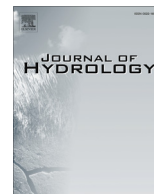




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The institutionalization of River Basin Management as politics of scale – Insights from Mongolia[☆]

Annabelle Houdret^{a,*}, Ines Dombrowsky^a, Lena Horlemann^b^a Deutsches Institut für Entwicklungspolitik (DIE)/German Development Institute, Department for Environmental Policy and Natural Resources, Tulpenfeld 6, 53113 Bonn, Germany^b Inter3 Institute for Resource Management, Berlin, Germany

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SUMMARY

River Basin Management (RBM) as an approach to sustainable water use has become the dominant model of water governance. Its introduction, however, entails a fundamental realignment and rescaling of water-sector institutions along hydrological boundaries. Creating such a new governance scale is inherently political, and is being described as politics of scale. This paper analyzes how the politics of scale play out in the institutionalization of RBM in Mongolia. It furthermore scrutinizes the role of the broader political decentralization process in the introduction of RBM, an issue that has so far received little attention. Finally, it assesses whether the river basin is an adequate water management scale in Mongolia.

This article finds that institutionalizing RBM in Mongolia is indeed a highly political negotiation process that does not only concern the choice of the governance scale, but also its detailed institutional design. It furthermore reveals that Mongolia's incomplete political decentralization process has for a long time negatively impacted the decentralization of water-related tasks and the implementation of RBM. However, the 2011 Budget Law and the 2012 Water Law provide for a fiscal strengthening of local governments and clearer sharing of responsibilities among the various different institutions involved in water management. Nevertheless, only if the 2012 Water Law is complemented by adequate by-laws – and if the newly created river basin institutions are adequately equipped – can RBM be effectively put into practice.

This article confirms the usefulness of a politics-of-scale approach to understand scalar practices and changes in water management. However, the article also argues for a broadening of the analytical perspective to take the interdependencies between changes in water governance and other political processes, such as decentralization, into account.

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1. Introduction

Integrated Water Resources Management (IWRM) has become the dominant paradigm for water policies in many countries. The concept is often understood to promote the river basin as the appropriate scale for water governance (e.g. Dublin Principles 1992, Agenda 21, Chpt. 18.9 1992).¹ A recent UN-survey of IWRM implementation in 130 countries indicates that 87 per cent of these countries have actually adopted River Basin Management (RBM),

even though with a varying degree of success (United Nations Environment Programme, 2012). While RBM is supposed to foster holistic management of the resource in terms of vertical and horizontal coordination among levels of government and government sectors and to facilitate necessary stakeholder participation (Mostert, 2000), its implementation is often challenging. In most countries, water governance follows traditional multi-level jurisdictions which rarely correspond to hydrologic boundaries. The implementation of RBM thus often requires far-reaching reforms in order to realign institutions and organizations along the scales of river basins. Decentralization and participatory decision-making play a key role in this process as they are believed to improve adaptation to local conditions, enhance the use of local knowledge and institutions, and ensure the greater involvement of stakeholders (Kemper et al., 2010). Rescaling water governance and institutionalizing RBM is also a highly political process because it inevitably shifts the decision-making powers which are in place (Dombrowsky et al., 2010; Saravanan et al., 2009; Schlager and Blomquist, 2008) and involves socio-economic and political trade-offs (Kemper et al., 2010).

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* Corresponding author. Tel.: +49 228 94927 173; fax: +49 228 94927 130.

E-mail addresses: annabelle.houdret@die-gdi.de (A. Houdret), ines.dombrowsky@die-gdi.de (I. Dombrowsky), lena.horlemann@web.de (L. Horlemann).

¹ Note that different interpretations of IWRM exist. Conca argues that IWRM represents a deviation from the principle of territoriality (Conca, 2006, *Governing Water. Contentious Transnational Politics and Global Institution Building*. The MIT Press, Cambridge, MA S.I. Water governance scales).

In Mongolia, these challenges of implementing River Basin Management – as foreseen in its Water Laws of 2004 and 2012 – are further complicated by the country's overall condition of economic and political transition. While the Mongolian economy was long based on pastoralism and its political system dominated by the Soviet influence, far-reaching changes have occurred since the early 1990s and are still ongoing. The economic transition from a socialist to a market economy is characterized by the boom in the mining sector and by a significant growth in livestock for cashmere production. This also implies changes in land and water use: from largely pastoral use and overall sustainable exploitation of natural resources to current problems of resource depletion and pollution as well as growing competition between pastoralism, agriculture and the highly water-intensive mining sector (Priess et al., 2011). The main pressure on water resources arises from the following phenomena (e.g. Dolgorsuren et al. (2012: 353 ff.)): mining activities (causing pollution from release of toxic substances and fine particles, destruction of riparian vegetation and water overuse; two inter-basin water transfer projects for water supply to mining sites in the Gobi Desert are under preparation²) (Janzen et al., 2007; Steckling et al., 2011); urbanization and the expansion of domestic water use (resulting in the degradation of water quality); climate change (including an increase of potential evaporation, a potential increase in precipitation, changes in surface-water flows and lake levels, loss of soil moisture and land degradation) (Batima et al., 2005; Dolgorsuren et al., 2012; Malsy et al., 2012; Menzel et al., 2008; WWF Mongolia, 2007); the increase of livestock (causing land degradation, erosion, bacterial contamination around urban areas, nutrient pollution); the planned expansion of irrigated agriculture (resulting in increasing competition over water resources) (Priess et al., 2011); and deforestation (triggering reduced water storage in catchments, changes in river regimes, erosion and the destruction of riparian vegetation (ibid.).

Addressing these multiple and increasing challenges regarding water resources and other environmental concerns requires strong institutions. However, institutions and public administrations for environmental governance at all levels are undergoing important changes too.

The political transition includes a shift from a one-party system and central planning to a parliamentary democracy and – slowly progressing – decentralization (Lkhagvadorj, 2010). The incomplete political and fiscal decentralization (Lkhagvadorj, 2010; Mearns, 2004) and insufficient state control and legal systems (Basandorj and Singh, 2008; Ykhanbai and Bulgan, 2006) have complicated environmental governance since the 1990s. After the dismantling of formal regulatory institutions for the sustainable management of pastures in the 1990s, weakened traditional institutions have increasingly been unable to control land use, which resulted in overgrazing and desertification (Jamsranjav, 2009). In the water sector, central planning through a water ministry during the socialist era was followed by institutional uncertainties and an administrative vacuum in the sector until major reforms were decided in 2004. Monitoring, control and pricing of water use and wastewater is largely insufficient (Basandorj and Singh, 2008; Livingstone et al., 2009). Water use throughout the country is also inefficient due to lacking or outdated infrastructure, both in the irrigation and in the sanitation sector.

² The currently major mining site is the Oyu Tolgoi copper and gold mine in the Gobi Desert operated by the world's second largest mining company, the Anglo-Australian Rio Tinto in partnership with the Mongolian Government and the Canadian company Ivanhoe Mines. Many other Mongolian, Chinese, US, Australian and other companies are active on other sites. Additionally, many formally registered small to large-sized mining companies and a high number of informal, artisanal miners operate in the country.

However, legal reforms in recent years regarding land and water use are beginning to restructure these sectors. In the face of rapidly increasing environmental degradation and of the above-mentioned trends towards higher demand and a diminishing supply of water resources, the Mongolian government decided to adopt the approach of IWRM as the guiding principle for water governance. The 2004 Water Law included the creation of river basin councils (RBCs) as participative stakeholder fora, and the development of a national IWRM strategy. RBM shall be further strengthened by the new Water Law of 2012 including the introduction of river basin administrations (RBAs) as governmental authorities. Even if water governance becomes increasingly decentralized and participative, the institutionalization of RBM remains challenging. As our study reveals, shortcomings of the decentralization process have also negatively impacted river basin governance. Furthermore, the politics of scale, i.e. the politics behind the choice of river basins as the new scale for water governance, also play an important role in these dynamics (Horlemann and Dombrowsky, 2012).

