is so important for the country, if it will bring great returns and we need to develop it, then why don't government officials come here and meet with the people and explain it all?"²⁰⁴

Another reason the villagers were against the mining operations was the plan to create an open-pit mine. Some villagers argued that this would have an impact on the livelihoods and health of the villagers as the mine is located not far from the village. "People say that it will directly effect on our way of live, and damage to the river. As it is, we are not supplied with a sufficient about of drinking water; people drink water from the river."²⁰⁵

This partly represents a lack of communication between the company and the community. The *akim* lamented that there is not enough communication. As a result are significant misunderstandings. The *akim* said "unfortunately, misinformation is apparently more effective than correct information."²⁰⁶ The *akim* wanted the company to work more closely with the community, especially with those that are not interested in the mining works. The company should work with them "constantly", he said.²⁰⁷ It is only this way that people will understand what is going on and what it means to the community.

This reflects a similar problem in many communities. The lack of communication and concerns are raised through rumours and the situation with Kumtor has created a situation where distrust prevails. Villagers have legitimate concerns, and the lack of attention provided by the Government has created deep challenges to the continuation of mining activities.

The *akim* stated that in order for mining activities to be able to be conducted in the district, everything needs to be done in an open and transparent manner. He said "international [foreign] companies must understand that they need to observe the local laws in the first place and not only the director of the company, but also the local administration must also work openly. That is, there shouldn't be any corrupt schemes and no personal interests. You need to place the interests of the people and the interests of the state."²⁰⁸

There is a problem, the *akim* noted, that some local administrators do not want to deal with the mining issues in their area. He noted "once an administration doesn't take on the responsibility of the work in their area, nothing will ever get better."²⁰⁹ The inability to address these issues often comes from a lack of expertise and knowledge on how to addresses issues and mitigate conflict effectively in their area. This is a prime task of the newly mandated State Agency for Local Self-Government and Interethnic Affairs to address.

The lack of expertise, not just with local administrators, but in the population is an issue that makes it difficult for investors when they seek to use local people, but also for people to be able to engage with mining projects. The *akim* said "unfortunately we do not have specialists and opportunities which our Kyrgyz citizens, our government could invest in the mining sector. For that we need investment, big investment. Not just an investment in terms of money, but also an investment in minds."²¹⁰

²⁰³ Interview, head of *aiyl okmotu*, August 2013.

²⁰⁴ Interview, head of *aiyl okmotu*, August 2013.

²⁰⁵ Interview, head of *aiyl okmotu*, August 2013.

²⁰⁶ Interview, *akim*, August 2013.

²⁰⁷ Interview, *akim*, August 2013.

²⁰⁸ Interview, *akim*, August 2013.

²⁰⁹ Interview, *akim*, August 2013.

²¹⁰ Interview, *akim*, August 2013.

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These issues have led to a rise in tensions and a breakdown in relations between all stakeholders. The continuation of mining activities in this context is difficult. These are not isolated problems, but significant challenges throughout the sector that need to be addressed and mitigate further tensions and conflict.

Summary

The situation regarding mining and Village A is complex. There is a mixture of real concerns and insecurity about the mining activities based on a lack of information, as well as graft. People's negative perceptions are largely driving their reactions to the company and mining issues in general.

The environmental debate is a primary concern of many in this area. However, there is also a desire, which is partially articulated, about wanting to create jobs in the region through mining activities. These are not opposed arguments, but highlights the challenges presented in a situation where there is little information to assess the impact and benefit of mining operations. The example of Kumtor has created specific fears about environmental pollution, but has also demonstrated the benefit to the local economy and livelihoods in the area. The challenge is not to deal with the questions separately, but to address both of them through collaborative engagement between the community, the company and the local government bodies. Conflict sensitive methods could be integrated within this process to mitigate misunderstandings and the exclusion of people or neighbouring, groups and communities that also have a legitimate claim to be included in the debates about the mining activities.

The situation at the time of the research presented clear obstacles to the company to implement its work plan, but it also posed serious questions to the community about whether they would agree to allow the company to work and, if so, how this would be accomplished. A related question is then how the community would be engaged in this process. The absence of information about the mining activities and the lack of capacity at the community level to review the situation and articulate a common vision that would lay the foundation for the company to continue work almost prevent a discussion about alternative visions of mining in the area. If the community had access to independent experts and consultants that could help present the community's views and participate in discussions with the company about the mine activities, which would address their concerns, the question of having mining companies work in the area may be seen as mutually beneficial.²¹¹ In this case, however, the environmental argument against mining becomes stronger because the debate is much clearer and protects the community against harmful effects – whether real or believed – that have been observed locally or reported elsewhere.

There is another side to the environmental debate. It allows others with a vested interest in the deposit to play on people's fears. It allows others to attempt to establish their claim to the mine or, at least, prevent others from operating there so that they may claim it in the future. This does not help create a better understanding of the situation and only strengthens people's convictions that there are big risks in mining. Local actors may be able to provide a counter-argument in a way that would be understood locally which may gain them greater trust from the community. Nonetheless, the community would continue to have expectations about the kind of benefits they would receive from mining operations and would need to be addressed.

This latter discussion was not present in Village A. Kyrgyzaltyn, the state-owned mining company, was not present in this particular area (as it was in deposit site near Village B), therefore there was no open discussion that the mining may have been done better by the local company, instead of foreigners. In other cases, Kyrgyzaltyn is seen as a preferable partner as they are from Kyrgyzstan and will keep the resources in the country, than an unknown, foreign company.²¹²

²¹¹ The OSCE Academy is grateful to Kent Mathieson, a mining consultant in Kyrgyzstan, for his views on this topic.

²¹² Although this report could not confirm it, there may also be a correlation between more allegations involving environmental pollution by a foreign company as opposed to similar allegations against Kyrgyzaltyn.

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In Village A, there was an absence of discussion and opinions expressed about mining legislation. In general, the lack of clarity on obligations on behalf of the company and the community has created further confusion. The future of the company working on the site may depend on adjustments to the existing legislation related to the mining sector and the ability for local communities to understand and defend their rights in these situations. Without this clarity, the continued stand-off between the community and company may continue.

However, the mining issue was not what everyone talked about. The mining issue was further down on a list of development challenges in the village that people discussed. Many people interviewed did not prioritize the mine and said that they had not sought for information on the mine. The lack of information certainly contributes to a lack of awareness and interest in the mine activities, and creates discontent and aides the proliferation of rumours. This becomes acute when there is a movement by some against the mining company.

