

ISSUES AND RECOMMENDATIONS RELATED TO SMALL-SCALE MINING IN MINDANAO.

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Brief History

Mindanao is the second largest island in the Philippines located 800 kilometers south of Manila and hosts a variety of diverse tribes and cultures. It also boasts rich natural resources that include minerals like gold and silver in almost all of its provinces rugged terrains.

Gold was believed to be mined by Mindanao's inhabitants since pre-Hispanic times because according to historians of the time, inhabitants used to barter gold for basic necessities from the lowlands such as salt, clothing, blankets and work animals. They may have used the traditional way of recovering gold from river beds by using wooden gold pans. This mining practice still exists to date even when in early 1980's miners from other provinces taught the locals how to mine the gold-bearing ore bodies thru tunneling. This process however, needs small machines to grind the ore and generate electricity to provide light and ventilation inside the tunnels. For several years, the small miners only used sluice boxes lined with shawls and/or lawanit boards to trap the gold. But this process is laborious and costly and gold dust can be washed away. The introduction of mercury helped cut production costs and saved time for the small miners. Though mercury, when not used properly, could be dangerous to the environment, small miners opted to use it to date because of the above-mentioned benefits.

Start of Small-Scale Mining in Mindanao

1980s saw the closure of commercial logging companies as forest timber in Mindanao is depleted. As a result, thousands have been retrenched or laid-off. Locals and migrants workers are forced to look for alternative livelihood for their families' subsistence. Others engaged in farming or gold panning or both just to make both ends meet. In Mindanao, it is already a practice that if there is a "boom" in a particular gold-rush area, the news spreads very quickly like wildfire thereby attracting experienced miners from all over the country. Basically, if there is gold in the riverbeds, this gold must be from an ore body from the surrounding peaks. Normally, small miners explore the mountains for gold-bearing ore body for months or sometimes years. But ore veins exposed on the roads constructed by a logging company makes the search a lot easier.

Economic Benefits from Small-Scale Mining

Small-scale mining is an industry that the Philippine Government should protect, support and recognise as one of the major catalyst for economic growth. In fact, the SSM bonanza in Mt. Diwalwal has been a major contributory force in the economic

'boom' of the municipalities of Monkayo and Tagum City in Davao as lucky small miners invested their extra income in whatever business they opted to engage in. One story tells that a wife of a small miner who used to sell *maruya* (deep fried bananas dipped in flour) became a mayor of Monkayo town. Tagum City's slain Mayor was a military man turned small miner. Now a millionaire, he hired his former Battalion Commander as his security consultant. These success stories did not only happen in Davao. The same stories also abound in all parts of Mindanao.

Evidently, communities and town that host the SSM have been enjoying the economic 'boom'. As income from SSM operation in these areas only revolve within and not repatriated abroad, revenue collected from Vat, E-Vat, licenses, permits and other revenue generating measures of the government can definitely turn the economy around. Simply put, if a person has money more than he needs for his family, he would likely or definitely invest in farming, agro-forestry, raising livestock, transportation, and communication, wholesale and retail business for example. To run these businesses, you have to hire jobless people and by hiring jobless people, you are already helping address one of the country's major problems which is unemployment. And if these businesses prosper, they would inevitably need more jobless people, thus the so-called 'multiplier effect'. Now, if we only have ten thousand of these lucky small miners in Mindanao, you can already imagine the impact on the economy and to think that some of these people are illiterate, under educated or hopeless people before they ventured in SSM. To this, I cannot help but ask this very important question. If you are a company employee earning a minimum salary and with the cost of living higher than what you earn, can you invest in those above-mentioned businesses? The bottom line is, aside from working abroad, which one needs tens of thousands of pesos skills to make it, small-scale mining is the only hope left for poor and under educated people to bail out from misery and hopefully build a foundation for a better, economically secured future. Moreover, if a person has enough money, he can send his children to private schools, and if sick, he could go to a private hospital thereby decongesting schools and hospitals of students and patients respectively.

Aside from the economic benefits elaborated above, it is likewise important to note and consider the following:

- Small-scale mining in Mindanao involves directly and indirectly an estimated 500,000 people. This includes, of course, other businesses somehow related to mining like restaurants, parlors, ambulant peddlers, laborers, operators and processors.
- Income of individual miners is more than double the income of ordinary company employees on average.
- Data from the National Economic Development Authority (NEDA) shows that revenues collected from small mining is much bigger than from large-scale mining.
- Employment in SSM does not need voluminous requirements such as diplomas, clearance etc. All that is required is that a person is physically fit.
- In a SSM Community, women comprise at least 25 per cent of the work force. They work as house helpers, cooks, salesladies, waitresses, processors, checkers, and laundry women and ore crushers.
- Small miners believe that gold is God-given and is therefore to be shared with those who need help. In fact, people from surrounding communities work part

time to finance their farms. Others solicit financial assistance to bury their dead, hospitalisation, infrastructures and community social functions;

- More importantly, other small miners use their income in buying idle lands to plant durable and long-term plants like rubber trees, gmelina, mahogany and coconut trees, thereby ensuring the sustainability of their investment and help in the ecology aside from generating more jobs.