Against this background, this paper analyzes the introduction of RBM in Mongolia as a rescaling process. De facto, three different rescaling processes take place at the same time: the political decentralization; the decentralization of water management tasks to local authorities; and the implementation of RBM, including the creation of river basin councils (RBCs) and river basin administrations (RBAs). All three processes entail conflicts, negotiations and trade-offs between and within scales. Building upon previous work by Horlemann and Dombrowsky (2012) on problems of fit and interplay in the Mongolian water sector, this paper analyzes the rescaling of water governance in the country and seeks to answer the following research questions: (1) How does the political context of decentralization affect the rescaling of water governance, including the implementation of RBM?, (2) How do the politics of scale play out in the institutionalization of RBM, including related conflicts on scale issues? and (3) Is RBM the appropriate scale for managing water in Mongolia?

The structure of the paper is as follows: Section 2 presents the theoretical approach of the analysis. Section 3 provides an overview of the material and method used in this case study. Section 4 presents the three different rescaling processes affecting the Mongolian water sector, namely political decentralization (4.1), the decentralization of water management (4.2), and the implementation of RBM (4.3). Section 5 discusses these three rescaling processes with respect to the three research questions and interprets them in the light of the “scale debates”. Finally, Section 6 concludes the paper and points to the need for further research.

2. Theoretical approach

Research on the links between the appropriation of nature and the construction of scales essentially emerged in the 1990s from human geography (for a historical overview see Howitt, 2000; MacKinnon, 2010) and has provoked partly heated debates between various different scholars – especially geographers, political scientists and political ecologists – for over two decades (Norman et al., 2012). Different understandings of the term ‘scale’ coexist within the social sciences alone (Marston, 2000; Perramond, 2012). However, ‘scales’ are generally understood in these debates as spatial concepts of socio-political phenomena, whose continuous construction, deconstruction and reconstruction express a “social struggle for power and control” (Swyngedouw, 1997). ‘Politics of scale’ refer to the strategic mobilization and use of these scales for the interests of the different actors. While environmental governance is a prominent field of study in this context (Boyle, 2002; Görg, 2007; Meadowcroft, 2002), a specific and

growing body of literature has emerged on the politics of scale in water governance. ‘Scales’ can be defined here as the territorial unit of water governance and the representation thereof. In many cases water-specific empirical case studies (Harris and Alatout, 2010; Swyngedouw, 1999; Thiel and Egerton, 2011) provide the basis for theoretical reflections on the politics of scale in the sector.

From a conceptual and an empirical perspective, the implementation of Integrated Water Resources Management and related new modes of governance, such as the introduction of River Basin Management, lend themselves particularly well to the analysis of rescaling processes. Such processes imply institutional change; institutions are created or amended in order to enforce the claims of IWRM or RBM or to define the rooms for political maneuver. This does not only encompass aspects of the up- and downscaling of political responsibilities and tasks between existing governance levels but also the establishment of new organizations and institutions. The creation of river basin organizations (RBOs) is maybe the most prominent case in point as it requires a shift of decision-making competencies from the scales of political jurisdictions to the river basin.

As our case study on Mongolia shows, the analysis of scalar practices in water management, including their construction, negotiation and implementation, provides useful insights into the conditions and change of water governance. The following findings from previous studies are particularly relevant for the three research questions dealt with here.

First, our research question relating to *how the politics of scale play out in the institutionalization of RBM* is based on the evidence that the process of implementing RBOs lends itself for scale approaches to the study of water governance because it shows the inherently political character of both water management as such (Allan, 2003; Mollinga, 2008) and of related scaling processes (Swyngedouw, 1999). This implies the view that a river basin itself is not naturally given but is a socially and politically constructed scale (Feitelson and Fischhendler, 2009; Fischhendler, 2008; Warner et al., 2008). Consequently, river basins are therefore also considered as political units (Merrey and Cook, 2012), where RBOs are also political bodies rather than merely technical management units. Moreover, our research was inspired by findings confirming that the prevalence of conflict and negotiation about and between scales influences water governance, as Swyngedouw (2010:9) highlights: “[C]onflicts over the appropriate scale for organizing water systems (local, river basin, national, trans-national) each evoke different power geometries and may lead to radically different socio-ecological conditions”. The importance of looking at scale as a *process* (Jonas, 2006; Norman et al., 2012), and not (only) as the *outcome* of a process also proved to be a very useful observation for the analysis of the Mongolian case. MacKinnon’s argument for a concept of ‘scalar politics’ which “replaces the implication that the politics of scale are fundamentally about scale with the idea that particular political projects and initiatives have scalar aspects and repercussions” (MacKinnon, 2010:29) also proved to be relevant here.

Second, our research question on *the role of the process of political decentralization* is based on the insight that water governance (in its forms, mechanisms, practices and outcomes) is always embedded into a broader socio-political context, and that, while centralization and decentralization processes apparently play a role for RBM, knowledge about this interaction is still insufficient. Contextual factors are mentioned in papers on scalar approaches to water management as “varied economic, social and cultural realities” or the “scalar modes of political life” (Meadowcroft, 2002). Other authors also refer to broader strategic intentions of water management when showing that the negotiation of hydro-scales is closely related to state-building (Harris and Alatout, 2010) or to the consolidation of state authority (Neumann, 2009). However,

systematic assessments of the interplay between the governance context and its dynamics on the one side and the implementation of IWRM and RBM on the other are few.

Debates on polycentric and multi-level systems for effective and legitimate environmental governance (Armitage, 2008; Ostrom, 1999) or studies looking at environmental federalism (Moss and Newig, 2010) do look at the broader governance context, but seldom at its impact on the institutionalization or performance of RBM. However, Hartje (2002) observes that, in Europe, unitary governments have been more successful in introducing RBM. Moss (2003) finds that in a federal country, such as Germany, introducing River Basin Management under the Water Framework Directive poses significant challenges. On the other hand, Schlager and Blomquist (2008) conclude that the federal system in the United States has led to a variety of differently functioning, polycentric, federal types of water governance. Dinar et al. (2005) assume that decentralization leads to more effective RBOs as it increases their autonomy and empowers actors at the sub-national level. They find that the greater the extent of initial decentralization in the basin was, the less time the institutionalization of the RBM process took (Dinar et al., 2005). In line with this, they report that “[t]he more top down the decentralization process was, the smaller the extent of reported success ...” (Dinar et al., 2005: 47). This however implies that, overall, the relationship between centralization and decentralization and the establishment of RBM is not yet well understood. Moreover, the general governance environment in which RBM is implemented is often implicitly assumed to be a stable environment and an independent variable – not as the highly dynamic policy field it often is, especially in countries in transition.

In their comprehensive study on RBM, Kemper et al. 2010 do confirm the importance of broader reforms of governmental structures for the creation or reform of RBM. They conclude that “the development of RBM is affected (sometimes profoundly) by other events and processes under way in the political economy” and that “the effects of simultaneous transitions varied” (idem: 233). However, these studies provide few details on the mutual influences of the different processes and focus on the immediate relationship between the RBOs and national institutions without considering the influence of the decentralization of structures and policies beyond the water sector. Hence, the impact of a changing institutional environment on the implementation and performance of RBM has been little researched. It is also notable that many studies of RBM (including Kemper et al. 2010) appear to equate the decentralization of water management with the introduction of RBM, although a distinction needs to be made between the mere decentralization of tasks from higher to existing lower-level political jurisdictions, and the creation of new scales of governance such as river basins and the respective institutions. The present study therefore distinguishes between these two processes.

On the basis of the insights gained from the two first research questions, the third question asks *whether River Basin Management is the appropriate scale for water management in Mongolia*. As Kemper et al. (2010) show, RBOs were established in response to two crucial concerns: to manage water in an integrated way (coordinating water supply and demand while also preserving water quality and the ecosystem) and to decentralize water management at the lowest appropriate level. However, while river basin governance is being increasingly implemented worldwide in the context of IWRM (United Nations Environment Programme, 2012), researchers and practitioners alike also question the appropriateness of this scale (Dixit et al., 2006; Warner et al., 2008). Key objections include the argument that economies and societies transcend hydrological boundaries which leads to a complicated overlapping of different scales for decision-making. It is argued that the River Basin Management approach may not only fail due to political

resistance on the part of existing administrations to devolving power to a river basin organization: it may also raise issues of democratic representation and legitimacy (Dombrowsky, 2005; Huitema and Meijerink, in press; Merrey, 2008; Warner et al., 2008). In addition, Moss (2003, 2004) argues that while River Basin Management may solve problems of fit between hydrological and political boundaries, it may also increase the problems of the institutional interplay of RBOs with existing jurisdictions. These various different observations will guide the analysis of the Mongolian case.