Thus, the issues involving the mine should be understood in the context of wider development challenges in the village. Many people spoke about more everyday issues, such as repairing the roads, creating access to clean drinking water or rebuilding the school. These have become the informal conditions on which the company could continue to work at the deposit. Some of these, however, are the work of the *aiyl okmotu*, which indicates that people's lack of trust in the local government bodies has established some of the duties of the local authorities onto the company as a prerequisite for their continued work at the deposit site. The company's minimal amount of work, however, has created dissatisfaction with their work and distrust of their actual activities. This is similar to the dissatisfaction that people have of government bodies. This may create further obstacles for the company, since they have not accomplished anything yet, villagers may believe that they are unlikely to accomplish many of the things they want them to do in the future.

Another issue to address is corruption, which has persistently dogged the mining sector. There have been accusations of both government figures and companies involved in bribes, subverting proper procedures in tendering processes and issuing of licences, and other practices that do not follow the rule of law.

The testimony and evidence of the company director in this case suggests that the company has tried to comply with all legislation and government authorities. This is not to imply that the mining company is guilt free. There could be other issues that have not yet surfaced or have not been investigated that could implicate the company involved in corrupt practices or at least complicit in activities that could be found to be corrupt. However, if this had been the case, the company may have been already stripped of its licence if, as the director said, many attempts had been made to get the licence to the deposit.

The general lack of knowledge by villagers about the mining company and the operations at the deposit site is another issue to address. This is not unique. Many communities near mining operations are not clear about what goes on at the mine or about the company in general. In this case, Village A was not on the main road and had not been directly engaged in discussion from the beginning. Nonetheless, people interviewed in the village closest to the mine also seemed to have little awareness about the company's activities. If the company had not been able to work since 2008, as the director claimed, the physical absence and regular interaction with the communities would further contribute to this lack of awareness. People were yet unaware about the work the company had done to rebuild the school and bridge. This is an interesting aspect and further research would be needed to understand the why the largest economic enterprise in that area is not better known to the local residents.

A final issue is that the violent conflict has not been addressed and no one has been brought to justice for the attack on the company's mining camp. Violent conflict in other places has been resolved through negotiated punishments between the community and company or through reduced penalties. There was a lack of discussion of the events that took place and the repercussions that it could have.

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This is a concern for ensuring a sustainable future for the company and for establishing better lines of communication. If there is a sense of impunity, then dialogue will be difficult to construct.

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Case Study 2 – Village B

Introduction

Village B, examined in Case Study 2, is approximately 120 kilometres away from the deposit site, but the land falls within the administrative territory of the *aiyl okmotu*. A foreign company holds a development licence allowing them to mine gold on what is estimated to be the best plot of the deposit site. The local community has protested against the foreign company and blocked entrance to the site. The villagers claim that they do not want foreigners taking away the country's resources and polluting the environment, but another significant reason for their opposition to the mining company is that a majority of the villagers are engaged in artisanal mining.

Village B is located about seven kilometres off a main road, nestled at the foot of an expansive chain of hills and mountains. The village is the only village in its *aiyl okmotu*, and therefore acts as the administrative centre of the *aiyl okmotu*. Apart from those engaged in artisanal mining, villagers are mainly engaged in animal husbandry, but some villagers do farm, particularly hay and wheat. Some have built houses in the surrounding pastures and farmland and are not connected to the village by built roads or electricity infrastructure. Many villagers also have kitchen gardens where they grow potatoes and carrots. The village has about 2,930 people, according to official demographic data.

The villagers noted that around 2000, before many were engaged in artisanal mining, there was a high rate of unemployment and crime.²¹³ As involvement in mining has grown, villagers stated that people have become more active and that incidents of crime have reduced. As a result of the 'gold fever', there is little migration out of the village and people are even trying to move to the village through family members already living there. Ostensibly, this is to be able to use their connections to participate in artisanal mining. People have also noted that there are fewer divorces and life, in general, is more peaceful in the village as a result of the income generated from mining.

It is possible to obtain a licence (through the purchase of a *patent*, declaration of tax payment) for artisanal mining for alluvial deposits only, but as people mine gold ore deposits, they must do so illegally. The illegal activity is known to the state security services, but they do not stop it. They have started to monitor the situation more carefully after some villagers purchased dynamite from a person that was later arrested for illegally transporting and selling explosive materials. The villagers, however, want the Government involved so that their activities can become legalized and more state investment can be brought to the village through the creation of processing plants and other related mining enterprises. In their view, this would create better working conditions for people, create employment opportunities and taxes would be paid into the local budget. In the absence of state assistance, taxes and some financial support from Kyrgyzaltyn, have brought some

What is artisanal mining?

Artisanal mining, or small-scale mining, is 'a form of subsistence mining providing a direct or indirect livelihood [...]. It often takes place alongside large-scale operations.'¹ In Kyrgyzstan, artisanal, or small-scale, miners dig ore deposits and mine alluvial gold. Artisanal mining of alluvial (placer) deposits is permitted with the purchase of *patent*, or declaration of tax payment. Artisanal mining of ore deposits is illegal and government authorities in Kyrgyzstan will not issue a *patent* for this purpose.

²¹³ There are no official statistics on the level of unemployment in the village. Based on data collected from the 2009 census in the Kyrgyz Republic, the district in which the village is located has an unemployment rate of 4 per cent. This, however, does not take into account that those who practise farming or are engaged in animal herding are usually considered to be 'employed', regardless of their level of income. The details of the demographic and employment statistics were taken from the National Statistical Committee data from the 2009 nationwide census.

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improvements to the village, for example money from mining opportunities has been put towards building a preschool and road maintenance.

Mining protests

In August 2011, villagers demonstrated against the foreign company operating on the deposit site.²¹⁴ They wanted the company to stop exploratory work and leave the site. People from the village travelled to the deposit site where the foreign company was working. After one fight, the police arrived to stop the groups from clashing again. The standoff, however, was short lived. The villagers marched towards the foreign workers and the police fired warning shots in the air, but the villagers still fought with the police and foreign workers. Several received injuries and some were taken to Bishkek for treatment.

The villagers argued that the development of the deposit will lead to environmental damage and that the government had only been lobbying the interests of the foreign company. The villagers said that having foreigners mine the area was not in their interest. If the company was given the rights to mine it would lead to mass unemployment in the village and worsen the quality of life as many depended on artisanal mining. Moreover, a local mining company, created by people in the village, had not been able to obtain a licence on the site for a number of years.

The following year, there were further attempts by local youth movements to close the mine. They stated the company had violated environmental laws. A commission was formed to look into this. The foreign company was, nonetheless, issued a mining licence in February 2013 which is valid until February 2033.

