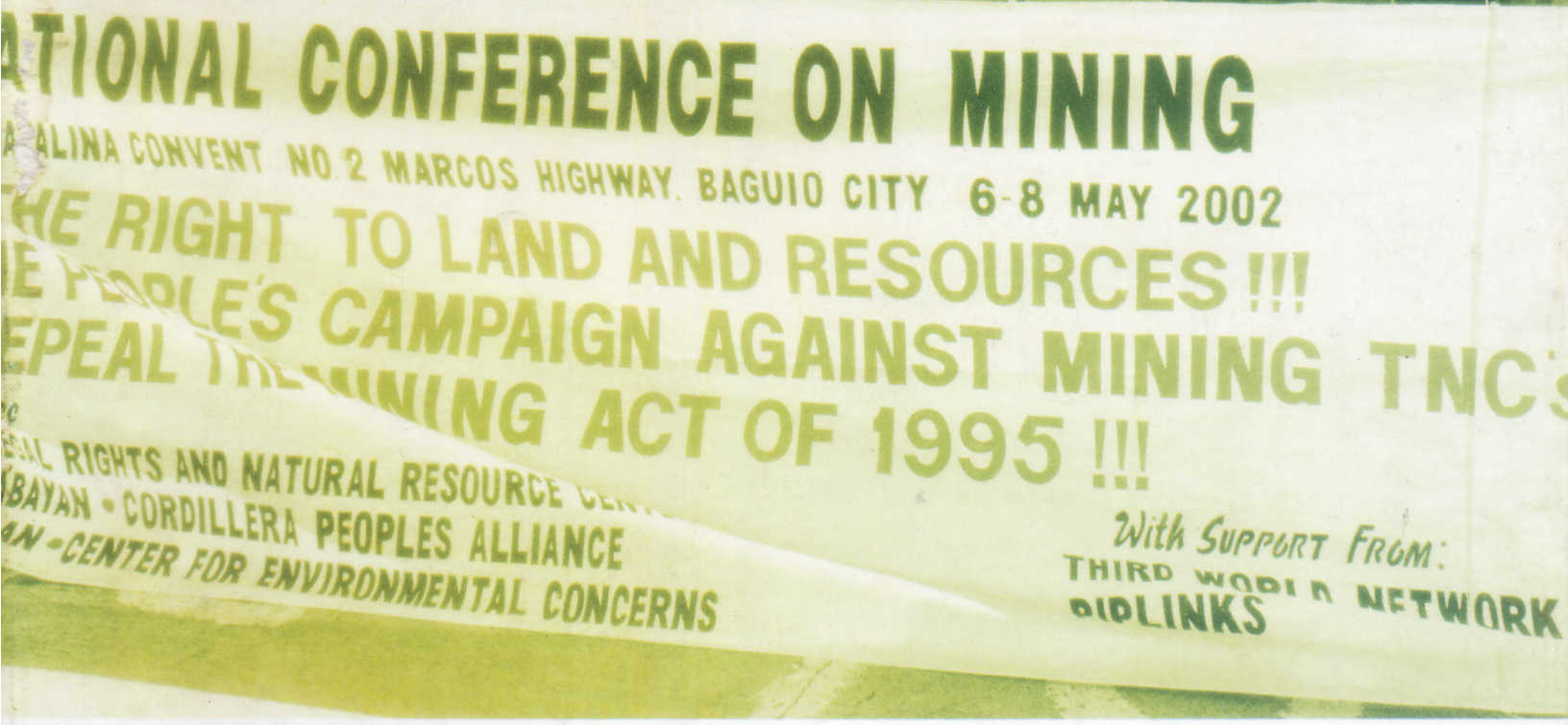
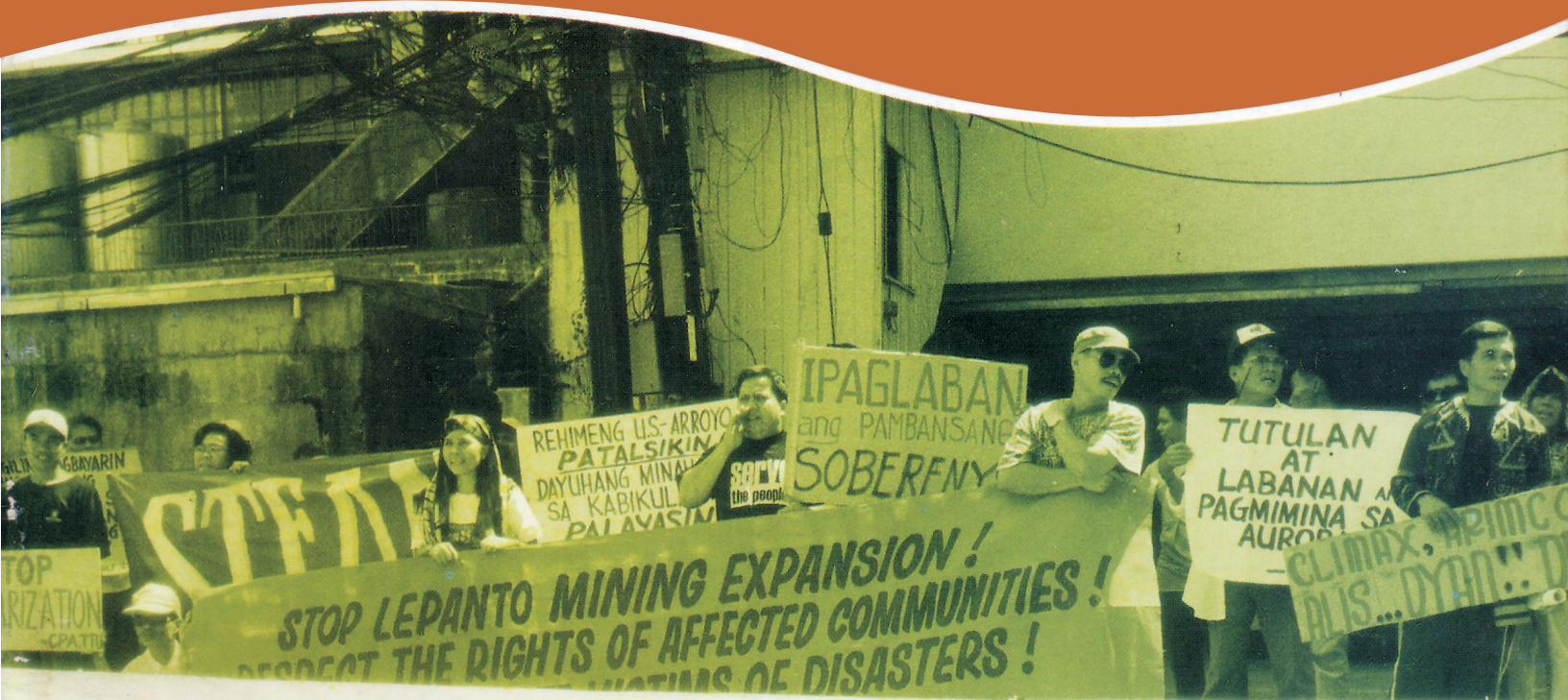


Proceedings of the National Conference on Mining

May 6 - 8, 2002

Sta. Catalina Convent, Baguio City



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**Proceedings of the
Philippine National Conference on Mining**

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education center for indigenous peoples.

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Proceedings of the
**Philippine National Conference
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BACKGROUND: *Objectives of the Conference*

The May 6-8, 2002 National Conference on Mining held at the Sta. Catalina Convent in Baguio City, Philippines had three main objectives. These were:

- 1. To get updated on and analyze current operations and maneuvers of mining transnational corporations (TNCs) in the national and global arena, and how these impact on the livelihood, rights and lives of people within and outside mining communities in the Philippines.**
 - a. To discuss and document case studies of mining TNC operations and the response of affected communities;
 - b. To be able to see the mining situation from a national and global viewpoint;
 - c. To get updated on the implementation and impact of the Philippine Mining Act of 1995, related legislation and government policies, and the National Mining Policy of the Macapagal-Arroyo administration; and
 - d. To study recent mining TNC offensives such as the Global Mining Initiative (GMI) and Mining, Minerals and Sustainable Development (MSSD) project, especially relative to international financing institutions (IFIs), the United Nations and other intergovernmental bodies, and world events like the World Summit on Sustainable Development (WSSD or Rio+10).
- 2. To share peoples' initiatives and gains in addressing the negative effects of mining by TNCs and to develop campaign strategies at the local, national and international levels.**
 - a. To draw lessons from local campaigns and explore new campaign strategies at local, national and international levels;
 - b. To launch a national campaign, participated in various forms and levels by mining communities nationwide, for the repeal of the Philippine Mining Act of 1995 and a moratorium on opening up new mines;
 - c. To link up national and selected local campaigns with regional and global campaigns against mining TNCs; and
- 3. To strengthen the networking among peoples' organizations and NGOs doing work on mining and help ensure that continuing information and education activities on mining are sustained.□**

OPENING PROGRAMME

To raise the curtain for the three-day conference, a cultural group from the Cordillera Peoples Alliance (CPA) dramatized the adverse impacts and illusory promises that big mining brings.

CPA Secretary-General Windell Bolinget then welcomed the 130 delegates from Luzon, Visayas, and Mindanao and guests from the United Kingdom and Australia.

To inspire the delegates and guests, Bishop Carlito Cenzone told a familiar Bible story – the Genesis. After creation, “the Lord saw that it was very good...,” said the Bishop. “And then the Lord commanded the first couple to fill the Earth and subdue it.” Translating “subdue” from Ilocano, Bishop Cenzone said the biblical admonition means “responsible management”, which, he noted, was the “heart of the conference.” He also lamented that “mining, in the sense of ‘this is mine, all those are mine’”, has become the root of human irresponsibility and mismanagement of God’s creation.

As a child growing up in Baguio City, a mountain resort in northern Philippines surrounded by mining communities, Cenzone was also amazed and quite envious of other children with gold-plated teeth. These children came from the nearby mining communities of Itogon town.

But the young Cenzone didn’t grow up with gold-plated teeth because he studied and labored to become a priest. As a priest, he was assigned to Africa where he visited its diamond lands. He was also assigned to Brazil where he visited its gold mines. In both places, Cenzone saw how people, as a result of greed, mismanaged God’s creation and its resources. Problems, he noted, also came from “infighting” from among local folk themselves. He thus exhorted the delegates to be united in appreciating and grasping the problem brought about by big mining even as he gave his blessings and support to the goals and objectives of the conference.

Also citing both biblical and folk wisdom, Bishop Cenzone said the land does not belong to anybody but *Kabunian* (indigenous northern Philippine folk’s term for God). “We are, in fact, owned by the land,” he said. “This is why when we die our bodies go back to where it came from – the land. We have a running battle now: how to awaken ourselves and take a position on how to responsibly manage our land and resources.”

As a further background to the conference, Catalino Corpuz Jr. of Minewatch Asia-Pacific and Tebtebba Foundation explained how the conference was conceived. He cited an earlier smaller meeting in Cagayan de Oro in southern Philippines in March 2002, during which participants overwhelmingly pushed for a national conference on mining. In that meeting, many felt that something was lacking even though each of the participating organizations was busy with its own campaigns and concerns. It had also been some time since anti-TNC mining advocates and peoples’ organizations held a national conference, “The National Roundtable: The Impact of Development Projects on Philippine Indigenous Peoples,” in July 1998.

In contrast, according to Corpuz, the mining industry holds national conferences almost yearly during which they talk about strategies and ways to deal with “anti-development activists” and “misguided environmentalists.”

Corpuz thus stressed the need to put things into a proper perspective and debunk the mining industry’s claims about those who oppose TNC mining. “Through our panel

discussions, case study presentations and workshops, let us carefully analyze if we are really anti-development and prove that we have enough solid ground in opposing TNC mining,” he said. “Let us also talk about how we can put to task President Gloria Macapagal-Arroyo, the ardent author of Republic Act 7942 or the new Philippine Mining Act of 1995. And let us explore how we can stop the deceptive campaigns of the TNCs and how we can link our local struggle with the global struggle against TNCs.” □

THE SIGNIFICANCE OF A NATIONAL CONFERENCE ON MINING

By Engr. Catalino Corpuz, Jr

Major initiatives have been taken by the mining industry in the past decade. Most notable was the effort to influence national governments to privatize and liberalize their mining industries. The most recent is the Global Mining Initiative, which is well organized, well funded and dangerous.

These initiatives can best be understood in the context of what besets the mining industry. Gone are the days when mining was a very lucrative and stable investment. Gone too are the days when companies could easily fool mining-affected communities with promises of benefits from their mining operation and of restoring mined-out areas to their original state, or even better. These unfulfilled promises have frustrated and angered community people. The hard reality is that mining corporations simply exhaust the mineral resources and leave behind a legacy of environmental devastation, economic dislocation and grave social problems. The burden of dealing with these is left solely to the community.

The mining industry's indifference and insensitivity have led to a groundswell of community protests. It has galvanized strong anti-mining sentiments among affected communities, which have been expressed in calls ranging from "stop on-going mining operations" to a "moratorium in opening up new mining areas" and, in the extreme, a "total ban on mining." This has led to national, regional and international alliances of mining-affected communities, strongly supported by socially oriented non-governmental organizations and institutions.

The manifestation of neo-liberalism in the mining industry is seen in the revision of mining codes in more than 70 countries, which has further fanned the antagonism against the industry. The new mining codes were formulated by national governments with prodding from well-organized lobbies by major big mining corporations and multinational financial institutions. This led to the privatization of state-controlled mining companies and the creation of laws and mechanisms which allow the free flow of foreign investments in mining. Foreign mining companies took control of local mining corporations. Environmental laws were relaxed as Southern countries competed for badly needed foreign investments. This resulted in the opening up of new areas for mining, particularly in indigenous peoples' territories. Some successes have been achieved against the intrusion of mining corporations in several communities. Despite this, the threat of encroachment still exists, as the laws to allow them to do so are in place.

Aside from the mining industry's indifference and insensitivity, some worldwide developments have contributed to the escalation of protests from the community to the international level. The mining industry has been under attack since the Earth Summit in Rio in 1992. The awareness that the Rio Summit has created is an important development. It raised the environmental awareness of development NGOs and peoples' movements. It also raised the awareness of environmental NGOs on development issues. In many countries, the Environmental Compliance Certificate (ECC) became an important instrument for community people in their fight against mining corporations.

The indigenous peoples' widespread assertion of their rights, especially to land and natural resources, provided a more militant color to the mining campaigns. The principle of

Free and Prior Informed Consent (FPIC) has been another important tool that communities used.

Lawsuits against big mining corporations, such as Freeport, Placer Dome and BHP, were filed and corporate accountability became a key demand of mining activists.

The mining industry was slowly being isolated and confidence in mining investments significantly waned. The Busang fraud incident in Indonesia led to the further erosion of confidence in investing in the industry. Major disasters, such as cyanide spills and the breakage of tailings dams, and human rights violations committed by big multinational mining corporations (Rio Tinto, Placer Dome and Freeport) painted a very bad image of the industry. The sustained community struggles prevented the industry from becoming more profitable and limited their areas of operation.

Compounding the problem was the fall of prices of metals. This was due to the worldwide recession that kept to a low level the demand for metals. Several big mining corporations closed down some of their branches and subsidiaries and streamlined their operations. Many mining projects were shelved, cancelled, or postponed, as companies waited for metal prices to go up. Mining corporations have been very selective in opening up new projects, choosing only those that would be profitable.

Meanwhile, mergers and acquisitions occurred in the industry. The big ones such as Rio Tinto, Anglo-American, Placer Dome, BHP, Newmont, Phelps Dodge etc. stayed dominant. But for them to continue with “business as usual”, they needed new sources of funding for their mining projects and solve the swelling resistance to their mining operations.

It is within this context that ten major multinational mining corporations have banded together to launch a new initiative: the Global Mining Initiative (GMI). The main objective is to gain and bring back public trust, confidence and credibility in the industry so that mining investments will once again pour in and multilateral financial institutions will be induced to provide more loans for mining operations.

To attain this primary objective, the GMI presents a new paradigm of “Sustainable and Responsible Mining”. Clearly this is an effort to greenwash the industry. It includes a two-year action program called the Mines, Minerals and Sustainable Development (MMSD) project.

One clear approach used is the cooptation of strong community leaders and their allies through so-called dialogues and participatory processes. The MMSD program will culminate at the World Summit on Sustainable Development (WSSD) in Johannesburg, South Africa, with a presentation of a research output that would absolve their wrongdoing in the past.

It is not a coincidence that the World Bank and the United Nations have called for a review of the extractive industry. It is not also a mere coincidence that the World Bank and the Asian Development Bank have made a review of their policy on indigenous peoples. All of these happened in the year 2001. Changes in policies seemed to favor the industry more rather than uphold the basic rights of affected people. As shown by its review of its Operational Policy on Indigenous Peoples, the World Bank is biased more towards exclusion of a free and prior informed consent provision from its revised policy. This aggressive public relations salvo by the mining industry is a source of worry for mining-affected communities and their allies. In 2001 regional and international conferences were held to assess and analyze the Global Mining Initiative and the MMSD project and see what these mean for

affected communities. The challenges confronting mining-affected communities and their allies can be summarized thus:

- The mining industry, to a certain level, has tightened its ranks and is confronting community opposition in a more organized way. It has placed massive resources in this image-building exercise.
- Where in the past, it used blatant confrontational tactics, it now combines this with dialogue and “participatory” processes.
- The concept of “Sustainable and Responsible Mining” is being promoted in the WSSD process.
- The various fora held in 2001 by mining-affected communities and their allies provided opportunities to strengthen and broaden the movement against big commercial mining. There is wide unity on the need to engage in the WSSD processes and to preempt the attempt by the mining industry to cloud the realities of its unsustainable production systems and practices.

In the Philippines, the mining industry presented its assessment during the Mining Philippines 2001 Conference on November 21–22, 2001, in which it declared: *“The Mining Act of 1995 now stands as the only economic liberalization measure that has failed to benefit the economy”*.

Mines and Geosciences Bureau Director Horacio C. Ramos reported in the same conference that “since the promulgation of the Mining Act of 1995, there are only 169 Mineral Production Sharing Agreements (MPSAs), 64 Exploration Permits (EPs) and 2 Financial and Technical Assistance Agreements (FTAAs) that were approved covering a total land area of 758,000 hectares.” At the height of government efforts to attract foreign mining investors, around 70 percent of the country’s total land area was covered by applications. As of December 2001, there were 2,347 applications which included 43 FTAAs, 1,578 MPSAs, 380 EPs and 346 IPs (Industrial Permits), which are pending or being processed. The 43 FTAA applications cover an area of about 2.2 million hectares.

But the Filipino people continue to campaign against the Mining Act of 1995, and this has been sustained through massive education and information activities reflected in the following initiatives:

- direct community actions to prevent the entry of mining corporations;
- legal action questioning the legality of the FTAA;
- municipal and provincial government resolutions banning the entry of big commercial mines or calling for a moratorium on mining in their respective areas;
- statements of support and resolutions by the church sector;
- use of the Free and Prior Informed Consent principle to empower communities to assert that their consent be obtained before the entry of any development project.

The intensification of people's efforts to defend their communities has been met with militarization. The mining industry, on the other hand, has launched education and information campaigns in response to issues raised against them. They claim that they are now on a paradigm shift which is reflected in a National Minerals Policy within the framework of what they call "Sustainable and Responsible Mining".

Between 1997 and 1999, several foreign mining companies, such as Western Mining Corporation, Rio Tinto Explorations Phils., Newmont Phils. Inc., Normandy Asia Phils. Inc., Barrick Gold Phils. Inc., Newcrest, Billiton etc. closed down their Philippine operations. This was due to the slow processing of mining applications as a result of legal impediments, people's direct actions, problems in the bureaucracy and political instability.

The national dailies reported on March 8, 2002 that President Gloria Macapagal-Arroyo is being urged by foreign business chambers of the United States, Japan, Australia-New Zealand, Canada, Europe and Korea to:

1. endorse a National Policy on Mining through a Presidential Memorandum Order;
2. resolve as soon as possible the constitutional question filed against the Mining Act of 1995; and
3. mandate and empower the Mines and Geosciences Bureau to set up a speedy efficient titling processing system.

If the President gives in to the pressure by foreign business chambers, this will be bad news for mining-affected communities. She can opt to issue a Presidential Memorandum Order, and this is not remote as she was one of the four senators who fought for the approval of the Mining Act of 1995. With several Supreme Court Justices about to retire, we may soon have a situation where her appointees will comprise the majority. Then the resolution of the constitutional question of the FTAA in favor of mining corporations could happen.

This situation poses a great challenge to all of us. We need to heighten our unity and close ranks to advance further the gains we have already achieved in our struggle against the mining industry, both on the national and international levels.□

Keynote Address: PHILIPPINE MINING AND IMPERIALIST PLUNDER

By Satur Ocampo, Bayan Muna Party List Representative
House of Representatives

Delegates, guests, and friends:

That our country is rich in natural and mineral resources is a fact. Yet, despite this richness, it is also a fact that our people are generally poor, sick, hungry, poorly educated and exploited. And their condition has worsened in this era of imperialism, in these times of continuing and deepening crisis.

There is a connection between these two facts. Mining interests boast of hundreds of millions of dollars in foreign investment coming in. They talk of billion of dollars earned from exports. The Philippines is among the world's great mineral producers of copper, nickel, chrome, zinc, gold and silver.

But we ask: who benefits from all this mining? Mountains are leveled, forests are cut, rivers are polluted and farmlands poisoned. Whole villages are displaced, families are driven into sickness, livelihoods are lost, and those opposed to mining are brutalized and slain. And mining communities remain among the poorest in the country.

No meaningful development takes place while the foreign mining corporations and local elite get richer. In the end a handful of people profit enormously while those who work hardest remain stuck in harsh, arduous and tedious toil and live in poisoned communities. The profit and capital repatriation vitiate the economy that remains backward, agrarian and unindustrialized.

Imperialist mining has wrought immeasurable damage to the environment. It has inflicted great harm on communities, and has stolen the mineral wealth of the people. This is indisputable plunder, and it must end.

Mining for whom?

Which is not to say that we're against mining. Mineral resources are the bedrock of industrial economies. From factories to farms, trains to airplanes, laptops to cellular phones, nails to nuts and bolts and toilet bowls – the products of mining go into virtually everything the modern economy has to offer. We need a modern economy to achieve the goals of human development.

What we are against is imperialist mining, by which our mineral resources are mined mainly to benefit foreign mining giants and local *comprador* (big business) elite. Our history bears witness to how this leads to reckless exploitation of the environment and the gross neglect of the people's social needs.

Since 1970 the industry has produced and exported probably over US\$25 billion worth of minerals, including re-exports of minerals mined abroad and processed locally using the dirtiest industrial technologies. What have the people gotten from this? Short-term low-paying hazardous jobs. A handful of corporate-sponsored schools. Clinics, roads, and marketplaces.

Without exception imperialist mining has caused environmental devastation. The waste, all four million metric tons of it, that Marcopper Corp. spilled into the Boac River and

coastal areas of Marinduque island in 1996 is a dramatic case in point. There's also the 700,000 tons of cyanide tailings that swamped rice lands and buried homes in Placer, Surigao del Norte in 1999. River water systems from Abra to Zamboanga and all across the country have been slowly contaminated and killed over decades. We can cite more of such examples.

Hardest hit by the plunder are our national minorities in whose ancestral lands some 80% of gold, copper and chrome deposits are found. Their rightful claims over the mineral wealth and other natural resources have been ignored, and imperialist mining has dislocated them and destroyed their livelihood.

At the other end of the scale are the few corporate players who rake in billions in profits. Mining is the most concentrated industry in the country: only 12 companies are involved in large-scale commercial mining of metals.

The economy as a whole hasn't benefited from imperialist mining. All that mineral production and all those investments and exports are well within imperialism's basic design for neo-colonies such as the Philippines: to make them suppliers of cheap raw materials and labor, and captive outlets for surplus goods, services and capital. Which is why the country has chronic trade deficits, is saddled by mounting foreign debt (US\$52 billion), and is stuck in such backwardness.

This is absurd. The considerable wealth of the country must redound to the people.

Renewed plundering

Let me go into a vital matter that I'm sure preoccupies us all today: the renewed offensive by imperialist mining to loot our country. For most of the 20th century, since the Regalian Doctrine on state ownership of natural resources was introduced in the 1935 Constitution, Philippine mining has technically been reserved for Filipinos.

I say "technically" because the national patrimony provision has in practice been undermined in so many ways: by exempting pre-1935 American ownership, by the Parity Rights Amendment, by skewing trade and investment arrangements in favor of the US and *comprador* corporations, by using subsidiaries and dummy corporations, and so on. A decisive factor is that our overall economic policies are persistently neocolonial and retrogressive. Such policies have ensured that the Philippines remains a source of cheap minerals for imperialism.

Still, our mineral resources have been subjected to an intensifying wave of attacks in recent years. The imperialist centers – along with the rest of the global capitalist economy – have been stuck in crisis for decades, no matter how zealously they have tried to resolve the crisis. One step they have taken, under the banner of "globalization," is to find more profitable investment outlets and cheaper sources of raw materials.

One consequence of such relentless drive is the liberalization, since 1988, of the mining laws of some 80 countries. Restrictions on foreign ownership, regulations and capital controls have been lifted, generous tax breaks have been granted and state mining interests have been privatized. The WTO, IMF and World Bank typically played critical roles in crafting neocolonial mining policies. So did US imperialism through regional agreements like NAFTA and bilateral pacts with neocolonial countries.

But apart from the usual suspects, the United Nations has worked to facilitate imperialist mining. The UN has been increasingly active in neutralizing people's movements especially in the last decade. In one international conference after another, the UN has

promoted dubious collaboration between exploiters and the exploited, bringing them together seemingly as “equals” in “development.” The illusion that the UN sought to create is that fundamental change can be achieved through non-confrontational advocacy, lobbying and collaboration. But between the big and small, you can expect how things can come out.

Thus, governments and mining firms now speak of “sustainable and responsible” mining supposedly in cooperation with communities and NGOs. An example is the Mining Minerals and Sustainable Development (MSSD) project of the World Business Council for Sustainable Development (WBCSD).

Nonetheless, ecological and human disasters are enduring features of imperialist mining. We know mining corporations have not become kinder and gentler, only wiler and more deceitful. There will always be far more damage wrought than there are people benefiting from the community projects that mining firms implement to diffuse opposition.

Indeed we should always be wary whenever anyone proclaims to have found the secret to reconciling monopoly capital’s profits with the people’s interests. Whether under the banner of the UN World Summit on Sustainable Development (WSSD) or the TNCs’ Global Mining Initiative (GMI) or the Philippine government’s National Minerals Policy (NMP), such efforts are at best contrived and diversionary.

That magical word of universal prosperity is little more than a smokescreen for intensified imperialist plunder. The capitalist harmony being peddled has been there since the time of Adam Smith and Karl Marx. But that utopia is no truer now than it was then. The age of exploitation and oppression will last as long as the capitalist system exists.

Selling out

In the Philippines the complicity of the state in imperialist plunder of our resources is clear. Instead of regulating the entry of foreign mining firms to safeguard the people’s interest, the government has gone out of its way to make things convenient and profitable for the foreign firms, especially since the 1990s. Full-scale financial and investment liberalization has eased restrictions on all foreign investors and piled up all sorts of investment and tax incentives.

Then the infamous Mining Act was passed in 1995. Foreign control over Philippine land and resources was virtually granted through the deceitful FTAA (Financial **and** Technical Assistance Agreement). Unparalleled tax holidays, tax breaks and other incentives were given to mining investors. The country’s fiscal regime for mining is now one of the most liberal in the world – among the top five or so according to the US-based Institute for Global Resources Policy and Management.

Foreign monopoly capital has been quick to take advantage of these incentives. Total mining investments in the country increased 53%, from US\$980 million in 1995 to US\$1.5 billion in 2001. The mining sector is still the fourth biggest recipient of foreign direct investment after manufacturing (US\$5.8 billion), banks (US\$2.8 billion) and public utilities (US\$1.8 billion).