3. Material and methods

This paper is based on an extensive review of the relevant literature and empirical research. The literature review involved legal documents and government programs as well as national and international surveys. Qualitative interviews were conducted within the framework of the *International Water Research Alliance Saxony (IWAS)* project on water management in Mongolia, as well as the project *Integrated Water Resources Management in Central Asia – Model Region Mongolia* (MoMo), both financed by the German Federal Ministry of Education and Research (BMBF). Over 50 semi-structured, qualitative in-depth interviews were conducted with representatives from national and local authorities, river basin councils, business and non-governmental organizations, scientists, water users and donors between 2009 and 2013 (see Table 1). At the sub-national level, empirical research was carried out in two Mongolian river basins. The Khar Lake-Khovd river basin in north-west Mongolia was among the first two river basins in the country in which a river basin council (RBC) was institutionalized (in 2009). In the Kharaa river basin in north-central Mongolia, which is the area of multi-disciplinary analyses in the MoMo project, an RBC was established in 2012.

4. Rescaling water governance in Mongolia

The Mongolian People's Republic, founded in 1924, was strongly influenced by the Soviet political system. After the breakdown of the communist regimes in Russia and Eastern Europe, a largely peaceful democratic revolution in 1990 in Mongolia led to a multi-party system and to the transition to a market economy. The state and society are in many regards still undergoing a transition process where the rules, interests and decision-making structures are being negotiated and decided upon. This includes the overall process of political decentralization.

Section 4.1 gives a short overview of political decentralization as a backdrop for our first research question of “how political

decentralization affects water governance and the implementation of RBM”. Section 4.2 analyzes the reallocation of water management tasks among different ministries and the delegation of tasks to local authorities, and Section 4.3 the implementation of River Basin Management in order to understand how the politics of scale play out in RBM, and whether RBM is the appropriate approach to water governance in Mongolia (2nd and 3rd research questions). The analysis of the interplay of the three processes is presented in Section 5.

4.1. Political decentralization in Mongolia

The following section details those elements of the process of administrative and political decentralization which directly or indirectly influence water governance in Mongolia. The country is divided into 21 provinces (*Aimags*) (plus the capital Ulaanbaatar which is administrated separately and divided into districts and *Khoroos*), 331 districts (*Soums*) and 1573 municipalities (*Baghs*) (Lkhagvadorj 2010: 76). The provinces, the capital and the districts have own local parliaments (*Khural*) which are elected every 4 years. In addition, ‘general meetings of citizens’ are held in the *Baghs* and *Khoroos*.

The organization of the public administration has undergone several reforms since the 1990s and responsibilities for service provision including water have been increasingly shifted from the central to the local level. However, the government and the legislation of the early 2000s were heavily criticized for adhering to top-down governance and for providing too little scope for action to local governments. The lack of abilities to raise revenues at the local level and limited capacities hampered effective decentralization in the country for a long period of time (Lkhagvadorj, 2010). Until recently, local governance was based on the Budget Law of 2002 and on the Public Sector Management and Finance Law of the same year. Both laws included an important delegation of administrative tasks to local governments, but their fiscal and the decision-making competencies were insufficient to carry out these tasks.

In 2013, a new Integrated Budget Law came into force. It is seen as a response to the increasing gap between the strong economic growth of the country on one side and urgent needs and increasing claims for local development on the other (Lkhagvadorj, 2012). The law improves the consistency and comprehensiveness of the decentralization process, defining the functions of each administrative level more clearly. It is expected that local governments will have much larger budgets because of a modification in the reallocation of budgets from the national to the local level. A new aspect of the Budget Law is the planned increase of citizens’ participation

Table 1
Interview partners between 2009 and 2013.

Type of actor	Interviewees (interviewed once or several times)
National level	8 Representatives from the Mongolian Ministry of the Environment and Green Development (MEGD), 4 from the Mongolian Water Authority (WA), 2 from the National Water Committee (NWC), 1 from Mongol Us, 1 from the National Agency for Meteorology, Hydrology and Environment Monitoring (NAMHEM), 2 from the Civil Will Green Party
Aimags/Soums	4 Soum Governors, 3 Heads of Soum Khurals, 2 representatives from environmental departments at Soum level, 1 from the Protected Area Administration, 2 Rangers
NGOs	4 Representatives from the World Wildlife Fund (WWF), 1 from the Ongi River Movement, 1 from the Mongolian Movement for Rivers and Lakes, 2 from the Asia Foundation, 1 from the Environment and Development Association JASIL
Khovd/Buyant RBC	10 Members
Kharaa RBC	1 Vice-president, 3 members
Tuul RBC	2 Members
Orkhon RBC	1 Member
Scientists	5 Mongolian professors
Foreign cooperation agencies and consultants	4 Consultants, 2 representatives from Swiss Development Cooperation, 1 from the German Agency for International Cooperation (GIZ), 3 from the United Nations Development Programme, 2 from the Kreditanstalt fuer Wiederaufbau (KfW), 2 from the World Bank

in the budgeting process (Lkhagvadorj, 2012). However, three key problems persist which are beyond the scope of the Integrated Budget Law. First, local governments still have only limited influence in the budget planning and approval process since they may make proposals on the budget, but then have to comply with the allocation. Second, according to several local expert interviews, local governments do not have the technical, managerial and procedural competencies to adequately plan for and spend the money, nor to implement the participatory approaches required (2012, pers. comm.). Third, while it is envisioned that enforcement capacities will be increased at local levels, it remains to be seen in what way this will take place.

The relevant literature mentions several reasons for the slow progress of the decentralization process in the first 20 years of the democratic transition, such as implementation through a top-down approach and the lack of an integrated strategy (Lkhagvadorj, 2010). The overall transition context of Mongolia and mental models from the socialist past may also explain some of the difficulties. As Mearns highlights in his paper on Mongolia, this situation is similar to other post-socialist countries and “the backdrop of institutional flux and uncertainty that characterizes all post-socialist transitions has not so far been conducive to fostering the predictability in expectations among social actors that democratic decentralization reforms demand” (Mearns, 2004: 141). Moreover, established elites may try to impede change perceived as a threat to their influence, and the government may favor centralist structures in order to effectively control national and international revenues (Steiner-Khamsi and Stolpe, 2004).

4.2. Reform and decentralization of water management

The dismantling of the Water Ministry in 1986 and of the remaining water administration during the transformation in 1990 led to a fragmentation of water governance at national level (Basandorj and Singh, 2008). The former Water Ministry's responsibilities were reassigned to at least six other ministries. In the face of the increasing problems of water pollution and rising consumption, the water sector then underwent several reform processes aiming at a more coherent and integrated approach to water resources management and a more precise organization of the related tasks (see Horlemann and Dombrowsky 2012 for important reforms up to the year 2010).

These reforms included the establishment of the National Water Committee (NWC) in 1999 which is responsible for the coordination of water-related activities of the now thirteen relevant ministries; the setting up of a Water Authority (WA) responsible for the implementation of IWRM from 2005 to 2012; the devolution of a number of water management tasks to sub-national governments in the Water Law of 2004; and the establishment of river basin councils as of 2009 and of river basin administrations as of 2012. Since the recent reform of 2012, the inter-ministerial Water Council has been responsible for the provision of permits for the use of water resources and related research. At the ministerial level, a specific sub-unit of the Mongolian Ministry of the Environment and Green Development (MEGD)'s Department for Policy Implementation was created in 2012 for River Basin Management. Fig. 1 provides an overview of the various different actors involved in water governance.

Problems of horizontal interplay persisted for a long time, given that the political power of the ministry in charge of the environment (which was renamed the Ministry of the Environment and Green Development (MEGD) in 2012) towards other influential ministries was very limited and resources for the implementation of its duties were largely insufficient (Rep. Water Authority 2009, pers. comm.). It remains to be seen if the recent changes, including the promotion of the MEGD to one of the four general orientation ministries,

greater financial resources and the subordination of the NWC under the direct auspices of the Prime Minister instead of the MEGD, will help it to become more influential. The influence of the newly appointed Minister who is also the leader of the Green Party Civil Will, the doubling of the Ministry's employees, and the MEGD's responsibility for approving any large investment projects with potential effects on the environment also point in this direction.