Issues Confronting the SSM Industry

Legality

The Philippine Governments preference to large-scale mining has caused insecurity and has dampened the progress and development of any existing SSM area in Mindanao.

Laws have been passed purportedly to recognize, protect and develop the Industry but these laws never materialised in favour of the industry due to loopholes and technicalities. We believe that these laws were passed only to satisfy the lobbyist's persistent and assertive clamor.

P.D-1899 for example, only allows the small miners to operate for only two years and extendable or renewable for another two years. This law only makes the small miners explorers for the large-scale miners.

R.A. 7076-other wise known as 'the people's small-scale mining act of 1991' may have been a better law for the industry but its implementation was deliberately delayed by the government thru DENWMGB to give way to their more preferred law, the R.A. 7942 other wise known as 'the Philippines Mining act of 1995'.

In the Zamboanga Peninsula Region alone (R IX), the DENR/MGB thru its Regional Office, never launched Information campaigns despite the fact that they knew too well of the existence of small miners in the region. The Provincial Mining Regulatory Boards (PMRB) which is mandated by R.A. 7076 to evaluate, determine and approve permits of certain areas for SSM purposes were not organised In the province until recently when there are no more SSM areas to apply for because these areas are already claimed or applied for by mining Trans-National Corporations (TNCs).

Thus, the SSM operations in these provinces are all labeled 'illegal'. Therefore, the supposed essence and purpose of R.A. 7076 was rendered inutile and useless.

Environment

For 20 years now, SSM operations in Mindanao were never implicated with environmental disaster. News accounts of mercury and cyanide pollution only surfaced after the signing into law R.A. 7942. Small miners believed that faced with the difficult and costly task of ejecting them from the area for Illegal mining and occupation, mining TNCs in cohorts with the DENR / MGB / EMO are Forced to fabricate reports of pollution and thus create negative public impression and sympathy. Although admittedly, mercury is hazardous to health when used recklessly and when it exceeds the allowable level measured in parts per billion, It is being handled by small miners as safely as possible because it is very expensive. Thus, methods and techniques have

been developed to retrieve mercury after use like retorting the amalgam and sluicing the mine tailings.

However, if a small miner is reckless in the conduct of its operations, it could be attributed to the absence of security of tenure -in this case, a small-scale mining permit. Ironically, one cannot expect another to spend a hard earned money to ensure the safety of his business if tomorrow he will be ejected for operating illegally.

R.A. 7942 and the Entry of Large-Scale Mining Companies

R.A. 7942, otherwise known as 'the Philippine Mining Act of 1995' was enacted into law in 1995. According to the government, the liberalized mining industry will attract billions of dollars of foreign investment and the revenues generated to this effect can certainly ball us out of our foreign debt.

But anti-large-scale mining advocates say otherwise. The law they say, virtually granted foreign control over Philippine land resources thru the deceitful Financial and Technical Assistance Agreement (FTAA). The law likewise allows the mining MCS the following:

- 100 per cent ownership of the company
- 100 per cent repatriation of profits
- 6 -10 years tax holidays
- The use of open -pit mining method
- To pay 2 per cent excise tax Instead of the original 5 per cent
- Timber and water rights
- Dislocate communities
- Can mine even in private properties
- Claim 81, 000 out hectares per province.

With this kind of policy and incentives accorded these mining MCs, even an illiterate person will no longer wonder why the affected communities, cause-oriented groups, civil society and the church are against it. Bishop Jose Anguian of the Diocese of Dipolog city describes RA 7942 as 'selling our birthright for a pot of porridge'.

In Mindanao, struggle against the entry of mining TNCs began right after the signing into law of RA 7942. In no time at all, MPSA and FTAA applications by tens of thousands of hectares cover almost the entire control map of the DENR/MGB. As claims were measured by meridional blocks, areas surrounding a particular area to be mined, like patches of forest that serve as watershed and vital source of traditional herbal medicines of the host Indigenous peoples, banana, coconut and rubber plantations, traditional farmlands used to plant rice, corn, vegetables and root crops that for decades has been the source of sustainable livelihood of upland farmers are virtually left at the mercy of these mining TNCs.