During this period, the villagers had been in discussions with Kyrgyzaltyn which is developing another plot adjacent to where the foreign company works. The state mining company indicated that in 2012 approximately 150 people worked on the deposit site, of which 70 were from the district. They also indicated they had contributed to the *aiyl oktomtu* budget and provided social benefit packages. It was reported that in 2011 the foreign company planned to pay KGS 7 million (approximately USD 151,726)²¹⁵ into the local budget. Irrespective of this, the villagers only wanted Kyrgyzaltyn to continue working and as they felt they were able to find a common language with the company to meet their demands.

At the time of research, villagers were engaged in artisanal mining on the site to which the foreign company has a licence. In this way, villagers were able to earn a good income through artisanal mining, but they also ensured that Kyrgyzaltyn paid money into the local budget and provided other benefits, such as the construction of a preschool, through negotiations with the village.

Mining and the community

Gold prospectors are attributed with finding the deposit in 1940, but there are indications that people were aware of the gold reserves much earlier. From 1949 there was small-scale mining and gold prospecting. From 1964 to 1967 geologists evaluated the site by creating trenches, an open pit, prospecting pits and bore holes. From 1967 to 1968 geologists conducted further prospect-revision analysis which included opening more trenches and pits. From 1988 to 1993 experts conducted a geological survey. From 1992 to 1996, under an agreement with Kyrgyzaltyn, an Issyk-Kul geological expedition conducted exploratory drilling and other work on the deposit. In 1994 Kyrgyzaltyn created a mine on the site and began open pit operations. From 1996 to 2000 a joint Kyrgyz and foreign mining operation explored the western part of the deposit site. In the late 1990s, however, most of the mining operations stopped as they were not profitable. Kyrgyzaltyn has remained and continues to mine and

²¹⁴ Despite repeated efforts, the research team was unable to meet with a representative of the foreign company.

²¹⁵ The average exchange rate for 2011 was USD 1 = KGS 46.13592. See the National Bank of the Kyrgyz Republic for information on daily exchange rates, http://www.nbkr.kg/index.jsp?res=high&scr_res=1366 (accessed 2 December 2013). Unless otherwise indicated, the National Bank's data has been used to calculate the exchange rates.

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process on site. A former Kyrgyzaltyn truck driver estimated that the company still employed about 30 people from the village on their site.²¹⁶ They hold a mining licence until the end of 2017. A foreign company, which is protested by the local community, has a licence to mine on an adjacent 621 hectare plot on the deposit site. The gold ore in this area is of a higher grade and there are more grams per tonne of rock than in the deposit near Village A.

The benefits of gold mining, through artisanal mining and larger operations such as Kyrgyzaltyn, have had a positive effect on the village. Reflecting on the changes, many villagers spoke about the high level of crime in the past. In 2000, one villager said, there was no work and people said that there was a lot of cattle theft and other types of stealing. Once the young people started going to the deposit, people became busy, they started earning money and the quality of life in the village improved. A village nurse said

“In the past few years everything is turning out for the better. Before young people were idlers; they stole cattle [and] got drunk, but now there is progress in every home. Now young people are driven; to work with gold is not easy, but in spite of this, they work. Before they couldn’t use money, but today young people buy equipment, build homes [and] refurbish [homes]. For example, in the village, we have sufficient combines, even more, and this is all to the credit of young people.”²¹⁷

One of the first indications of this new wealth in the village was the construction of multi-storey homes, or as some refer to them, ‘mansions’ (Russian, *osobnyak*). These conspicuous homes differ strikingly from the other homes in the community. In general, the quality of homes differs significantly from that of Village A. There are fewer homes built from mud brick. The location of the village, ease of transporting building materials to the village and available income have allowed for better materials to be used.

However, it is not just the homes, but other trappings of wealth have appeared in the village as well as people making investments outside the village. A village nurse stated

“[People] are building multi-storey homes in a modern style, they buy homes even in the city, [and] they repair equipment. Now, few people drink [alcohol]. During the Soviet Union, we didn’t know much, but today’s youth are progressive. Moreover, there is a sports complex being built in the village. At one time everyone bought a car, and now they buy pedigree horses that cost KGS 120,000 to KGS 130,000 [approximately USD 2,461 to USD 2,667].²¹⁸ They organize different events; give out presents to elderly people, and all this is due the organization of the young people.”²¹⁹

As artisanal gold mining has become profitable, people have begun to improve their knowledge about mining and using chemicals to extract gold. A pensioner said “Our guys have already become physicists and geologists, and are able to work with uses explosives; not like before with a shovel picking at stone.”²²⁰ Some villagers noted that acquaintances in the village had sent their children to study mining-related courses at universities in Bishkek.

Furthermore, people said that there are fewer cases of people leaving to work in Bishkek or abroad. A farmer noted that, in fact, people were trying to come to the village “People come from different regions, from Osh, from Balykchi, from Naryn, relatives get involved. For example, I can invite my brother or brother-in-law to work as a group. For this, they buy some products; they busy necessary small things for work, globes for example. In their own way, it is good for traders. During the season,

²¹⁶ Interview, former Kyrgyzaltyn truck driver, September 2013.

²¹⁷ Interview, village nurse, September 2013.

²¹⁸ During the time of fieldwork, the average exchange rate was USD 1 = KGS 48.753. Unless otherwise indicated, this is the average exchange rate used for figures obtained during fieldwork.

²¹⁹ Interview, village nurse, September 2013.

²²⁰ Interview, pensioner, September 2013.

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the turnover of money reaches up to a million som [approximately USD 20,512].²²¹ Other villagers expressed wariness at people coming from other places as they did not want their source of income taken by people not from the village.

State-owned mining company

In addition, to artisanal mining, financial payments from Kyrgyzaltyn are having an important impact on the community. The acceptance of Kyrgyzaltyn and the refusal to work with foreign investors and companies has been more noticeable since 2010, according to a number of experts and business people engaged in mining. The agreements made between the Bakiev government and mining companies, especially, Kumtor, are held up by the new government as examples of corruption. The deals are seen to work in the favour of foreign companies, rather than for the benefit of the people. This has been partially the case in relation to people's views about the foreign mining company in Village B. Kyrgyzaltyn, however, is the state-mining company and the sale of processed gold goes into the budget. Furthermore, as a 'local' company, it is able to find a common language with communities. Another important aspect, however, is that villagers search for gold on the deposit site where the foreign company holds a licence. Kyrgyzaltyn represents a separate source of income for the community. In other words, the state-owned company is not a threat the villagers' mining activities and provides support to the village administration.

Nonetheless, people from that village have also made demands of Kyrgyzaltyn. They noted that they had not made many requests of the company before 2010, but since then, people said they have become better informed and demand more from the company. People said that in their view it was not the will of the company to become more involved in community life, but that it was the result of persistent demands from the villagers that the state-owned company meet with the community and discuss the potential benefits for the village. Some villagers claimed that it was only in the past two years that Kyrgyzaltyn paid taxes into the local budget. Since then they have also been providing money and materials for community building projects. The former kindergarten deputy principal recalled "After we built the club, the director of Kyrgyzaltyn came twice and asked what we needed. We asked him to build us a canal, and we are now looking for money for this. We hear about meetings and we all go there with our demands. Twice a year people from Kyrgyzaltyn come."²²² People say that they are happy with their level of partnership with the company.