With respect to the decentralization of water management tasks, the 2004 and 2012 Water Laws made province and district governors responsible for the implementation of measures related to the use, protection and restoration of water resources as well as the construction of facilities. Municipal governors are responsible for the enforcement of legislation on water use. Provincial parliaments are to adopt water management programs submitted by the RBAs and governors and approve their budgets. Provincial and district departments of the environment, branches of the MEGD, are responsible for the implementation of environmental policies based on the governors' orders. In contrast to the text of the Water Law, interviews revealed that environmental inspectors employed by the General Agency for Specialized Inspection (GASI) are (also) responsible for the enforcement of environmental laws. Since 2012, the environmental administration at the community (*bagh*) level can set the prices and sign the permit for water consumption when this does not exceed 50 m³/day. Volumes between 50 and 100 m³/day require a permit from the river basin administrations and from the provincial governor-level which also set prices for these quantities. Water consumption of more than 100 m³/day needs to be given a permit by the MEGD which also fixes the price for these users. Moreover, the price for water use through the mining sector (which represents a large and growing proportion of water use) is to be fixed by the National Parliament. Furthermore, the new 2012 Water Law aims at improving monitoring, through the creation of a central databank and data collection. In addition, consideration is being given to transferring the responsibility for the enforcement of sector laws from the General Agency for Specialized Inspection (GASI) to the respective line ministries.³

So far, a key problem has been that local institutions have neither been sufficiently qualified nor have they had adequate means for monitoring water use or for designing and implementing water management measures (Dolgorsuren et al., 2012; Tortell et al., 2008). Interviewees from environmental departments at the provincial and district level admitted that “Controlling illegal water exploitation is very difficult and illegal wells can easily obtain an authorization when they are detected. (...) As for water pricing, the laws are there, but they are not implemented” (environmental inspector in Bornuur Soum, Kharaa river basin, 2012, pers. comm.).

Overall, it can be stated that the formal decentralization of water services has been insufficiently implemented since the adoption of related laws in 2004. However, in spite of persisting difficulties and uncertainties (Houdret et al., in press) recent reforms may improve financial and technical means and encourage the political will to actually implement related measures at local levels.

4.3. Institutionalization of River Basin Management

Next to the decentralization of water services, the implementation of RBM is the second rescaling process in the water sector. In order to understand how the politics of scale play(ed) out in this process and whether the river basin is the appropriate level for water governance in Mongolia, the main steps of this evolution are presented below.

³ At the time of writing this article, the by-laws on the exact modes of implementation had not yet been approved.

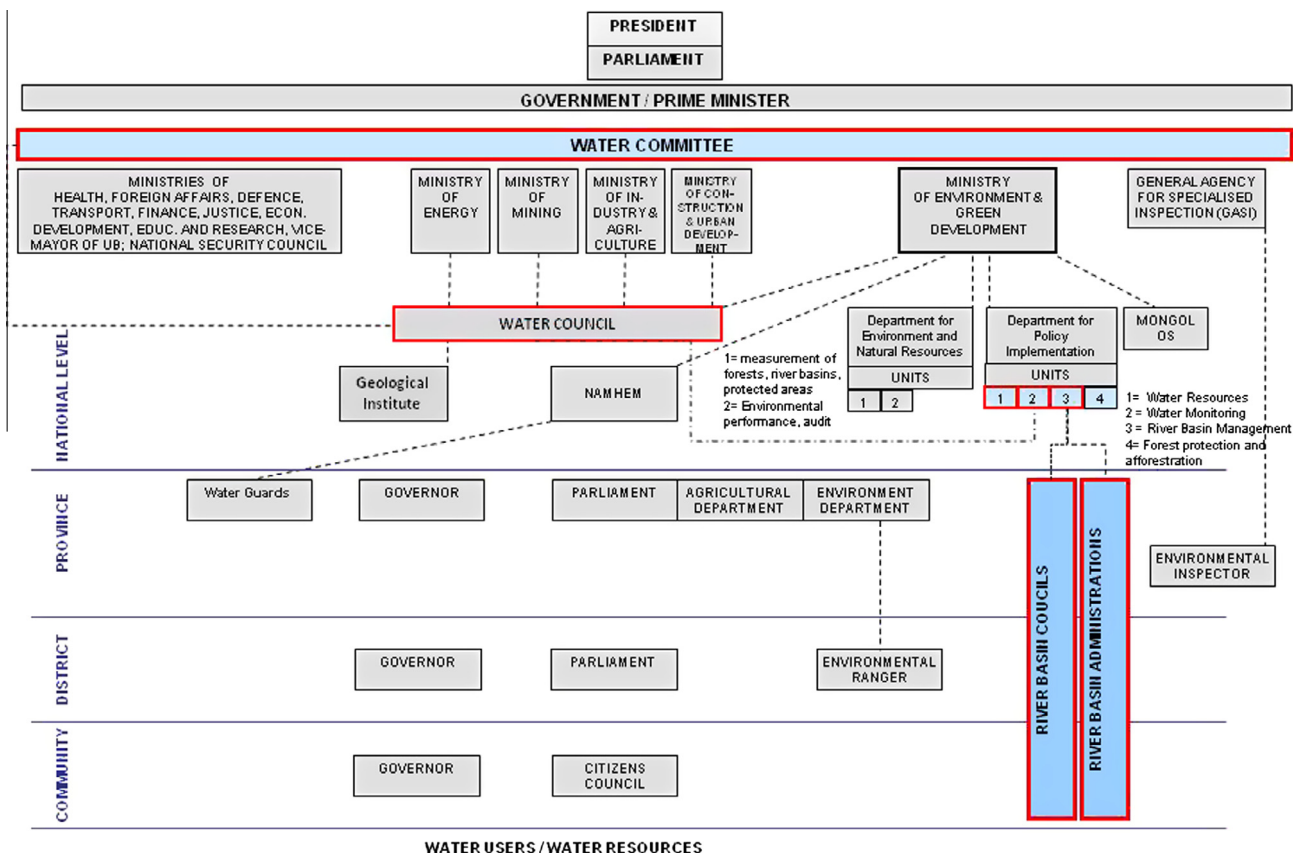


Fig. 1. Key actors in Mongolia's water sector (only water-related entities are shown. Source: authors' own compilation.)

In response to increasing problems in the water sector, Mongolia's 2004 Water Law adopted the approach of IWRM and called for the identification of river basins and the establishment of river basin councils as multi-stakeholder fora in order to increase public participation in water use and protection. Since 2009, 18 RBCs have been formally established, four of which were considered to be operational until their abolishment in 2013 (see below) (MEGD 2012 and MEDG 2013, pers. comm.)⁴.

However, given that the 2004 Water Law left many answers regarding the water administration at sub-national level open, since 2009 two different models have been discussed to strengthen water administration at sub-national level: either to strengthen provincial and district administrations (e.g. by having their own water departments) or to establish river basin administrations at basin level (NWC 2010, pers. comm.). In the end, the decision was taken to strengthen governance at river basin scale. As a consequence, the new Water Law of 2012 called for the establishment of RBAs as public administrations in addition to RBCs and transferred some of the latter's tasks to the RBAs. In 2013, RBAs were planned to be established in the four basins where active RBCs had already previously existed and in eleven others where improved knowledge of water resources and better management are urgently needed. The remaining administrations are to follow in the coming years. In 2013 a new Regulation on RBCs was adopted.

The present section uses the issues of contention and conflicts around the implementation of RBM as an entry point to understand the politics of scale in and around the process of RBM imple-

mentation. Based on our analyses, the following five key issues of contention can be distinguished: (1) the understanding of IWRM/RBM and the definition of the river basins; (2) membership and participation in the RBC; (3) the mandate and responsibilities of the RBCs and RBAs; (4) the financing of River Basin Management; and (5) the legal status of the RBCs and RBAs.

4.3.1. How IWRM/RBM and the definition of river basins are understood

In their extensive study on decentralization of water governance, Kemper et al. (2010) highlight the importance of long-term political commitment for the success of RBM since it takes a long time for changes to be implemented. In Mongolia, however, (as elsewhere) the way IWRM and RBM are understood seems to differ considerably between different actors involved. Many foreign experts and institutions have been involved in promoting IWRM, and most of the projects to implement RBM have been supported through foreign funding⁵. However, according to interviewees, mainly high-level Mongolian water professionals have also advocated adopting the IWRM concept (NAMHEM 2010, pers. comm.). After the Water Ministry was closed in 1986, a community of

⁴ These four are the ones supported by donors: the RBCs of Khovd/Buyant, Orkhon, Tuul and Kharaa.