Huge mining stakes are controlled or are eyed by US, Canadian, Australian and Japanese giants: Western Mining Corp., Mount Isa Mines, Rio Tinto, Climax-Arimco, Crew Minerals, TVI, Placer Dome, Philex Gold, Inco, Newmont, BHP, Phelps Dodge, Anglo-American, Pacific Metals, Kawasaki, etc. Foreign TNCs take up virtually all of the mining concession areas either by themselves or in partnership with Filipino firms.

The TNCs are here positioning, exploring or already mining for very good reasons. We have about 7.1 billion metric tons (BMT) of metallic mineral reserves and 51 BMT of non-metallic deposits. Our 226.8 million metric tons (MMT) of gold deposits are the world's second largest and our 4.8 BMT copper deposits, the third largest. Our nickel (1.1 BMT) and chrome (36.7 MMT) reserves are also among the world's largest and our clay, limestone, marble, silica, sulfur and phosphate deposits are considerable.

Notwithstanding lamentations over mining company losses, the foreign giants will rake in the profits from their investments in the years to come. Even the US "war on terror" is starting to work to their advantage. Global demand and prices of essential metals for military hardware – like gold and copper – are already increasing due to arms buildups and the waging of wars.

A new mining front has also been opened up: the 2.6 trillion cubic feet of natural gas reserves in Malampaya off Palawan. Energy giants Chevron-Texaco of the US and Royal Dutch/Shell even split 90% ownership of the US\$4.5 billion project. The state-owned Philippine National Oil Corp. (PNOC) has taken the 10% balance. However, the PNOC is already planning to sell this to undisclosed foreign buyers. Which can lead to the bizarre result that the country will be buying its own natural gas from foreigners.

Even the Department of Environment and Natural Resources (DENR) is becoming more brazen. It has been busiest not in protecting the environment but in churning out mining permits and extending the duration of existing ones. It blocks disputes from being resolved or hastily resolves these in favor of mining communities.

On other fronts, there is the persistent effort to remove the Constitutional ban on foreign ownership of land and further relax already liberal constraints on foreign exploitation of natural resources. On the other hand, military, police and paramilitary forces are mobilized to suppress community opposition against mining projects. Mercenary NGOs meanwhile work to neutralize local struggles by helping implement corporate welfare projects and public relations campaigns.

Resisting, advancing

So what is to be done? There is no quibbling over the answer among us, I presume: we must strengthen the people's struggles against imperialist mining.

The adverse impacts of large-scale commercial mining on the people have impelled broad resistance to stem the plunder. The struggle against imperialist mining and plunder has deftly combined legal with extra-legal struggles and has proved successful, as this conference will doubtless affirm. Mass actions have brought mining operations to a standstill in many instances. The public clamor mounts for the mining firms to comply with stricter environmental standards.

These are small yet very real victories brought about by people's movements. But our struggle must go further than what we have attained. We are not just against mining firms or against their environmentally destructive practices. We want to stop foreign monopoly capitalist pillage of our resources. We want to stop the destruction of the ecology. But beyond these, we are against the unjust political and economic order that makes all the plundering possible.

In the process we reap tactical victories. History has shown that among the people's greatest advances – such as the 8-hour working day, the minimum wage, social services and putting agrarian reform on the political agenda – are the products of militant struggles. Albeit on a lesser scale, in mining the people can now potentially wield as weapons the

Environmental Compliance Certificate (ECC), the principle of Free and Prior Informed Consent (FPIC), and even lawsuits against erring mining firms. It is well that we use all these to advance our struggles.

But we cannot be swayed from our larger aim, and that is for the people to gain control of society's resources and thus take control of their lives. The scientific and technological tools needed are at hand. What is needed now is for political and economic power to be in the hands of the people. This is our greatest goal; this is our greatest challenge.

For only when the people are empowered can we undertake true agrarian reform and national industrialization to improve the people's welfare. This is the context in which mining development must take place. Mining policies don't occur in a vacuum and will be most meaningful only in the context of the overall social and economic policies that are truly pro-people.

Despite centuries of colonial and imperialist domination and plunder the country is still rich in metal, mineral and thermal energy resources. We can develop these – along with our land, forest and fishery resources – in the interests of the people. That we must do to better the life of the 64 million Filipinos, comprising 80% of the population, who can be considered poor.

We must resist imperialist mining with all our might before our natural resources run out. This is a matter of the greatest urgency, because imperialism is bound to waste our non-renewable resources in luxuries, in trivialities and, worse, in wars against defenseless peoples.

There is much that needs to be done. But aren't we all determined to fight on? Aren't we all confident that, with justice on our side, in the end the people united will triumph? We are!

Maraming salamat sa inyong lahat. Mabuhay kayo! Mabuhay ang sambayanang lumalaban! (Thank you very much to all of you. Long live! Long live the people's movement and struggle!)□

A National Mining Policy

By Engr.Catalino Corpuz Jr.

The downward trend in the mining industry continues to the present. In 1995 the Mining Act was enacted to revive the ailing mining industry. However, a resource person stated during the Mining Philippines 2001 Conference held in Shangri-La Hotel that “the Mining Act of 1995 is the only economic liberalization measure that has failed to benefit the economy”.

Since 1999, the mining industry has been urging the government to support a National Mineral Policy. The aim is to revitalize the mining industry.

Slump in the Philippine Mining Industry

The country’s mining industry is dominated by copper and gold in the metallic sector. After a production boom in the 1980’s, these metals suffered a downward trend which has continued up to now.

The price increase in copper from 1972 to 1974 (from 45.59 to 93.42 US cents per pound) brought a surge of exploration activity in the copper industry. This led to the discovery of numerous porphyry type copper deposits. A total of 35 mines engaged in the copper industry, and some of them developed into operating mines. The copper industry had a boom over a 3-year period from 1981 to 1983. The average annual production during this period reached an average of a million metric tons. The country’s copper production ranked 9th worldwide during this boom.

However, copper production started to fall by 1984. Feeling the crunch of falling copper prices, many copper-producing companies started to fold up. The price of copper began to slide by 1981 (80 US Cents per pound) after its peak in 1980 (99.38 US cents per pound). From 14 copper operating mines in the 1970’s, only three remained operational by 1999.

Between 1984 and 1999, some copper producing mines managed to hang on due to the income from gold which is associated with porphyry type of copper deposits. As of 1999, the country’s copper production ranked 26th worldwide.

During the early and mid-1980s, the new worldwide search for gold deposits benefited the country in terms of the inflow of exploration funds in the region. “The discovery of epithermal gold of the Carlin Trend deposit in the United States sparked an international exploration boom” in the Pacific Rim. In addition, the steady rise in the price of gold from 1976 (US\$125 per troy ounce) to its peak in 1980, where it reached about \$800 per troy ounce, led to the reopening of many gold mining companies.

The country’s gold production started to pick up in 1980 (20,145 kgs.) and peaked in 1986 (35,427 kgs.). There were 13 operating gold mines and the country’s gold production ranked 5th worldwide in 1980. However, gold production started to decline in 1987. The erratic trend in the price of gold after its peak in 1980 and its continued downfall caused the closure of gold producing mines one after the other. As of 1999, there were only five gold producing mines and the country ranked 29th in gold production worldwide.

Aside from the low metal prices, the reason behind the slump in the mining industry from the 1980’s up to just before the enactment of the 1995 Mining Act was basically a

problem of strategy by the mining industry. Reserves were depleted but at the same time there was no vigorous exploration work done. In the gold industry, mining companies engaged in “high grading”. They mined the high-grade ore when the price of gold was high. When this was exhausted, only the low-grade ore was left to mine, but it was uneconomical to mine low-grade ore.

The political instability during the eve of the Marcos administration until the Cory Aquino administration greatly affected the inflow of new investment. This was also reflected in the mining industry.

High production cost also hit mining companies. The power outages that beset the country during the Aquino regime contributed to high production costs.

Reviving the Philippine Mining Industry

A new mining code was proposed by the mining industry as “a shot in the arm” to revive the mining industry. The House of Representatives approved its version of the mining code in 1993 but it met rough sailing in the Senate.

While a new mining code had not been approved, measures were undertaken by the government in 1994 to revive the industry. First was the reduction of tariffs on capital equipment. Second was the reduction of excise taxes on copper and gold.

Ultimately, a new mining code was enacted in 1995. The Mining Act of 1995 consolidated the gains of the foreign mining industry. A new law to attract foreign investment was put in place and provided the legal framework for the operation of foreign mining companies.

However, the Mining Act of 1995 was not able to arrest the industry’s downward trend.

The Mining Industry’s Assessment

According to the mining industry, the failure of the Mining Act of 1995 to revive the industry was due to legal setbacks in 1997, land use conflict and a growing people’s movement.

The first legal setback was the filing of a case with the Supreme Court on the constitutionality of the FTAA (Financial and Technical Assistance Agreement) of the Mining Act, which remains unresolved until now. The centerpiece in attracting foreign investments for mining is the FTAA and since its very legality is being questioned, foreign mining TNC’s do not want to risk tying up their investments for a long period, without returns, while the legal question is not settled.

The next legal setback was the passage of the Indigenous Peoples Rights Act (IPRA) in October 1997, the provisions of which imposed additional requirements on mining companies prior to approval of their mining applications. Aside from additional requirements such as securing the consent of the indigenous communities, the IPRA imposed additional costs. Other costs are the royalties to be paid to the indigenous community, provisions for socio-economic projects etc.

The third legal setback was the declaration of the Oil Deregulation Law as unconstitutional in 1997. This sent a wrong signal to prospective investors in the mining industry. This declaration was used to proclaim null and void the winning bid of Malaysian investors for the Manila Hotel.

The Land Use conflict is between mineral land use, on one hand, and forest and

ancestral lands as well as urban lands, on the other. The problem partially stems from the fact that there are a number of laws that deal with the use of land, and these laws are implemented by different agencies:

- DA/DAR (Department of Agriculture/Department of Agrarian Reform) - implement policies calling for the preservation of agricultural lands and regulation of their conversion into non-agricultural uses.
- DENR (Department of Environment and Natural Resources) and specialized bodies such as the **LLDA** and LGU's (Local Government Units) - implement policies on forest management as well as environmental protection.
- **HLURB** - implements policies on location of human settlements and industries.

While these agencies are members of the National Land Use Committee, the committee is a mere coordinating body that cannot enforce land use policy decisions.

According to the mining industry, this conflict remains unresolved because of the absence of an overall enabling or integrating national land use law as well as an effective organization clothed with sufficient powers and resources. The industry is recommending the formulation of a new land use policy that will harmonize the current fragmented land use policy and resolve land conflicts. The new policy will define which areas are for protection, cultivation, and settlement, and where extraction of minerals can be allowed. The mining industry is urging that they be allowed to actively participate in the crafting of this new national land use policy.

Further, the mining industry has recommended that areas where mineral extraction is allowed should be declared STRATEGIC MINERAL DEVELOPMENT ZONES (SMDZ's). Institutionalizing this in national plans will spare the mining industry from the tedious approval process and shorten the list of requirements, as this will now be built in in LGU land use planning and permit processes.

Aside from the legal setbacks suffered by the mining industry and conflicts on land use, "misguided environmentalists and obstructionist local officials have deterred most of the over 20 foreign mining companies that expressed interest in investing in the country". The anti-Marcos activists shifted to environmental issues and trained their sights on mining as a perceived environmental polluter.

The Marcopper tailings spill in 1996 fanned the flames of anti-mining sentiments among a wide sector of the population, including the church. With no effective concerted action plan on the part of the mining industry and concerned government agencies to address the situation, the industry was unable to recover.

Revitalizing the Philippine Mining Industry through a National Minerals Policy

The Mines and Geosciences Bureau (MGB) has come out with a document, "National Minerals Policy" which was first presented formally by MGB Director Horacio Ramos in August 1999 at the "State of the Art in Environmental Management" conference. It was meant to provide both government and the industry with strategic directions and tools to revitalize the industry and to make sure it is sustainable.

This working draft of the National Minerals Policy was strongly supported by the Philippine Chamber of Mines. Since its formal presentation, the mining industry has conducted a relentless campaign for its adoption and approval. It sought the endorsement of

the Board of Investment, and the Philippine Council on Sustainable Development also urged its endorsement by then President Joseph Estrada and now, President Gloria Macapagal-Arroyo.

Reading through the document, there are four main points I would like to dwell on.

1. Paradigm Shift

The document speaks of a paradigm shift. But, is there really a paradigm shift? What paradigm shift is the MGB referring to?

“Promoting sustainability and responsible mining” is the banner slogan in this so-called paradigm shift. The mining industry’s description of “sustainable” is to live on the “interest of our national capital” and not spend the capital itself.

What I understand of a paradigm shift is the establishment of a new economic order. However, the National Minerals Policy does not speak of our country veering away from an export-oriented, import-dependent economy. Actually, it strengthens the Mining Act of 1995 which encourages large scale extraction of minerals for export and primarily for the international market. It does not speak of our minerals being used primarily by our industries and for genuine national industrialization.

The document would like to make it appear that there is a paradigm shift by using the term sustainable development. It boasts more of environmental safeguards, rather than the role of mining in genuine national industrialization and in strengthening our agriculture.

Compared to the past where remediation and mitigation were the usual practice, it promotes the mining industry as responsible because of the incorporation of environmental degradation prevention measures. This is a greenwashing effort by the mining industry as it tries to convince us that “environmental degradation and abuse are now irrelevant” and a thing of the past because, as they claim, they use environmentally friendly technology and socially responsible mining practices.

The mining industry insists that enshrined in the Mining Act of 1995 are provisions that would safeguard environmental protection and, thus it adheres to the principles of sustainable development. It is referring to the following provisions of the Code:

- a. to spend 10% of the initial capital expenditures;
- b. to spend annually 3%-5% of direct and milling cost;
- c. submission of Environmental Work Program (EWP) during exploration phase;
- d. submission of Environmental Protection and Enhancement Program (EPEP);
- e. creation of a Contingent Liability and Rehabilitation Fund divided into Monitoring Trust Fund and a Rehabilitation Cash Fund to ensure the mining firm’s compliance with its environmental commitments, including the implementation of progressive rehabilitation activities;
- f. establishment of a Mine Wastes and Tailings Reserve Fund, from which compensation for damages caused by accidents involving mine wastes and tailings will be sourced; and
- g. five years before the expected closure of a mine, the formulation of a Final Mine Rehabilitation/Decommissioning Fund.

There is nothing for the mining industry to boast of. This listing of plans and sourcing of funds for environmental degradation prevention and mitigation are in the first place what they are supposed to do. The mere mention and listing of their obligations does not equate adherence to principles of sustainable development.

Numerous concrete experiences in mine-affected areas prior to and after the enactment of the Mining Act of 1995 show that “responsible mining” as peddled by the industry is a sham.

2. Policy for more environmental destruction

The National Minerals Policy advocates Deep-Sea Tailings Placement (DSTP) as an alternative to on-land tailings disposal. This further shows up the mining industry’s banner slogan of “promoting sustainability through responsible mining” as a sham.

The document contains two glaring maneuvers by the MGB to try to persuade us to accept DSTP as an alternative waste disposal system. First, it changed the name Submarine Tailings Disposal (STD) system into Deep-Sea Tailings Placement. Second, it committed a blatant lie by stating that STD/DSTP is gaining global acceptability.

STD has been discredited worldwide. Due to the stringent environmental laws in developed countries such as Canada, the United States and Europe, STD has been banned or no longer practiced. Changing the name from STD to DSTP is a deliberate attempt to confuse the people, who may not immediately recognize it as that which has been banned. The ironic thing is that, mining TNC’s can not make use of STD/DSTP in their host countries and yet they promote it in southern and underdeveloped countries and package it as best technology.

STD is being promoted by mining TNC’s not because it is the best technology in waste disposal system but as a cost-cutting measure to lessen production cost. With the continuing trend of depressed prices in metal and increasing production costs, STD is a measure to maintain the profit margin of mining corporations.

The Philippines, being an archipelagic country with rugged mountains, STD becomes a very cheap way of disposing mine tailings. However, its use in the Philippines would affect our food security. Aside from affecting our agricultural productivity due to its adverse impact on land and river systems, it will now destroy sea-based fishing.

3. Competitiveness

The revival and revitalization of the mining industry are anchored on the competition of supplying the international market and in the competition for foreign investment. This was the crux of the mining industry’s lobby for the enactment of the Mining Act of 1995.

After the years of implementing the Mining Act of 1995, the MGB and the mining industry now speak of a “lean but mean large scale mining industry” in the National Minerals Policy. This is a reflection that the industry has undergone a gestation period and there are now signs that it is ready for development and production.

This “lean but mean mining industry”, according to the MGB and the mining industry, is ready for the development and production of 10 “world class” ore deposits in the country. “World class ore deposit” means 25 million tons of milling rate, 20 years projected commercial life and can generate \$100 million in taxes and benefits. In short, it is financially viable and profitable. These include the Tampakan deposits of Far South Mindanao by Western Mining Corporation, the Didipio Project of Climax-Arimco in Nueva Vizcaya, the Victoria Gold Project in Mankayan, Benguet by Lepanto Mines, the Boyungan Gold Project

and the deposits found in Tubod, Surigao del Norte, etc.

To maintain competitiveness, vigorous exploration work should be sustained. This is a lesson the mining industry has learned in the past. The industry recommends that mineral areas be declared as Special Mineral Development Zones, just like the Export Processing Zones. What would be the implication of this? More incentives for the mining industry? No unions in these areas?

To be competitive, wages should be kept low; therefore, there should be docile labor forces in these areas.

4. Undermining the Rights of the People

With the recommendation of the DENR, the local and foreign mining industry is urging the President to endorse the National Minerals Policy through a Presidential Memorandum Order (PMO). This is an attempt by the industry to solve its problems posed by laws that give certain powers to the people like the Local Government Code and the Indigenous Peoples Rights Act. A Presidential Memorandum Order has the effect of a law that gives the mining industry the authority to undermine the rights of the people.

A study prepared by the Philippine Exporters Confederation estimated that 1.2 million hectares or 53% of areas identified in mining applications are found in areas covered by Certificates of Ancestral Land and Domain Claims. With the resolution of the mining industry's question on the IPRA through a Presidential Memorandum, the mining industry can now access indigenous peoples' lands.

In conclusion, the National Minerals Policy is a tool to fool the people through statements like paradigm shift, sustainable development, responsible mining etc. But at the same time it is a document that sharpens how large-scale commercial mining should proceed as a result of the Mining Act of 1995.□

LEGAL STRUGGLES AND CHALLENGES

Excerpts from a talk by Atty. Marvic Leonen
Legal Rights and Natural Resources Center (LRC)

If you enter the legal struggle, you should not solely rely on what is purely legal. We had one experience of a purely legal struggle under which the community folk fought among themselves and there was no community organizer. We were left with the few remaining oppositors. This happened at a power plant in Masinloc. We were left with only six families and their president who used to oppose the power plant made a full turn to the other side and became the power plant's security guard. The remaining six families eventually gave up and we were left with nothing.

The lesson was that the community lacked organizing. So we learned our lesson: we will never replicate elsewhere that Masinloc experience.

It should be clear that as you extend legal services, you should go hand in hand with your community organizer and other support groups. And whatever political or ideological shades these support groups have are insignificant. What is more important is having a unity on a certain tactical objective to ensure that the involved NGO, PO (people's organization), support groups and community cooperate to achieve a common end. Of course, you have your differences, but talk it out. But it is important to realize that the lawyer is not the lead. Neither is the community organizer. The lead must be the community.

The community itself should choose its own strategy. Ultimately, amid our several struggles and preoccupations, if we go back to the community, who is left out there? It is not the NGO, which had a publication out of that particular incident. So we are very emphatic that it (legal services) should be part of a struggle. The engagement must be clear. The lawyers and the community organizers, especially the lawyers, must be able to tell the community: *"You know, these are the risks involved in the case."* We cannot afford to be romantic now with such very big enemies. We cannot say to the community, *"You know, once you file your case today, tomorrow you win."*

That's why in the Supreme Court case we helped file against Western Mining Corporation (WMC), the community folk in Labugal know that the processing was long and tedious – at least a year. Why? We wanted it to be very clear to them that these (delays) are among the consequences. To give you an example, who among you are ready to die as martyrs for the cause of the movement against mining? No one, of course. Who among you are ready to be sued in court for P6 million (to pay P6 million out of your own property)? This has happened already.

Sycip-Salazar, the largest law firm, sued in Makati City, Metro Manila for P6 million community members opposing a power plant in Mauban, Quezon Province. The law firm had good reasons in filing the case in Makati and not in Mauban, Quezon: to make it harder for the Mauban folk. So companies are now filing counter claims. Once you sue a company with an environmental case, you must expect counter claims or what we call "strategic lawsuits against public participation." In other words, this is their (companies') counter-offensive.

Strategic lawsuits vs. public participation

In past years, we were faced with human rights violations and militarization, which are still happening based on cases participants just presented. But the situation now is more compounded. Transnational corporations cannot afford human rights violations because these are too blatant. So what do they do? They file cases. Once they file a case, what does an NGO lawyer do? Publish? We have media capability but not as much as when you have someone that dies.

But if someone or some community folk are sued for P6 million, what are in the backs of the minds of the beleaguered families? This is more delicate because within and among family members they would debate on whether or not to pursue the case. If the concerned families lose, they have to reckon with parting with their motorcycle, house and lot and other property. This is their fear – the consequence of “strategic lawsuits against public participation.” It is happening right now. So if we pursue a legal struggle, all these considerations must be clear.

Let me tell you another story. In a community in Polomoloc, one group wanted to sue the Dole plantation. The group had a clear course of action: Dole’s contour farming was causing erosion and was widening gullies, to the disadvantage of neighboring communities whose farms were endangered and were getting washed out during the rainy season. So the community folk wanted to sue the company for damages and rehabilitation. Some community members sought our help but we turned them down. Why? One community member filed a case against Dole before, but Dole counter-claimed and, sadly, the community member ended up paying the company P70,000. And from among the members of the PO, we could not get the required 75 percent consent to file a case. So we did not continue to help in the legal suit.

So when we engage in legal struggles, we must be prepared because of the counter claims by corporations. Imprisonment, arrests, killings and other blatant human rights violations still happen. And compound all these with this current legal consequence (e.g., counter claims), we must be very clear in how to address all these things. And the only guarantee that we can address all these things is when the people’s organizations and leaders are strong. Please take note that in companies’ counter claims, leaders are the primary targets. Why? Leaders sued for P6 million will tend to doubt their own capacity because their families are also involved.

Calculated risk

On the other hand, we also want to win in our legal struggle. So we won’t sue for something which we know we will lose. We cannot also just go “*media media*” or mid-way because the problem with this is that if we lose, the company scores a point. We are thus taking a risk with the Labugal community folk’s suit versus Western Mining Corporation – but with a very calculated risk. I am referring to the Labugal’s Supreme Court case with the company. This is because the fourth paragraph of Section 2, Article 12 of our Constitution is very clear. It says “either financial or technical assistance.” This is only what a fully foreign-owned corporation can give.

In the Constitutional Convention discussion, a fully foreign-owned corporation can give either financial or technical assistance but the corporation cannot manage and operate. This was the service contract of PD (Presidential Decree) 463. When the new Constitution came into being, the service contract was changed. The new Constitution provides that a company can either lend funds or give technical assistance but a foreign company

cannot operate.

But why is the Labulgal folk's Supreme Court case versus WMC taking so long? I have an answer: the Constitutional provision the company violated is easy to read and understand. The phrase "either or" is very clear despite WMC's lawyer Fulgencio Factoran's assertion that "either or" means "and." And if you are a Supreme Court justice and give out a ruling affirming Factoran et. al.'s assertion, you will certainly appear stupid. So I am still wondering what the Supreme Court is waiting for.

So this 2004 "Cha-cha" (Charter change) move is something we should be scared about. According to traditional political parties, the Cha-cha move will definitely push through. But who are they to say so? On the other hand, they (traditional political parties) all have the interest to change the Constitution.

Some of the expected provisions that Cha-cha proponents will remove are what they call the "non-political" provisions. The real issue is not about changing the presidential form of government to a parliamentary form. The bigger issue, which we must be wary about, is the removal of nationalist provisions such as the 60-40 investment equity in favor of Filipinos and other provisions that guarantee the "ownership" of companies over their mining claims prior to the 1935 and 1987 Constitution.

Of course, we also want Charter change because we want to change the 60-40 ownership equity into 90-10 or 95-5, with 90 or 95 in favor of the community. But once you open up the "Cha-cha", you are opening up the opportunity for a total overhaul of the Constitution. And are we in a position to do that? I don't think we are ready for this. With your Senate and House of Representatives and with the electoral process, changing the Constitution is impractical to do at this point.

In any case, the point is we have to win our legal struggle considering all areas we talked about.

Reviewing our options

Now let's review our options. I wish to emphasize that we should not focus only on a single agency. And I want to also re-emphasize that this conflict over land use plan is very good for us. These conflicts over the jurisdictions of agencies are very good for us. Why? Because we are not tied to just one secretary of the Department of Environment and Natural Resources (DENR). When Antonio Cerilles was DENR secretary, we filed our People's Initiative with the Commission on Election (COMELEC). When we could not get through COMELEC, we were able to make headway in the local government. It is difficult if all our efforts are directed at the DENR or in one agency.

Upon reviewing all the laws, we immediately launch protest actions against a new mining company's entry. If the company explores or is about to operate, let us always bear in mind a major consideration – local government consent. And this includes three levels – barangay (village), municipality, and province. The DENR's assertion of two out of three should not hold water because the DENR has nothing to do with the Local Government Code. The DENR takes care only of environmental codes. Matters about local government consent are under the Department of Interior and Local Government.

Local Government Code. And the Local Government Code, particularly Section 27, is very clear that all national government projects must have the consent of all local government units concerned – from barangay (village) and municipality to province. If one is missing, you have a case. Usually these three stand as one, at least at the start. Even if the three agree, you can do a people's initiative (as the Didipio community did). You can

attack the *Sanggunian Bayan* (municipal council) resolution and attack at a level where you have control.

Obviously, you cannot do people's initiative at the provincial level because it would be hard to get 3% of the whole voting population. But you can do this at the *barangay* (village) level. All you need is a referendum to be set by COMELEC. Climax-Arimco knew this. But we were two steps ahead of the company. We were able to gather enough signatures and all we needed was for COMELEC to set the referendum date.

We were quite confident because in such electoral struggle, you have no candidates to give away money. The company apparently did not learn about the development so victory for the community was possible. But COMELEC officials were dragging their feet on the people's initiative as a Caucasian official of the company tried to talk with each of the COMELEC commissioners. The company knows the people's initiative is a very powerful tool.

People's Initiative. The people's initiative is a powerful tool especially if it is done in an area that has the "core mining claim" where the ore veins are or in critical areas such as where the company intends to put its tailings pond. And what do you need to be able to proceed with your people's initiative? Only one *barangay*. What's the implication of this? This can bring "legal doubts" over the company's social acceptability. Whether or not the effort remains pending at the COMELEC, this can help give doubts over the social acceptability of the company. So this becomes one of our ammunitions in our campaigns here and overseas.

The *barangay* people's initiative has one variation. Some municipal and provincial governments are now coming out with mining moratoriums. Mining companies will question these, saying municipalities and provinces have no right to amend the Philippine Mining Act, which says every place is open and so moratorium should not apply. But the Local Government Code says if the law is silent, the power lies in the local government unit. So this is one variation – getting a municipality or province to impose a mining moratorium before mining companies become strong in the area. What about the *barangay*, can it declare a mining moratorium? Of course, it can.

LGU Power. Local government units (LGUs) also have another power – they initiate their own land use mapping. Involved in the land use mapping is the municipal development council, under which an NGO can become a member. I heard stories and seen some areas where the NGOs in the development council were there only to disturb the process; they were not really there to be productive members in terms of the debate. But these NGOs helped delay and make it hard for the land use plan to come out and be corrected by the province. The final product is what is called the Comprehensive Land Use Plan. Why is the Land Use Plan important?