Environmental and health concerns

The evident material gains from artisanal mining and financial support from Kyrgyzaltyn have created complex views about the potential environmental impact of mining. In general, people are concerned about environmental damage. There is a greater distrust, however, of impact that foreign companies would have than Kyrgyzaltyn. But some have also noted that having been involved in artisanal mining they know how the process works and do not see any harm in their actions. Yet the actions of foreign companies remain opaque. Here, the debate and allegations surrounding the Kumtor mine have had a significant impact on shaping people's views.

Some people cited that harmful materials used on the Kumtor site flow into a main river which runs not far from Village B. One person said that they had not been to the Kumtor site, but near it on the other side of the mountain range and claimed that chemicals were released into the water. Others noted that changes in the colour of the main river are an indication harmful chemicals having been dumped into the water near the Kumtor site. No one was able to refer to concrete evidence of pollution in the water, but it is widely believed that this is the case, and the principle cause of this is the Kumtor mine.

The same accusations were not made against Kyrgyzaltyn. This may be for several reasons. First, Kyrgyzaltyn has employed people from the community, who have become witnesses to the practices

²²¹ Interview, farmer, September 2013.

²²² Interview, former kindergarten deputy principal, September 2013.

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on site and have been able to relate what goes on to fellow villagers. Whereas rumours seem to be regarded as fact about the Kumtor site, the direct accounts of people who work on the Kyrgyzaltyn site to fellow villagers demystify the mining practices and help to sway people's views about the potential environmental impact of mining. Second, the state mining company has been more closely engaged with the community and has responded to their requests for help. Third, Kyrgyzaltyn is also a 'local' company and, therefore, there is greater belief that they must meet local demands and will not be given favourable conditions by the Government to take away the local resources and not pay a share of the money back into the local budget. Fourth, people involved in the gold extraction process have seen that it can be done without chemicals like cyanide which created fears about the actions at Kumtor, and have fewer fears that processing works on the Kyrgyzaltyn site may be dangerous to the environment.

Some people have noted the link between environmental concerns and working for Kyrgyzaltyn. The former kindergarten deputy principal noted "In the past we said that because of [Kyrgyzaltyn's mining] activity the weather worsened, because harmful substances escaped [from the site]. There were rumours about that in order to close the enterprise. This was before money started to come into our local budget and before our guys started to work there. And now, they work there and see for themselves [what goes on there] and they pay more taxes."²²³

Some people also spoke about health concerns related to the mining activities. On the mine site, the living conditions are challenging at best. The cold, harsh climate, basic living and hygiene conditions, and the mine all present a number of health hazards. One villager noted that even children are travelling to the mine site and contracting illnesses. The school director said

"Two or three years ago even children went up to the deposit site. Now we don't allow them, but during the holidays they disappear there. Later, they come to school and cough like adults. One day I asked them and they told me how they mine. They go down to the dark [mine] bottom, which is full of water. They wear a miner's helmet with a torch. Then they blow up a specific area. And what happens if the [mine collapses on] them? Two people died like that. One died last year when a rock fell on him. The second person who died was drunk."²²⁴

In the village there are additional health hazards. Stone milling, for example, can cause respiratory diseases. A fine dust develops as the stone is ground down. If people breathe in this dust they can develop silicosis, which is a disease that some miners develop. When quartz rock is pulverized, fine silica dust particles hang in the air for maybe 15 to 20 minutes, said one mining expert. The less effective machinery that is used, the greater the concentration of silica dust there is in the air. One expert said that no one in the village wears a mask and that anyone passing through the area will breathe the dust and it does not come out. This creates respiratory diseases such as silicosis, in which the silica lacerates the lung tissue. The effects are irreversible and can lead to other diseases and complications. The expert noted that few people know about this and that many people in the village could die as a result of untreated silicosis. The expert cited this reason in a recommendation to build a milling plant in the village so that people would not develop silicosis by using poor milling methods at home.

The school director added that there were other problems associated with mining "If you want to sit in your courtyard, you can't because of the smell. Children cough. Young people, who have worked there for a long time, are becoming infertile."²²⁵

Some people recognized the hazards but noted that other occupations had similar hazards or were equally difficult. A farmer, who used to mill stone, said "There is a hazard from [milled stone] dust. But

²²³ Interview, former kindergarten deputy principal, September 2013.

²²⁴ Interview, school director, September 2013.

²²⁵ Interview, school director, September 2013.

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I used to work as painter; there is also a hazard also from this work. [If you] carry cement, it's the same. Those who leave to work in Russia also say they have health problems. Compared with this, it is easier to work on your own land."²²⁶

People expressed other health concerns as well. After the stone is milled, the pyrite is burned off using nitric acid. This has created other concerns in the community about the use of acids and the effect this is having on the environment surrounding the village. The school director said "We invited experts. They said that there is radiation. In winter white snow falls, but in no time it becomes yellow. In the air there is the smell of acid after they burn fires [to burn off the pyrite]. We appealed to the local deputies. They spoke with the villagers and gave them an area behind the village where they can light fires. But people don't go there. During the separation of gold, they use acid, which when it contacts the earth it causes erosion. And nothing grows there for a long time."²²⁷

Artisanal mining process

When the 'season' to mine gold begins, people prepare for the journey to the mine site. They gather food, tents, and other necessities and travel 120 kilometres by car or truck to the site. The site is roughly 3,200 metres above sea level. The 'season' is usually in winter, when it is easier to mine the rocks. The harsh winter climate creates additional challenges for the people that go there for as much as a month at a time.

For those who are not able to gather enough money to travel to the mine site and mine, there are several gold buyers (Russian, *skupchik*) in the village that also give loans. If a person needs, for example KGS 100,000 (approximately USD 2,051), the gold buyer can loan the miner money. If the miner is not successful in mining any gold or a sufficient amount, the miner can ask for more money. The buyers are confident that they will get their money back eventually if the miner continually goes to the mining site.

At the site, people use conventional tools, such as pickaxes and hoes, as well as using explosives to mine the rock. Bags are filled with about 50 kilogrammes of rock. When people return from the camp, they may rent trucks owned by some of the villagers or use their own adapted cars.