⁵ The Dutch development cooperation supported the Water Authority in the development of a nationwide IWRM strategy between 2009 and 2012. At the river basin-level, the World Wildlife Fund (WWF), the Coping with Desertification Project (Swiss Development Agency), the United Nations Development Programme (UNDP) and The Asia Foundation (TAF) are conducting various different water management and water governance activities. The German Federal Ministry of Education and Research (BMBF) has been funding a research project on IWRM in the Kharaa River Basin (Integrated Water Resources Management in Central Asia – Model Region Mongolia (MoMo). The World Bank is supporting the creation of river basin councils and water monitoring in the Gobi region (see below).

several individuals working in the sector continued to exist. Over 25 years, this epistemic community or group of experts reportedly stayed in contact and continued to pursue their interests in improved water management and cooperation across different water-using sectors (WA and NWC 2012, pers. comm.). In the face of the rapidly increasing water problems in the country, public policies took up the issue again with the core group of this community supporting this dynamic process. Today, it is still active in key positions in the sector including many national-level administrations (MEGD 2013, pers. comm.). Hence, it would be wrong in the Mongolian case to attribute the adoption of IWRM and RBM only to external actors.

Nonetheless, research results reveal that these different Mongolian and foreign players did, and do not necessarily act on the basis of a common understanding of IWRM. For example, while the then deputy head of the Water Authority perceived an “integrated water pricing system” as the most important step towards IWRM (WA 2009, pers. comm.), a consultant to the Water Authority highlighted the “triangle of water management, land management and ecology” (consultant 2009, pers. comm.). An interviewee from the Mongolian University of Science and Technology (MUST), again, understands IWRM primarily as the modernization of technical facilities. The 2012 Water Law dedicates a separate article to IWRM (Art. 4), but does not define it either. The key concerns of IWRM in the law seem to be that the resource is used in a sustainable and profitable way and that River Basin Management Plans (RBMPs), river basin councils, and river basin administrations should be established (Art. 4.3–4.10). However, even if no explicit common understanding of the definition of IWRM exists, an overall shared concern about the importance of integrated water management prevails which supposedly facilitated the implementation. As an interviewee states: “IWRM is not something you can touch, it is a way of doing things, it is a philosophy” (consultant 2012, pers. comm.).

Apart from a lack of an exact definition of IWRM, there was an agreement that river basins as such needed to be identified. In Mongolia, no common understanding of the borders, scope, and ultimate number of basins within the country existed. A consultant to the Water Authority stated: “... [E]ven internally we are discussing what the size of a basin should be. Of course, there are many criteria; you would normally expect from the Water Authority that the hydrological criteria are the guiding criteria initially” (consultant 2009, pers. comm.). However, the 29 river basins agreed upon by the Ministry of Environment were not only chosen on hydrological criteria but also on the basis of economic implications. Economically relevant rivers were granted the status of a discrete river basin even when, from a hydrological perspective, they actually belonged to larger catchments. Fig. 2 shows (1) the 29 river basins as defined by the WA and the water professionals’ proposal and (2) the 16 river basins according to hydrological criteria only.

Moreover, because of the lack of surface water in the Gobi Desert, no river basins could be defined for this large part of the country. Due to the increasing mining activities, precisely in this region, and their drastic impact on water availability and pollution, it was decided to strengthen local water governance through the creation of RBCs as in the remaining parts of the country. As knowledge on groundwater aquifers was insufficient to determine the catchment areas and since no surface water existed in this region, the RBCs were defined on the basis of the provincial boundaries (WA 2012, pers. comm.).

Both examples – the lack of a common understanding of IWRM and of the identification of the river basins’ boundaries – confirm the political nature of the process of IWRM implementation and provide useful insights into the politics of scale which will be further detailed in Section 5.

4.3.2. Membership in the river basin council

Membership in the river basin councils was and is a critical issue of RBM in Mongolia and the different positions on this topic illustrate the politics of scale in the process. According to the Water Law of 2004, an RBC was supposed to consist of up to 15 members representing relevant government entities, main water-using sectors, NGOs and academia (Art. 19.4). Furthermore, according to the Ministerial Regulation No. 187 of 2006, which gave further provisions on RBCs, every district which was crossed by the river was allowed to appoint a representative. The law did not elaborate on the actual procedure of initiating the establishment of a council. Regulation No. 187 states that those who wish to found an RBC should submit a request to Water Authority (for rivers crossing provinces) or Province Environmental Department (for rivers within provinces).

These provisions have led to uncertainties as to the process of establishing an RBC as well as to its composition. In the Khovd basin, where the World Wildlife Fund (WWF) facilitated the process of establishing an RBC through a series of consultations and a stakeholder meeting with 100 participants, considerable conflict arose as to who could be represented in the RBC. The Khovd river basin covers 29 districts, 16 of which lie in one province. During the process of establishing the RBC, single representatives of this province claimed their right for a seat in the council, a request which could not be fulfilled due to a limit of 15 members in total. It was therefore argued that the law should be adjusted: either the number of seats should be more flexible, or the rights of the districts to appoint one representative each should be qualified (Khovd RBC 2010, pers. comm.). Besides the restriction because of the number of seats, local power relations between different ethnic groups also played a role (WWF 2010, 2012, pers. comm.). No solution could be found, and in the end the candidates were referred to the MEGD who took a decision and appointed the members with WWF support (WWF 2009, pers. comm.). The result was that decisions on the majority of the councils’ positions were taken by government representatives, and that the Khovd RBC had no representatives from the water-using sectors or the local population. In contrast, in the Kharaa basin, in the absence of a bottom-up initiative or a donor-facilitated process, the members of the RBC were nominated by the Ministry of Environment in 2011. However, according to its members, the nominations mostly relied on recommendations by the Water Authority and local environmental agencies or the local governments and civil society (members of the Kharaa RBC 2012, pers. comm.). The Kharaa RBC included a local NGO, but government agencies still dominated the council. The implication was that RBCs were primarily bodies for the coordination of relevant government institutions, but not necessarily multi-stakeholder fora or a means for comprehensive stakeholder participation as intended by the 2004 Water Law.

Legislation on the RBCs considerably changed with the new Water Law in 2012. River basin administrations (RBAs) were created as governmental authorities and took over many of the RBCs’ tasks, while the RBCs were to serve as participatory stakeholder fora for advising the RBAs and communicating the citizens’ concerns. As for the membership issue, the former regulation was abolished and a new by-law was issued in 2013 which foresaw that councils were now to consist of a chair, a secretary, and 31–45 members, depending on the size of the respective basin. One-third of the council’s members were to represent public administrations and parliaments of the basin, one-third NGOs and civil society, and the last third water users, including industrial and agricultural companies (MEGD 2013, pers. comm.). The establishment of an RBC and the appointment of its members would always require the approval of the MEGD and were to be based on an agreement between the local administration and the RBA. In 2013, all existing RBCs were dissolved and are to be newly constituted once the

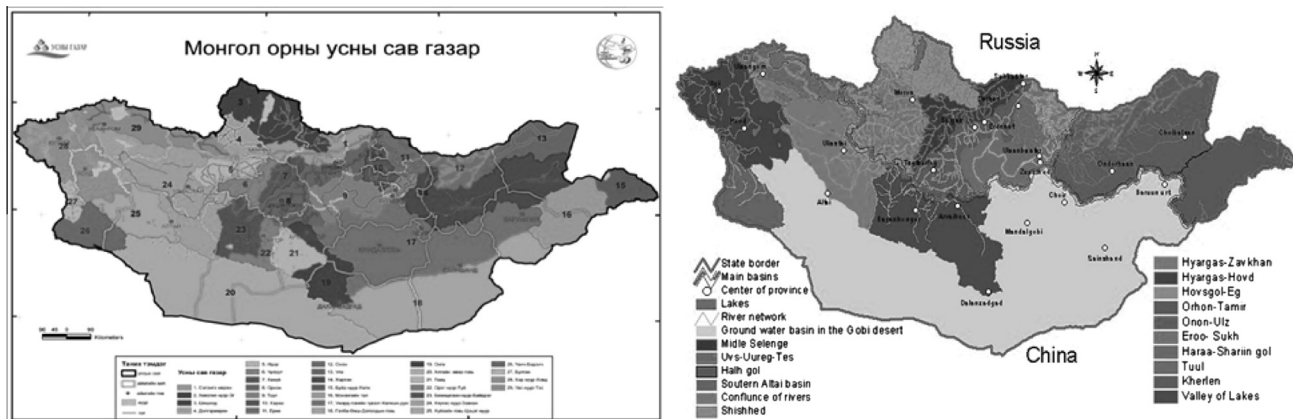


Fig. 2. River basins in Mongolia as defined by politico-economic criteria (1) and hydrological criteria (2). (Map 1 provided by Mr. Batbayar, Water Authority of Mongolia, map 2 by Professor Basandorj of the Mongolian University of Science and Technology.) Source: Water Authority and MUST.

respective RBAs have been established (member of the Tuul RBA, 2013, pers. comm.).