Once a land is classified in the Comprehensive Land Use Plan as "agricultural," this is a point that you can use in many forums – in the DENR, National Commission on Indigenous Peoples (NCIP), etc.

Local government units can oppose mining because the municipality's or province's main livelihood is agricultural. But the local government consent can be very political. A local government unit can say, "We don't want the face of those foreigners." Because they are elected representatives, local officials can do these. This is because Section 27 of the Local Government Code is separate. The only problem is that Section 26 is being used to confuse Section 27. Section 26 provides that there must be consultation for ecological

projects. But don't confuse the two, rather add Section 26 to Section 27 because mining has adverse ecological consequences. And look at Section 27, it has no qualifier whatsoever that a local government's objection must be ecological. The objection can be anything. This is different from "social acceptability," which was coined by desperate DENR people.

Social Acceptability. The DENR pushed for "social acceptability" so an ECC (environmental compliance certificate) can be granted. In the 1990s during the Mt.Apo campaign, for example, we could not use anything other than environmental impact assessment or EIA. EIA therefore evolved in the Philippines to include social acceptability. But the social acceptability for EIA is different from the local government consent.

In fact, we should not use the DENR's social acceptability tool. This is because the DENR defines social acceptability in the regulation on EIA as "if there is an issue raised the DENR makes sure the issue is recorded and addressed." If it is recognized in this manner, "I recognize your opposition, and I have this answer," the opposition is finished.

On the other hand, if a local government unit says a mining company is voted out, the company is finished. ECC and EIA are still a leverage. But this is strong mostly on the ecological as was the case presented on Rapu-rapu. The "social acceptability" tool is also strong. But don't be too tied up to this. Explore also the local government unit.

Free and Prior Informed Consent. In the National Commission on Indigenous Peoples, you can also use the "free and prior informed consent" (FPIC) by reviewing its accompanying Administrative Order. But let us warn ourselves with an experience with the Western Mining Corporation. Take for example an 80-page principal agreement between the company and the B'laan, which was written in English. One of LRC's lawyers reviewed the document for a month. We were so aghast at what we discovered.

The voluminous document talks about the one-percent royalty share of the indigenous community. You will imagine that that one percent goes to the community, but this is not so because the company devised a way of getting hold of the royalty. The company organized a foundation. The foundation has nine members of the board of trustees, three of them from the Mines and Geo-sciences Bureau (MGB), three from the company, and three from the indigenous community. You can readily see how the community can be outvoted.

Under the Foundation's articles of incorporation, there shall be no quorum once the Western Mining Corporation representatives are absent. This means there shall be no transfer of funds if the company representatives are absent. We are talking about the one-percent royalty that must go to the community and the company and the MGB set up a foundation to control it. And this was what is contained in the 80-page agreement done by the largest law firm in the Philippines that counts more than 300 lawyers.

As an aside, we sued the law firm and when we went to its address indicated in the letterhead of the company's communications we did not find its office. What we found was a parking lot. So even this makes the whole thing irregular. The fake address was meant to make it hard for our lawyers and for the courts to send summons, thus helping delay the whole process. As a result, the communities involved eventually get frustrated. As they get frustrated, the concerned communities give up on the legal struggle, to the delight of the company, which will now have no legal impediments for its operation until and unless some members of the community get killed.

Despite all, we now know that part of the options is looking at the agreements given to us.

LGU Consent and Community Consent. The local government unit consent by the way is different from the community consent. The community that owns the property, especially if it happens to be an indigenous group, must also give its consent. Even if the government allows the use of a land, the indigenous community must also give its consent because it owns the land. So this is where indigenous peoples must first give their “free, prior and informed consent” before anything else. The only problem here is some possible shortcuts of the process, which can happen within the National Commission on Indigenous Peoples. Hopefully, this new process is better than the old one. But in any case, what we are worrying about (under-the-table deals and shortcuts) can happen.

Framework for alternative legislation

Now let us try to look into the framework upon which we can build and propose an alternative legislation or policy on mining. Let us not look only into the industry’s production side. Let us also look into the consumption side. But before we go into that we must bear in mind that the very heart of any proposed alternative law is that there must be some kind of a moratorium – a moratorium on exploration and on new operations. It’s not possible that we campaign purely for repeal of the 1995 Philippine Mining Act. So “scrap” is a more precise call than “repeal.” Why?

In “repeal”, we have to bring back 279 and 211. Or we have to bring back Presidential Decree 463, which is much worse. So “scrap” is better as a political call. If we propose a bill, which calls for repeal, that must be a conservative one because we are bringing it back to older laws. This is more difficult.

Moratorium. When we do file a bill to try to remove Republic Acts 7942 and 7076 as well as the vestiges of PD 463, the bill must be substantial enough. Therefore, it can be in the form of a moratorium. In the moratorium, we can talk about how long it will last. In a dialogue we had in Davao, participants wanted 100 years. But that might be too long because we might be misconstrued as totally against mining. In any case, these are the considerations – 50, 25, 100 years or conditioned on say, “there can be mining if it ensures the country’s nationalist industrialization” or something to this effect. So that’s the heart of our call. In fact, our call is not to have another mining law but to stop all these big mining. The grey area here is what happens to existing mines. Thus, the need for some provisions on what to do with existing mines if we are to propose an alternative law.

So we have to deal with how to cancel mining claims. Cancellation of mining claims is not based only on technical grounds. Who are in the Mines Adjudicatory Board, where we file our cancellation? Number one is DENR Secretary Heherson Alvarez, the other is Ramos, and Monpaje (undersecretary for operations). Who is the NGO representative among the three? Nobody is. If we examine the Mines Adjudicatory Board, we can see that its bases for canceling mining operations are very technical. One, either the company had no operations; two, the company erred in its operations; and three, no capacity in its operations.

All of the Board’s bases for canceling a mining claim are technical. You cannot cancel a mining claim because it has killed an individual. The Mining Act looks only at the technical and ecological aspects. It does not look at the social and cultural impact. They will say your community no longer exists because when mining came in you were divided into two identities – pro and anti. The pro sets up an organization and the anti does the same.

So we are left with another option — explore other reasons, be it social, ecological, cultural and political, in canceling a mining claim. On political reasons, bribery can be a strong case. Once proven, bribery can be a ground for cancellation. And this includes depositing money with a tribal council, even if with no conditions, without the consent of the council. That's plain and simple bribery, which can sow conflict. That is with respect to moratorium and cancellation of former mining claims.

Reuse and Recycle Policy. But we have to address in public forums what the mining companies are saying — if it is not planted, it should be mined. My pen, watch, cellular phones, and other amenities are all mined. They argue: “If we ban mining where will we get these amenities...” But the truth is all these stuff are imported. And they were manufactured in such a way that you throw them away after using them. These items — from pens and computers to cars — were not made so that they could be recycled.

If we look at poorer communities, they have a way of reusing and recycling the products they use. This is not the case with the rich. They buy and throw away things. In this country, we don't have a credible “recycle-reuse metals program.” Does the burden rest solely on our shoulders? This must be well considered because each time the demand for metals rises, so does the demand for mining. So we have to address this.

Aside from the industrialization process, we have to address the fact that a lot of the consumption of metals comes from the rich, not only from the rich countries but also from the rich families in our country. So our campaign against big mining must include them. And they must commit to a national re-use, recycle metals policy. This is to lessen the demand for metals.

Small and Big Miners. Where do metals come from? They can come from two groups — from small-scale miners and from the medium to large-scale miners. The small-scale miners can also be further categorized into traditional small-scale miners and the gold-rush type of small-scale miners such as those found in Mt. Diwalwal in Monkayo, Davao. If there is production, the industry's bias should not be towards larger corporations. The claim priority should be given to smaller-scale miners.

But who has the greater priority in the new Philippine Mining Act? The Act's priority policy is first-come first-serve. Preference is also given to those with larger capital. This is why government did a separate Mining Act for small-scale miners, which was given to the province. This is because the proponents of the new Mining Act knew that the real control maps are within the DENR's Mines and Geo-sciences Bureau. So if they give these to the province, they might give these all to the small-scale miners. This explains the violent conflicts between small-scale miners and the big corporations over Mineral Production Sharing Agreement (MPSA) areas such as those between small-scale miners and South-east Minerals (also known as Marcopper). Thus the need to prioritize in terms of size.

Land Use. The use of the land must also determine prioritization. It must be clear that first priority goes to ancestral, agrarian and low-impact project before mining. But ironically, the case now is the opposite. Whenever there is a mining claim, the so-called De la Rosa doctrine applies. Under this doctrine, a farm with gold and other minerals beneath can be mined and the farm owner gets paid for damages done on his farm's topsoil. This policy should be turned upside down — the surface must be more important than the underground. Where did this doctrine come from? It came from an obscure American colonial law known as the Philippine Organic Act of 1902. This law reflected the gold-rush mentality of the Americans who cared only about the gold and other minerals underground.

A genuine Mining Act must also recognize that there are also metals that are useless. Gold in a certain amount is useless. We don't eat gold, for instance. Gold is mainly for ornamentation. Perhaps, we can produce just enough to make wedding rings. So in our proposed legislation, there must be a clear distinction between useless and useful metals. Useful metals must be Filipino-owned, and there must also be a provision for transfer of ownership from the mining companies. If foreign companies are allowed to operate, they should transfer ownership. The capital that controls mining operation should not be elite local capital. There must a mechanism under which local capital can devolve into the communities involved. This is premised on the theory that the community will own the land later and community members will stay there forever.

Let us also do away with the meridional block "square-square" system. Let us look at land integrated with everything – no more meridional block and no more first-come-first serve policy. Why? The first-come-first serve policy applies to capitalists going to a gold-rush area. If we look at the qualifications on the consent and ecological controls, gold-rush capitalists cannot qualify. These are part of the alternatives that we can weigh and consider.

We must also consider that every mining operation affects water catchment basins and water resources. We have to draw a very clear relationship between mining, energy and water. This challenges the current conventional view that sees only the relationship between mining and land. So we have to clarify these because here in the Cordillera, for example, some tribes have fought over water.

Now I want to end with a few things. First, let us forget about "sustainable development" and call "development" development and let's fight for that label. When we say development, it means "our development." When we say "sustainable development", that is possibly for those who want to control it because even the big mining corporations talk about "sustainable mining." So let's call "mining" mining, and "development" development. Enough of the other labels. Then we are able to say that our agenda is very pure and simple. It's not just development that has ecological and equity considerations but all of the necessary elements – control, empowerment, equity, ecology, etc.

Finally, national campaigns have been set up for a lot of issues. But usually these all boil down to the local groups — the small coalitions — that will actually do their part, including individuals that will do their part. So if we are to go for a nationally coordinated campaign, I am opposed to it. I believe that each one or each group must contribute to the campaign – just like what is happening now. But we must find a way of updating each other on what each one is doing, so there must be some exchange forums of sorts. This is so that we won't be tied up to debating over small details because we expect differences over the discussion on the Mining Act, for example. What is more important right now is to convince many others. We may yet have to convince the wives of senators, judges, youth, and many others. And I think the more portable mechanism to do a campaign is to do it locally. Locally can mean Baguio City with its own particular campaign, etc. And we have to coordinate on this very tactical issue of mining, which has a lot of impact in terms of our development.

That being said, let me end again by saying that the law is not yours, but you can use it and when you use it you have to be very aware that it's not automatic. Because it's not yours, the law is a very dangerous weapon. Like a razor-sharp machete without a handle, the law can hurt you so we must be clear on the law's consequences.□

Postscript. During a brief open forum after Marvic Leonen's talk, Maria Theresa Concepcion of AGHAM shared the following comments. After being invited to an October 2001 forum among the country's geologists and mining engineers, AGHAM's Concepcion found that the corporate mining industry was really desperate about how to "soften" the growing community opposition to mining. In fact, the industry has started to "court" communities to rethink their position of resistance to mining. There's also a group within the mining industry that is seriously studying the nitty-gritty of various laws related to mining. And this same group is exploring mechanisms on how to wrestle with the various levels of opposition to mining. Although the industry is down and desperate, it has the money and power to finance special groups that can help manage the industry's crisis. These groups within the industry are tasked to explore ways and means to court communities and soften their resistance. This, according to Concepcion, must further bolster the campaign at the grassroots.

GLOBAL MINING INITIATIVE AND MINING MINERALS SUSTAINABLE DEVELOPMENT PROJECT

Excerpts from a talk by Geoff Nettleton
Philippine Indigenous Peoples Links (PIPLinks)
London, U.K.

A Philippine Daily Inquirer article late last year pointed out how the mining industry, which suffered a slump in the last 20 years, is now reaping “windfall profits” from the United States’ war against terrorism as global demand for metals used to build bombs and ammunition grows. The article goes on to say how metal prices have risen after September 11, 2001 and particularly, how copper can benefit from the development of munitions and armaments. That’s the kind of industry and the kind of international aspect that I want to stress.

It’s nice to appreciate that you had discussed methods and approaches on how you could link up with each and how you would campaign. But there was quite less talk on how you would interact internationally with these things. To be honest, the Philippine government is not the primary target in these things. The real enemy is transnational capital. When companies make decisions on how they go about their business in your communities, they don’t make them here in Manila or in Baguio. They make them in London, Melbourne, or in Denver. They don’t even make their decisions with the governments in the United States or in the Philippines because we are talking about how transnational corporations make decisions in a globalized economy.

So whatever your weapons in the war against transnational corporations, which come to your homeland and home communities to disrupt your community lives — what will you do to protect your homeland? And what will you do in relation to the transnational corporations’ home base? During World War II, one crucial factor why the industrial base of the United States was never threatened, never bombed or attacked — they just kept on producing and producing so they could win the war. And this helped them become the world’s dominant world power after the war because the European and Japanese economies were destroyed, your economy was destroyed while the United States economy remained intact.

The point is you had to have contacts and allies in their (TNCs) base so you could disrupt their base. I’m not talking about bombing their base. But whatever your weapon, which can be a piece of paper or pen or whatever it is, make no mistake, it is a war. So you have to analyze who your friends and enemies are and where and how to find your friends overseas. This is where I can come in – to help find alliances and people overseas who share your aspirations, and who can help you in various degrees.

But let me go into the meat of what I will discuss today. The mining industry is now in crisis and has a serious problem. The industry’s problem is you (anti-mining TNC advocates). You have become a huge problem to the industry because the capacity of communities who resist the industry has significantly increased in the 1990s. Bougainville, for example, has shown how effective was the way of armed struggle. In some cases, some community folk resorted to civil disobedience and resistance and sometimes through the courts.

Increasingly, the industry now fears community folk bringing in their cases to the courts. A number of cases around the world have put the mining industry on the defensive as communities filed complaints against companies' gross violation of peoples' human and environmental rights. And one recent development is that communities are now bringing their cases against transnational corporations in their home countries. The people of Bougainville, for example, brought into US courts their case against Rio Tinto for causing the war that left 15,000 people killed and more to die in the blockade that followed.

Another case: the people of Guyana (formerly British Guiana) tried to bring their case in the Canadian courts when a Canadian mining company spilled cyanide into their river, from which they drink, fish and irrigate their fields. Workers of Rio Tinto in Namibia also brought their cases to the British courts because they caught cancer from working in the mine. The Namibia workers sought compensation for the damage done on their health. Most often the courts favor the companies but the courts cannot always simply play blind to the gravity of injustice done to ordinary community folk. And there is a growing pattern of laws, which stresses that companies must be held accountable somewhere.

The massive global movement for indigenous peoples' rights is another threat for the global mining industry. This is significant because current and future mining explorations and operations worldwide are in indigenous peoples' lands. This is not just true in the Philippines, Indonesia and other Asian countries but also in the home countries of mining transnational companies such as Australia, the US, and Canada.

All of this means that if you are an investor it is not as attractive to invest as it used to be in the mining industry. And one of the greatest growth areas in investments is "ethical investment." We like to make money and so we invest in some company but we don't like to go home and look at our kids in the eye and we feel guilty. So we rank companies according to their ethics. The bottom of the list is the arms industry, and we don't like to invest in an industry, which produces arms that kill people in war.

After the arms industry, the lowest rank in ethical investment is the mining industry. So people, who have a sense of morality, don't invest in mining because of mining companies' notorious records. The Marcopper-Placer Dome's 1996 mining tailings' disaster in Marinduque, Philippines is not an isolated case. These cases are common. Similar mining disasters happen each year in various countries. They happen in Europe, too.

Also if you want to invest, you want to get your money back quickly. But if you invest in a mining company and there are communities protesting and delaying that would be bad news for investors. And the more you resist and delay the companies' operation, the better for your community. The operation of Western Mining Corporation (WMC) in Cotabato, for example, has been delayed, and the more delays means more money lost. So if you are an investor, you might as well invest in an Internet company or in a toothbrush company.

Transnational mining companies are thus having a hard time and are saying they are "*kawawa*" (pitiful). So they are looking for help. But, powerful as they are, they have big friends. They have been able to get help from financial institutions such as the World Bank. Over the 1990s the World Bank had strong policies that sought to liberalize mining laws all around the world to make the industry more attractive to foreign companies and to enable them to gain easier access to new areas of operation. Of course, the best example is the 1995 Philippine Mining Act, which is just one of the mining laws and policies the World Bank influenced in 80 countries. Whatever their political structure, these 80 countries, which included Vietnam, Laos, Indonesia, Papua New Guinea, among others, had to change their

laws and policies according to the dictates of the World Bank.

The World Bank itself has invested in the mining sector almost US\$6 billion from 1995 to 1999. This money was supposed to go to projects to change the mining policies of governments. But this project actually cost practically nothing for the World Bank, which simply used its influence to get what it wanted. In the case of the Philippines, not only the World Bank but also a series of agencies such as the UNDP and the Asian Development Bank all contributed to changing the country's mining policy. Some people at the Philippine Department of Environment and Natural Resources went to London to learn how to revise the laws. Some people from Canada were also sent here to teach how to revise the laws. And the Philippine government in 1993 went into the extent of calling for a workshop in the Asia Mining Congress, an industry meeting where a representative of the Western Mining Corporation spoke on behalf of the Philippine government. The WMC representative invited mining companies to come along and contribute to changing the law.

The World Bank also pushed for countries to privatize and deregulate their mining industry. In virtually all countries now their mining industries, under the direction of the Bank, have been denationalized or privatized.

Industry responses

One of the responses that the industry has done to keep itself going is that companies are eating each other. There is a great takeover process in the mining industry. Some companies had bought parts of other companies and this happened to WMC. BHP, which has figured in Mindanao and in Luzon's Aurora Province, has combined with another giant company, making the merger one of the world's biggest companies. This trend has begun to happen only in the last three years. Each year a company merges with another company and the bigger companies get to swallow the smaller ones. The smaller companies have been squeezed out because of the lack of profit and opportunities in the industry now.

Global Mining Initiative

Another problem of the industry is how to regain its credibility or what the industry calls its "social license to operate." This is where the Global Mining Initiative (GMI) comes in.

The GMI was set up by a group of companies that include Rio Tinto, Placer Dome, WMC, Anglo-American (now a partner of Philex operating in Surigao and in Benguet), BHP Billiton, Newmont, Phelps Dodge, Noranda and Codelco. Except for the last two, these companies are all actively positioning or have positioned themselves in the Philippines.

Mainly to help improve the "image" of the mining industry, the GMI has three components:

1. The Mines Minerals and Sustainable Development Project
2. A global conference: Resourcing the Future
3. The formation in September 2001 and promotion of the International Council of Metals and Minerals

Mines Minerals and Sustainable Development or MSSD.

The "cornerstone" of GMI, the Mines Minerals and Sustainable Development Project (MSSD) seeks to identify the "contribution that mining can make to sustainable development as well as identify some of the problems that come along the way." The MSSD states it will do this by gathering opinions, commissioning and conducting research, identifying

and initiating points of dialogue.

To give some semblance of credibility to the MSSD, the GMI proponents invited the World Business Council for Sustainable Development (WBCSD) to carry the project forward and to draw in non-industry participation in the form of inter-governmental organizations, national governments and conservation groups. It is thus no surprise that among the MSSD sponsors are the World Bank, UN agencies, national governments and NGOs alongside industry players. The council, in turn, commissioned a London-based NGO, the International Institute for Environment and Development, to map out a new approach to the challenges facing the industry.

Sponsors Group of the MSSD

- Chilean Copper Commission
- Colorado School of Mines
- Conservation International
- Department for International Development, UK Government
- Global Reporting Initiative
- Government of Australia
- Government of Canada
- ICEM (International Chemical Engineering and Mineworkers Union)
- International Union for Conservation of Nature (IUCN) – The World Conservation Union
- Mackay School of Mines
- PriceWaterhouse Coopers
- Rockefeller Foundation
- United Nations Environment Program
- World Bank

But critics view the MSSD with deep skepticism and as one-sided and industry-controlled. The World Business Council for Sustainable Development is also clearly partial. Industrialists established the WBCSD as a sectoral organization to represent their concerns and to replace the more critical and independent UN Center on Transnational Corporations with an industry-controlled body. Some of the founding members and key office holders of the WBCSD were themselves miners, and the companies involved in MSSD are prominent members of the organization with significant influence over it. Therefore the representation of the WBCSD as, in any sense, a neutral party or an “honest broker” is laughable.

The mining industry, again without consulting any other party, wants to operate MSSD exclusively through the International Institute for Environment and Development (IIED). The IIED has no past track record or experience on mining issues and does not therefore enjoy any credibility in this field. IIED perversely has even claimed this as a positive reason for choosing it, arguing once again that it can act as an honest, if somewhat ill-informed, broker.

Critics and many community groups have condemned and boycotted the MSSD. But as expected, the World Bank, the United Nations Environmental Programme (UNEP) and some governments uncritically embraced the MSSD project as a multi-stakeholder dialogue.

The MSSD project has a \$5 million budget for two years, the bulk of which has come from a Sponsors Group. Originally made up of mining company executives, the Sponsors Group has been expanded. *(Please see table in preceding page.)*

The MSSD project had targeted to draft a report on the future of the mining industry by December 2001 and come up with a final report by March 2002. This would enable it to present its findings to a global conference planned as the second pillar of the GMI, which would take place in Toronto in May 2002. Results of the Toronto conference would be fed to the WSSD in Johannesburg in September 2002. □

** A more detailed critique about the GMI by Geoff Nettleton can be found in the Indigenous Perspectives: A Journal of the Tebtebba Foundation (Vol. 5, No. 1, June 2002). But to summarize, the whole purpose of the GMI is to isolate communities resisting mining by TNCs by depriving communities of international links. It is also clear that governments do not set policies on the mining industry. The transnational corporations do. And they are well backed by global financing institutions led by the World Bank, which has a strong influence over many debtor-countries.*

CHALLENGING THE MINING INDUSTRY'S OFFENSIVE IN THE WTO, UN, MFIs AND WSSD

Excerpts from a talk by Victoria Tauli-Corpuz
Executive Director, Tebtebba Foundation
Baguio City, Philippines

As Geoff (Nettleton) had just said (in discussion on GMI), the bulk of the problem on mining by TNCs is found overseas. This is because the headquarters of the big players involved in TNC mining such as the World Bank, International Monetary Fund (IMF) and the World Trade Organization (WTO) are found overseas. This is the same with regional financing institutions, like the Asian Development Bank (ADB) and the Inter-American Development Bank (IADB), which also support transnational mining.

It is thus important to understand how these global financing institutions work to see how we can respond accordingly.

The World Bank has various institutions that support mining TNCs. These are the International Bank for Reconstruction and Development (IBRD), International Development Agency (IDA), International Financial Corporation (IFC), Multilateral Investment Guarantee Agency (MIGA) and the International Center to Settle Disputes (ICSD). The IDA and IFC, for example, give out low-interest loans and even subsidies to mining companies in dire financial straits. The MIGA, on the other hand, provides insurance to mining companies, while the ICSD takes charge of settling court cases and other disputes involving mining companies.

The International Monetary Fund, regional multilateral banks such as the ADB and IADB, and the Export Credit Agency (ECA) also help bail out financially distressed mining companies. The ECA, for example, in particular provides insurance guarantees through subsidies and security and legislative guarantees.

From 1995-1999, global financing institutions extended the following to mining TNCs:

World Bank	- US\$5,950 million
IBRD	- US\$ 946 million
ADB	- US\$ 2,025 million
IADB	- US\$ 1,073 million
ECA (mainly oil exploration)	- US\$40,500 million

Attached to the loans the World Bank and the IMF extend to debtor-countries are conditionalities or structural adjustment policies, which include liberalization, privatization and deregulation. A classic example of a liberalization and deregulation policy is the Philippine Mining Act of 1995.

The World Trade Organization sustained the structural adjustment policies of the World Bank and the IMF. The WTO, for example, has what it calls the Trade Related Investment Measures (TRIMS), which ensures that all deregulation controls must be abol-

ished not only to pave the way for foreign investments but also to ensure returns on investments. With TRIMS, the Philippines' constitutional guarantee of 60-40 equity (which the country's Investment Act also provides) in favor of Filipino companies has been rendered useless. The TRIMS has also wiped out other guarantees such as that which provides that a manufacturer must use local raw materials for its products. With TRIMS, a foreign company can thus manufacture vehicles in the Philippines without using local raw materials. A country that imposes on a company the use of local materials can be held liable for violating the TRIMS and sued before the WTO.

How does the WTO differ from the World Bank and the IMF? The WB and the IMF impose conditionalities on a country if it has loans from these financing institutions. The WTO is something else. Once it signs in as a member of the WTO, a country becomes beholden to the powerful global body. And a member-country must accept the whole package, with TRIMS, TRIPS (Trade Related Intellectual Property Rights), and other agreements. If it does otherwise, a country can be sued before the WTO's dispute settlement court. Indonesia, for example, was sued before the dispute settlement court because it asserted its rights to use local raw materials for a national car the country was developing. The WTO can also impose "cross-retaliation measures" such as imposing high tariffs on a country's export products. A country can't do anything but surrender and give in to the WTO. With few lawyers, or even none at all, specializing in the policies of the WTO, a complaining country can opt to hire a lawyer from the United States. But the cost of hiring lawyers from the US and other developed countries is too prohibitive for a poor Third World country to afford.

The WTO is now powerful enough, but the big players want another round of talks to further strengthen their grip and power over other countries through other agreements. One agreement in the works is an investment agreement, which will allow a foreign company to invest in any kind of business venture in a country – from schools and hospitals to banking and mining and others. Under this proposed agreement, a foreign investor is protected and exempted from expropriation. In a case, for example, where a new revolutionary government takes over a country and expropriates all private companies, that country must pay the WTO.

Many countries have protested and continue to protest against the investment agreement. Another controversial feature is the government procurement provision. This provides that foreign investors can come in to bid for government contracts such as roads and other infrastructure projects.

So what do we do now? And what are activists doing? The campaign for debt cancellation continues. But we also have what environmental activists call the ecological debt. Because it was the colonizers who destroyed and wantonly exploited the Third World's natural resources, then they are the ones who owe the people of the Third World. The loans extended by the World Bank are just a pittance compared to the resources that enriched and empowered the industrialized world. A global network, the Ecological Debt Alliance, is now working to prod the industrialized world to pay its ecological debt to the Third World.

The other campaign is for the phase out of funding for mining, oil and gas exploration. The campaign's rationale is that we have more than enough oil and gas and more than enough minerals, but companies continue to explore and extract these. Ninety percent of gold mined, for example, goes to jewelry. The irony is that tons and tons of earth have to be turned upside down just to produce an ounce of gold. So you can imagine the trade-off in

terms of environmental destruction alone. This campaign especially stresses mining operations in protected areas, indigenous peoples' communities and other ecologically delicate and threatened areas.

Another campaign is at the WTO level – to pull out our membership in the WTO because it is not doing us any good. The Philippines' major tuna export, for example, has come under threat because of a Europe-Africa agreement to give special preference to African tuna. Not only the Philippines, but Thailand, has been adversely affected by this European-African deal.