In the village, people use an array of homemade machines to mill and sift the crushed rock. A pensioner noted "Before we were in the Stone Age, we did everything by hand. Now we have moved into the Iron Age, technology is progressing and everything is automated."²²⁸ There have been reports in the past that women would first clean each bag of stone earning little sums of money for this labour-intensive work. People did not mention this during the research trip, but may be still one of the initial methods used by some people to clean the rock.

The rock is ground down using mills usually within the home compound. If a person does not have a mill they can take their rocks to a home which has one and pay around KGS 200 (approximately USD 4) per bag. The mills run on electricity which is an additional expense for the villagers.

Once the milling process has been completed, people burn the remaining gold with nitric acid, which burns off pyrite. The gold is still mixed with other minerals, such as silver, but is around 80 per cent gold. The buyers will take the gold a slightly lower price (approximately USD 4-5) than the world market price for gold per ounce and sell it in Bishkek.

²²⁶ Interview, farmer, September 2013.

²²⁷ Interview, school director, September 2013.

²²⁸ Interview, pensioner, September 2013.

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Despite the advances in technology in the village, the milling process is still rudimentary. As the process does not enable to people to get all the gold from the rock (maybe only about 40 per cent), the milled rock that remains is put into bags and sold to passing trucks for about KG 200 (approximately USD 4) each.²²⁹ The truck drivers, often Chinese, may take them to China or pass them on to someone else for further milling and gold extraction processes.

Role of local and national government bodies

Villagers expressed frustration with local and national government bodies and their lack of engagement with the mining sector in the community and the complications people experienced because of this. In many places around the country, people have protested against foreign companies being allowed by the government to come into their community to mine without the consent of the villagers or even establishing any formal social benefits package. In Village B, this was also a concern, but people also levelled significant criticism at what they felt was incompetence of local- and national-level officials to permit local mining operations and to be able to use financial gains from mining operations in a prudent manner.

Some villagers criticized the *aiyl okmotu* (Kyrgyz, local self-government body) for not being an effective intermediary between the community and mining companies. They also complained that even when money goes into the local budget from mining activities, they *aiyl okmotu* cannot decide what to do with it. A former representative of the *aiyl okmotu* said

First, the *aiyl okmotu* cannot resolve its own problems. Only recently did money come from Kyrgyzaltyn and work moved forward. Second, people in power must be educated. Now we don't have those like in the Soviet Union, [now] they don't even know the laws. And the laws aren't the same, [and] the *aiyl okmotu* doesn't have the authority. They have a weak resource base, and they don't have a sufficiently good education, and, of course, they don't have enough knowledge of the economy. They know about [farming], but they can't go into it in detail. They have many commitments, few rights, and commitments that they do not carry out. There is no systematic approach.²³⁰

Some villagers responded that they wanted the *aiyl okmotu* and Kyrgyzaltyn to work more closely with the local population. The former kindergarten deputy principal stated "they work on our land",²³¹ emphasizing that the local authorities do not own anything and work for the people and that they should not sell land to foreign companies. Again, it was a demand that the local self-government body must expand its mandate or at least better represent the community in negotiations with mining companies.

As one person noted above, other villagers echoed that there is a lack of competency about the people and work of the local self-government body in their village. One herder said "People in other villages are in need of the support of the *aiyl okmotu*, but with us it is the opposite, the villagers help the *aiyl okmotu*."²³² This view was furthered by a community leader. He said that it was more than people helping themselves, but some villagers want pay taxes to the *aiyl okmotu*. They want their work to be legally recognized and they feel that this would help to get rid of corruption in the mining sector. This would also be a stimulus to the community because they would not have to hide what they do. At the time of the research, people often denied any involvement in mining and milling stone, even though the machinery is audible from the road.

Some noted that although the local self-government body was formally created to decentralize power, this has not happened. A herder noted "At present the *aiyl okmotu* is developing. For example, now

²²⁹ Interview, focus group participant, September 2013.

²³⁰ Interview, former representative of the *aiyl okmotu*, September 2013.

²³¹ Interview, former kindergarten deputy principal, September 2013.

²³² Interview, herder, September 2013.

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they are paid a good salary. Every month, they receive more than KGS 20,000 [approximately USD 410]. The state created the conditions for the *aiyl okmotu*. The state wants the *aiyl okmotu* to listen. [But] the state does not listen to them. Just the opposite, [the state] loves to command. That is why they are paid a good salary. Now, thanks to people's activity, things are moving. Before, with their own initiatives did not help the villagers."²³³ This, again, gives the impression that villagers see the local administration as ineffective and unable to address issues within the village in a collaborative way with the population.

Others noted that some people were actively leading community members against the local self-government body. One pensioner said "The [members of the] *aiyl okmotu* cannot lift their heads before the local people. Now some kind of leader is coming out among [the people]. [This person] is raising the people against [the *aiyl okmotu*], [who want] to introduce a law and try to limit their artisanal mining. The *aiyl okmotu* should offer some exchange, a different work. They cannot do this. They are still dependent on the people, as if the villagers are involved in charity and help the *aiyl okmotu*."²³⁴ This suggests that there is such frustration with the local self-government body that people seek to undermine its formal authority and to take matters into their own hands.

When asked what the *aiyl okmotu* should do, the school director said

The *aiyl okmotu* must think seven times and cut once. They must careful assess the situation and then act. They should be an intermediary in arguments with the company, so that there won't be a conflict. Now you don't know whom to trust; laws appear, but they don't work. Bureaucrats themselves don't know the laws. Those guys, who drove out [the foreigners], they made a pogrom [sic], and are walking around without being punished, as if the laws don't apply to them. That means there are no laws; [they don't] work. And if those guys were punished, no one would dare do something like that. There is corruption everywhere – acquaintances, without it there is no way.²³⁵

Here, the inability for the local self-government body to effectively address mining issues is reflected onto the state level. The inability to enforce laws and the inability to address corruption has created deep mistrust within the community, but nonetheless there is a desire for the state to create the conditions to make artisanal mining activities as well as to make state bodies engaged in the events of the village. Some people – based on their own research – spoke about analogous situations in Russia, Tajikistan and other places where aspects of artisanal mining operations or had been legalized. Villagers, again, stressed that they want to pay taxes and do things legally, but now that they cannot get an artisanal mining licence for gold ore deposits, they are forced to operate illegally.

In several conversations, people's views of the state's engagement in mining were related as punitive rather than supportive or constructive. One farmer said "Now the security forces detain our guys and demand money from them. [...] I think the state bodies in this case are not right. [These guys] are feeding their families, they are not stealing and do not demand anything from the state. I would say they bring a benefit to the people. The state must create [working] conditions and a legal basis [for their work]."²³⁶ Indeed, people stated that the police demand small bribes – or a 'toll' as they describe it – to be able to bring rocks from the deposit site to the village. These bribes are around KGS 300 (approximately USD 6). This reinforces people's view that they are being punished by state bodies for mining, which could be legalized and bring more benefit to the state.