4.3.3. Mandates and responsibilities of river basin organizations

The mandates and responsibilities assigned to river basin organizations (RBOs) are a crucial factor in the politics of scale in RBM since they influence power relations at the river basin-level and beyond. According to the Water Law of 2004, river basin councils were to be established “to engage citizens in local water management for protection of water resources, its effective use and restoration” (Art. 19.1). The Water Law (2004) furthermore assigned the RBC planning, monitoring, and advisory tasks. Among these was the duty to develop a River Basin Management Plan (RBMP) to be approved by local parliaments, to monitor its implementation, and to give procedural recommendations to local administrations on infringements of water-related legislation. The law also assigned RBCs the right to withhold water-use licenses for 14 days.

Given that the RBC is a consultative body that does not work on a permanent basis, this fairly broad range of tasks raised considerable concern among those involved in the implementation. It was furthermore noted that the Water Law entitled the RBC to suspend licenses for water use, but it did not say how this right should be applied (WWF 2010, pers. comm.). Interviewees argued that clear rules for the division of labor between actors would be needed, as well as the clarification of decision-making powers (Dutch IWRM Project; Khovd RBC 2010, pers. comm.). Several interviewees mentioned that the RBCs would need a stronger legal hold in order to impede arbitrary actions from other actors such as mining agencies (WWF; Green Party; Provincial Environment and Tourism Office 2010, pers. comm.). It was also mentioned that there would be the danger that people might develop expectations that an RBC would not be able to fulfill. This would eventually lead to a loss of political and public support, and the RBCs would end up as “paper tigers” (WWF 2009, pers. comm.). Hence, there remained considerable uncertainties as to what the RBC could and should do, and interviewees agreed that this issue needed to be addressed.

A number of these uncertainties were indeed addressed in the Water Law of 2012, while others continue to persist. Given the decision to establish RBAs in addition to RBCs in the 2012 law, several of the original tasks of RBCs were allocated to the RBAs. According to the new law, it is not the RBC any more, but the RBA which is responsible for developing an RBMP and for coordinating and monitoring its implementation. Additionally, the RBA is responsible for running a databank on the river basin and is involved in issuing and terminating water and wastewater licenses and in determining water fees. However, the RBA does not (at least

so far) have a mandate or a means for law enforcement and thus depends on other governmental bodies for this critical issue. In the case of persisting deficits in enforcement, this may seriously affect the institution’s legitimacy and capacities for improving IWRM.

In contrast, an RBC is to assure the cooperation of stakeholders, transmit the citizens’ needs with respect to water resources to the RBA, and advise the RBA on the elaboration and implementation of the RBMP. In line with its tasks according to the 2004 Water Law, it is still responsible for the monitoring of water uses and the fulfillment of environmental impact assessment provisions and enforcement of water protection zones.

Hence, in future, the RBA can be expected to play a crucial role in the administration of river basins, and the RBC may increase stakeholder participation. However, given that RBC members are not necessarily water experts and that they are not reimbursed for their work in RBCs, charging them with monitoring remains unrealistic (consultant 2012, pers. comm.) The Regulation on RBCs of 2013 confirms the tasks of RBCs as in the 2012 Water Law.

4.3.4. Financing River Basin Management

Financing is another important issue in the politics of scale since it determines the working ability of RBOs and the implementation of measures at this level. The Water Law of 2004 made no provisions in terms of the financing of the RBCs. Regulation No. 187 stated that the financing of the RBCs should be assured through water-use fees, financial support and donations, but this did not include any precise procedures or allocation mechanisms. At that time, according to the Law on Water Fees, fees were very low, no fees were charged for water use in agriculture, and the collection of fees was very incomplete. Hence, water fees were not a sufficient and reliable basis for the funding of RBCs. A representative of the WA stated in 2009 that “the river basin councils’ financial base is not clear. This is maybe the most important point for an organization.” Although the central government is not mentioned in Regulation No. 187, various interviewees stated that it should be the main source of funds (Khovd RBC; WWF; WA 2010, pers. comm.). As such, the source of funding for the RBCs remained very vague until 2012 and only those RBCs that received foreign support were able to begin functioning.

The 2012 Water Law clearly states that while RBAs will have their own budget, RBCs will not be financed through the public budget. The new regulation on RBCs of 2013 mentions that these may get contracts from the public sector or donors to implement certain activities, but neither is it clear what type of activities this applies to and where the funds are to come from, nor is financing

provided for the functioning of the RBC as such. At the time of writing, it was envisioned that in future water-user fees would be partly used for the financial support of the RBC chair and secretary, but this was still under discussion (NWC 2013, pers. comm.).

As several tasks are assigned to this body it is still questionable whether it can carry them all out without external funding. According to local experts and policy makers, these will have to be financed by donors or through the local development funds, which are expected to increase due to the recent reform of the Budget Law. However, neither the Budget Law nor the Water Law provide for any precise regulation on this issue.

4.3.5. The legal status of river basin organizations

The legal status is another major issue of concern in the politics of scale since this also determines the scope of action of RBOs including, for example, their access to funding and their ability to implement and enforce measures. The legal status of the RBCs was not defined in the 2004 Water Law and thus became an issue of contention, since it was not clear if they should act as a government agency, an NGO, or as a private company. As a member of the Khovd RBC (2010, pers. comm.) reported, the registration with the Tax Authority was also problematic without a decision on the legal status. In a first phase, many RBCs were therefore registered as GONGOs (government-organized non-governmental organizations which do not necessarily get governmental support but benefit from a clear legal status) (WWF 2009, pers. comm.). Interviewees in the Khovd basin had different opinions on which legal form would be appropriate for the RBCs. A member of the Khovd RBC, for example, argued that RBCs should be governmental organizations for the next 5–10 years. He emphasized the priority need for proper water legislation and its enforcement, which would be best assured by a strong and accepted governmental organization. According to him, the habits and mindsets of people towards the environment and environmental legislation would need to improve during this time so that RBCs could become NGOs later on (Khovd RBC 2010, pers. comm.). Other interviewees argued that framing RBCs as government organizations would help to secure their budget (Buyant RBC 2010, pers. comm.). This debate also reflects the perceived need for a strengthened water administration.

The 2012 Water Law clarified that RBAs would be established as part of the public administration, and that RBCs should be considered as NGOs without governmental funding (WWF 2012, pers. comm.).

5. Discussion

The present section discusses the empirical results presented in Section 4 with respect to the three initial research questions.

5.1. Political decentralization affects the rescaling of water governance

Our first research question asked how the political decentralization process in Mongolia affected the rescaling of the water sector including the introduction of RBM. The insight into the Mongolian case confirms our initial observation that “the governance context matters”. The analysis in Section 4 shows that the decentralization of water management tasks can be directly linked to the political decentralization process. At the same time, the introduction of RBM has to be seen as an additional reform step in the water sector reform that is not directly linked to the decentralization process. It is however influenced by the global discourse on IWRM and is intended to increase stakeholder participation in water management. Despite this, the fact that the political decentralization process has remained incomplete over a long period of time has

negatively affected water governance in three major respects: legally, fiscally/economically, and politically.

From a *legal perspective*, there have been, and still are, considerable uncertainties with respect to the allocation of competencies among water management institutions at sub-national level (RBCs and RBAs), provincial and district departments of line ministries and local governments. The new Water Law (2012), the law on the use of natural resources (2012) and new environmental regulations address many of these deficits, *inter alia*, by creating RBAs as specialist water administrations at the sub-national level. However, by-laws still need to be elaborated for determining the legal mandate of the various different institutions and the relations among them.