Meanwhile, as a result of the global campaign against mining, the World Bank is currently reviewing its policies to determine whether it needs to extend or not funding for the extractive industries, such as mining and oil and gas exploration. Because we saw that the WB is doing something similar to the MMSD, we (Tebtebba Foundation) suggested that as part of the review we would do case studies on extractive industries in indigenous peoples' communities. After a long negotiation, the World Bank agreed.

We will do case studies in seven countries, which will cover mining and oil exploration, and will include the role of the World Bank in the liberalization of mining laws. From these, we will push for recommendations from community folk. These case studies can show that extractive industries don't help or benefit us at all. In fact, an initial report showed that the countries that pin their economic hope on mining and oil exploration are among the world's poorest. This illustrates what they call the "paradox of plenty", which means a country may be rich in mineral and other resources but remain poor simply because the control over the industries that extract a country's natural wealth and resources is not in the peoples' hands. It is in the hands of the World Bank, the transnational corporations, and the industrialized countries. Unless we are freed from the control of these big players, conflict and poverty remain a fact of life in communities affected by mining and oil exploration.□

Building on the First International Mining Conference in Manila

Excerpts from a talk by Lutgardo Jurcales, Bayan
Over-all coordinator, 1998 International Mining Conference

The first International Mining Conference held in Manila in November 1998 brought an international perspective on the issue of mining. It was a significant follow-up to a 1996 national conference on mining held in Baguio City, Philippines.

For the first time, the 1998 international conference brought into the fore a concrete example of imperialist globalization. The conference culminated in a protest caravan that drove into Subic in Central Luzon, the venue of a conference of members of the Asia Pacific Economic Cooperation (Apec), the acknowledged structure for imperialist globalization in the ASEAN region.

At that time in the Philippines, many communities had awakened to the clear, present, and future danger of corporate mining because of the infamous Marcopper-Placer Dome's mining tailings spill that killed Marinduque island's Boac River. It was time to consolidate the various levels of grassroots campaigns spurred by the Marcopper-Placer Dome 1996 ecological disaster.

Marcopper-Placer Dome's disaster in Marinduque likewise brought concrete bases of fears of the possible impacts of the Philippine Mining Act of 1995, which liberalized the country's mining industry. The mining contract applications by mining TNCs, which have taken advantage of the country's liberalized mining industry, cover almost the entire country.

Similarly, the Philippines, it turned out, was among 70 to 80 countries, which, upon the prodding of the IMF and World Bank, liberalized or were in the process of liberalizing their mining industries. This fact all the more showed the participants of the international mining conference how imperialist globalization worked.

Hosted by the *Bagong Alyansang Makabayan* (Bayan, New Patriotic Federation), the conference was attended by representatives from 26 countries. The conference thus became a rare opportunity for each of the delegates to learn from each other's particular rich experiences in the campaign against big mining. Filipino delegates, for example, learned a lot from the campaigns and struggles of the Indians in Brazil, the West Papuans at the Freeport McMoran mines, the people of Sierra Leone, and other indigenous peoples, who included women folk, around the globe.

Filipino delegates also got the chance to network and link up with anti-TNC mining networks such as Partizans, Project Underground, Mining Policy Institute, Minewatch, and others. All these networks and the communities in other countries, which had shown how they were fighting the mining giants, boosted the morale of similarly situated community folk in the Philippines.

In sum, the 1998 Manila international conference recognized the global monopoly in mining by TNCs and how multilateral agencies such as the IMF and the World Bank had helped strengthen and continue to strengthen the global control of TNCs over the mining industries of various countries worldwide. The conference participants thus were able to see that the IMF, World Bank, and other global financial institutions were all one in promot-

ing the dogma of globalization.

As they aggressively expanded their spheres of influence, mining TNCs directly attacked indigenous peoples' rights to self-determination and countries' rights to sovereignty and national patrimony. They also attacked the human and democratic rights of peoples. But governments, which had connived with these TNCs, were also equally responsible and accountable for the various sins of TNCs.

The international conference likewise recognized the need to link up the struggle against mining TNCs with the over-all struggles for national liberation in various countries. And any legal action and other forms of parliamentary struggles must complement grassroots movements, which, in turn, must be linked with other anti-mining TNC movements and solidarity groups around the world.

The 1998 international mining conference was indeed a significant step in the global campaign against mining TNCs.□

Mining in the Context of Globalization and Worldwide Economic and Political Crises

Excerpts from a talk by Antonio Tujan, IBON Foundation
Manila, Philippines

It is important to understand the global issue of mining by TNCs. For one, we can appreciate how our government has become captive to the dictates of TNCs and their financiers such as the IMF and the World Bank. A few years ago, we thought the Philippines was the first country ever to have liberalized its mining industry through the Philippine Mining Act of 1995. We even sort of boasted about this disclosure during one international conference in Canada. But at that time we were surprised that the Philippines was just among some 70 or so countries, which liberalized or were in the process of liberalizing their mining industries.

Let us try to understand how and why the TNC-controlled mining industry continues to reap super profits and why it continues production despite a reported crisis in the industry. But it cannot be denied that the global export of minerals has been on a downtrend since 1995. The total global export of minerals was US\$19.7 billion in 1995; US\$19.4 billion in 1996; US\$19.6 billion in 1997; US\$17.1 billion in 1998; and US\$16.7 billion in 1999.

The total global import of minerals likewise has declined since 1995. Total global import of minerals was US\$22.1 billion in 1995; US\$21.6 billion in 1996; US\$21.6 billion in 1997; US\$19.1 billion in 1998; and US\$18.9 billion in 1999.

For the Philippines, one irony is that despite our mineral production we have remained the fourth largest ore importer in Asia. In terms of mineral production, the Philippines ranked 25 among the world's biggest producers of copper; number 12, nickel; and number 32, silver.

What was the effect of the crisis in the mining industry? Production increased all right, but metal prices dipped to all-time lows in the 1990s. The World Bank daringly forecasted in 1993 that the mining industry would soon recover from the doldrums. In 1996 the price of ores further declined. The crisis persisted until a recession in 1998 forced many mining companies to shut down. Result: the amount of unsold stocks in the industry increased. Stocks in the industry comprise 30 percent of the total global stocks.

But even if stocks in the mining industry were hard to sell, why did mining TNCs continue to survive? The United Nations and financial institutions such as the World Bank helped bail out the industry from going bankrupt.

For its part, the mining industry embarked on the use of more mechanized mining methods to do away with costlier labor-intensive mining. Amid community folk's protests, many mining companies employed open-pit mining, which uses bulldozers and other heavy equipment to extract ore.

To further bail out the ailing mining industry, the proponents of globalization imposed the liberalization of the industry by pushing for laws such as the 1995 Philippine Mining Act. Through the new Philippine Mining Act, for instance, TNCs are assured of tax breaks, full repatriation of profits, and other incentives such as timber rights, water rights, and easement rights (the right to eject villagers from areas covered by mining claims). Lured by the liberalized industry, many foreign mining investors rushed to the country to apply for con-

cessions.

In the works also is the undying move by some politicians to amend the Constitution, which safeguards Filipino investors through the 60-40 equity provision in favor of local investors.

With the liberalization of mining in 70 or so countries, the mining industry became the second biggest source of investments worldwide in 1995. And for financial speculation, mergers and integration also became the name of the game for many TNCs. The bigger corporations swallowed the smaller ones for better leverage and further monopoly.

Then came the September 11, 2001 attack on the US. The attack came at a time when war would help bail out the mining industry from another global recession. With the global war on terrorism as an appropriate pretext, the mining industry can now spring back to life as metals, such as gold, become in demand again.

Now the Philippines is involved in the US “global war on terrorism” through what is called the Balikatan joint Filipino-American war games in Mindanao in southern Philippines. Behind all these war games is the need to ensure “peace and stability” in Mindanao in order to restore “investor confidence” because Mindanao remains a foreign investors’ paradise. Part of the “peace and stability” effort is the peace talks with Nur Misuari, which also aim to restore investor confidence. For her part, President Gloria Macapagal-Arroyo has something to gain from being the spokesperson of America’s generals. She is ensured of Uncle Sam’s support if she runs for president in 2004 and her armed forces will be ensured of military armaments.

Given all these information, I hope we can appreciate more how we can integrate our national campaign against mining by TNCs with the similar campaigns of other peoples and communities in the international front.□

An Alternative: Mining Policy for Genuine National Industrialization

By Engr. Catalino Corpuz, Jr.

If there has to be an alternative policy on mining, it should be one that is geared towards solving the country's economic problems and strengthening our country as a nation. But the reality is that our economy continues to be sick without any recovery in sight. No amount of drumbeating on the positive growth rate in terms of GDP can hide the fact that problems persist and are worsening.

The combined unemployment and underemployment rate increased from 19.4% in 1999 to 33.9% in 2000. More people lost their jobs in 2001 (65,518) than in 2000 (64,613) as more establishments closed down. Some 2,294 firms ceased operations last year, which is 19% more than the reported closure the previous year. Direct investment fell more than 50% from P84.7 billion in 2000 to P39.2 billion in 2001. There are few new jobs that can be offered to the labor force entering the labor pool yearly. In 2000 four out of ten Filipinos were considered poor.

External debt continues to grow from \$40.1 billion in 1996 to \$52.4 billion in 2001. And the debt service ratio in relation to the total budget increased from 20.6% in 2000 to 26.16% in 2002. The budget deficit in 2000 was almost the same as the debt service in the same year. Budget deficits are being met by the imposition of new taxes. The debt service is so huge that if debts are repudiated, the amount could be used to prime up the economy.

While there have been no significant wage increases both in the private and public sectors, the peso continued to shrink. The peso in 1994 was only worth P.609 in 2001.

Lacking in job opportunities, coupled with depressed wages and the shrinking peso, many Filipinos opt to go out of the country to find jobs. There were 866,590 deployed as Overseas Filipino Workers in 2001, up 3% from the previous year. A total of 9 to 11 million Filipinos are now working abroad.

The country does not have food security as we continue to import rice, our staple food. In 2001, we imported 781,000 metric tons of rice, and for the year 2002, it is initially estimated that we need to import 500,000 metric tons of this staple.

It is within this concrete situation that we propose an alternative policy on mining.

Government Policy on Mining

The above situation can never be resolved by the country's general economic orientation that is based mainly on the export of agricultural and extractive raw materials; the import of finished goods, agricultural commodities and capital; and the re-export of reassembled or repackaged manufactured goods.

When the Philippine government passed the Mining Act of 1995, it further opened up our mineral resources for exploitation by transnational mining corporations. The Mining Act clearly favors foreign interests which have control of both capital and technology.

Through the Mining Act, the government reaffirmed the economic orientation that views our country as a mere resource base, export-oriented and import-dependent under the global domination scheme of imperialist countries. Under this orientation our economy is directed mainly towards the fast extraction of mineral resources which undergo semi-

processing prior to their export for the international market.

Through the Mining Act, the Philippine government tied up our local mining industry to the globalization of the mining industry. Globalization of the industry has meant the opening up of the world's mineral resources to unrestricted exploitation by transnational mining corporations. The operation of a mining company in a particular country is but part of the overall global production planning by its host or mother company. Due to the intense competition among them, transnational mining corporations tend to acquire as much mineral lands as they can in different countries to assure the long-term life of their operation and to maintain their lead in the global mining industry.

What we are against is our government's policies of liberalization, privatization and deregulation of the mining industry which virtually mean a sell-out of the country's sovereignty and patrimony to imperialist countries. What we protest against is the wanton exploitation by imperialist countries of the mineral resources of developing countries at the grave expense of the whole population, in general, and the indigenous peoples, in particular. We are also against the gross environmental destruction caused by large scale and mechanized mining operations, clothed as best technology, which virtually destroy the lands, forests, rivers and oceans.

It is not merely that the Filipino people reject and repudiate the Philippine Mining Act of 1995. The provisions of the law are spurious and oppressive, immoral and anti-people. Its full operationalization spells doom for the Filipino people as it destroys the country's capability to industrialize in the future.

Proposed Alternative Mining Policy

The present pro-imperialist policy on mining should be replaced by a new policy that is guided by a framework that supports the Filipino people's 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.

This policy should be guided by the principles of social justice and equity, sustainable development, and recognition of the rights of the people, such as the tillers' right to own the lands they till, respect for indigenous peoples' rights, and gender sensitivity.

Genuine national industrialization means that the means of production needed for strategic industries are in the hands of the Filipino people. It also means the development of industries not only for mineral extraction, but also industries that will process mineral ores, industries that will manufacture machines, and industries that will manufacture finished products. It also means using and further developing science and technology that are appropriate to Filipino conditions, environmentally sustainable and ethical.

Genuine agrarian reform means "land to the tiller", the practice of sustainable agriculture, and ensuring that control over the infrastructure and productive means of agriculture - such as irrigation systems, tools, machinery, seeds, environmentally friendly agricultural inputs - lies in the hands of the Filipinos. Food security is a key goal both for agriculture and industry.

Genuine national industrialization aims to break the pattern of imbalance created by an export-oriented and import-dependent economy. It aims to produce and provide the people's basic needs for food, shelter and clothing. It also means the building of factories and firms which produce, first and foremost, the basic needs of the people and provide them jobs. Industrialization should not move far ahead of agricultural development, thereby

creating conflicts and imbalances. The adverse impacts of industrialization on the environment should be controlled and mitigated.

But before there can be any promulgation of a new policy on mining, the State should first recognize the people's right to own land. In order to advance genuine agrarian reform, land should first be distributed to the poor peasants to get their full participation in nation building.

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. They should be involved in designing the form that genuine industrialization and genuine agrarian reform should take. The use and access to their ancestral lands for mining can be done only with their full and prior informed consent. The knowledge of the indigenous peoples in mining should be recognized and used, again with their full prior informed consent.

The above points can provide the framework for a new mining policy; the general principles can be summarized as follows:

1. Basic principle

We would like to see a new mining policy which is concerned about the conservation and sustainable utilization of the country's mineral resources. The country should not be used just as a resource base of foreign corporations to exploit our primary products. Our mineral wealth should first of all be used for the interests of the Filipino people and be a basis of our industrialization.

If we trade our mineral products, it should be trade that will mutually benefit us and our trading partners. Unequal trading arrangements, which are results of colonization and the recolonization that is facilitated through international and regional treaty arrangements, should be rectified.

This further means:

- a. The export-orientation and import-dependence of our present economy should be changed instead to meet, primarily, the needs of the Filipinos, and not just to compete and satisfy the demands of the international market. We are a small country in comparison with other mineral-rich countries such as Indonesia, China, Australia, the United States, Russia, South Africa, Brazil etc. We should use our resources sparingly, in accordance with development plans for nation building. At the same time, we should preserve and conserve the mineral resources that are not needed at present for the needs of future generations.
- b. Appropriate and systematic development of the Mining Industry.

The development of our industries shall be programmed within the framework of an Economic Development Plan. Depending on the availability of resources and due consideration of the capability of human resources, this will dictate the form and the pace of development that we will take.

It is also this context which will shape how heavy, medium and light industries will be developed and what role they will play in our economic program. In the 1970's, there was a semblance of the beginnings of industrialization when efforts were made to put up plants that would partially process mineral ores before these were ex-

ported abroad. As a result of this effort, we have a nickel refinery plant, a sintering plant for the iron and steel industry, and a smelter plant for the copper industry.

In our effort towards genuine national industrialization, we could put up other processing plants which will produce semi-processed products. What is needed further is to produce capital goods for our heavy industries that will process semi-finished into finished products.

Once we are able to do these, we can then say that we are on the road towards genuine national industrialization.

c. Wise exploitation of mineral resources.

The exploitation of our mineral resources should be based on an Economic Development Plan which defines the levels of development we would like to achieve.

Exploitation of our mineral resources, as cited earlier, should primarily be for supporting our needs for industrialization and agriculture. Satisfying the needs of the international market should be the least of our priorities.

If there is a need to produce more than what we actually need, this should be within a framework of exchanging these with needed raw materials or products from other countries for our industrialization effort.

2. The country's recognition of the important role of the mining industry in nation building.

The mining industry has a very important role in our economy. It would enable us to independently produce the goods we need, and generate jobs for the people as well as the foreign currency that we need to slowly bail us out from our legitimate foreign debt.

We should advance from being a mere exporter of raw materials or semi-processed goods. We should be able to manufacture our own products, especially basic tools and equipment needed by the peasantry and basic consumer goods needed by the people in their daily lives.

Our mining industry should not relegate itself to the role of mere extractor of mineral resources. We should complete the industrialization process that will create a multiplier effect and build more industries and, subsequently, generate more jobs for the people.

We can slowly stop trade imbalances by generating foreign currency through the export of both raw materials from mining and the finished products that we are able to manufacture. We should select the products we can excel in and produce them in good quality for export.

3. A new mining policy that would systematically and appropriately develop our own industries.

The mining industry should be regarded as an industry that would help develop our comprehensive efforts for genuine industrialization. Currently, we have the capability to explore and extract our mineral resources and partially process some mineral ores.

As for the future direction of the mining industry, we should be able to produce our own products and manufacture the machines that will make these.

The mining industry should be able to support the development of heavy industries. This is the only way that we can get out of the situation of being an import-dependent country where even the simplest necessities are imported. While we may not be able to manufacture them at once and while we may be forced to import machines needed to manufacture these, our research and development program in science and technology

should be geared towards that capability.

We should be able to build our own industries at a pace and on a scale that would build our own capacity and capability. The mining industry should also be able to support the infrastructure program that would be needed in our industrialization effort.

At first, our industrialization effort may be small in scale and limited in operation and thus, experience slow growth. But there is no substitute for painstaking work towards industrialization.

4. A new mining policy that will help in strengthening our agriculture.

In the immediate period, mining should primarily be geared towards supporting genuine agrarian reform. Secondary to this is the production of consumer goods as well as the production of surplus mineral ores and semi-processed ores that will be used for barter and trade. The least of our priority should be production for the satisfaction of the international market.

Together with the peasantry, a program should be formulated to attain short and long term goals. Included in this program should be the strengthening of Research and Development to come up with appropriate know-how and technology in agriculture, provide efficient irrigation systems, and produce basic tools and equipment that they need. This would also include the strengthening of indigenous agricultural systems which have been proven to be appropriate and viable. Indigenous knowledge on the conservation of biological diversity (e.g. seed varieties, medicinal plants, etc.) should also be reinforced and transferred especially to the youth. The practice of sustainable agriculture should be encouraged and given support. Low-interest loans, farm-to-market infrastructure and marketing assistance should form part of the program.

The short-term target is achieving food sufficiency. The long-term target is to attain food supply stability and food surplus. This will result from the further advance in agriculture through the collectivization and mechanization of farming.

In addition, the government should make a survey on the land, water systems and coastal areas that have been adversely affected by past mining operations. A program should be drawn up to mitigate the environmental destruction incurred, with the objective of rehabilitating and restoring the productivity of these areas. In this way, we will be assisting the peasants and fisherfolk expand their areas for production.

5. Production and Production Planning

Mineral extraction and metal production should be based on a centralized Production Planning on the national level. The level of production will be based on the level of industrialization that we wish to achieve, the needs of agriculture, the level of our trade and barter with other countries and the satisfaction of demands in the international market.

However, meeting production targets should be crossed-checked with constraints posed by the level of technology we have achieved, the availability of mineable reserves and the difficulty in accessing mineral lands, and taking into consideration the people's acceptability of planned mining projects.

We should be able to develop programs for reducing the depletion of our mineral resources by encouraging recycling and substitution in the use of metals. To be successful, such programs should be given state support. All these should be considered when coming out with production targets for the extraction of new quantities of mineral ore.

These would be the material basis in deciding whether to allow the entry of foreign

mining companies or whether we should import certain materials.

6. Role of Research and Development in advancing the mining industry

Recognizing the important role of the mining industry in the country's economy, there should be a corresponding Research and Development program in science and technology geared towards the advancement of the industry. There should be complementary and cooperative efforts in the public and the private sectors, including the academe, in advancing mining technologies and methodologies.

Mining companies should contribute funds for Research and Development, either for the use by the academe or interested engineers and scientists. The government should also create opportunities for this.

We should also be able to develop appropriate mining technology and methodology that is suitable to our geological landscape, climatic conditions, particular mineralization and culture of the people.

Our effort to advance the appropriate mining technology and methods should not only mean increasing our mineral ore reserves and lowering production costs. Rather, the technologies to be developed should be environmentally friendly and ethical. Mining methods should consider respect for human rights, especially indigenous peoples' rights, women's rights, children's rights, worker's rights, rights of peasants, etc.

Research and Development should be done mainly by Filipino scientists and engineers and be used primarily by the Filipino mining industry.

7. National interest, meaning the interests of the majority of the Filipino people, should be the framework that will guide the mining industry.

There should be strong state regulation of the mining industry to ensure that mining companies operate for the interest and the benefit of the majority of the Filipino people. That is, it should advance genuine industrialization and genuine agrarian reform, as well as respect for human rights.

If the mining industry were working within the framework that favors the interest of the majority of the Filipino people, then mining companies should have no problem with transparency regarding their mining projects.

Mining companies should furnish affected communities with all necessary data to provide them with a thorough understanding of the nature of the company's mining operation. The government agency that is tasked to oversee the operation of mining companies should be unwavering in the implementation of the principle of "ensuring prior informed full consent of affected peoples" before exploration and mining operations start.

If the affected mining areas include ancestral lands of indigenous peoples, the government and the mining company concerned should respect the right of indigenous peoples to own and control their territories and resources. The painstaking process of getting their "prior informed full consent" should be undertaken.

Joint and democratic discussion and planning should be initiated by the mining company and the government with the people who may adversely be affected by mining operations. Immediate agenda should include just compensation, relocation and alternative livelihood for the displaced populations.

Further discussions should center on how the affected area should be rehabilitated and how the affected people can return to the area after its rehabilitation. Essential to this

point is the future development plan for the affected area and the retraining of the people in accordance with future plans.

Aside from this, psychological help should also be extended to ease the pain of dislocation of affected people.

The mining companies should ensure that workers in the mines be given just compensation. Health and safety in the workplace should also be ensured, as well as the right to self-organization of the workers.

8. Adherence to standards that minimize environmental degradation and adverse impacts on health and safety of people involved and affected by mining operations

It is very important that the people fully understand the impact of mining operations on the environment. To ensure this, baseline data on the areas affected by mining should be established by the agencies concerned together with the people. This should be followed by joint environmental and social impact studies by the agencies concerned and the people.

The government, the mining company and the people should be united on the environmental standards to be used for air, water, noise etc. The guiding principles should be:

- a. the surrounding environment should remain habitable; and
- b. the people's health and safety should not be threatened.

These principles should not be compromised by adjusting standards just to be able to push through with a profitable mining operation. Thus, before commencing a mining project, baseline data should be taken, studied and analyzed. Subsequently, education campaigns among the affected people should be undertaken based on the results of the baseline research, highlighting its implications on air, water, land and health conditions. Continuous joint discussion should be done with them to plan out mitigating measures and plans for the post-mining period. Community-based monitoring teams should be organized and trained to analyze any deviations from standards, predict its impact on the community, and come up with practical recommendations.

The government should constantly monitor the impact of mining operations on the environment. Data during exploration work by mining companies should already be able to provide some of the initial baseline data on the country's geological landscape and data on biodiversity. The change in its state should be regularly monitored through a Geological Information System.

Mining companies should set aside funds that will be used not only for post rehabilitation but also in mitigating disasters that may occur due to industrial accidents.

9. Energy plays a key role in our country's effort towards genuine national industrialization and genuine agrarian reform.

Aside from supporting domestic needs such as electricity, energy is essential in running industries. A national energy plan should aim towards attaining energy security to avoid power blackouts that would place a heavy toll on industries. The energy mix, composed of traditional and renewable energy, should be developed to ensure power security and to veer away from over-reliance on oil. Traditionally, coal is used to provide the energy needs of heavy users among some industries. While maximizing its use, a plan should also be in place to eventually phase it out due to its adverse impact on climate change.

Conclusion

This is our proposed conceptual framework of a new policy on mining that is supportive of genuine national industrialization and genuine agrarian reform. This can only be achieved by a sovereign state. A state which is subservient to the dictates of imperialist countries, their institutions and corporations cannot formulate and implement a mining policy which will primarily serve the Filipino people.

The challenge today is how to defend our lands, resources and livelihoods so that in the future, we will still have mineral resources to use, and to ensure that we have control over these. In this way we will be able to attain sustainable development for the Filipino people. □

CASE STUDIES



Visayas, Central Philippines

Capiz: Driving Out Mt. Isa Minera

The Philippine Mining Act of 1995 paved the way for a rush of mining applications all over Panay and Guimaras. By November 1997, the regional Mines and Geosciences Bureau (MGB) listed the following applications:

- 5 Financial **and** Technical Assistance Agreement (FTAA) applications covering 384,831 hectares;
- 14 Exploration Permit Applications (EPA) covering 105, 426 hectares;
- 7 Mineral Production Sharing Agreement (MPSA) applications extending over 17,342.93 hectares endorsed to the Mines and Geosciences Bureau;
- 43 pending MPSA applications over 138,493.38 hectares; and
- 13 published MPSA applications covering 42,749.39 hectares.

Together, these applications cover a total of 688,842.70 hectares or roughly 53.39% of the total land area of Panay and Guimaras.

Despite the aggressive campaign by the MGB and transnational mining firms in promoting big-scale mining, the people of Panay and Guimaras did not wish to see replicated in their islands what had happened in Marinduque. (Marinduque is an island in Southern Luzon, which gained national and international media prominence after Marcopper's toxic mine tailings spilled into the Boac River in 1997.) They instead opted to protect and preserve their islands' role as one of the Philippines' major food bowls. Both islands abound in rice, fish, sugar, and mangoes, which, Panay folk assert, are far more precious than gold and copper.

In fact, the ecological situation of Panay and Guimaras islands is already critical. Only 7% of Panay island has forest cover while Guimaras is totally denuded. Periodic floods destroy crops worth millions of pesos and have drowned and killed not a few people. The people, including church and government officials, have reckoned that given the islands' already critical ecological status, allowing transnational large-scale mining will only wreak havoc on the islands.

Despite popular opposition to mining in the two islands, Mt. Isa Minera (MIM), an Australian transnational mining firm, has aggressively pushed for the approval of its mining contract application. Through its FTAA application, the company seeks to mine gold and

copper in 80,919 hectares in seven towns of Capiz Province and 10 towns of Iloilo Province, both in Panay island. The application alone is far bigger than the neighboring 60,000-hectare island province of Guimaras.

But local folk, including church and government officials, led by the Madia-as Ecological Movement did their homework. They researched the profile and track record of Mt. Isa Minera and the results gave them all the more reason to drive out the transnational firm from their islands. Their research revealed that Mt. Isa Minera is one of Australia's biggest mining companies with operations in Australia, the United Kingdom, Argentina, Germany and the Philippines. In 1998, the company had 8,000 employees worldwide. Its core products are copper, gold, zinc, lead, silver and coal. The company also focuses on low-cost, long-life mines.

More importantly the research unmasked a trail of bad practices left by Mt. Isa Minera in various areas of its operations, such as the following:

- The people of central north Queensland mining town of Mt. Isa in Australia had to be evacuated in February and March 1996 when reports revealed the city was potentially the State's largest heavy metal-contaminated site. Soil tests showed that the city had unacceptably high levels of lead and cadmium. Cadmium levels varied from two to one hundred times the allowable 5mg/kg minimum concentration, and lead contamination ranged from three to 66 times the minimum 300mg/kg level.
- In 1997, Mt. Isa Minera succeeded in getting an exemption from the Environment Protection Act, locking the company into existing emissions standards and excluding the company's lead and copper smelter from any future changes in air quality standards. Such an achievement, according to the Madia-as Ecological Movement, was aimed at "providing certainty in making decisions relating to its \$1.5 billion joint venture with the Western Mining Corporation (WMC, another Australian mining firm)."
- Mt. Isa Minera, through its subsidiary Highlands Pacific, was a chief instigator and developer of the controversial Porgera mines open-cut or open-pit gold mine in the Enga Province of Papua New Guinea. The mine directly dumps into the Porgera River 40,000 tons of heavy-metal-and-arsenic-contaminated tailings daily.