Another person noted that the state is duplicitous: it allows foreigners to get licences while preventing locals from mining. He said "If there is good technical equipment [provided by the state] we would earn more. Our people work there like wild geologists. [The state] bothers us, but permits [foreigners to

²³³ Interview, herder, September 2013.

²³⁴ Interview, pensioner, September 2013.

²³⁵ Interview, school director, September 2013.

²³⁶ Interview, farmer, September 2013.

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work there]. [Foreigners] study our land, that's why the young people demonstrated. It would be profitable for us if there were a plant; how many young people could be provided with work there. We would bring a benefit to the state. Even let them open a pawn shop in the village;²³⁷ we would sell at state prices.²³⁸

Some people reflected on the inconsistencies and limitations of the state legislation and strategies in the mining sector. Some people said that the mining policies need to be reviewed to promote development in the country. One official said "First, it brings income to the country. Second, it has influence in strategic development and [could have] a damaging conflict potential for the development of the population."²³⁹ One expert further emphasized this notion "Only the mining sector can bring Kyrgyzstan's economy from crisis. Those who come out against mining gold [do so] because of a lack of understanding and animosity. They are against Kyrgyzstan and the Kyrgyz people."²⁴⁰

The importance of the mining sector to the development and economic prosperity of the country is not disputed, but the laws and strategic plans have not been properly developed. The expert noted "An important moment after Kyrgyzstan gained independence was the absence of a long-term policy in the mining sector. In this sector, deputies, government and the judicial bodies each decide [what to do] by themselves. There is no unified policy. As a result various people use this and take different actions in their own interest."²⁴¹ This is reflected in a number of situations across the country and is exemplified in the ongoing battle over the Kumtor mine.

Local mining and other forms of investment

Beyond individuals engaged in artisanal mining and frustration with ineffective policies and government bodies, some members of the community have sought to advance mining through other methods. Some members of the community attempted to set up their own mining company, but they have been unable to obtain a licence to operate. Others in the community have acted as intermediaries between potential investors and the community.

In this latter example, the individuals involved have had some support from influential people outside the community. In the community, these local 'intermediaries', who operate between the interests the local community and the influential external actors, wield some influence and act as the main focal point for community outsiders looking to engage in mining activities in the village.

One businessman had a licence transferred to him which was later cancelled by the Government. He wanted to obtain a new licence to the same deposit site, which was largely alluvial, but with some ore deposits. He also wanted to get another licence to an adjacent plot where there were more ore deposits. The businessman made a special journey to meet with the community to discuss his application for the licences. He said that although it is important to meet all the requirements and speak with people at the national level, he felt that it was even more important to meet with the community. He said that without the support of the local community, no mining project would ever begin operations. He disregarded those that thought they could simply work through national level officials in order to begin operations.

He travelled to the community and met with the local intermediary, who acted officially in his capacity at one of the directors of village mining company that had not been able to secure licences. They agreed that the businessman would give part of an initial investment to the intermediary to use in order to gain the support of the community. The intermediary met with community members and gave them part of the money as an incentive to support the businessman's application to win the tender to the deposit area, which was near the foreign company's site. Those that received money provided their

²³⁷ In Kyrgyzstan, some pawn shops will pay clients for gold and other precious metals.

²³⁸ Interview, focus group participant, September 2013.

²³⁹ Interview, oblast administration official, September 2013.

²⁴⁰ Interview, mining expert, September 2013.

²⁴¹ Interview, mining expert, September 2013.

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signature and other details that they gave their support to the tender application. All of this information was then given to the businessman along with a formal letter from the *aiyl okmotu* that they support the businessman's tender application.

After this, a competing company came to the village and also wanted to secure the villagers support for their tender application to get the mining licence. They promised to give more money than had been distributed from the first businessman. As a result, the villagers supported the competing company against the first businessman in the tender application. It had been rumoured that one of the investors in this rival company was actually the person who had invested in the businessman's attempts to secure the licences to the deposit site. The businessman saw this as a clear attempt to secure a deal to the deposit site, even though it meant negating a signed agreement between him and the businessman for an exclusive partnership.

This has created further problems for investors looking to work with the village for mining. The lack of trust between companies and those that represent or purport to represent the community is limited greater investment.

During the research, no one spoke about this and few recalled that other companies had demonstrated interest in the deposit site. This is most likely the result of two reasons. First, there are legal implications for everyone involved in the acceptance of money. Second, it is uncertain what the intermediary told people when asking for their signature to support the tender applications. People may not have known who they were supporting or exactly for what purpose.

Summary

Active artisanal mining by villagers has created a situation where people are trying to protect their livelihood, but also invite the state in to help legalize mining activities and create better profits for the community administration.

Many villagers regarded the *aiyl okmotu* as ineffective in dealing with mining issues. This was reflected in people's view about the national government. The lack of a strong legislative base and strategic vision for the mining sector has led to a situation where the government has distanced itself from everyday issues regarding mining, according to some villagers. Community members voiced support for having the state more involved and legalizing their activities. At present, people described the state-level authorities as being absent and largely viewed as promoting the interests of foreign companies, while local-level authorities were incapable of managing the mining issues in the village.

In this situation, people have continued to be engaged in artisanal mining. It is a lucrative, yet difficult, livelihood, but the material benefits that can be gained from it are viewed by many to be worth it. There are significant health concerns with the milling and gold extraction processes. Despite this, people continue to do it as best they know how, again with no equipment or improved working conditions provided by the state.

There are environmental concerns, but appear to be a mixture of genuine fears about the ecology and related health issues, but also as a useful argument against allowing foreign companies into the community. The foreign companies are not seen as transparent and, following the rumours and allegations made against the Kumtor mine, people are worried that the same problems could happen to them. Furthermore, foreign companies are not regarded as valuing the interests of the community. Kyrgyzaltyn, however, is not viewed as creating the same potential environmental damage. This is because people from the community have worked with Kyrgyzaltyn at the mine deposit and the company has established good connections with the community and contributed money to the local budget.

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Case Studies Summary

Below is a brief comparison of the similarities and differences between the two case studies.