From a *fiscal and economic perspective*, the weaknesses of the broader decentralization process directly affected local water governance in several regards since no adequate budget was available for implementing local water and environmental governance. This confirms the results of research in river basins of other countries highlighting the crucial role of fiscal decentralization and the allocation of water-related revenues to RBOs for their performance (Kemper et al., 2010; Mody, 2004; Moss and Newig, 2010). In Mongolia, RBM was not financially supported by the state at all until 2012, and the budgets of provincial and district administrations were insufficient for the required water management tasks. In future, RBAs will be financially supported by the state but the financing for the implementation of their activities, such as research as the basis for designing RBMPs and measures for their implementation, is still uncertain. According to interviews in 2013, depending of the size of the investment this may stem from local development funds (to be financed through the new Budget Law), allocations from the central budget, donor contributions (MEGD 2013, pers. comm.) or potentially from fees for water use and pollution. While RBCs will not be financially supported by the state, one idea is that the RBC's chairperson and secretary should be funded by a share of the future water and wastewater fees (NWC 2013, pers. comm.). In general, from an economic perspective, the idea that RBM would be partly paid by water and wastewater fees is commendable as it creates a direct accountability mechanism between those who pay for and those who benefit from RBM (which corresponds to the principle of fiscal equivalence in economics (Olson, 1969)). However, this implies that the viability of RBM also depends on the successful implementation of the new provisions on water pricing which will remain a significant challenge, given the slow progress in raising water and wastewater fees, and the still low revenue collection. The 2012 laws foresee an increase in water and the introduction of wastewater fees. However, the size of this increase is still to be fixed in a by-law. The topic had already been negotiated in the National Parliament four times, however, by August 2013 without an agreement having been reached (NWC 2013, pers. comm.). At least revenue collection has already significantly increased in 2013, albeit from very low levels (*ibid.*). Finally, the Budget Law of 2011 envisions that citizen councils will determine priorities for investments up to certain amounts. This raises the question of how this process will fit into the dynamics involved in setting up RBMPs by RBAs in consultation with RBCs.

At the *political level*, environmental institutions including those responsible for water management have so far had a weak position compared to stronger players such as the mining or construction sectors (environmental inspector, Bornuur Soum, Kharaa river basin 2012, pers. comm.). This is also due to the incomplete decentralization process, entailing inadequate legal mandates and budgets as well as the limited political weight of local governments in the policy and budgetary processes (Lkhagvadorj, 2012). Recent reforms diminishing the number of regulative and implementing authorities, including those in the environmental sector aim at improving this situation.

Overall, the analysis confirms that the governance context is highly influential, both in terms of the ‘political spirit’ in which RBM takes place and in very practical terms of tasks, decision-making structures and financial questions. Besides vested interests and disagreement on the preferred use of Mongolia’s water resources (mining versus environmental protection), it is the incomplete decentralization process that has – at least so far – hampered effective water management in Mongolia.

While it seems that progress in the political decentralization process has eased the conditions for RBM, given the increased budgets for the local level and for RBAs, it should be emphasized that, based on the Mongolian case, we cannot finally answer the question whether a centrally or a decentrally organized state is more conducive towards RBM. Our findings, however, show that an incomplete decentralization process has not been conducive towards effective RBM. The simultaneity of these two related rescaling processes – the political decentralization including water management tasks and the designation of river basins as a new entity for water governance – has so far not been extensively researched, neither from a scale perspective nor in publications on the decentralization of water management.

5.2. Politics of scale in the institutionalization of River Basin Management

Our second research question was how the politics of scale play out in the institutionalization of RBM in Mongolia. As the present analysis shows, river basin governance is still a process in the making. The case study with its numerous issues of contention in the implementation of RBM confirms however that rescaling is about the “negotiation of tension, conflict and contradiction” (Swyngedouw, 2010: 21) and that only in these negotiations agreements on new governance scales be found and subsequently put into practice. It also highlights that introducing RBM is not primarily a technical process, but rather inherently political.

Even before the actual design of RBM was debated in Mongolia, the *designation of the basins* and their boundaries was controversial. In the end, it did not only take hydrological, but also economic and political factors into account and was thus tight to questions of power and influence. The problems with the identification of river basins’ boundaries confirm the observation of researchers that river basins are not naturally given entities but politically and socially constructed (Merrey and Cook, 2012; Schlager and Blomquist, 2008; Warner et al., 2008). The vested interests and power struggles linked to this rescaling process are also visible when it comes to the role of water governance for state-building. During a long period of neglect of the water sector by public policies, largely uncontrolled private mining companies exploited and polluted water resources. Due to related problems of pollution and overexploitation, as well as still increasing demand, the resource gained a highly strategic value and is now increasingly regulated. In the light of these developments, reform of water regulations and the creation of RBAs as governmental agencies can also be interpreted as a re-appropriation of the water resources by the state and as a means to ensure state control over strategically relevant territories, such as in the Gobi Desert.

Power struggles were obvious in the negotiations on the *membership of RBCs*, at least in the case of the Khovd basin, where many more players were interested in participating than seats available. This struggle was about the influence of upstream, midstream and downstream users; about the relative power of different ethnic groups; and about the relative weight of public, private and civil society actors. In the end, the composition of the RBC, as selected by the Water Authority, sought to balance differing public sector interests in the basins, but this came at the expense of private and civil society actors. In that sense, the formerly agreed scale

of RBM as a forum for public participation in water management was reconstructed as a platform for public-sector coordination – an evolution somehow confirmed and rectified by the creation of RBAs later on. In the case of the Kharaa basin, the representation of different actors as mentioned in the 2004 Water Law somehow seemed more balanced. However, in this case, RBC members were appointed in a top-down process. This procedure raises the question of whether this is the most appropriate approach towards organizing stakeholder participation. On the other hand, one may also ask why no RBC emerged in a bottom-up process in the Kharaa basin. Once established, in both cases different actors actively used and strategically mobilized the new scale introduced for voicing their concerns and potentially enforcing their influence. However, the fact that the RBC in the Kharaa (as well as in other basins) was not established in a bottom-up process, shows that the opportunities of the new scale of river basins should not be overestimated. A potential reason is that no budgets were allocated for RBCs in the 2004 Water Law.

The imprecise *designations of the mandate, financial basis and legal status* of the RBC in the 2004 Water Law led to new political uncertainty and related negotiations. They may not only indicate technical deficits, but rather translate a political uncertainty about the form, functions and room to maneuver to be assigned to the new institutions. In particular, the different opinions about the future legal status of RBCs reflect the tensions in the understanding of the RBC as a forum for negotiations of different public bodies on the one hand, and as a forum for public participation in water management on the other. At the same time, there was a broad consensus that something needed to be done about these uncertainties which was even shared – and publicly admitted – by national water institutions, such as the Water Authority and the National Water Committee.

The agreement on the new Water Law, which considerably improves the institutionalization of RBM, can be seen as a success of the negotiations at the governmental level and as a sign of new configurations of power between the various different players. The decision to introduce RBAs in addition to RBCs and to financially support the former can, on the one hand, be interpreted as a step towards strengthening public sector governance at the river basin scale (see also Section 5.3). At the same time, the fact that RBCs are not guaranteed any permanent financial support from the state but will probably mainly have to rely on a share of water and wastewater fees raises the question of how well the idea of stakeholder and public participation via RBCs will play out in practice. It will hence also depend on how much support the RBC members receive from their respective employers for their work in the RBC. However, if RBAs/RBCs do not deliver, this may lead to growing social dissatisfaction (Mearns, 2004), which is likely to weaken the political legitimacy of RBAs and RBCs.

The observations on how the politics of scale of RBM plays out in practice confirm the importance of looking at scale as a *process* (Jonas, 2006; Norman et al., 2012), and not (only) as the outcome of a process. While one might think that the creation of the RBCs was a result of the negotiations over the appropriate scale of water governance, this decision was in fact only the starting point for further negotiations on the concrete design and influence of this new scale of decision-making. This also corroborates MacKinnon’s (2010) observation that reform processes in the water sector may be about scale, but that they are also first and foremost about the design of institutions and processes. It confirms his *scalar politics* approach (MacKinnon, 2010) with particular projects and initiatives having scalar aspects and repercussions – just as, for example, the conflicts over the RBC’s composition in some basins led to the reformulation of the general regulation on the number of seats in the RBCs. However, a detailed reflection on institutional design is beyond the scope of this paper.