Popular opposition to Mt. Isa Minera's contract application soon gained momentum after the Madia-as Ecological Movement unmasked the company's past records of bad practices in Australia and Papua New Guinea. Because of the opposition, the company hid behind its dummy - the Theresa Marble Corporation.

Towards Concerted Action

Mt. Isa Minera may have an advantage because one of its major promoters is the government's Mines and Geosciences Bureau itself. But the Panay people could not be fooled. Backed by the National Council of Churches in the Philippines and *Kasimbayan*, a church group, the Madia-as Ecological Movement first embarked on an Environmental Investigative Mission in late 1997 in areas being eyed by both big corporations and small private miners. The Mission uncovered initial land surveys by big mining firms and several diggings by small miners.

Members of the Mission soon exposed to the media what they discovered, and this created public debates because the MGB had not been transparent on the status of mining

applications. The public, including local government officials, demanded their right to be informed.

In Capiz Province where Mt. Isa Minera's mining application covers a substantial area, the public had raised and wanted to be clarified on the following questions:

- Will mining the province's mineral resources create much-needed jobs and revenues? If so, can the avowed "benefits" compensate for the environmental havoc, social and economic problems that may result from mining?
- Can mining, as claimed by the MGB, finally solve mass poverty? Or will it aggravate the situation?
- Are oppositionists to mining anti-development? Or do they have valid reasons?

Amid the animated public debate the mining issue generated, the Madia-as Ecological Movement organized symposia and information campaigns in schools and churches. The group published a primer on the Philippine Mining Act of 1995 and another to answer what the Mines and Geosciences Bureau had been spreading – the myth of "sustainable, environment-friendly, and people-oriented mining." This is the same myth the transnational mining corporations are spreading through their current Global Mining Initiative.

Anti-mining advocates soon grew in numbers, as shown by views expressed in the local mass media. Even the conservative Assembly of Upland Men and Women Fellowship of the Capiz Kasapulanang of Baptist Churches declared its opposition to mining applications in the province on September 27, 1997.

To consolidate the gains in the anti-mining advocacy, the various anti-mining groups in Capiz formed on March 25, 1998 a loose network – the Capiz Environmental Protection Alliance (CEPA). The group federates the Madia-as Ecological Movement, farmers organizations, student councils, student publication staffs, church people, media practitioners and several local government officials. The Alliance united almost all sectors of Capiz society in opposing Mt. Isa Minera. Shortly after the Alliance was organized, Capiz Roman Catholic Bishop Onesimo C. Gordoncillo issued a pastoral letter condemning the planned mining of large swaths of land in Capiz.

Unconvinced by the supposed benefits of mining the MGB and Mt. Isa Minera had been peddling, the *Sangguniang Panlalawigan* (SP, Provincial Board, the province's legislative body) passed a resolution strongly opposing any mining activity in the entire province of Capiz.

The Provincial Board's resolution should have sealed Mt. Isa Minera's fate. But the company colluded with the Mines and Geosciences Bureau, which approved Mt. Isa Minera's exploration activities in the village of Quinabolangan in Maayon town after the company enticed local residents with "projects." The Bureau awarded the exploration permit through the company's dummy - Theresa Marble Corp.

Fortunately, the Provincial Board officials quickly probed the collusion between the company and the MGB. The Board held an out-of-town session in Quinabolangan on August 14, 1998, during which representatives from opposition groups engaged the

company's and the bureau's representatives on the pros and cons of mining. Opposition groups had the better argument, convincing even a once silent Capiz Governor Bermejo to support the opposition. Local residents, whom the company initially enticed by "projects," also made a 180-degree turn.

Then Congressional Representatives Manuel Roxas and Vicente Andaya followed suit in opposing Mt. Isa Minera's exploration activities.

Soon a deluge of opposition poured in. In joining the opposition, the Board of Directors of the Metro Roxas Water District cited that mining would pollute the Panay River, a major source of potable water and irrigation. Other oppositionists included the Knights of Columbus of Roxas City and the Integrated Bar of the Philippines.

In December 1998, opposition groups coordinated a Panay-wide anti-mining caravan. The caravan succeeded in unmasking the myths of "sustainable and responsible mining" Mt. Isa Minera and the Mines and Geosciences Bureau had been feeding the public.

Drumbeating a Discredited Myth

Mt. Isa Minera did not give up easily. The company brought along members of an association of mining firms in Roxas City to a forum to drumbeat the myth of "sustainable, environment-friendly and people-oriented mining." The Mines and Geosciences Bureau also invited the provincial governor and Provincial Board members. After his presentation, a Mt. Isa Minera representative complained that the local government was giving the company a hard time even if the MGB and other national government agencies had approved the company's permit to explore minerals in the province. To this, an angry Governor Bermejo told company representatives that if they couldn't respect the local government units, they had better pack up and leave.

The Capiz Provincial Board on August 27, 1999 passed Ordinance No. 6, Series of 1999, declaring a 15-year moratorium on all large-scale mining activities and processing of mining contract applications in the province. The ordinance also imposes a penalty for violations with a fine of at least P5,000 or imprisonment of no less than 8-12 months or both. All products, equipment and other paraphernalia used in the activity will also be confiscated and forfeited.

The people of Capiz thought the ordinance would finally drive out Mt. Isa Minera.

But a month later, the company brought in equipment and explored the area. Together with members of the Philippine National Police, Capiz provincial officials went to the exploration site and the company's personnel literally scampered away to evade arrest.

Lessons and Challenges

The people of Capiz have learned that the effective mix of good research, strong advocacy campaign, alliance work and lobbying with local government officials drove away Mt. Isa Minera from the province. Through their own research, they discovered not only the dismal environmental record of their enemy but were also able to unravel the myths of "sustainable and responsible mining" and "development benefits" that Mt. Isa Minera and the MGB had tried to sell the public. From this good research, they were able to gain an informed judgment of the whole mining issue, upon which their campaigns and organized alliances and networks were and continue to be anchored. And it is from this informed judgment that the people of Capiz continue to be vigilant to this day.□

Negros: Barricades

Farmer and Roman Catholic lay minister Delimo Baydal was standing by the door of his family home when two gun shots burst from outside. The 32-year-old father of five was about to check on the family's rice field after he and his wife, Felisa, heard sounds of an animal grazing on their fields in the sub-village of Punong, Trinidad, Guihulngan town.

Delimo was not able to go out to check the rice field. Even before he could open their door, a gunman aimed a gun at the door and fired two shots. When Felisa saw Delimo fall, she thought her husband was only joking. She screamed for help only when she saw blood oozing from his chest. But her screams fell on deaf ears even if their house was just a few meters away from a Philippine Army detachment. The next day, a soldier and a member of the Citizens Armed Forces Geographical Unit (CAFGU) came to the Baydals' home and one of them apologized to Felisa, saying they were not able to come the night before because they were not at the detachment. Both did not identify themselves.

A fanatic group supervised by one Master Sgt. Geron in the sub-village of Punong allegedly perpetrated the incident that happened shortly before midnight on January 17, 2002. The incident was just one of several human rights violations documented by an independent fact-finding mission on April 1-3, 2002. The mission led by the Kilusang Magbubukid ng Pilipinas (KMP, Philippine Farmers Movement)-Negros chapter blamed the rights violations on militarization, which intensified with the entry of mining in the island.

Militarization is helping the Australian Western Mining Corporation to stake its claims in Negros island in central Philippines.

After it was awarded a Financial and Technical Assistance Agreement in 1997, WMC started exploration work in Guihulngan town in Negros Oriental. The company at the same time built a road, which would connect Moises Padilla town in Negros Occidental to Guihulngan. The road was designed to link up the towns covered by WMC's 88,000-hectare FTAA spread over 14 towns where 300,000 villagers live. The local media was the first to break the news about WMC's FTAA application in the island.

Upon learning about WMC's intention to mine in the island, Negros farmers led by the *Kilusang Magbubukid ng Pilipinas* (KMP, Philippine Peasants Movement) launched a massive campaign against the company and transnational mining. The campaign kicked off with the founding of the *Hug pong Mag-Uuma sa Makagahay ug Trinidad*, a local farmers' group in Trinidad town that had an initial 1,500 members. It focused on opposition against WMC's entry, grabbing of lands from farmers, and militarization of the Negros countryside. Members held dialogues with local government officials and picketed local government offices.

The government, through its military machinery, however, became the company's security guard. The military set up detachments in three villages where farmers had strongly protested against mining. They also helped organize fanatic and paramilitary groups, which stalked poor farmers asserting their right to land and who questioned the planned entry of the WMC to the island. Not a few farmers have been tortured and killed by these groups. In fact, a Catholic priest who gave a sermon about mining was shot to death. Ironically, the

local government unit remains not only helpless amid the terror being sown by fanatic and paramilitary groups; the local government also fears them.

Despite the militarization and terror, farmers and other advocates embarked on an island-wide caravan during which the WMC's insistence to mine in Negros was the banner issue. During the caravan, protesters pointed the adverse impacts of transnational mining such as massive landlessness as a result of dislocation, wanton exploitation of natural resources, and environmental destruction. It also helped that the local media picked up the brewing TNC mining issue.

Dialogues and pickets also continued even as Negros farmers' groups organized a fact-finding mission to probe villagers' complaints of human rights violations allegedly committed by fanatic groups. Farmers pinpointed fanatic groups as responsible for a series of killings against those campaigning against WMC's plan to mine in the island. On its part, the military also charged that killings of fanatic group members were perpetrated by the New People's Army, the armed wing of the Communist Party of the Philippines.

Despite the violence and terror apparently aimed to silence local protest against WMC, the farmers have refused to be cowed. Their persistent opposition and vigilance have continued to keep the WMC at bay, at least temporarily. □

Cebu: Workers Against Atlas

Transnational corporations employ another bad corporate practice when their workers assert their rights to just wages, benefits, safe working conditions, and other workers' rights. They shut down their operation on the pretext of bankruptcy.

This was precisely what the Atlas Consolidated Mining Development Corporation (ACMDC) in Cebu, central Philippines did after its 10,000 workers complained about unfair labor practices and hazardous working conditions.

The company was far from bankrupt. Until the 1980s, Atlas was the world's fifth and Asia's biggest copper mining firm with two plant sites – one in Toledo City and another in Aroroy, Masbate. The company exported 70% of its products to Japan and the rest to Europe. Among the company's stockholders were super-rich families led by the Sorianos and big companies such as San Miguel Corporation; Merrill Lynch, Pierce, Fenner and Smith, Inc.; Kray and Co.; Guadi and Co; and Mitsubishi Metal Corp.

In the early 1980s, the company was grossing P9.8 million and netting P3.3 million yearly. Its minefields covered 3,000 hectares in Cebu and 22,000 hectares in Toledo City. The combined production from the company's two open pit mines was 72 to 75 tons of ore daily. On the other hand, its underground mine, which had a higher grade of copper, was producing 46 tons of ore daily.

Despite its profits, the company failed to make its workers happy. The workers had complained of low wages and the non-regularization of many workers even after serving the company for years. They also brought out what they considered as unfair labor practices and hazardous working conditions. Among these was the lack of safety devices such as masks, gloves, rubber boots, and air pipes or blowers for proper ventilation. The workers also raised the issue of the company's failure to implement standard operating procedures to prevent accidents, not to mention the unsafe water in the underground mines. The worst was the workers had no medical benefits to address common ailments such as skin diseases, cough, cold, pneumonia, tuberculosis and other lung infections such as silicosis, which is caused by daily exposure to crystalline silica.

With their issues and complaints, the workers campaigned hard for a "pro-worker union", and this bore fruit. Some 4,500 casual or temporary workers were regularized, their P20 to P33 daily wage was raised to P75, and they were given collective bargaining allowances. The workers also pushed for a P601.50 monthly allowance, a Christmas bonus equivalent to 26 working days pay and a school bonus equivalent to 15 days pay, 15-day sick leave and vacation leave computed according to a worker's number of years of service. The company also implemented mandated health standards and measures.

But after a while, Atlas closed down. It said it was bankrupt. As a result, some 10,000 lost their jobs and more than 2,000 of them were not given separation pay. The company also failed to pay hundreds of thousands of pesos in local taxes.

After it shut down, Atlas failed, if not refused, to rehabilitate the destruction that its open-pit and underground mining activities wrought in the almost 30,000-hectare minefield. A wide swath of its mined-out areas in Toledo City collapsed, and farm crops can no longer

grow in the open pit mine fields. The mined-out area is now a wasteland. The former mine site has since been transformed into a seat of another destructive industry – quarrying. Quarrying has since adversely affected the ecology of 10 villages in Cebu and two villages in Talisay. Some 164,761 people live in these affected villages.

In 1999, the company's Biga mine tailings dam overflowed, killing fish in the coastal villages of Toledo, Alaguinsan, Asturias, Balamban, Pinamungahan and Barili. In 2000, a landslide in Nanang village killed 14 maintenance workers. In 2001, the local government allowed American and Filipino soldiers to use the open pit site for war exercises, which unfortunately added another misfortune to the tragic consequences of Atlas mining operations. Two children were killed after playing with the remnants of a grenade the soldiers left during their war exercises.

The company must account for the destruction and damages it wrought, concerned citizens of Cebu recommend. And part of the accountability is the government's because, as they pointed out, it allowed the company to pursue its destructive mining methods. They also recommend that government immediately suspend all mining and quarrying activities. □

Mindanao, Southern Philippines

Zamboanga: Toronto Ventures, Inc.

What transnational mining corporations could not do through deception and manipulation, they did through force, and government soldiers and members of the police have become willing accomplices. A case in point is Toronto Ventures, Inc. or TVI and its bad corporate practice in the Zamboanga Peninsula in southern Philippines.

TVI employed deception, prompting the local people to sign a blank sheet of paper during a meeting and later using this as “proof” of endorsement of its mining project. “TVI gathered some students, including myself, prodded us to affix our signatures on a paper with a TVI letterhead, and declared that we had permitted the company’s operations in our communities,” said Jose “Boy” Ano, a youth leader from Zamboanga. “But one time after I arrived from Manila, I was barred from entering our own community, and to think that we have a Certificate of Ancestral Domain Claim. And I was surprised to see many military checkpoints around. I realized something was wrong...”

Military checkpoints became part of the community’s terrain after TVI came in. The problem was these checkpoints became the company’s tool to intimidate and harass hapless community folk. These also barred community folk from bringing home food supplies, which, the company and the soldiers suspect, were being given to rebels.

TVI hired goons and mobilized the police to intimidate traditional small-scale miners who had been mining in the area long before the company came. In one instance company goons hurled a grenade and indiscriminately fired upon a group of small-scale miners. Company guards also violently dispersed a peaceful rally of the community against the company. The company has limited, if not prohibited, the entry of food and construction materials into the community of Siocon. It apparently aims to starve and drive away the small-scale miners so it can take over the mineralized land. It would not even let the parish priest in to celebrate mass in the community. Even the municipal midwife was barred from delivering much needed health services to the local people.

It is unfortunate that the TVI has been forcing its way into a territory that is within the 6,523.684-hectare ancestral domain of the indigenous Subanen people. The government has recognized the Subanen’s ancestral territory under a Certificate of Ancestral Domain Claim (CADC). The CADC is government’s way of recognizing the indigenous peoples’ right to their ancestral lands and domain where they have lived since time immemorial.

TVI is a Canadian mining firm with a mining contract application covering 508 hectares (originally almost 5,000 hectares) in the Zamboanga peninsula; this is just one of the company’s many contract applications.

The company entered the country only in the 1990s when government began courting foreign investors. TVI was able to build an outstanding portfolio as a result of its interlocking connections and joint ventures with mining companies in the Philippines and North America and through selective Mineral Production Sharing Agreements and Financial and Technical Assistance Agreements and Third Party Option Agreements. From only seven

projects in 1993, TVI has expanded its Philippine property into more than 20 properties covering more than a million hectares. The collection of these properties has propelled TVI into becoming a North American junior company. In one of its reports, TVI rates itself as the leading gold exploration and development company in the Philippines.

In 1993, TVI had \$76,213 in capital assets, which increased to \$1,150,153 in 1994. TVI has focused its exploration and development on gold, particularly on small to medium tonnage gold-rich multi-metallic (copper-zinc-gold-silver) and “volcanogenic (volcanic) massive sulfide” (VMS) deposits; large tonnage, high gold porphyry copper deposits; and epithermal gold deposits, especially tonnage bulk deposits that can be mined. It seeks to explore and develop deposits that have potential excess of one million in gold or its equivalent.

TVI strategically allied itself with big companies, which includes the North American Echo Bay Mines for its Kingking project, Benguet Corporation for its Canatuan and Rapu Rapu projects, and Atlas Consolidated Mining and Development Corp. for its Diwata project. The company’s alliance with Echo Bay Mines, one of the world’s biggest gold and silver producers, is intended to provide it with financing, development and operating assistance, especially for advanced, larger-scale gold projects. Its alliance with local companies such as Benguet Corp and Atlas, on the other hand, is intended to give it both technical assistance and in-country knowledge of the Philippines.

TVI’s Canatuan gold project, covering 4,941 hectares in southwest Mindanao, is the most advanced. On January 20, 1994 TVI entered into an exploration agreement with Benguet Corp with the option to purchase a 100% interest in 1,486 hectares in the Canatuan property in Siocon, Zamboanga del Norte. In early 1995, TVI opted to earn 100% of the rights by paying Benguet Corp. TVI’s interest is subject to 4% royalty and 12.5% “back-in”.

On April 15, 1994 TVI signed a royalty agreement with Zamboanga Gold Mining Corp over a part of the Canatuan property, which was 1,579 hectares. The balance of 2,876 hectares was covered by a MPSA. TVI targeted a small-scale production on this project in 1995, full-scale construction in early 1996, and full production by the end of 1996.

To date, the Subanen folk, led by organizations such as the DCMI, have continued on their organizing and research work and advocacy, networking, legal and education campaigns. They know that they have a determined, never-say-die enemy. The Subanen people surmise that since the Canatuan project is the major one, TVI cannot afford to fail here. Once its Canatuan project fails, TVI will have a difficulty getting financial capital from investors. Now that it can hardly get support from financial institutions, TVI is using the Canatuan Agro-industrial Multi-Purpose Cooperative to get grants. Through the cooperative, TVI got a P700,000 grant in 2000 and another P300,000 in 2001 supposedly for livelihood projects for the Subanen. The cooperative bought goods, which employees got on credit because the company had not paid them. In order to operate, the cooperative can access loans from the Land Bank of the Philippines. TVI actually sought a “good credit standing certificate” from the Cooperative Development Authority in order to access loans from the Land Bank.

The Subanen people have vowed to follow the latest money trail the TVI has gone into and continues to go through so that the indigenous folk would know how to respond accordingly in stopping a company, which they have declared as an unwelcome guest in their community. □

Midsalip, Zamboanga del Sur: Battling CRA-Rio Tinto

Like other indigenous communities, the 27,000-hectare town of Midsalip in Zamboanga del Sur is blessed with rich natural resources. The town still has 1,500 hectares of virgin forests, 1,000 hectares of second-growth forests, and 500 hectares are currently being reforested. The town also has four major river systems, which trace their headwaters to Midsalip's mountains. These are the Sibugay River, which flows into the neighboring town of Sibugay; the Labangan River that pours into Pagadian City and the town of Labangan; and the Ecuán River that goes to Sindangan in Zamboanga del Norte.

Big transnational mining interests threaten to ruin Midsalip's and neighboring towns' lands, resources, and river systems. Big companies have already applied for one Financial and Technical Assistance Agreement and six Mineral Production Sharing Agreements that encompass even areas beyond Midsalip's borders. The biggest applicant thus far is the CRA/Rio Tinto, which has applied for an FTAA covering 100,000 hectares.

The mining contract applications have roused the people of Midsalip to organize themselves into the *Katawhan sa Midsalip Supak sa Mina* (KAMISUMI, Peoples of Midsalip against Mining). Concerned residents led by KAMISUMI researched and reviewed the laws on mining, including the Philippine Mining Act of 1995. They sought the help of the Department of Environment and Natural Resources, but it was the non-government Legal Rights and Natural Resources Center, which provided them with copies of the laws on mining.

After carefully scrutinizing the mining laws, the people of Midsalip found that these, particularly the 1995 Philippine Mining Act, favored foreign multinational firms more than the Filipinos. Jesus Catamco of KAMISUMI cited several benefits and incentives given to foreign mining firms such as full repatriation of profits, tax holidays, water rights, easement rights (the right of a company to eject people in areas covered by mining claims), among others. The new Mining Act, Catamco noted, violates Article XII, Section 2 of the Philippine Constitution, which provides for a 60-40 Filipino-foreign equity. The same Act, he said, violates the constitutional mandate for indigenous peoples to protect their ancestral domain.

KAMISUMI's research also revealed the following impacts of mining:

- Farmers, fisherfolk and indigenous peoples, particularly the Subanen, will be dislocated from their lands and livelihoods;
- The new Mining Act violates their ancestral land rights and their right to control, manage and protect their natural resources; and
- The operations of mining firms that applied for mining contracts in Midsalip and neighboring towns will bring environmental damage such as siltation, landslides, and poisoning of rivers.

Armed with their research findings, the people of Midsalip, through the homegrown KAMISUMI, launched a massive campaign against the big mining firms. They wrote petitions and launched signature campaigns against the FTAA and other contract applications and sent these to the regional and national offices of the Mines and Geosciences Bureau and to other government offices.

They also lobbied local and national government officials, held seminars on the effects and impacts of mining, and marched in street rallies to dramatize their opposition and protest against big corporate mining interests in Midsalip and neighboring towns. They also sought the help of the church, such as the Roman Catholic Diocese of Midsalip whose bishop wrote to the head office of the CRA-Rio Tinto in London, informing top company officials that community folk were against their intent to mine in Zamboanga.□

Far South Mindanao: Western Mining Corporation

The Australian Western Mining Corporation employed the old colonizers' divide-and-conquer tactic in pushing its contract application within indigenous B'laan ancestral domain in Mindanao island. The WMC was the first foreign mining firm to be awarded a Financial and Technical Assistance Agreement, covering 99,400 hectares spread across five provinces of far South Mindanao, which is occupied mostly by indigenous B'laans. The Department of Environment and Natural Resources awarded the contract in March 1995.

In order to enter B'laan territory, the WMC made enticing offers – potable water systems, schools and roads. The people confirmed their suspicion over the company's unusual generosity only after some time. They discovered that a blank paper they had signed supposedly to register attendance for a meeting was used by the company as "proof" that they consented to the mining activities.

WMC also bribed and appointed illegitimate tribal leaders to represent the indigenous B'laan people. They persuaded these leaders to sign an agreement accepting WMC's mining activities, and used this "agreement with local leaders" as "proof" that its mining activities were accepted by the indigenous peoples.

As a result, the B'laans became divided because the tribal leaders WMC appointed were the brothers or relatives of tribal leaders opposing the company's mining activities.

The various tactics the WMC employed practically made a mockery of the Indigenous Peoples Rights Act's provision on Free and Prior Informed Consent.

Fortunately, the B'laan people, through the help of the non-government Legal Rights and Natural Resources Center, filed a case against the WMC in 1997. The case questioning the WMC's illegal entry into the B'laan ancestral domain has put the WMC on the defensive.

In Davao del Sur, Lumad folk directly blocked the company's technical men who came to sample rocks, water and soil in the area. The Lumads also employed their traditional armed combat strategy called *pangayaw*. This strategy prevented the military and the company's blue guards from coming in.

The landmark case, the various protest actions by the B'laans, and other forms of opposition such as the *pangayaw* of other Lumad folk have finally prompted the WMC to slow down its mining activities.

The WMC began exploration work in the country as early as 1987, shortly after a people-backed military revolt ousted the late strongman Ferdinand Marcos. The company came at a time when the new government under then President Corazon Aquino was actively courting foreign investment to recover lost ground under the Marcos years.

The company for several years had carefully assessed the political, economic and security situations relevant to mining, surveying possible mineral deposits in many areas. It finally set up office in Manila in 1988, and WMC Philippines Inc. was registered in the country in 1999. Over the next decade, the company, according to a study by Bob Muntz

of Community Aid Abroad-Oxfam Australia, evaluated more than 200 possible exploration sites in the country, 12 of which were examined in detail. The most expansive exploration work undertaken was at Tampakan, South Cotabato in Mindanao. The site came to be known as the Tampakan Copper Project.

The company began prospecting for gold in Tampakan in 1991. In 1995, the national government issued a permit to the company, allowing it to embark on an intensive exploration work. As it explored for gold, the company also launched an aggressive community relations program, spending US\$35 million in the process. According to Muntz, most of this money was spent in the Philippines, a significant bulk of it on community relations program. In mid-1999 the company began to scale down its program, and in February 2000, the company announced it plans to withdraw from the Philippines altogether. In May 2001 the company was negotiating to sell the project to other interests.

That the WMC finally called it quits could be attributed to the brave fight the B'laan and other Lumad people put up, both in the community and in the courts. But knowing that the company must just be waiting for the right break, the B'laan and other Lumad people have continued to keep a 24-hour vigil over their ancestral domain.□

Diwalwal: Where Blood-Red is the Color of Gold

The story of Mt. Diwalwal in Monkayo town, Davao, says small-scale-miner and Diwalwal barangay captain Franco Tito, is written in blood. Tito is not exaggerating. Ever since a group of indigenous folk led by Camini Banad discovered gold deposits in the area in 1982, Diwalwal, also known as Mt. Diwata, has become not only a gold rush site, but a cemetery as well.

“Thousands have been buried in perpetual catacombs after nature, violated, fell crashing on the heads of miners or *abanteros* in the language of the gold rush,” wrote Rene Ezpleta Bartolo in the *Pulso Mindanao* (Mindanao Pulse) magazine in February 2002. “In 1989, more than 1,000 persons were killed in just one landslide.”

“Thousands more have fallen through the violence of man against man,” Bartolo continued. “A barangay (village) official told authorities recently that more than 80 miners have been killed in a new spate of violence that erupted in the gold-rush community and inside the criss-crossing tunnels. Half of these people were killed in Mt. Diwata; another half, elsewhere. But the reason for the killings was always the same: the greed for gold.”

People from all walks of life and from almost everywhere in the country, who have come for the gold even at the risk of their lives in Mt. Diwata, have eventually called the place Diwalwal. In the local language, the term means your tongue hangs out. This is because before you reach the steep mountain of gold, you will be sticking out your tongue as you pant and catch your breath.

From 1983-1987, the new-found village had no government. But the surface prospectors, who panned gold from the beds and banks of rivers and streams, and the small-scale miners, who scoured the earth just below the surface, were the first to stake a claim on the mountain and the gold beneath. By 1986, they had organized themselves into the MISSMA or Monkayo Integrated Small-Scale Miners Association and registered this with the Securities and Exchange Commission. The association counted some 30,000 members who had actual possession and control over some 1,200 hectares. Often conflict arose among the miners over the right to tunnel or dig in some direction.

But the small-scale miners and surface prospectors had to unite because Marcopper became interested to take over Diwalwal. Marcopper applied for an exploration permit and sought to operate in the gold-rush community. After the 1996 Marcopper tailings spill disaster in Marinduque, it assigned its exploration permit to a newly formed company, Southeast Mindanao Gold Mining Corporation (SMGMC), for just P1.00. But Diwalwal small miners knew that the new corporation was the same company, which tried to hide under a new name after the disaster caused by its Marinduque operations ignited a wave of national protest against big-scale corporate mining.

Through their association, the small-scale miners and surface prospectors contested Marcopper-SMGMC's exploration permit, saying the company never explored, much less mined, a single square meter of land covered by the permit. This, according to the small-scale miners, violated the terms under which the Bureau of Forest Development issued Exploration Permits.