Village A	Village B
<ul style="list-style-type: none"> • Mountainous • Distant from oblast centre • Deposit is close to village (20 kilometres away) • Foreign company has a licence, and community is against this • Violent conflict has taken place • Villagers not informed about mining activities • No one engaged in artisanal mining • Potentially small amount of gold and the gold is probably mixed with other metals • Intermediary in the village • Many think that mining is hazardous for the environment • Reports of high level of outmigration from village • People feel that migration is causing for families to break apart • Well-off families are those who have migrants in the family • High level of distrust of government officials • Feel that local administration cannot decide problems • Some support mining with the hope that the might gain employment there 	<ul style="list-style-type: none"> • Mountainous • Close to oblast centre • Deposit site is distant from the village (120 kilometres away) • Foreign company has a licence, and the community is against this; Kyrgyzaltyn has a licence, and the community accepts this • Violent conflict has taken place • Villagers more informed, some are self-taught geologists • People engaged in artisanal mining • High concentration of gold per tonne of rock • Intermediary in the village • Concern that mining is dangerous, but based on artisanal mining experience and working with Kyrgyzaltyn, there are some that do not think mining is dangerous for the environment • Few migrate out of village, those that leave come back, especially young people • Some send children to study at mining institute • Previously very poor, now considered rich, mainly due to artisanal mining • Frustration with government and prohibition on artisanal mining activities in the village • Feel that local administration cannot decide problems • Feeling that government can't stop them from mining • Some villagers set up mining business • Security forces receive bribes to allow villagers to continue with artisanal mining and rudimentary milling

Conclusion

Political ambiguity over mining issues and widespread corruption and conflict in the mining sector in the Kyrgyz Republic is a reflection of poor governance structures, a lack of communication and insufficient community engagement. Largely absent are conflict-sensitive practices, both in politics and society, integrated in mining activities and as an approach to resolving common issues. The complexities of the situation – including the disproportionate influence of the debates and issues surrounding the Kumtor mine – and the lack of trust in officials and mining companies have, as a result, turned many people against mining activities. One way in which people articulate these concerns is through claims of actual or perceived environmental pollution, for which they believe they will ultimately suffer. Some, however, see the potential of mining as a benefit to the region and country, but given the current circumstances in which it is done, it may not be worthwhile until a more equitable approach towards communities affected by mining activities can be found.

The Kyrgyz Republic is rich in mineral resources. Since independence in 1991, foreign investment in the sector has grown, but so have demands for state control over the country's resources. This has led to an impasse between the Government and investors about the future of the sector. At the same time, communities have increased their demands for better engagement from the mining companies and that they see the benefits of investment in the area.

The Kumtor Gold Mine, owned by the Canadian gold-mining company Centerra Gold Inc., has dominated debates about mining policies and foreign involvement in the sector. As the biggest and most profitable operation in the country, the state has much to gain from increasing its stakes in the mine, especially since the price of gold has risen considerably since operations began. At the national level, the Government must balance the interests of the state and those of the investors. Calls to nationalize the Kumtor mine have pushed the state to demand the renegotiation of the mine agreement. This issue has led to genuine and possibly manipulated public sentiment has led to violent conflict throughout 2013, lowering investors' confidence and creating questions over the economic repercussions of such a move.

The debates on Kumtor have also influenced people's perceptions about mining in their areas. One way in which this is discussed is through people's concern over environmental pollution. However, this term is layered with meanings. People are clearly worried about the future of their health and livelihoods. Accidents, such as the sodium cyanide spill in 1998 at Kumtor and other pollution claims, are regularly evoked as reasons why mining is dangerous and should be prohibited. It strikes at weak state regulation and distrust of current practices. It is an accusation, however, that appears to be mainly directed at foreign mining companies and is not an accusation usually made of *Kyrgyzaltyn*, the state gold mining company. The term encapsulates uncertainty about whether the company can be trusted, what mining methods they will use, how they will engage with the local community and the long-term effects of mining in the region. For those that engage in artisanal mining, environmental pollution is also a way to present obstacles to those that want to mine, while continuing to mine the resources for their personal benefit.

Conflict over mines has increased, particularly after the ousting of President Bakiev.²⁴² An agreement that Bakiev signed with Centerra in 2009, gave the Canadian company a far greater share in the operating company that managed the Kumtor mine. The Government has been working to reverse this, some resident near the Kumtor mine have been demonstrating on the streets to force the issue to be resolved. For some, this has become a rally call to protest against mining activities to demand greater benefits from companies and state engagement. This has led to many mining activities having to be halted in order to address complaints or because of violent conflict.

²⁴² Bogdetsky, V. and V. Novikov (2012) 'Mining, Development and Environment in Central Asia: Toolkit Companion with Case Studies' (Zoi Environment Network, University of Eastern Finland, Gaia Group Oy), p. 17.

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The field research conducted for this study highlights many of these issues and depicts the limited role of the state and ineffective policies in the mining sector. The experiences from Village A demonstrate that the lack of information, fears of environmental pollutions and the potential involvement of external actors have contributed to the increased tensions and of violent conflict. After protestors destroyed the mining camp in mid-November 2012, the Prime Minister came to the area to speak with community members and which also placed pressure on the mining company to meet certain demands in order to continue working on the site. Discussions have taken place, but work has not yet resumed.

A community in the neighbouring district, where there had been conflict in the past and ongoing tensions, was not visited by the Prime Minister. People in that village stated that Village A had connections to senior state officials which they were able to use to improve their situation. It highlighted the role (or at least the perception of the role) of connections and the influence of external actors on the situation. If this is the case, it also demonstrates that informal politics are deciding issues rather than policies or the regulating state bodies.

Village B presented a different situation, but reflected similar issues. Some people in village B are engaged in artisanal mining of gold ore deposits. This has been quite profitable at current gold prices and people have created their own structures – including the provision of financial support for mining activities, transportation, milling stations and purchase of gold – in the absence of support from the state. Those engaged in artisanal mining are forced to work illegally and pay bribes to the police to continue their activities.

There is a foreign mining company that has a licence for the plot where the villagers mine. People cite environmental hazards, but for many they want to keep the foreign company away so that they can continue to mine the plot. Kyrgyzaltyn also works on an adjacent plot, but they have established better relations with the community and are paying taxes to the village. The foreign company also paid taxes, but many disregard this and do not allow the foreign company to access the mine site.

There are also indications that at least one person in the village is acting as an intermediary for an external actor and the village to promote the external actor's interests in the village. This may also include keeping foreign companies out so that the external actor may be able to also profit from the mining activities in the village or to obtain a licence for themselves in the future.

These issues present significant challenges to mitigating violence. In some respects, Kumtor is a litmus test for the development of policies that defend the state's interests, but also protect investors and foreign companies. However, much more needs to be done to improve engagement with communities affected by mining activities and ensure that mining proceeds support the economic and social development of the region. There are examples of this in parts of the country, but it is not actively supported by Government nor clarified in legislation, which provides no template for interaction and expectations when companies meet with communities to discuss their plans and what is equitable.