As Section 4.3 highlighted, negotiations and conflicts over the specific processes and practices of RBM were at least as much debated, questioned and negotiated as the choice of the scale as such. These debates take place at different scales, at the national level within the government and between the ministries as well as between the MEGD and the (former) Water Authority; at the local level between members of the RBC and the local government but also between them (for instance when the MEGD consults the local governments for the nomination of the RBCs). This also confirms *Swyngedouw's* (2010: 21) observation that: “The politics of scale (...) necessitates a careful negotiation of the tensions, conflicts, and contradictions *within and between* scalar formations” (highlighted by the authors).

5.3. River basins as the adequate scale for water governance in Mongolia?

Our third question was whether river basins can be considered as an adequate scale for water governance in Mongolia. The decision for the introduction of river basin governance and the creation of RBCs in the Water Law of 2004 can be interpreted to illustrate a political will to strengthen both decentralized and participatory water governance at the scale of the river basin. However, due to legal and financial uncertainties (and maybe also limited awareness about the river basin as an action unit), until 2012 this participatory approach could only very partially be implemented where donors facilitated the councils' work. Furthermore, even where RBCs were established, the goal of public participation in water management was watered down by the compositions of RBCs. In addition, it was difficult to feed the results back into local policy-making since the RBC did not rely on a strong legal and political status (WWF 2012, pers. comm.) and given the local governments' limited room to maneuver.

In fact, the incomplete decentralization process in Mongolia has to be seen as an important factor for the limited role of RBCs up to now since it also led to weak administrative capacities for water management at the sub-national level. So far, there has been no sub-national water administration, but water management was covered by provincial and district environmental departments, which were understaffed, and whose skills, equipment, and financial resources were very limited. In addition, there were serious problems with law enforcement. This was compounded by limited budgets at provincial and district levels for water resources management and by the dominance of the mining, agriculture and construction sectors and the lack of intersectoral coordination. Hence, in actual fact, there was a vacuum of administrative capacities for water management at the sub-national level.

In 2012, the decision was taken to strengthen the sub-national level through river basin governance by introducing RBAs in addition to RBCs, instead of setting up water administrations at province and district level. As argued in Section 2, from a theoretical perspective, the former have the advantage that they are more conducive towards addressing problems of fit between hydrological and administrative boundaries, while the latter may have improved institutional interplay at the level of political jurisdictions (*Moss, 2003*). Furthermore, for political jurisdictions it is easier to ensure democratic legitimacy and accountabilities (*Warner et al., 2008*). While in settings where a strong water administration is already in place at the scale of existing jurisdictions this may speak against the introduction of RBM, one can argue that, given the administrative deficiencies in Mongolia, there was the possibility to go either way.

However, now that the decision for RBAs has been made, it will be very important to provide them with a sufficient mandate, resources and skilled staff to enable them to fulfill their functions. This also includes reaching a decision on future water and

wastewater prices and progress in revenue collection – also as a means to establishing accountability mechanisms at the river basin-level.

While the introduction of RBAs appears to be a useful step to strengthen administrative capacities for water management at the sub-national level, it could be that the prior commitment to participatory water management at the basin level is now losing significance with the creation of the RBAs as public bodies. In that respect it is somewhat unfortunate that RBCs will not receive any regular financial support from the state at all. However, RBCs are a potential means to ensure transparency, accountability and the democratic legitimacy of RBM. Therefore, it will be important that they will be reestablished as envisioned in the 2012 Water Law.

As mentioned in Section 2, water governance is intimately linked to its political context and, as *Moss and Newig (2010:3)* point out: “(...) problems of scale relate to fundamental questions of democratic legitimacy”. Rescaling can potentially lead to increased participation, empowerment and democratization and thereby also favor a new relationship between the state and its citizens in Mongolia. It expresses a shift not only from central to decentralized governance, but also from top-down approaches to a more participatory and integrated decision-making. Investing in efficient decentralization and strengthening accountability through participation in water governance is therefore also an investment in the credibility and legitimacy of the democratic system (for a more detailed analysis of this aspect see *Houdret et al., in press*).

Overall, the usefulness of the river basin as a governance scale in Mongolia thus depends very much on the exact design of further by-laws envisioned and on how the provisions of the 2012 Water Law and respective by-laws will be implemented. A clear sharing of responsibilities and competencies between the different institutions in water governance is particularly important. This concerns several issues of discontent between Mongol Os and the MEGD, between the NWC and the Water Council, and between future NWC filial-committees and the RBAs/RBCs.

Furthermore, it will also rely on the pro-active communication and coordination among the various bodies involved in water management, in that RBCs can play a crucial role, but require the means to do so. A key question also pertains to the future role of the Ministry of the Environment and Green Development as such with respect to other strong players such as the mining industry at the national and local levels: basin agencies can only be as effective as the national consensus between sector ministries.

6. Conclusions

The institutionalization of River Basin Management (RBM) can be characterized as ‘politics of scale’ where a new governance scale is created in a process of political negotiations. This article has analyzed how the politics of scale play out in the institutionalization of RBM using the case of Mongolia. It has furthermore scrutinized the role of the broader context of political transition and decentralization for RBM, an issue that has so far received little attention in the relevant literature. Finally, the article has assessed whether the basin scale is an adequate water management scale in Mongolia.

The analysis shows that the institutionalization of RBM in Mongolia is indeed a highly political ongoing process of ‘scalar politics’. Initial provisions on the establishment of river basin councils in the Water Law of 2004 as stakeholder fora had limited effect and gave rise to more negotiations about the detailed design of RBM. As a result, it was decided in the 2012 Water Law that publicly funded river basin administrations would be established in addition to RBCs and that some of the tasks of RBCs would be shifted to the RBAs. The creation of RBAs can, on the one hand, be understood

as a much needed step towards overcoming the existing vacuum of administrative capacities for water management at the sub-national level. These are to be supported by RBCs as bodies for coordination and public participation. However, given that the latter have no financial basis, the question remains as to how effective they will in fact be. In addition, a number of issues regarding RBAs and RBCs still need to be defined in by-laws. Hence, the 2012 Water Law can only be interpreted as an intermediate step in the institutionalization of river basin governance in Mongolia. While the river basin has the potential to become an adequate scale for water management in Mongolia, this will very much depend on how some key outstanding issues, such as the clarification of monitoring and enforcement tasks or the detailed provisions on the financing of RBAs through water-pricing and their implementation will look like.

Further, this paper has demonstrated that the institutionalization of RBM in Mongolia is part of a wider overall process of the rescaling of water governance among different water-using sectors, among differing levels of government, and between existing jurisdictions and the river basin. This process is furthermore embedded into and strongly dependent on the overall process of political and economic transition. It was in particular the incomplete political decentralization that hampered the successful decentralization of water management and the introduction of RBM in the period 2004–2012. The main reason was that the decentralization has so far been limited to the devolution of tasks but excluded fiscal competencies. The situation has improved with the integrated Budget Law of 2011 according to which financial allocations to local governments will be increased. As such, it seems that broader political reforms were indeed a prerequisite for improvements in the water sector. Nevertheless, the successful implementation of water management measures will also depend on the extent to which these budgets will be allocated by local communities and governments for water-management tasks.

However, the finding that the processes of political decentralization and transition strongly affect the implementation of RBM in Mongolia stands in stark contrast to the existing literature, in which the general governance environment in which RBM is implemented is often taken as being a stable environment and an independent variable. Further research is therefore needed on how different contextual factors and their changing nature influence RBM.

Moreover, comparative studies of the political economies at play would facilitate a deeper understanding of the institutionalization of RBM in the context of broader governance changes. For example, emerging new elites and alliances as well as their interests and resources may have an important influence on the politics of power at play in RBM. This would also allow for greater insights into the links between water governance and what Harris and Alatout (2010: 154) call “the construction of a nation-state and associated visions of territoriality and government”. Ultimately, this could also contribute to improved policy-making, if the rescaling of water governance builds more explicitly upon other governance processes.

Case studies from all over the world confirm that the institutionalization of RBM takes time and that a hasty implementation may do more harm than good (Kemper et al., 2010). This is also due to the fact that implementing RBM is at least as much a governance issue and a question of power reconfiguration as it is a matter of technical and procedural arrangements. However, political commitment in this process that endures the temporal power struggles is a key to success. In spite of the difficulties mentioned, the successive reforms of the Mongolian water sector, including the most recent water laws, point to an increasing political commitment which now needs to be translated into practice and for which a certain stability and continuity of the newly created institutions and organizations will be needed.

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