But this did not deter Marcopper-SMGMC. It is public knowledge in Diwalwal that the company, from the time of President Fidel Ramos to President Joseph Estrada, helped fund the candidacy of some senators and congressmen. It is no wonder then that nothing constructive happened after several congressional hearings, which sought to resolve the conflict between the small-scale miners and the Marcopper-SMGMC.

According to Tito, the company also employed “divide-and-rule” tactics by supporting some wealthy small-scale miners. The company, he said, is determined to divide the community so that it could take over the gold in Diwalwal.

For its part, the Department of Environment and Natural Resources sought to ban the small-scale miners from continuing their mining activities because their toxic wastes and tailings poison and silt water systems. Tito has admitted this. “But the DENR should show us how to remedy this (pollution and siltation), not to dislocate us from our livelihoods,” he said. “The problem is they (DENR) are using the pollution and siltation issue to stop us. We are willing to stop mining so long as government can give alternative livelihoods to 30,000 small miners.”

The gold rush has no doubt uplifted the economic status of many poor folk. Some of them have derived their income from other non-mining ventures such as selling snacks and other goods to the miners. “*Gaya ng isang ale na dati ay nagtitinda lang ng maruya, ngayon madam na siya* (One woman, for example, used to sell deep-fried bananas dipped in flour; now she is called madam),” Tito said, referring to the wife of a small-scale miner-turned mayor in Monkayo town.

To small-scale miners led by Tito, the DENR and other government agencies are using the siltation and pollution issue to pave the way for the entry into Diwalwal of Marcopper-SMGMC. The company, Tito pointed out, also lost its credibility after it left an ecological, public health and safety disaster in Marinduque.

Another woman delegate supplemented Tito’s report, saying her heart also goes to the struggle of the small-scale miners even as she sympathizes with those affected by the pollution and the indigenous peoples in Mt. Diwata. She disclosed that seven transnational corporations have applied for Mineral Production Sharing Agreements in two neighboring villages of Mt. Diwata. Worse, these companies, she said, had faked certificates of Free and Prior Informed Consent, which were supposed to be issued by the National Commission on Indigenous Peoples, including memorandums of agreement. Through education and organizing efforts, a group of Lumads, she said, has begun to counter the moves and tactics of these multinational corporations.

The same delegate also cited Monkayo’s Mount Hamanitan, which has a pygmy forest that still abounds with rare flora (e.g., pygmy pitcher plant, etc.) and fauna (eagles, tarsiers, etc.) species. She reckoned that if the place would be declared a national heritage site, which could be internationally recognized, Mount Hamanitan could become off-limits to the tentacles of mining TNC greed. □

Luzon, Northern Philippines

Marinduque: Marcopper-Placer Dome

A 30-year open-pit mining operation by the Marcopper Mining Corporation, which is almost 40% owned by the Canadian Placer Dome Inc., has taken its toll on Marinduque, a heart-shaped 95,925-hectare island of 217,392 people in north-central Philippines. These people, mostly farmers and fisherfolk, live in 218 communities in the six towns of Boac, Mogpog, Sta. Cruz, Gasan, Buenavista and Torrijos. The Filipino-Canadian firm's mining operation has adversely affected all these communities in various degrees.

The Fate of Sta. Cruz

The first area the Marcopper-Placer Dome mining operation damaged was Sta. Cruz town. The town's mountains now bear swaths of crater-like scars left by open pit mining. The mining operation also silted acres of rice fields and poisoned several water systems. The worst affected is the vital Calancan Bay, whose water has turned dark gray after the Marcopper-Placer Dome dumped 24,000 tons of mine tailings daily since 1975.

Local community folk early on had protested against dumping mine tailings into the fish-rich Bay. But the government's Pollution Adjudication Board (PAB) confirmed that the Bay was indeed contaminated only in 1991. By that time it was too late to rescue the Bay, on which more than 2,000 fisherfolk depended for their livelihood. By 1991, tons of mine tailings had already buried the Bay's 80-square meter coral reefs, where fish and other freshwater species would nest and breed. With 50 hectares of fishing ground now covered by toxic tailings, the Bay is practically dead, bereft of the fish and other marine life that used to supply the protein needs of surrounding communities.

The fisherfolk lodged a formal complaint before the Philippine presidential palace. But the case did not prosper. The latest report was that the documents of the case got burned.

Amid the Calancan Bay lies a seven-kilometer long newly formed dump the company calls a "causeway", which looks like an airstrip. The dump from Marcopper-Placer Dome's mine wastes is highly toxic.

In fact, the non-government Marinduque Council for Environmental Concerns (MACEC) coordinated a medical study with Dr. Nelia Maramba, a University of the Philippines-trained toxicologist of the Department of Health, and the finding was alarming. Dr. Maramba found various quantities of toxic chemicals in the bodies of 75 children, 21 of whom she was able to detoxify.

With the alarming state of health of the local folk, as shown by Dr. Maramba's findings, then President Fidel Ramos declared three villages around Calancan Bay under a "state of calamity." But the government did not take any other concrete action such as sanctioning Marcopper-Placer Dome to pay up or answer for its liabilities.

Through its consultants, Marcopper-Placer Dome dismissed instead Dr. Maramba's findings. These consultants continue to insist that the toxic chemicals inside the children's bodies are normal within a highly mineralized community. They also claim that the fate of

the 75 children is normal in a poor country such as the Philippines where many children are malnourished.

Such arrogant claims by the firm are not only rubbing salt on an already serious injury. Its mining operation has poisoned Calancan Bay and ruined the farming and fishing town's mountains and forests - all of which prove that its mining activities are not "sustainable" nor "responsible."

Now they discredit and insult the findings of a Filipino toxicologist. Saying that the 75 children with toxic chemicals in their bodies is normal in the Philippines reeks of racist arrogance. But one thing is now clear. Its statements have all the more exposed the sham and lie behind the transnational mining industry's claim of "good corporate citizenship" and "good neighbor" image.

A good corporate citizen or a good neighbor would at least have the humility and remorse to accept his mistakes and misdeeds and to compensate and account for these. But not Marcopper-Placer Dome.

The people of Marinduque, however, will not simply let Marcopper-Placer Dome get off the hook. The Catholic Church-backed multi-sectoral Marinduque Council for Environmental Concerns, the Philippine Rural Reconstruction Movement (PRRM) and Tanggol-Kalikasan (Nature-Watch) have collaborated to prepare and file a formal complaint against Marcopper-Placer Dome on the ill health effects its operations have caused among Sta. Cruz residents.

Damnation in Mogpog

The other town that has suffered from the impact of Marcopper-Placer Dome's mining operation is Mogpog. The company built an earth dam upstream of the Mogpog River, which it said would contain mine silt and tailings and prevent these from spilling into the river. Despite popular opposition, the company built the dam in 1992, which the company also claimed could withstand typhoons.

But after a strong typhoon in 2001, the earth dam collapsed, killing two villagers and destroying millions of pesos worth of property and livelihood. As usual, Marcopper-Placer Dome evaded responsibility and blamed nature for the disaster. It hardly paid for the damage wrought and contributed a paltry P500 to P600 to each family affected by the disaster.

The residents of Mogpog, many of them fisherfolk, are still hoping against hope that the company will compensate them because tailings from the collapsed dam poisoned fish in the Mogpog River. Local residents have demanded that the company's Environmental Guarantee Fund be used to pay for damage claims and to rehabilitate and clean up the ecological mess the company made. The Mogpog River, which also provides household potable water and irrigation, is now toxic and cannot be used even for agriculture. The once fish-rich pristine river now bubbles with blue-green and rust-brown liquid.

The Department of Environment and Natural Resources had declared the Mogpog River under "critical condition." But it and the company did not do anything to clean up and restore the contaminated river.

Save for a case filed by the Marinduque Council for Environmental Concerns with the help of the Legal Rights and Natural Resources Center, the municipal government of Mogpog, even 10 years after the disaster, has yet to file a complaint against Marcopper-Placer Dome.

Taking advantage of the municipal government's unusual silence, Marcopper-Placer

Dome has continued to evade responsibility for the dangerous and deadly impact of its mining activities. Blaming nature as the culprit for the disaster is the worst case of corporate irresponsibility.

When the Boac River Biologically Died

The third town worst hit by Marcopper-Placer Dome's mining activities was Boac. The rarely heard of town became front-page banner material when the company's mine tailings burst into the 27-kilometer long Boac River on March 24, 1996. The DENR declared the river, which immediately turned dark-gray, biologically dead shortly after the mine spill that caught international media attention.

Marcopper-Placer Dome immediately wrote then President Fidel Ramos and promised to pay for all the damage caused by the spill. It also pledged to clean up and bring back the river to its original form. But six years have passed since the disaster happened and Marcopper-Placer Dome has yet to pay all the victims. Residents of 32 villages have not been paid because company key officials left the country in December 2001.

Marcopper-Placer Dome also failed to clean up the Boac River. It instead blamed the community folk for opposing its earlier plan to dump its tailings into the Tablas Strait off Marinduque island. The company now also plans to bring back the tailings to the Tapan Pit, where the 1996 mine spill came from. The company has hired for P185 daily contractual workers, who continue to pack into sacks mine tailings that they now dump upstream of the Boac River. These workers themselves are at great health risk for daily handling the toxic tailings.

To date, some 19 residents of Boac have been found to have toxic chemicals in their bodies, and the company has yet to take responsibility for their medical treatment.

The people of Boac who were affected by the disaster have a common question: Where lies Marcopper-Placer Dome's "good corporate citizenship?"

Aside from what happened to Calancan Bay and to the Mogpog and Boac Rivers, other potential disasters continue to be daggers pointed at the heart of several communities, according to the Marinduque Council for Environmental Concerns.

Citing a report by Kohn Crippen, a technical consultant Placer Dome commissioned in June 2001, the MACEC lists five earth tailings dams, which may be potential disasters that are only waiting to happen. These are the Tapan Pit 310 tunnel, upper and lower Makuplanit dams, Maguila-guila dam, and the Bol River dam.

The Kohn Crippen Report was brought to the attention of environment secretary Heherson Alvarez, who ordered the company to check and reinforce its dams to thwart potential disasters. Otherwise, Secretary Alvarez warned, his office would lodge civil, administrative and criminal cases against the company. Six months passed and the company did not do anything, nor did Secretary Alvarez file any case. In fact, the company's officials freely left the country without any hold-departure order from Alvarez's office.

Instead of claiming responsibility for a disaster it caused, Marcopper-Placer Dome has pointed the finger of blame on the government and local environmental organizations led by MACEC for the mine spill into the Boac River. The company had insisted on what it claimed was a modern way of disposing mine wastes called Submarine Tailings Disposal or STD. It sought to do this at Tablas Strait. Had this been done, it insisted, the mine spill tragedy at the Boac River would not have happened.

But the MACEC exposed that STD, which is also called Deep Sea Tailings Place-

ment (DSTP), is illegal and not accepted in most parts of the world, including Canada where Placer Dome's main headquarters is based.

The people of Marinduque led by MACEC consider their success in stopping the Marcopper-Placer Dome from dumping its mine wastes into the Tablas Strait their biggest victory thus far. Although its mine wastes ended up in the sea anyway through the Mogpog and Boac Rivers, its earlier plan to dump directly into the Tablas Strait would have been more dangerous as toxic chemicals contaminate the sea food chain.

The series of disasters that plagued the island province have also brought together a multi-sectoral alliance of people from the Church, the affected communities, and the local government units. This alliance networked and continues to link up with concerned support groups and agencies in Manila and other provinces.

The Marinduque islanders have also asked their officials to consider imposing a moratorium on all mining activities, be it transnational or small-scale mining.

Through their concerned officials, MACEC, other organizations and the people of Marinduque are still pursuing their campaign to make Marcopper-Placer Dome pay up for its liabilities. They are still seeking compensation for unpaid damage claims of residents from 32 villages of Boac, as well as those from Mogpog and around Calancan Bay. They are also demanding that the company rehabilitate and restore the Mogpog and Boac Rivers and the Calancan Bay, and pay for the medical treatment of children and other residents whose health has been affected by the toxic chemicals in their bodies.

The islanders' demands will test the transnational firm's claim to "good corporate citizenship." The people behind Marcopper-Placer Dome, who have been reaping a wind-fall of profits at the cost of Marinduque's ecology and the people's lives and health, should now reexamine their conscience and ask themselves if they can still look at their own children straight in the eye without feeling guilty.□

Aurora: No Way to Mining

Bounded on the east by the Pacific Ocean, Aurora Province (population: 160,000) in Southern Luzon, all of 310,000 hectares in area, is one of the weather bureau's common reference points for incoming typhoons and storms. But another kind of storm has hit the provincial folk, mostly farmers cultivating rice and coconut. This is a social storm brought about by transnational mining companies' attempt to dig for gold from the bowels of the earth in Aurora. Once in place, big-scale mining plus existing logging companies, which have operated in 180,000 hectares for the past 50 years, will definitely spell both ecological and social disasters in the province.

The Mines and Geosciences Bureau has already approved one Mineral Production Sharing Agreement, a Mining Lease Contract (MLC), and an Exploration Permit for mining companies led by the Omnigroup of Companies to operate in the province. Forty-two other mining contract applications aside from two applications for Financial and Technical Assistance Agreement show how big-time investors have set their eyes on Aurora. The three approved applications and those pending cover a total of 510,000 hectares, a size bigger than the province's total area because of application overlaps.

Besides Omnigroup, other companies such as BHP, Chase Mining Ltd, and other Australian companies have joined the mineral rush in Aurora. Two companies chaired by Dwight Dulnuan – the Nelda Mineral Exploration Corporation and the Socorro Mineral Exploration Corporation – have two FTAA applications covering 161,676 hectares. Both Nelda and Socorro signed in October 1995 a Memorandum of Agreement with Dalton Pacific Resources Inc. The Australian Golden Plateau L.N. (GPL) has a majority interest in Dalton.

Unaware and innocent about mining, the people of Aurora thought an exploration work, which an Aeta reported in 1995, was merely a treasure-hunting venture — until concerned citizens, led by the *Bagong Alyansang Makabayan*, researched to find out what was happening in their backyard. Then the much-publicized Marcopper tailings spill in Marinduque happened in March 1996. This disaster awakened the people of Aurora to the potential disaster of big mining in their province.

Aside from the Marinduque experience, Aurora province itself had its share of disaster in 1996. A flashflood during a typhoon drowned 11 people. The local folk pointed to the six logging companies as the culprits for the flashflood. The disaster prompted residents to dialogue with the DENR Secretary at that time, during which the majority clamored for an end to logging.

The prospect of a Marinduque tailings spill happening in Aurora and the fear of more logging-triggered flashfloods brought a popular campaign to both mining and logging. Concerned residents of Aurora sought and linked up with other support groups campaigning against big-scale mining. The Cordillera Peoples Alliance, for instance, accompanied some Aurora residents to the mined-out open pit sites of Benguet Corporation in Itogon town in Benguet Province. After the visit to Itogon, one of the country's oldest host communities to corporate mining, Aurora residents have become more resolute in their campaign against transnational mining in their province. They finally reckoned that Itogon, whose mined-out

areas can no longer be cultivated and whose rivers mine tailings killed, should not be replicated in Aurora.

Now more aware on the nature and implications of big mining, concerned Aurora residents led by the BAYAN provincial chapter have launched a province-wide campaign against big corporate mining. The campaign helped convince almost all officials – from the provincial down to the municipal and barangay levels – to ban mining totally in the province. In fact, the Aurora Provincial Board on March 20, 2001 approved a resolution supporting a multi-sectoral petition against the renewal of an exploration permit of the Omni Mines Development Corporation. The resolution also sought to cancel Omni's original exploration permit.

Aurora residents, however, have to face a threatening consequence of their anti-mining campaign - the increasing presence of military and paramilitary troops in upland communities. A battalion or about 800 Philippine Army soldiers and hordes of the paramilitary Citizens Armed Forces Geographical Unit now patrol the upland communities of Aurora. □

Nueva Vizcaya: People's Initiative against Mining

The persistence of Climax Arimco Mining Corporation (CAMC), an Australian registered company, to operate in Didipio, Nueva Vizcaya has brought conflict to the indigenous folk there. Through CAMC, Climax holds 92% in the Didipio Financial and Technical Assistance Agreement. The remaining interest is held by Philippine entities led by J. Gonzales.

The CAMC or Arimco was initially granted an FTAA covering 100,000 hectares, instead of the 80,000 hectares spelled out in the 1995 Mining Act. The Department of Environment and Natural Resources finally granted the company an FTAA covering 37,000 hectares in Nueva Vizcaya on June 20, 1994. With a US\$150 million total capital cost, the company would initially explore and develop some 1,500 hectares in Didipio Valley.

The problem was that the DENR and Mines and Geosciences Bureau issued the permit for the company to operate in Nueva Vizcaya without consulting the local folk. "I wish the company would explore gold at the office of the DENR and the MGB because it was they that gave the permit to the company," said an irked Didipio elder.

According to the company, all other communities except Didipio, had consented to the exploration project. The company tried to persuade the 1,590 people of Didipio, saying the exploration work wouldn't affect the community. But the people of Didipio were not about to sell their souls to the company. The community folk instead sought the help of the Roman Catholic Church's Diocesan Social Action Center, whose staff accompanied them to the DENR. They also kept in touch with the Legal Rights and Natural Resources Center, which they found out had a team of lawyers offering free legal services.

With these support groups, Didipio representatives debated with the regional and national officials of the DENR, including MGB head Horacio Ramos. They were told everything would be over after exploration work. The company, the DENR and the MGB said this in 1997, but the company has remained in Didipio up to now.

Didipio residents have noted some bad corporate practices the company employed. An elder complained that during one dialogue, the official documentor would deliberately switch off a tape recorder when the elder presented the community's position. The documentor would record only the company representatives' statements. The people found that even before a dialogue, the MGB and the company had already agreed on what they would like the dialogue's outcome to be. The company and the MGB also went to the extent of deceiving the people, saying they would not use any chemical in separating gold from the ore.

The company also organized various sectoral organizations – from women's to farmers groups. It then mobilized the presidents of these organizations and presented them to the provincial governor, saying their organizations were endorsing CAMC. Fortunately, the governor has yet to endorse the company.

Buying off community leaders was another company tactic. An elder, for example, cited how the company offered him a 20-hectare farm in Bayombong, also in Nueva Vizcaya, a sum of money that he could not spend in his lifetime, a house and lot, and a Pajero land cruiser. The elder refused. From then on, some suspicious-looking persons started stalk-

ing his house. But he also refused to be cowed into silence. He has remained steadfast and vigilant, continuing to seek the help of support groups and the Catholic Bishop Ramon Villena.

As elsewhere, militarization has proved to be the twin of corporate mining in Didipio. “Before the company came into our community, we had no CAFGU and no soldiers, but we now have plenty of them when the company came,” said the elder. “We thought they (CAFGU and soldiers) were our guards. We were wrong. They were for Arimco.” CAFGU is a civilian militia organized by the military. But the CAFGU and soldiers were not able to protect a Canadian national who was shot by armed indigenous folk. The Canadian had insisted on exploring within their territory, which the indigenous folk had barred from any exploration activity.

Apart from their organized resistance against CAMC’s entry into their community, the people of Didipio have also resorted to a constitutional exercise called “people’s initiative”. Through the people’s initiative they filed with the Commission on Elections (COMELEC) in 1999, the mining issue will be subjected to a plebiscite where residents will vote for or against CAMC. The COMELEC will facilitate this democratic exercise. The people of Didipio have resorted to this process to supplement their other forms of protest against the unwelcome company. Still a test case, the Didipio community’s people’s initiative, if it succeeds, can set a good precedent for other communities threatened by mining or other unsustainable industries. □

Mindoro: 25-Year Moratorium on Mining

Mindex Resources Development Inc. (Mindex) of Norway, which merged with the Crew Development Corporation of Vancouver, Canada, must be desperate to operate in Oriental and Occidental Mindoro in southern Luzon. Mindex-Crew practically used dirty tricks to manipulate the Free and Prior Informed Consent provision of the Indigenous Peoples Rights Act, which indigenous Mangyans invoked in protesting the company's intent to mine nickel and cobalt in the island.

The Mines and Geosciences Bureau granted an exploration permit to Mindex-Crew on March 14, 1997, which covers 9,720 hectares of nickel and cobalt deposits in Sablayan, Occidental Mindoro. The mine site is also within the borders of Victoria town in Oriental Mindoro, along the watersheds of Ibulo, Aglubang and Buraboy, which are tributaries of the *Mag-asawang Tubig* (Water Couple), a major river system in the island.

Before it merged with Crew, Mindex had launched the Mindoro Nickel Project. The project involves not only mining but also ore processing in Pili, Pinamalayan, using High Pressure Acid Leach, and for its disposal, the Deep Sea Tailing Placement in Tablas Strait. Mindex estimates that the mine site would produce 40,000 tons of nickel and 3,000 tons of cobalt yearly. It also expects to produce 130,000 tons of ammonium sulfate during the mineral leaching process.

The Aglubang Mining Corporation, a major subsidiary of Mindex, applied for a Mineral Production Sharing Agreement with the DENR on November 13, 1998 even as Mindex was seeking to renew its exploration permit.

Woodward-Clyde Philippines, Inc., a consultancy group, undertook an Environmental Impact Assessment for the project effective April 1, 2000 while the Center for Environmental Studies and Management (CESM) simultaneously conducted an information education campaign.

Finally on December 7, 2000, then DENR Secretary Antonio Cerilles approved the MPSA application of Aglubang Mining Corporation. The MPSA was actually converted from Mindex's original exploration permit. The Agreement provides for the "rational exploration and sustainable development and utilization for commercial purposes of certain nickel and other associated minerals existing in the Contract Area."

How the company got its permit was questionable, however. The Mindex-Crew exploration permit covers areas that include the ancestral domain claims of indigenous Mangyans. In fact, the government, through the National Commission on Indigenous Peoples granted the Mangyans a Certificate of Ancestral Domain Claim over the same area on February 26, 1996, almost a year before Mindex-Crew's exploration permit was granted.

Under the Indigenous Peoples Rights Act, a company must first consult with and get the Free and Prior Informed Consent of indigenous communities before it can operate in the area. The Act also provides that indigenous communities have priority rights in harvesting, extracting, developing or utilizing any natural resources within their ancestral domains.

To get a semblance of compliance with the law, Mindex-Crew colluded with an official of the National Commission on Indigenous Peoples who issued a Certificate of Free and Prior Informed Consent to the company. How did Mindex-Crew and the Commission do this? In collusion with a NCIP regional female official, Mindex-Crew organized a new tribal group among its workers and employees, from whose “consent” the official based the Free and Prior Informed Consent certificate she issued to the company. Comprising only a minority, the new tribal group does not represent the majority of indigenous Mangyans who have organized themselves under two federations and have passed resolutions against the mining project.

Bribery was also part of the company’s dirty tricks. In an interview with *Norwatch*, a Norwegian publication, Mindex-Crew local manager Domingo Bae admitted that the company had since given “substantial benefits” to the members of the tribal organization the company set up. The benefits included monthly cash allowances, carabaos or water buffaloes, farm equipment, among others.

Local Opposition

The people of Mindoro did not just sit down amid Mindex-Crew’s questionable entry into the island. The company’s insistence to mine in Mindoro has triggered organized protests and opposition from various sectors, which formed in May 1999 the ALAMIN (*Alyansa Laban sa Mina*, Alliance Against Mining). ALAMIN federates civil society groups, Roman Catholic and Protestant church leaders, NGOs, people’s organizations, schools, teachers, students, mountaineers, environmentalists, peasant groups, human rights activists, Mangyan tribal federations, government officials, and villagers.

The Roman Catholic Church’s Apostolic Vicariate of Calapan and the Mindoro Conference of the United Church of Christ in the Philippines have fully supported the movement against Mindex-Crew’s plans.

Two federations of Mangyans in Mindoro have passed separate resolutions opposing Mindex-Crew’s project: the *Kapulungan para sa Lupang Ninuno* (Ancestral Domain Council) and the *Samahang Pangtribu ng Mangyan* (Mangyan Tribal Organization), which represent seven tribes.

One of the convening organizations for ALAMIN is the *Kalipunan ng Makabayang Mindoreno* (Society of Patriotic Mindorenos), a multi-sectoral cause-oriented organization affiliated with the national BAYAN, which supported the party list *Bayan Muna* (Nation First) in the last congressional elections. Member organizations of Kalipunan come from the sectors of farmers, urban poor, youth, and indigenous peoples. Jun Saturay, a medical doctor, chairs Kalipunan and coordinates *Bayan Muna*’s Oriental Mindoro chapter.

Other member-organizations of Alamin include the Mindoro Assistance for Human Advancement through Linkages, Inc. or MAHAL, an NGO that seeks to help ease poverty through its socio-economic programs, and Kafcode (Kaunsayan Formation for Community Development), also a social development NGO.

Issues Raised

The local opposition has raised various issues, which include concerns on the environment, socio-economic problems, militarization and human rights violations.

On environmental, socio-economic, and legal concerns, Alamin raised the following:

- The mine site is a critical watershed of four river systems (Ibulo, Aglubang, Buraboy and Mag-asawang Tubig), which irrigate 70% of the island's rice fields and fruit tree plantations in the low-lying regions. Once these river systems are destroyed, Mindoro Oriental's role as a major "food basket" for Southern Tagalog and Metro Manila will be imperiled. Mindoro Oriental produces 20% of the total farm production for these two regions and 12 billion pesos of farm products annually.
- Mining operations will not only lead to deforestation, which, in turn, leads to siltation and flooding of rivers, and thus endanger life and contaminate the island's fertile rice-growing valleys. Ground and surface water for drinking will likewise be contaminated.
- The air will also be contaminated as sulfuric acid used in the extraction process emits toxic fumes.
- Mining operations will certainly endanger the island's unique endemic flora (at least 74 species) and fauna (at least 79 species). The island is one of the IUCN's ten highest priority areas for conservation action and concern.
- Mining operations also threaten the Naujan Lake, a major source of food and income for local folk, a home to the Mindoro crocodile, and a vital route of migratory birds from China. Tributaries from the proposed mine site drain into the lake.
- The High Pressure Acid Leach technology, which Mindex-Crew will use, has caused environmental problems in Australia.
- Leakage in the 43-kilometer pipeline taking slurry to the processing plant and transporting tailings into the sea is a cause for alarm. The pipeline and the whole proposed mine site are within an earthquake fault line.
- Another cause for alarm is the expected annual 4 million tons of mine wastes dumped into the Tablas Strait through the Submarine Tailings Disposal, which is banned in Western countries like Canada where Crew is based. Tablas Strait is a major fishing ground; thus contamination of the food chain is not far-fetched.
- Still another concern is the displacement and loss of livelihoods for farmers and indigenous communities.
- The company, in collusion with some government officials, made a mockery of the Indigenous Peoples Rights Act by manipulating and corrupting the Free and Prior Informed Consent and Certificate of Ancestral Domain processes.

Mindex-Crew's proposed mining operations have also led to militarization and human rights violations. No other than former DENR Secretary Antonio Cerilles requested military protection for the company. But Cerilles' action proved disastrous. After seven battalions were assigned in the island in the guise of counterinsurgency operations, the number of human rights violations rose drastically. Most of the victims of military abuse

were organized members of Mangyans and farmers affiliated with Kalipunan.

Arrested, for example, were seven Kalipunan youth activists and three Mangyan members. Kalipunan staff Noel Barrientos and Ruel Landicho were not only arrested; they were also tortured. Also missing is peasant leader Larry Aparato.

Five Kalipunan leaders and anti-mining activists have been assassinated since 2001. They were Erwin Bacarra (KADAMAY), Ramon Ternida (Anakbayan), Roger Fernando (Kalipunan and Bayan Muna), and Expedito Albarillo and Manuela Albarillo (Kalipunan).

There were also assassination attempts against three other Kalipunan leaders – Noel Villones, Ber and Belly Montoya.

The military has also reconcentrated peasant and indigenous communities apparently for easy monitoring of anti-mining activists. This is reminiscent of the military's "hamletting" practice during the late strongman Ferdinand Marcos' martial law reign.