For all of us M have a clear picture of the negative effects of large-scale mining operations with affected communities, let me share with you our personal experience with TVI Resource Development (Phil.) Inc. (TVI), a Canadian-owned junior mining company at Sitio Canatuan, Tabayo. Siocon, Zamboanga del Norte.

In 1994, TVI entered Canatuan by virtue of a MPSA (Mineral Production Sharing agreement) covering 508 hectares that include the area where more than 8,000 small

miners and the IP mine since 1987. The same area likewise is well within the more than 8,000 hectares covered by a Certificate of Ancestral Domain title (WT) of the Subanen tribe headed by Timuay Jose 'Boy' Anoy.

In compliance with the due process, TVI, with the DEN/MGB as facilitators, conducted a public hearing/consultation in Siocon even without the prescribed notices weeks before the activity. Despite the strong manifestation of the oppositors of the project, MGB thru manipulation in the process, made it appear that there was an overwhelming support in favor of the company.

Threatened by these events, the small miners and the IPS bonded together and sent joint petitions to concerned local government agencies including the office of the President. As our petitions fell on deaf ears, we brought our grievances to the streets and barricaded M's exploration activities. Angered by our actions, TVI responded with commission of serious human rights violations as follows:

- Imposition of total food economic blockade. For years, food supplies and mining implements has to be brought thru the inhospitable terrains of the forest.
- Establishment of checkpoints manned by the military-trained-company-paid Special Civilian Armed Auxiliary (SCAA) in every possible entry to the community. These checkpoints restricted the entry of not only goods and equipments but of leaders of the community and sympathizers. Until to date, Timuay Boy Anoy and Onsino Mato are still banned to enter the community.
- Banned religious activities and curtailed the right to education by confiscating construction materials to be used to build a chapel and school rooms. Fortunately, the LGU and the church intervened and the materials were subsequently released. At: times, however, the 'kaabag', a person authorized by the church to celebrate mass is banned.
- Curtailed the right to livelihood by bulldozing active tunnels and dismantled by force rod mill shops.
- Curtailed freedom of expression and the right to peacefully assemble by brutally dispersing our picket in 1999. During the incident, leaders were handcuffed and illegally detained, seriously wounded and physically injured.

To add insult to injury, lawsuits had been filed by TVI against the leaders as it is already proven to be effective in toning down the opposition. A classic example is the filing of multiple murders and multiple frustrated murders against Timuay Anoy, Onsino Mato and Fernandino Mudai as a result of an ambush that killed 13 TVI employees that the company claimed was master minded by the three tribal leaders. To date, the case has been dismissed by the provincial and regional prosecutor's office but TVI elevated It to the Department of Justice (DOJ). The case is still with the DOJ pending resolution. Please note that this dilemma does not exclusively prevail in Canatuan. It happens in all parts of Mindanao.

1. Due to the strong opposition of the affected communities, environmentalists, cause-oriented groups (NGO's), civil society and the religious sector against the negative impact of LSM on the environment, economy and the society, the government should immediately declare a moratorium on the implementation of R.A. 7942 and should immediately stop all ongoing LSM operations in Mindanao.
2. The government should recognise, protect and promote the importance of the SSM industry in the economic upliftment of small miners' families and the

community in particular and the country in general by its immediate and genuine implementation of R.A. 7076. To this effect, the government, thru the DENR/MGB and concerned LGUs, should prioritise the issuance of mining permits to all existing small-scale mining communities and also help in the identification and segregation of mining areas for future small mining expansion.

3. The present pro-imperialist policy on mining should be replaced by a new policy that is guided by a framework that support the Filipino peoples effort towards genuine national industrialization and genuine agrarian reform. This framework will ensure the creation OF more jobs, food security, a stable economy, mitigation of environmental degradation and environmental rehabilitation.
4. The inherent right of the Indigenous peoples to their ancestral lands should be recognized. This is the only way of integrating them into Philippine society and for them to be part of nation building. Their right to develop and practice their own culture and socio-political and economic systems and their right to their territories and resources should be respected and promoted.

Conclusion

The government's existing policy on mining through R.A. 7076 has evidently wrought havoc and raised concerns over its adverse effects on the ecology, economic and socio-political well being of Mindanao, long host to military conflict with the Muslim secessionist movement.

Unless the government takes positive steps, guided by the principle of the recommendations above-stated, genuine peace in Mindanao still remains elusive. It is the fervent hope of small miners in Mindanao that this conference could hopefully help in the formulation of policies acceptable to all.