This raises challenges for the integration of conflict-sensitive strategies to mitigate tensions and violent conflict. For the Government, this will partly depend on the new agreement over Kumtor and the amendments to the Law 'On Subsoil'. Whatever decisions are finally taken will need to include approaches to mitigate tensions and ensure an equitable partnership between the state, investors and communities affected by mining activities. The current approach, however, has limited Government engagement with communities and providing effective oversight of mining activities. The Government reacts to protests and violent conflict rather than conducting consultations and communicating with people about changes in mining policies and legislation. In cases where members of Government do come, it is either an extreme case (such as Kumtor) or because there may be connections to the mining site (as in Village A). There is no structured approach or consistent Government presence at present to mitigate conflict issues. Particularly in the case of artisanal mining, the state's regulation of this activity has been to prohibit it. Thus, the state has removed itself from the process of engaging

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with communities that depend on this and is ignoring systemic corruption that is perpetuating tensions and conflict.

Companies and investors covered in the case studies argued that they have tried to meet communities' needs. In some cases, however, community-level engagement could be stronger. Certainly, improved communication strategies are required so that community members understand what is being done and what it means to them. They must also demand more for the Government to support discussions with communities to ensure an equitable agreement for all. Companies should also conduct regular assessments of community's needs. This should form a core component of community engagement activities. The assessments should also be designed so that some activities should become independent and self-sustaining and continue after the closure of mining activities.

Community members need to be regarded as stakeholders and to be involved in discussions on mining. It is more problematic, however, when people do not want to be involved, only later to complain that they were not involved or to protest against mining activities without knowing the details of what is happening in their area. Reducing tensions and mitigating violence is also the responsibility of people living in communities affected by mining activities.

Community members must resist the influence of external actors that seek to disrupt negotiations or agreements with mining companies without constructive contributions on how to improve the situation. This means avoiding the calls of influential people to protest in order to advance their own careers by taking a populist stance rather than resolving the issues in a peaceful manner. This also includes having to engage youth in the process and incorporating them into decision-making groups so that their voices are also heard. There have been reports, although not observed in the case study villages, that some villagers have become paid thugs.²⁴³ Community leaders must work with young people to see that money to create conflict and enforce the will of external actors will only creating more conflict.

These are substantial issues to address and require comprehensive consultations between all stakeholders to foster understanding and support conflict-sensitive approaches to overcome disputes and challenges that will always exist in such work. Unless steps are taken to address these and other obstacles, conflict will continue to be a feature in the Kyrgyzstan's mining sector and may lead to economic and social degradation if resource wealth is not equitably shared.

²⁴³ Trilling, D. (2013), 'Centerra Gold and Kyrgyzstan: time for a marriage counsellor', *The Globe and Mail*, 25 April 2013, <http://www.theglobeandmail.com/report-on-business/rob-magazine/centerra-gold-and-kyrgyzstan-time-for-a-marriage-counsellor/article11541901/?page=all> (accessed 26 April 2013).

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Appendix A – Resources

Below are online resources on the mining sector and the environment in the Kyrgyz Republic.²⁴⁴

Government

Government of the Kyrgyz Republic	http://www.gov.kg
Ministry of the Economy	http://www.mineconom.kg/index.php?lang=ru
State Agency on Geology and Mineral Resources of the Kyrgyz Republic	http://www.geology.kg/index.php?lang=en
State Agency on Environmental Protection and Forestry under the Government of the Kyrgyz Republic	http://www.nature.kg/
State Agency for Local Self-Government and Interethnic Relations	http://www.mkk.gov.kg/index.php?option=com_content&view=article&id=1961:2013-06-25-16-03-27&catid=3:2011-07-12-10-53-43&Itemid=34&lang=ky https://www.facebook.com/GosAgenstvoPoMsulMeoPriPravitelstveKr
State Inspectorate for Ecology and Technical Safety under the Government of the Kyrgyz Republic	http://www.geti.kg/index.php?lang=ru
Department of Cadastre and Registration of Rights on Immoveable Property	http://www.gosreg.kg/

Laws regulating the mining sector

State Agency on Geology and Mineral Resources of the Kyrgyz Republic	http://www.geology.kg/index.php?option=com_content&view=article&id=279&Itemid=267&lang=en
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Mining companies and associations²⁴⁵

Altynken	http://www.altynken.kg/
Centerra Gold Inc.	http://www.centerragold.com/operations/kumtor
Highland Gold Mining	http://www.highlandgold.com/operations/exploration.aspx
Kyrgyzaltyn	http://kyrgyzaltyn.kg/
Kyrgyz Mining Association	http://www.kyrminas.kg/
Kumtor Gold	http://www.kumtor.kg/en
Manas Resources	http://www.manasresources.com/home.27.html
Mining and Metallurgical Trade Union of the Kyrgyz Republic	http://gmpk.el.kg/
Stans Energy Corp.	http://www.stansenergy.com/

²⁴⁴ All links were accessible as of 18 December 2013.

²⁴⁵ Note that the companies and associations listed here are only those with their own website. Listing of a company in this section is not a form of endorsement. For information on mining licences in the Kyrgyz Republic, see http://geology.kg/index.php?option=com_content&view=article&id=267&Itemid=259&lang=en (accessed 18 December 2013). For companies not listed, here, check the Yellow Pages, <http://yellowpages.akipress.org/> (accessed 18 December 2013), for possible details.

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Talas Copper Gold	http://tcg.kg/index.php?lang=en
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International development

Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH	https://www.giz.de/en/worldwide/356.html
Organization for Security and Cooperation in Europe	http://www.osce.org/bishkek
Swiss Cooperation Agency	http://www.swiss-cooperation.admin.ch/centralasia/en/Home/Activities_in_Kyrgyzstan
United Nations Development Programme	http://undp.kg/
United States Agency for International Development	http://www.usaid.gov/kyrgyz-republic

Academic, media and others

24.kg	http://24.kg/
AKIpress	http://kg.akipress.org/
BBC Kyrgyz Service	http://www.bbc.co.uk/kyrgyz/
EurasiaNet.org	http://eurasianet.org/
Fergana News	http://www.fergananews.com/
Kabar	http://kabar.kg/
Kloop.kg	http://kloop.kg/
K-news	http://k-news.kg/
Mountain Societies Research Institute, University of Central Asia	http://msri-hub.ucentralasia.org/
National Academy of Sciences of the Kyrgyz Republic	http://www.nas.aknet.kg/index.php?menu=76
National Bank of the Kyrgyz Republic	http://www.nbkr.kg/index.jsp?res=high&scr_res=1366
National Statistical Committee of the Kyrgyz Republic	http://stat.kg/
Oxus International	http://www.oxusinternational.com/
Radio Free Europe / Radio Liberty	http://www.rferl.org/
Vechernii Bishkek (Evening Bishkek)	http://www.vb.kg/
University of Eastern Finland	http://www.uef.fi/fi/kaivostutkimus/mining-in-central-asia