Recent Developments

The DENR on July 16, 2001 revoked one MPSA covering 2,291 hectares held by Aglubang, Mindex-Crew's subsidiary that former DENR Secretary Cerilles granted in December 2000 under then President Joseph Estrada. President Gloria Macapagal-Arroyo upheld the DENR's revocation of the MPSA in November 2001. Canadian Ambassador Robert Collette has appealed to President Arroyo to reconsider her decision. Invoking the Foreign Investment Protection agreement signed between Canada and the Philippines in 1995, Crew has also threatened to challenge the revocation in court and international trade bodies.

While Crew was contemplating to bring its battle to the international front, local opposition won a victory on the local level. The Oriental Mindoro Provincial Board on January 28, 2002 passed a 25-year moratorium on mining. Ten members voted in favor and three against the moratorium. The people of Mindoro, however, do not wish to rest their guard but will continue to keep their vigil because they foresee that Crew, with all its resources, will do everything to question the ordinance in court. For the people of Mindoro, the battle has just begun. □

Cordillera: Women in Mining

Traditional mining has been part of the history of the Cordillera peoples since the 16th century. Both men and women engaged in small-scale mining, which applied a crude but environment-friendly technology. Both men and women could enter tunnels to extract ores. Others specialized in panning gold, which was more sustainable and not environmentally destructive. Under both methods of traditional gold extraction, Igorot communities had devised an equitable sharing system of their production. And they extracted only what they needed to barter for basic necessities from the lowlands such as salt, clothing, blankets, and work animals.

American colonization altered the whole traditional mining landscape. In 1903, American colonial soldiers-turned-gold-prospectors established the Benguet Consolidated, the first mining company in the country, in Itogon town in Benguet Province. The company, which later became Benguet Corporation, declared wide swaths of lands under its mining claims. For a time, the company employed the underground mining method, digging tunnels from the depths of the earth, and supporting the tunnels with timber logged from the pine forests of nearby towns. As it dug deep, the company meanwhile allowed the people to maintain some of their traditional small tunnels in the peripheries.

Towards the 1990s, Benguet Corp shifted to mechanized open-pit mining operations. The company had found underground mining to be labor-intensive and becoming less and less productive as gold veins were going deeper and deeper. The company thus shifted to open-pit mining, a method of extracting low-grade gold ore by scraping off whole mountainsides by using heavy equipment such as bulldozers and cranes. The method also uses dynamite to blast boulders of rocks. Through the open-pit method, a bulldozer could do the work of some 200 underground workers. Hundreds of laborers were thus laid off. The company likewise barred small-scale miners from the mine site's peripheries.

The environmental impact of mechanized open-pit mining was more massive. The company also bulldozed small-scale mine sites of local folk, depriving both men and women of their traditional livelihoods. As the company's underground mine workers were replaced by machines, their wives were forced to take on the role of eking out a living. Many women ended up vending vegetables in Baguio City's sidewalks and they had to and continue to play cat and mouse with the policemen who stalk them.

The open-pit mine also dried up the community's vital water springs, thus forcing women to fetch water from more remote sources. The drying up of their water plus the lack of government social services compounded the women's problem as their children became more prone to diseases, which could have been prevented by simple sanitation and hygiene had there been sufficient water. Adding more hazards to the community's health was the dust from the open pit mine site, particularly during the dry season.

And as they were deprived of their traditional small-scale mining livelihoods, which stressed equitable sharing, cooperation and community solidarity, the community folk found out that these traditional values have also come under threat of vanishing. The obvious reason: open pit mining also ruined the conditions, upon which the values of equitable sharing, cooperation and unity revolve.

The people of Itogon, particularly in the villages of Ucab, Antamok and Loakan, did not just sit by to watch Benguet Corp's bulldozers level the mountains. They mobilized themselves and barricaded and picketed the open-pit mine sites. The women, some of them with babies tied on their backs, led the barricades. Why women as front-liners? Company blue guards and the police tend to be "softer" in negotiating with women. This had not always been the case, however. At one time company blue guards and the police arrested and forced women, along with elderly men and children, into dump trucks after they tried to bar the company's bulldozers and other heavy equipment from entering Loakan. Many of them were detained for one to two nights at the Benguet provincial jail and charged with "obstructing the company's operations".

Despite the arrests and other forms of harassment, the women continued to educate and inform others about the ill effects of mining. They also organized women organizations in the various villages and federated these into an alliance called BEGNAS. They continued with their lobby work, sending petitions and letters to local government offices and to the Department of Environment and Natural Resources. In 1997, they helped organize an international mining conference aptly dubbed "International Conference on Women and Mining," which 45 delegates from 15 countries attended. From the conference, they came out with a declaration and resolutions, stating their common stand against what they called neo-liberal globalization, which included the liberalization of the mining industry. They also called for a ban on multinational or transnational mining because of its adverse impacts on ecology and on human and indigenous peoples' rights.

Benguet Corp's open-pit mine operations stopped in 1996. But the company failed to rehabilitate its trail of destruction. It abandoned its tailings, dumpsites and other structures. After mining out all the gold and other minerals of Itogon, the company shifted to other commercial ventures in 1998 such as real estate subdivisions, eco-tourism, and a bottled water business from a spring (that was supposed to be for the public) for which it applied exclusive water rights. The company was also able to get government to declare a certain portion of its mining claims as a special economic zone.

Itogon folk have clamored that Benguet Corp should turn over its mined-out area to the people who originally owned the company's mining claims. Unfortunately, government honors the company's mining claims more than the people's ancestral land claims despite the 1997 Indigenous Peoples Rights Act, which recognizes the rights of indigenous peoples to their ancestral lands and domains.

The women, who used to barricade the company's operations, declare they will continue efforts to organize other women in affected communities. On the short-term, the company, according to women organizations, must rehabilitate mined-out and damaged areas and compensate or indemnify all damages. The women's movement hopes to come out with the mechanics for compensation as some of the movement's support organizations like the Mining Communities Development Center and other people's organizations have begun a study that could enable the proponents to compute in monetary terms the damage wrought by the company. Initial results of the MCDL study, for example, show that for every 25-kilometer stretch of the Agno River silted and polluted, an average of 500 hectares of rice fields have either been washed out or rendered useless after these were silted and poisoned. The average yearly production of the 500 hectares of rice fields can now be computed and valued in pesos.

They have also urged government to recognize the ancestral land rights of the community folk and revoke the company's mining claims, patents and leases after it stopped

its mining operations. The next step, women organizations further recommend, is for the company to return the lands of the community folk. The women at the same time are campaigning for a stop to the company's current practice of monopolizing and privatizing land and water sources for commerce. Meantime, the women continue to support and strengthen the international network they had established after their 1997 International Conference on Women and Mining in Baguio City.

Case study rapporteur Jill Carino of the Cordillera Women's Education and Resource Center (CWERC) meanwhile pointed one of the women's movement's weaknesses. She said the women's movement failed to sustain its campaign to prod the company to rehabilitate its mined-out and damaged areas because its resources were mobilized in the ongoing campaign against the San Roque Multi-Purpose Dam. The P1.2 billion 342-MW dam is feared to inundate hundreds of hectares of farm and residential lands not only in Pangasinan but in Itogon as well. □

Cordillera: Conducting a Region-wide Campaign

The Cordillera People's Alliance, which federates grassroots peoples' organizations in northern Philippines' Cordillera upland region, has been battle-scarred in the protest movement against big-scale corporate mining. The CPA, for example, helped out in the campaign to stop the open-pit mining operations of Benguet Corporation in Itogon. But after the anti-open pit mining struggle, another development came to confront the CPA again. The national government passed a new law to lure foreign mining investors into the country.

Shortly before and immediately after then President Fidel Ramos signed into law the Philippine Mining Act in 1995, transnational and local big mining firms swarmed the Mines and Geosciences Bureau with mining contract applications. Mining applications for the Cordillera alone covered an aggregate area of 1 million hectares, which covered more than half of the 1.8 million total area of the upland region. Leading the pack of mining companies salivating over the region's mineral lands were Newcrest and Newmont.

The CPA lost no time and reviewed and studied the new Mining Act and the various mining contract applications. The CPA then prepared a critique of the Mining Act and convened community leaders to study the current mining issue and to unify and organize them around this. This culminated in a regional mining conference, during which veteran anti-mining trainers helped sharpen the analytical skills of community leaders and informed them more about the national and global context of the new Mining Act.

From the regional conference, community leaders wrote petitions and letters for a massive signature campaign. Other offshoots of the conference were information resource kits and primers, which educators and organizers used as handy references. The CPA also learned the art of putting to good use its good network with the mainstream mass media by inviting them to press conferences, forums and symposia.

Meanwhile, local struggles have continued against existing corporations, which have embarked on expansion projects. Community folk, for example, succeeded in stopping Lepanto Consolidated Mining Company from expanding its gold mining project in Mankayan town in Benguet Province. The company, however, has sued some residents for a usual charge – “illegally obstructing company operations”.

CPA has also continued to network with other advocacy and peoples' organizations in the regional, national and international levels. The CPA likewise co-sponsored the First International Conference on Women and Mining in 1997, the National Mining Workshop in 1998, and other local forums and workshops, which were all geared to inform people about the ill effects of transnational and big-scale mining.

The CPA's campaign helped bring about some tangible gains. Up to now, not one transnational firm has begun operations. Both Newmont and Newcrest backed out and pulled out their Financial and Technical Assistance Agreement applications. They have transformed however their FTAA applications into Mineral Production Sharing Agreement applications, which the Department of Environment and Natural Resources has approved.

In Mountain Province, the Provincial Board passed a resolution banning big mining in the province. Some towns such as Sagada, also in Mountain Province, and different church groups have also passed resolutions calling for a ban on big mining. And community folk, who have had bouts with mining companies, have remained vigilant.

Some lessons could be drawn from the CPA's experience. One of these is the need to strengthen the organization and unity of communities so they do not fall prey to the divide-and-rule scheme of mining companies. Another is engaging local officials in dialogues, building alliances with them, and getting them to support the call of their constituents. Local officials can be the community folk's "bridge" to the national government.

Still another vital lesson is alliance work. The broader support from more sectors the better chances of the people's campaign in reaping victories.

Projecting a mining issue in the international level is equally important. The Cordillera peoples, for example, have learned this from their experience in their resistance movement against Marcos' World Bank-funded Chico Dam projects. After the international media helped pick up the Chico Dam issue, the World Bank pulled out its funding for the project.

To sustain a region-wide campaign, case study rapporteur Joan Carling also stressed the need for a core of people to continually assess how things are going and plan short- and long-term goals to sustain the campaign.

Since their ecosystems are not separate from those of the highlands, people from lowland communities must also be able to see how environmental destruction in the uplands affects them. Once lowland communities see the connection, those in the uplands can win more support and allies from lowland folk.

The CPA can share a lesson with those who have to deal with the impacts of militarization. This is the need to train local human rights activists and paralegal teams. Human rights activists can come from the ranks of local lawyers, church people and law students.

As companies get more aggressive to push their way into the region, if not in the whole country, the CPA is equally ever ready and prepared to heighten its forms of resistance and struggle.□

Bicol: Scientific Research and Anti-Mining Drive

Prof. Emelina G. Regis, Ph.D. shared a significant tool in the campaign against big-scale mining - scientific research. The director of the Institute for Environmental Conservation and Research (INECAR) of the Ateneo de Naga University in Naga City in southern Luzon led a study of two mined-out *barangays* in Bicol Region. The villages studied were Barangay Luklukan Sur in Jose Panganiban town in Camarines Norte and Barangay Sta. Barbara in the island town of Rapu-Rapu in Albay. Both were rich farming and fishing coastal villages before the advent of the mining industry.

Commercial mining in Barangay Luklukan Sur began in the early 1900s when American colonial gold prospectors extracted gold using mercury. Lured by gold extraction and trade opportunities, hordes of migrants soon settled in Barangay Luklukan Sur. Local inhabitants eventually joined the gold rush. After the gold ore was almost exhausted, the migrants left and only the original settlers stayed. Few inhabitants still continue to extract gold from the already degraded land because they can no longer tend their farms. Neither can they catch fish because mining had ruined vital coral reefs. Rampant dynamite fishing worsened the situation.

Sta. Barbara, on the other hand, had lush forest vegetation before mining came. The village was blessed with four creeks, which bubbled with crystal clear water and teemed with native snails called *tabagwang*, fish and freshwater shrimps and crabs that villagers caught for food. But all these began to vanish after the Japanese came in the last war and introduced gold mining. The ecological destruction worsened when Nippon Kogyu, a Japanese company, embarked on big mining operations in the 1940s. To extract gold, the Japanese dug tunnels and open pits. The study led by Prof. Regis detected acid in the water flowing on the mine's floor.

After World War II, Hixbar, another mining company, resumed its operations, attracting migrants into the village. To extract gold, the company used a cyanide solution in an extraction process called "heap leaching." Nippon and Hixbar ceased operations in 1972, leaving behind a 15-hectare open pit. The devastated area extends beyond the open pit to the sites of company facilities.

Findings and the Bare Facts

Even after being abandoned for 25 years, the open pit mine site in Sta. Barbara remains bereft of vegetation. Only a few grasses and other weeds managed to grow in the former mine site but Prof. Regis' study found these to be contaminated with arsenic, a cancer-causing substance. And roaming cattle feed on these grasses and weeds, allowing arsenic into the food chain, as these cattle are eventually slaughtered and eaten.

Villagers also can hardly raise crops because water for irrigation has become acidic. Three of the village's four creeks have reddish deposits, which show extreme acidity, and explains the iron-rust color of its water. Samples of water tested showed the creeks were contaminated with cadmium and arsenic. Small wonder these creeks are biologically dead or devoid of any of the fresh water fish and other living organisms that teemed in its waters before the mining operations. These toxic chemicals have found their way into the sea. Prof. Regis' study found a brown seaweed (*Padina sp.*) to be highly contaminated with

heavy metals, among these arsenic.

Sta. Barbara now has the smallest population in Rapu-Rapu town. Many people have left because of the acidic water. Many of those who have stayed have suffered from health problems that include lung diseases and stomach ailments. Poverty now continues to stalk the villagers because their farm and fish harvests have dramatically declined since their creeks were poisoned. The mines also poisoned and silted the sea's coral reefs so only those with sturdy boats can go fishing in other reefs within the island or in the open sea, which is rough most times of the year.

In both Luklukan and Sta. Barbara, the trees had been cut down to serve as posts and support for the mine tunnels. The denuded forests have exposed the land's topsoil, which the rains wash down to the creeks, springs, rivers and finally the sea. As a result, the quality of soil and water in both villages of Luklukan and Sta. Barbara has greatly deteriorated.

Also washed down to the water systems were heavy metals from the mines such as arsenic, cadmium and lead. And along the way, these metals were also deposited into the soil along river valleys and into the lowlands. Other metals found their way into the coral reefs, poisoning or contaminating the fish that villagers and other Filipinos eat.

According to Prof. Regis' study, the technical staff of the companies that operated in the two villages released heavy metals bound in gold ores through a process called Acid Mine Drainage or AMD. AMD dissolves naturally occurring heavy metals such as arsenic, mercury, cadmium and lead. The companies' technical staff would then release the dissolved metals into the water systems.

As these heavy metals find their way into the food chain, humans can suffer from a variety of health problems, Prof. Regis said. Arsenic, cadmium, lead, copper, zinc and other metals all cause cancer, especially if much of these are deposited into the human body. They also cause other diseases such as bone ailments (brittle bones), cadmium pneumonitis (an infection of the lungs due to inhalation of cadmium-laden dust and other fumes), other lung diseases, severe and permanent brain damage such as in the minamata disease, adverse effects on the central and peripheral nervous systems, kidney malfunction, and leukemia.

In both villages, Prof. Regis also discovered the adverse effects of heavy metal pollution on plants. She examined an indicator species, *Stachytarpheta jamaicensis*, which recorded heavy metal pollution above the normal 5% pollen grain abortion in flowering plants. As many pollen grains abort, their number is reduced, thus, also reducing the chance of pollination, and ultimately, yield targets. In this case, no fruits develop because sperm cells carried by the pollen fail to fertilize the egg cell in the ovary. This is why crops in both villages show poor harvest. Mature coconut trees in the sub-village of Ultra, Barangay Luklukan Sur, for example, do not bear fruits whereas those in other sub-villages do.

The various stages of mining generate various forms of destruction and degradation. Mine waste clogs rivers and irrigation systems. In the sea, it smothers corals and tiny animals and destroys fishing grounds.

Prof. Regis concludes that big-scale mining impoverishes people in the long run. While in operation, the mining industry can create job opportunities, benefiting even migrants. But after the gold and other minerals are mined out, the mining companies and the migrant workers leave to seek other opportunities elsewhere. The original settlers, who used to farm and fish, can no longer go back to farming and fishing because mining opera-

tions have poisoned their land, rivers and seas. The companies, which abandoned the mines, can reinvest their profit elsewhere. The original settlers, on the other hand, are now more impoverished than ever. They also have to confront diseases that were unheard of before such as cancer and cadmium pneumonitis.

But Prof. Regis stressed the need for scientific research to back with concrete data the adverse impact of mining on health, the environment, agriculture, fishery and other livelihood. Unfortunately, the country has few environmental scientists. Prof. Regis, for example, is the only environmental scientist in the Bicol Region, and the only one in the country who has devoted her scientific research to the impact of mining on the environment and people's lives. She thus exhorted young people to pursue environmental science because, aside from social acceptability, scientific studies could be necessary weapons in battling transnational corporate mining. □

Other Cases

For lack of time, other delegates were not able to present other case studies. But in open forums, some delegates briefly cited cases in their communities. In Isabela Province in northern Luzon, for example, community folk have organized an Anti-Coal Mining Movement now battling the Philippine National Oil Company's (PNOC) attempt to mine coal in the province. The PNOC was able to buy titled lands of farmers for a song – P4.00 per square meter.

A delegate from Negros island also added some details to an earlier case study farmers' representatives presented. He cited how Philex Mines had allegedly "employed" as its "private army" the Revolutionary People's Army (RPA, an armed Left group under Arturo Tabara, which broke off from the New People's Army over ideological and political differences). The RPA is also reportedly the blue guard of Marikalum, another mining company in Negros island. The entry of the RPA into the picture has complicated the situation, as the spate of violence has been blamed by the farmers on fanatic groups supervised by Philippine Army soldiers. But it is a consolation that the mass media in Negros have helped in exposing the killings and the reasons and context behind the killings – the invasion of mining TNCs on the island. □

CASE STUDY SYNTHESIS: *TNC BAD PRACTICES*

By Clemente Bautista

It is clear that the Philippine Mining Act of 1995 paved the way for the swarm of mining contract applications from big foreign and local mining investors, which cover wide swaths of lands. The new Mining Act, first and foremost, seeks to liberalize the mining industry and lay down the mechanics and structure for globalized free trade under which monopoly capitalists can freely enter our country and plunder and wantonly exploit our resources at the cost of our environment and people. The invasion of the country by mining TNCs is a concrete example.

Both existing and new mining TNCs in the country have left a trail of bad practices in various communities nationwide. These include:

1. Using deception

- To pave their entry into communities, mining TNCs promise “progress and development” in the form of taxes paid to local governments, high-paying jobs, and livelihood projects for farmers and indigenous peoples;
- Getting community folk to sign documents (supposedly for attendance, for example), which turn out to be endorsements for TNC mining projects;
- Promising infrastructure facilities such as health centers, schools, and barangay halls, and providing social services such as organizing cooperatives;
- Promising “environment-friendly and advance technology” in mining, and showing off “environmental awards” and “environmental projects” as “proof” of their track records here and overseas; and
- Failure to meet obligations to rehabilitate and indemnify ruined lands and ecology.

2. Divide-and-rule tactics

- Organizing tribal councils, which TNCs pit against each other, to divide the ranks of Lumad leaders and family members in Mindanao in southern Philippines;
- Encouraging transmigration into a mining-affected community to “minoritize” original inhabitants;
- Using pseudo-NGOs to organize in a community;
- Pitting community folk and local government units as was the case in Nueva Vizcaya in northern Philippines;
- Bribery of local officials and community leaders in the form of cash, house and lot, high-paying jobs, cars, etc.

3. Using and bending laws to their favor

- Such as the Philippine Mining Act of 1995, Free and Prior Informed Consent, Environmental Compliance Certificate or ECC;
- Using subsidiaries and dummies, selling and buying existing mining agreements, and downscaling FTAA to MPSA;
- Suing in court those who rose up in protest and using the approval of the DENR,

MGB, LGUs and other government officials to pursue their projects even without the approval of community folk.

4. Exploitation of workers and employees

- Low wages and absence of job security because of contractualization;
- Delayed or unpaid wages, poor and hazardous working conditions, and the lack or absence of safety gadgets and facilities;
- No benefits and separation pay;
- Violation of basic workers' rights.

5. Repression, violence and militarization

- Employing fanatic groups, goons, security guards and other armed groups such as the RPA-ABB (Revolutionary Proletariat Army-Alex Boncayao Brigade), Bucaneers and Canter, and vigilantes;
- Launching military operations in communities protesting against mining under the pretext of going after the New People's Army and the Moro Islamic Liberation Front;
- Illegally dispersing the pickets and barricades of protesting community folk, thus violating their constitutional right to peacefully assemble and air their concerns;
- Threatening, kidnapping and outright killing of those protesting against mining.

For its part, government, desperate to attract foreign investments at all cost, has taken the side of the mining TNCs. Led by the Department of Environment and Natural Resources and the Mines and Geosciences Bureau, government officials, citing and invoking the Philippine Mining Act of 1995, have become the spokespersons of the mining TNCs. In fact, in many areas, community folk know former and current government officials who have become "apologists" for big mining corporations.

And from the President, as the armed forces commander-in-chief, down to her generals, government has unleashed its military machinery to serve and protect the operation of mining TNCs. The government's armed forces have thus set up military detachments and checkpoints and deployed an unreasonable number of soldiers, police and paramilitary forces in various mining-affected communities. In the guise of counterinsurgency operations, soldiers and police have also become the blue guards of mining companies. Worse, some soldiers and police, as was the case in Diwalwal, had sown violence instead of keeping the peace in many communities. And much worse is the outright killing of protesting folk, activists and community leaders – a fact of life in Mindoro, Negros, and in Mindanao.

Under the guise of national development and industrialization, government has actively been selling out the country to mining TNCs by announcing how it liberalized the industry through the Philippine Mining Act of 1995.

The government boasts of exemplary laws and policies such as the Free and Prior Informed Consent provision found in the Mining Act and in the Indigenous Peoples Rights Act and the DENR's Environmental Compliance Certificate requirements. Sadly, however, government itself can hardly enforce these laws and policies.

And through the Philippine Mining Act, the Philippine government has legalized land grabbing.

Amid the promise of national development, the adverse impacts of TNC mining

operations have dwarfed and continue to overshadow the supposed benefits:

1. Massive legalized land-grabbing by mining TNCs through the new Philippine Mining Act has deprived indigenous peoples of their ancestral domain rights
2. Ecological destruction and wanton exploitation of natural resources
 - Natural and mineral resources are extracted and exploited but do not benefit the majority of Filipinos, thus, endangering the fate of future generations
 - Poisoned and silted rivers, fishing grounds and corals
 - Bald forests and flashfloods
 - Contamination of lands with toxic wastes, erosions, and siltation
 - Loss of biodiversity
 - Use of destructive technologies such as open pit mining and deep-sea or submarine mining disposal
 - Sinking communities (Mankayan and Itogon, Benguet; Marinduque, and Atlas in Cebu)
3. Loss of livelihoods and worsening poverty
 - Dramatic decline of fish catch and farm yield
 - Loss of livelihoods as a result of outright dislocation of villagers
 - Dislocation of small-scale miners (Diwalwal case)
 - Search for jobs or livelihoods outside community or in urban centers
 - Rise in school dropouts
4. Double burden for women
 - Women take on the role of sole breadwinners as their husbands are deprived of livelihoods
 - As water sources dry up, women have to fetch water from a distance and have to worry when their children get sick simply because of the lack of water (e.g., Itogon)
5. Adverse effects on public health and safety
 - Aplastic anemia and respiratory diseases (Marinduque, Negros)
 - Diseases mine workers incur as they are daily exposed to toxic chemicals such as cyanide
 - Cancer-causing chemicals that enter the food chain
6. Destruction of rich traditional culture and the entry of a decadent one
 - Gambling and drinking
 - Loss of good manners and right conduct, which are inherent in indigenous culture

In the face of all these, some officials and local government units support the people's campaign against mining TNCs.

The people, particularly those directly affected, have resisted and continue to resist TNC mining operations. They have embarked on the following various forms and methods

of resistance:

1. Education and information dissemination

Content: clarifying and pointing the link between the issue of TNC mining and the issues of land grabbing, violation of people's democratic rights, ecological destruction, and the issue of real development and progress. All these are within the context of globalized free trade being pushed by monopoly capitalists.

Form: Using and exploring new, effective and creative ways and means to get more people to understand the issue of TNC mining and the calls and demands of communities.

Common Methods	Education Materials	Tri-Media
• Forums, symposia, small group discussions, community meetings, mobile prop teams • Conferences	• Video documentation • Photo exhibit	• Print - Letters to the editor - Articles, opinions - Press statement, releases - Pictures, photo opportunities
• Cultural presentations – songs, plays, skits, effigy, murals, poems	• Comics • Pamphlets • Primers	• TV broadcast - Local TV station - Interviews, TV guesting
• Church homily, pastoral letters • Sharing by people affected by mining	• Streamers, placards, pins, posters, <i>balatenga</i>, post cards	• Radio - Radio spots & programs - Phone-in interviews - News
• Electoral platform	• Newsletters	• Press conference
• Email, websites, text brigades		• Media forum
• Fact-finding mission • Environmental Investigative mission • Field visit of mining-affected communities		

2. Organizing

- Organizing affected community folk and helping set up various organizations among farmers, indigenous peoples, workers, women, youth, environmentalists, professionals, scientists and technologists, and other sectors
- These organizations were set up based on a common understanding of and collective action versus mining TNCs

3. Mass campaign and mobilizations

- Petition and signature campaign
- Protest actions and pickets in government, local government units, and mining TNC offices
- Direct actions - barricading the bulldozers and survey personnel of mining TNCs

- Caravans, motorcades
- Candle lighting, die-in, camp-out
- Noise barrage, fluvial parade, lightning rally
- “Operation Paste and Paint”

4. Alliance formation

- To gather the widest opposition to mining TNCs and support to campaign
- It serves as broad united front to work with or oppose the LGUs (local government units):
 - Panay - Madaas Ecological Movement, Capiz Environmental Alliance
 - Southern Tagalog Region - Southern Tagalog Environmental Action Movement (STEAM)
 - Mindoro - Alyansa Laban sa Mina (ALAMIN, Alliance against Mining), Kalas Pagmimina
 - Marinduque - Buklod Marinduque
 - Far South Mindanao - municipal alliance, Alliance for Regional Development
 - Isabela - Anti-Coal Mining Movement
 - National - Bagong Alyansang Makabayan

5. Research - to deepen the analysis/understanding of the mining issue and strengthen the campaign against mining TNCs

- Fact-finding mission
- Environmental investigative mission
- Table research (library, internet, publications)
- Consultation with local and foreign scientists and experts

6. Legal actions

- Local government units and local government officials - dialogues and consultations, ordinances and resolutions
- Courts - free and prior informed consent, cease and desist orders, environmental compliance certificates
- Legislative - congressional investigations and hearings, bills and resolutions
- People’s initiative provision - Didipio, Nueva Vizcaya

7. Networking

- Regional - CPA, STEAM, BAYAN chapters
- National - Bayan, Bayan Muna, LRC, CEC, AGHAM, KAMP, Kalikasan-PNE
- International - Tebtebba Foundation, PIPlinks, Oxfam, Mining Policy Institute

8. International solidarity work

- Networking with other anti-mining TNC groups - Tebtebba, Mine Watch, PIPlinks, Oxfam

- Conduct of international mining conference - CPA-sponsored International Conference on Women and Mining
- Common solidarity actions - International Day of Protest against mining TNCs
- Researches of other groups, people and experts on mining technologies, mining TNC strategies

9. Armed resistance

- *Pangayao* (traditional armed protest or resistance) of B'laan folk in Davao del Sur against Western Mining Corp
- Small-scale miners in Diwalwal arming themselves against goons and military forces
- New People's Army actions - punishment of paramilitary forces and vigilantes in Negros, attack on mining equipment of Mindex in Mindoro
- Moro Islamic Liberation Front support for Diwalwal small-scale miners

The people's movement against mining TNCs can count some victories, which have been won through a combination of legal and extra-legal struggles, or a combination of both. These are:

- Banning the start of operations of mining TNCs: Mount Isa Minera in Capiz, Phelps and Dodge in Iloilo, Mindex-Crew in Mindoro, Lepanto's expansion project in Mankayan, coal mining in Isabela, mining attempts in Aurora
- Stoppage or delay of existing TNC mining operations: Marcopper in Marinduque, Atlas Mining in Cebu, WMC in Davao del Sur, Climax Arimco in Nueva Vizcaya, Maricalum Mining in Negros
- Moratorium on the entry of mining TNCs on the municipal and provincial levels - Capiz and Mindoro
- Organizing and networking with scientists and technologists, and human rights and environmental lawyers
- Declaration by community folk of Free Mining Area
- Decline or reduction of mining applications
- Expansion and proliferation of alliances from the local to regional and national levels

The campaign against mining TNCs also left several lessons. Among these are:

- Comprehensive, widespread and multi-faceted education and organizing work
- Deep understanding and analysis of the issue based on comprehensive research
- Effective, comprehensive and sustained campaign
- Broad and strong alliance
- Good lobbying with and advocacy among local government units
- Support from Church, professionals and other sectors

- Continuing consolidation and expansion of people's organizations
- Militant and timely protest actions against military atrocities
- Resource mobilization
- International projection and solidarity
- Use of different forms of struggle based on strong unity and people's collective actions

The people's movement against mining TNCs, however, has to wrestle with some challenges.

1. Many more communities have yet to be enlightened and organized in order to act collectively against mining TNCs and globalization
2. Pursue other arenas of struggle
 - Seeking justice and indemnification for victims of mining TNCs; making mining TNCs account for and rehabilitate the damage they wrought on the environment and on people's lives and health
 - Weigh and consider the use of class suit and lobbying before the UN and other international bodies
3. Study and propose an alternative law or policy for the Philippine Mining Act of 1995
4. Repeal Mining Act of 1995 or push for amendments while the repeal is being processed
5. Revive and strengthen the campaign against mining TNCs
6. Link up with other groups overseas campaigning against mining TNCs
7. Take note and give stress to technical aspects in campaign against mining TNCs and seek the help of experts
8. Let a thousand or more moratoriums on TNC mining operations bloom all over the country
 - Replicate resolution and ordinances against mining TNCs
9. Get across into the popular conscience, particularly in the urban centers, the ill effects of mining TNC operations, their bad corporate practices and militarization, which has become the twin of TNC mining operations.□

WORKSHOP RESULTS



Workshop I Reports

The first workshop aimed to appraise community people's actions and campaigns against mining by TNCs. Grouped by geographical region, the participants were expected to share strategies, gains, lessons, and weaknesses, and to put forward recommendations and calls for action, which can further strengthen the campaign against mining by TNCs.

Visayas Group Report

The Visayas group went directly to recommendations. Thus:

1. There is need for substantial research, which can help back and strengthen the campaign and advocacy against mining by TNCs. But the following must be considered:
 - 1.1. a centralized database (c/o CEC and Kalikasan, and other groups), which contains the directories and profiles of mining firms and other related materials such as photo and video documentaries
 - 1.2. technical skills training to make full use of such database
2. Advocacy and education
 - 2.1. Need for an advocacy officer and a pool of speakers
 - 2.2. Regular bulletin - e.g., Mining Watch Monitor
3. Continuing education
 - 3.1. Basic orientation on mining (using primers by CPA and BAYAN, resource kits of CEC, and other materials by other groups)
4. Deepening studies - link between mining by TNCs and globalization
5. Alliances and linkages
 - 5.1. Tap media organizations
 - 5.2. Replicate Capiz and other provinces' experiences – by getting local government units to help in the campaign against mining by TNCs
 - 5.3. Church and other groups
6. Mobilizations - expand, strengthen and heighten mass actions; and employ other approaches such as environmental investigative missions, pickets, dialogues

Western Mindanao Group Report

1. Weaknesses, obstacles, mistakes
 - Both large-scale and small-scale mining have brought adverse impacts in varying degrees
 - Many communities are still in the dark on why there are human rights violations and what to do with these

- Lack of alliance with sympathetic local elected officials
- Need for new campaign strategy - e.g., community folk must first know the profile of a transnational company which seeks to explore and mine in a community
- Lack of involvement from the Church sector
- How to use legal and extra-legal means – how community folk can see for themselves what the problem is and what legal means they can use
- Massive organizing, advocacy and linkaging
- Relation between community folk and NGOs – NGOs should only be facilitators

2. Recommendations

- Unify people around sufficient information about mining by TNCs
- Equip communities with paralegal tools
- Tap and involve the government's Commission on Human Rights, other line agencies such as the Department of Interior and Local Government and other officials in probing human rights violations
- This national conference should organize a Mining Dialogue with the national government
- Follow-up recommendation for the cancellation of TVI's mining contract
- Scrap Philippine Mining Act of 1995

Southern Mindanao Group Report

1. Lessons, problems, obstacles and weaknesses

- Lack of data filing systems
- Lack of research guides
- Lack of comprehensive organizing and leadership from among affected communities
- Lack of systematic machinery in alliance-building
- Financial constraints - lack of transportation fare for community organizer to go into remote communities, which need to be organized

2. Recommendations

- Strengthen basis of unity
- Maximize available materials - audio visuals, studies, reports
- Comprehensive research
- Strengthen linkages, networking
- Systematically advance campaign
- Scrap new Philippine Mining Act and recommend new alternative mining policies

- Expose President Gloria Macapagal-Arroyo's link with TNCs

Luzon Group Report

1. Lessons

- Lack of sustained efforts in educating, organizing and mobilizing affected communities
- Campaign stressed only mining by TNCs without relating this to its bigger national and global context

2. Recommendations

- Strengthen people's movement and sustain education, organizing and mobilizing efforts
- Expand coverage of campaign – while other communities are affected by mining, others are affected by other issues like the Fisheries Code, which should not be relegated because these too are equally relevant.
- Ensure fast and efficient information exchange from local to national and international levels and vice-versa, and maximize information technology tools such as text messaging, e-mail and post mail
- Put to good use scientific research as concrete basis in battling mining by TNCs
- Ensure efficient and effective alliance work
- Scrap 1995 Philippine Mining Act
- Recognize the role of extra-legal approaches and struggles such as the traditional *pangayao* (armed resistance) of Mindanao Lumad folk and similar actions

Northern Luzon Group Report

1. Obstacles, weaknesses and problems (Note: Rapporteur Lulu Jimenez of the Mining Communities Development Center explained that she and her group did not only focus on what were already taken up but also on other matters not discussed during the case study presentations)

- Lack of organizing efforts in some communities and lack of community organizers and leaders who could show the link between TNC mining and other issues
- Communities were preoccupied with various issues to the point that they had difficulty identifying what and which issue to focus on. Result: efforts were over thinly spread; mining issue was not well attended to
- Community folk also divided by the enticing offers of mining TNCs, which were meant to "divide and rule" communities
- Demoralization of community folk
- Weakening of people's will in the face of the enormous strength and power of mining TNCs
- Tribal conflicts

- Connivance of some local government units and their officials and some traditional community leaders with mining TNCs
- Failure to anticipate “post-ouster” scenario, i.e., failure to anticipate company plans to reclaim or grab again disputed lands
- As community folk sought jobs outside mined-out areas, it was hard to call for community meetings in order to organize them. In Nueva Vizcaya, community folk had to walk a considerable distance to join or launch mass actions or to follow up cases. But the organization of other neighboring communities could have helped ease these problems.

2. Recommendations

- Build up capacity of community folk for long and protracted struggles, including barricades, for example
- Sustained community organizing
- Survey all communities that can be affected by mining
- Networking between mining-affected communities and those not affected by mining (e.g., collaboration between mining-affected and cassava project-affected communities in Isabela)
- Adopt position of communities
- Do not fear militarization
- Recognize the role of armed resistance

Workshop 1 Synthesis

The Struggle against Corporate Mining: Imperatives in the Coming Years *An outline for discussion*

Presented by Windell Bolinget, Cordillera Peoples Alliance

Developing the substantial content of the struggle against corporate mining

We must ***develop the substantial content of the struggle*** against corporate mining in the broad context of the people's comprehensive movement against imperialist globalization and social misdevelopment and disempowerment.

By "substantial content," we mean:

- Our basic critique of the corporate mining industry (including government policies and programs) and the underlying socio-economic framework;
- Our basic lineup of demands directed at the mining industry and government;
- Our own alternative models and policy proposals for overhauling the industry and the underlying socio-economic framework;
- Deepening studies on the basic problems in Philippine society;
- Research on TNCs and the impact of their mining operations; case studies on closed mining; scientific research

Critique of corporate mining and the underlying social framework. It is clear from our experience that any critique of corporate mining will also need to critique the underlying dominant social (economic, political) forces.

Alternative models and policy proposals for the mining industry. A particularly imposing challenge on the people's movement is to push our research and advocacy for alternative models and policy proposals for overhauling the mining industry to make it truly serve as an engine for genuine economic development at the national and local levels.

- Even if not yet constructed as a draft law or blueprint economic program ready for implementation, these would be powerful educational and information tools, points for additional leverage, as well as internal guides for further policy studies.
- Study various options for alternative mining industry - small-scale mining which is non-destructive, environment-friendly, community-managed and controlled, and the use of appropriate technology to mitigate environmental effects and lighten labor
- Alternative agriculture and formulation of environmental code

Develop consensus on principles of alternative social development. Necessarily, such models and policy proposals will presume an advocacy of underlying principles of alternative social development, or at least a common understanding of the need to reject the development principles that underpin imperialist globalization and to forge alternative principles in the process of actual experiences especially at the grassroots.

- The national democratic movement has its own program of alternative social development

Mining issues must be linked to other people's issues (or broadening of mining campaign). In our handling of mining-related issues, including our efforts at popular education and public information but especially in the crafting of concrete demands, we must take into full consideration other closely related people's issues and demands, such as:

- Indigenous peoples' rights
- Peasants' and fisherfolk's rights
- Workers' rights (taking into consideration the seemingly contradictory pro-mining sentiments among mine workers)
- Women's rights
- Environmental concerns
- Socio-economic development at the grassroots, especially in the rural areas and on the agrarian question
- Nationalist economic program, especially on the question of industrialization and national patrimony

Developing the capacity of the people's forces in the anti-mining struggle

We must continue to ***develop the capacity of the people's forces*** in sustaining and broadening the struggle against corporate mining, also in the broad context of the people's comprehensive movement.

By "capacity of the people's forces," we mean particularly:

- the extent and depth of people's organizations, advocacy groups, and networks or alliances actively involved in the struggle, which is ultimately based on their pursuit of their respective long-term programs and strategies;
- the level of unity and common experience achieved by these forces in defining and refining the substance and direction of the anti-mining issues and demands, struggles and campaigns, as well as the parameters for their working together in areas of common concern;
- the organizational machinery and resources for planning, directing, supporting, and/or coordinating the various fields of struggle on a day-to-day basis;
- skills training for research, monitoring, and paralegal; and building human rights machinery and activists.

Active and solid people's organizations with strong grassroots base. As always, this remains as the most crucial factor in developing the forces for a sustained and broadened anti-mining campaign.

- Firm unity building with the different grassroots organizations and communities in advancing their anti-mining struggle.
- We call on all people's organizations, especially in areas directly affected by mining projects, to become more active in the campaign, and to expand and consolidate their grassroots base among the communities and basic sectors.

- A particularly important concern is to strengthen organizations of basic sectors such as peasants/farmers, fisherfolk, part-time and fulltime workers, women, youth and students. Among indigenous peoples, raising the level of unity among tribal/village elders is also important.
- Among indigenous peoples, tribe-or community-wide associations are essential, but the basic sectoral organizations are equally valuable especially in articulating and coordinating the distinct concerns/demands of their constituent sectors in the mining campaign.
- We call on all anti-mining advocacy groups and networks to extend more concrete support to these people's organizations especially in expanding and consolidating their grassroots base.

Broad alliance of people's organizations and advocacy groups.

- This alliance is best expressed through its basis of unity: not actually in terms of an actual form of alliance organization, but in terms of a formal consensus or unity pact. But we should also be open to the possibilities of forming specific ad-hoc coordinating bodies or inter-network task forces for specific joint projects or tasks in the campaign.
- Broader networking with other general and issue-based alliance would help ensure that the anti-mining campaign is firmly linked with the broader people's movement, and thus gain broader projection and public support through this movement.
- Alliance work with media, local government units, church and other groups

Developing stronger international support and solidarity work in pursuit of the anti-mining campaign

More sustained public information and popular education campaign

Sharing of information and conducting exposure programs

- case studies, video documentaries/photos on mining, monitoring of mining updates
- exchange visits

National and international focus on specific "flashpoint" areas

- full support and wide projection of local anti-mining issues and struggles in such areas
- identification and noting of prospective major national and international occasions (conferences/forums) to ensure that they are considered in the anti-mining campaign plan
- fact-finding missions

Combination of legal and extra-legal methods

- Considering the duplicity of current laws, rules and regulations on the mining issue, we must clarify our own attitudes and experiences in using traditional legal tactics (court cases, legislative lobby work) and in resorting to more militant but still legal or meta-legal methods of mass struggle and pressure points (petitions, protest actions, barricades, etc.)
- Exhaust legal means

- Tap Commission on Human Rights, government officials in handling human rights violations
- Policy recommendations for new mining legislation
- Armed resistance for the defense against the entry of mining TNCs
- Support from revolutionary forces

Concrete Actions

- Scrap Philippine Mining Act of 1995
- Cancel FTAA/MPSA of TVI, Climax-Arimco, Lepanto
- Expose President Gloria Macapagal-Arroyo's link with TNCs
- Sustained mass actions

Workshop II Reports

The second workshop focused on how participants could help improve, correct and substantiate a draft declaration against mining TNCs prepared by a drafting committee. The participants were grouped again according to the regions where they came from. They reported their suggestions and corrections, which the draft committee took note of and integrated into the final declaration. The final output is the declaration itself.

DECLARATION AGAINST MINING TNCs

National Conference on Mining

Baguio City

May 6 – 8, 2002

We, participants to the National Conference on Mining held in Baguio City from the 6th to the 9th of May 2002,

Representing a broad range of people's organizations and alliances, indigenous communities, church groups, and other non-governmental organizations from different parts of the Philippines;

Peasants, workers, scientists, environmentalists, doctors, lawyers, local government officials, mass media practitioners, organizers, and activists in our respective areas;

United in our commitment to uphold our people's interests and welfare in the face of adverse forces;

Confronted with the gravity of problems caused by large mining operations in our country, and the environment of neo-liberal globalization in which these take place;

Recognizing that imperialist mining or the operations of mining TNCs and their domestic counterparts have been responsible for plundering the nonrenewable resources of many Third World countries and of impoverishing them;

Realizing that mining TNCs have wiped out forests, destroyed groundwater systems, poisoned rivers, ruined pastures and croplands, and polluted the seas, depriving tribal and peasant populations of land and subsistence;

Taking into account that mining TNCs have exploited laborers, paying them low wages and subjecting them to unsafe and unhealthy working conditions;

Knowing that the the TNCs' so-called paradigm shift towards "sustainable and responsible mining" under the Global Mining Initiative (GMI) and Mines, Minerals, and Sustainable Development Project (MMSD) is nothing but an image-promotions campaign to ensure their future while they continue exploiting us and our land in a wasteful and unsustainable way, and seeking, even at this time, to acquire "rights" over our lands and against our wishes through tricks, deceit, intimidation, militarization and abuse;

Condemning such practices these mining TNCs are implementing on our lands: Western Mining Corporation in South Cotabato, Toronto Ventures Inc. and Rio Tinto Zinc in Zamboanga, Anglo-American in Surigao, Broken Hills Property in Aurora, Luzon and Mindanao, Newmont in the Cordillera, Climax Arimco in Nueva Vizcaya and Placer Dome in Marinduque etc.;

Condemning further the manipulation and misuse by mining TNCs of the Free and Prior Informed Consent provision of the Indigenous Peoples Rights Act to enter and operate on indigenous peoples' territories;

Considering that the Philippine Mining Act of 1995 is but a wholesale surrender of our national patrimony to foreign plunder;

Realizing that as long as our economy pursues an export-oriented and import-dependent policy and remains beholden to the influence of rich powerful nations, international financial and trade institutions and transnational corporations, the Philippines will continue to face foreign plunder and large-scale destruction and pollution.

Knowing all these, we commit ourselves to persisting in our resistance to imperialist mining. And we forward the following calls.

1. Scrap the Philippine Mining Act of 1995 and all anti-people mining laws! Effect a moratorium on the opening of new large mines and the expansion of existing ones until a pro-people alternative to the said Mining Act can be legislated.
2. Cancel all Financial and Technical Assistance Agreements, Mineral Production Sharing Agreements, Exploration Permits, and other instruments, licenses, or contracts issued to TNCs and their domestic counterparts in large mining. Declare a moratorium on the processing of large mining applications.
3. Guarantee adequate separation pay and benefits for workers retrenched from mining operations which are discontinued as a result of the foregoing.
4. Guarantee justice and indemnification for all victims of imperialist mining – including disabled workers; dispossessed peasants; displaced communities; persons who have suffered diseases that have been caused by large mining operations; persons who have been harmed and families who have suffered death in the violence that has surrounded large mining projects.
5. Recognize and respect the rights of indigenous peoples to their ancestral lands, to ancestral domain, and to self-determination.

6. Ban open pit mining, submarine mine waste disposal methods and other destructive mining technologies.
7. Uphold and recognize declarations by Local Government Units for a mining moratorium or mining-free area in their towns/provinces.
8. Hold mining companies responsible and accountable for the rehabilitation of land and other resources ravaged by their operations.
9. Condemn the GMI and MMSD project of the international mining industry as mere propaganda exercises to restore their credibility destroyed by the many social and environmental disasters caused by their operations.
10. Develop an alternative mining industry in the framework of nationalist industrialization.
11. Restore the land and its resources to the people. Effect genuine land reform.
12. Uphold the social and economic, civil and political rights of all democratic sectors of Philippine society vis-à-vis the threat that imperialist mining poses to the exercise of these rights.
13. Assert the sovereignty of the Filipino people! Junk pro-imperialist policies! Oppose imperialist globalization!

9 May 2002

Resolution for the Scrapping of the Philippine Mining Act of 1995

May 8, 2002

Seven years ago, the Philippine government passed Republic Act 7942 or the Philippine Mining Act of 1995. The Act was devised upon the behest of mining companies and on the recommendation of international financing agencies such as the World Bank, the Asian Development Bank and the United Nations Development Program. Its approval paved the way for the entry into the country of giant foreign mining corporations to explore and exploit the mineral resources of the Filipino people.

The Philippine Mining Act of 1995 violates the Constitution. The law allows the entry into the Philippine mining industry of big foreign mining corporations through the Financial and Technical Assistance Agreement. Under this agreement, foreigners are allowed 100% equity in the investing company, and, for every FTAA, are granted a maximum area of 81,000 hectares of mineral land to mine for 50 years. The Act also gives foreign mining companies several benefits to ensure their profitability. These include tax holidays, 100% repatriation of capital and profits, and rights to guarantee unhampered mining operations such as water rights, timber rights and easement rights.

The Philippine Mining Act is unjust. It has allowed multinational mining corporations to rob the Filipino people of their patrimony, while denying the people their rights to land, life and resources. It has resulted in mining operations that destroy the environment and deprive the people of the basis of their survival. The Act violates the Filipino peoples' sovereign and democratic rights and a denial of the indigenous peoples' rights to their ancestral land and to self-determination.

On these bases, we participants to the May 6-8, 2002 National Conference on Mining held in Baguio City, Philippines call to scrap the Philippine Mining Act of 1995. We further demand that the Philippine government cancel the Financial and Technical Assistance Agreement and other mining contract applications and large-scale commercial mining permits government has already entered into with foreign mining corporations, and that no new FTAA applications and mining contracts be approved hereafter.

ANNEXES

ANNEX A: Messages

A Message of Solidarity to the National Conference on Mining

BAYAN MUNA National Headquarter
28 Magiting St., Teachers Village, Quezon City
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BAYAN MUNA salutes and fully supports the organizers and the delegates to the National Conference on Mining. It is time that such a conference has been convened. No site for the conference can be as apt as Baguio City since it is in the Cordillera where a people's campaign has been unrelentingly carried on for years to assert the right to land and resources and against mining transnationals.

The campaign has gathered momentum, and spread all over the country since 1995, after the passage of the Philippine Mining Act of 1995. It was no mere coincidence that the law was passed on the year the GATT-World Trade Organization agreement came into effect. As we all know, the frenetic push by the WTO, along with the IMF-WB, to fully liberalize trade and investment has resulted in the ruination of national economies and the impoverishment of billions of people across the globe.

The campaign against mining TNCs and for the repeal of the Mining Act of 1995 is a component of the people's campaign against imperialist (or neoliberal) globalization. You may recall that in 1986, under the auspices of the Bagong Alyansang Makabayan, we launched the Peoples' Campaign Against Imperialist Globalization (PCAIG) as a counterpoint to the US-led drive to use the Asia Pacific Economic Cooperation (APEC) as a vehicle for stepping up the pace of imperialist globalization.

Great strides have been made in the anti-globalization campaign since the debacle of the WTO ministerial meeting in Seattle, USA in November 1999. On a smaller scale – but on a nationally significant degree – our campaign against mining TNCs and the Mining Act of 1995 has likewise won victories. With so many local communities strongly resisting the entry of foreign firms, the start of large-scale mining has slowed down. Some local governments – such as the provincial governments of Aurora, Capiz and Mindoro, have passed resolutions or ordinances calling for a moratorium or ban on mining.

Yet the proponents of globalization persist in pushing their agenda, despite grudging acknowledgment by the World Bank and the IMF of its negative impact on people's lives. In mining, the TNCs have begun a Global Mining Initiative purported to foster "sustainable and responsible mining." Given the TNC track record of plundering natural resources and destroying the environment, this advocacy rings hallow and deceitful.

No doubt, we have to redouble our endeavors to stop further the plunder and ecological destruction by imperialist mining. And this National Conference is a good step towards deepening our knowledge on various aspects of this issue and developing strategies at all levels of our campaign.

BAYAN MUNA wishes you all resounding success in this great endeavor. *Mabuhay kayo!*

(SGD) NATHANIEL SANTIAGO
Secretary-general, BAYAN MUNA

A Message of Solidarity
Project Underground
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Berkeley, California 94704
510-705-8981 tel/510-705-89-83 fax
www.moles.org

Dear Mining Conference Colleagues,

I am writing to express Project Underground's support for the "National Conference on Mining" convened in Baguio City, Philippines on May 6-8. It is crucial for the people to unite and share initiatives, ideas and gains in the campaign to address the impacts of mining by Transnational Corporations (TNCs).

This conference comes at a strategic time when the mining industry's Global Mining Initiative is actively trying to push the false assertion that mining can be sustainable. Communities impacted by mining throughout the world have repeatedly proven that transnational mining operations have not improved their standard of living and have actually worsened peoples' lives.

There is a growing global movement to unite communities impacted by the mining industry, which is making strong gains to stop its path of destruction. Communities in the Philippines and recently the people of Tambogrande, Peru have taken local governance of their resources back to the people and out of the hands of TNCs. We believe that these conferences provide a valuable and important tool for communities affected by mining, as well as the NGOs and activists that support them.

Warmest regards,

(SGD) Diana Ruiz
Mining Campaign Coordinator

Message from the Mineral Policy Institute

Dear Friends:

Thank you for inviting the Mineral Policy Institute to attend the National Mining Conference. We would very much like to be there, but being a small organization, we do not have funds to cover the costs. Therefore, we must be there in spirit and in solidarity.

Your conference is a very important and timely gathering, occurring as it does at a time when activities for environmental and social justice are challenging the mining industry's efforts through projects like *Mining, Minerals and Sustainable Development* to reinvent itself as "clean and green."

Sadly, millions of peoples around the world know from bitter experience that the mining industry – as it is, becomes increasingly dominated by just a few multinational corporations – has yet to fundamentally change its practices. The mining industry remains a vocal advocate of environmental, social and economic policies that put corporate power and profits before people.

We strongly support the campaigns of the Filipino people against exploitation from the mining and energy industries, and particularly, campaigns targeting the Australian-based corporations like BHP Billington, Rio Tinto, Climax and WMC. These companies continue to promote the disposal of mine wastes into the sea, mining in protected areas, and mining in the lands of indigenous peoples without their informed consent.

We wish the conference participants well in your important discussions and decisions, and look forward to hearing the results.

Yours for environmental and social justice,

Geoff Evans
Director
Mineral Policy Institute
Erskineville, Australia

A Letter of Support from MiningWatch Canada

Ottawa
May 2

Dear Conference Participants,

Mabuhay!

Through this letter, we at the MiningWatch Canada would like to express our ongoing solidarity and support for the struggles of Philippine communities facing environmental degradation, social dislocation and threats to food security and community health as a result of irresponsible mining practices.

As a Canadian organization, we are particularly concerned about the bad corporate record of Canadian mining companies in the Philippines.

We deplore the devastation left behind by Canadian mining giant Placer Dome Inc. on the island of Marinduque. Placer Dome's management of the Marcopper Mining Corporation has left behind a 30-year legacy of irresponsible mining. Three major ecosystems, which used to provide food security to the people of Marinduque, are now poisoned with ill-contained toxic mine waste: Calancan Bay, the Mogpog River and the Boac River. Just one year after a massive tailings spill into the Boac River, Placer Dome divested its shares in Marcopper following a well-worn pattern of mining companies that divest after a major and expensive environmental disaster. Six years after the spill, Placer Dome has left the Philippines without fulfilling its promises to the Office of the President to clean up the Boac River and compensate damaged villagers.

We condemn the tactics, including violence and intimidation, being used by Canadian mining company Toronto Ventures Inc. (TVI) in its efforts to establish a mine on the ancestral land of the indigenous Subanen people of Sitio Canatuan, Tabayo, Siocon, Zamboanga del Norte. The Subanen organization Siocon Subanen Association Inc. (SSAI) and the small-scale miners of the area organized under the Canatuan Small-Scale Miners Multi-purpose Cooperative (CSSMPC) have been consistent and clear in their opposition to the intrusion of this mine on their island. It is clear that TVI has no social acceptability.

We support the united position taken by the people of Mindoro Oriental in opposition to a proposed nickel mine by Canadian mining company Crew Development Corporation. And we applaud the stance of the Philippine Government in revoking Crew's permit to mine. It is unacceptable that a Canadian mining company should propose to dump its mine waste into the ocean in a way that would be illegal in Canada. Crew's proposed mine also relied on an unproven hydromet technology to process its ore and furthermore would have been located on the mountaintops on the land of the

indigenous Mangyan and at the headwaters of several watersheds.

Finally, we stand in solidarity with all Philippine communities that are struggling to protect from mining their precious and life-giving resources, clean water, and healthy rivers, forests and marine environments. These communities understand that mining is not the best use of land, and, as experience in the Philippines and elsewhere has taught us, mining too often leaves behind an environment no longer able to support long-term sustainable human activities.

In Solidarity,

Catherine Coumans, Ph.D.
Research Coordinator
MiningWatch Canada

Annex B: Directory of Participants

National Conference on Mining May 6-8, 2002

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