

Report on the Philippine National Conference on Mining*

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In March 2002, during a national workshop on the "Indigenous Peoples Rights Act (IPRA) and Development" held in Cagayan de Oro City, Philippines, participants from mining communities were consulted on the idea of holding a national conference on mining. Their support to convene such a conference was overwhelming. Spearheaded by Minewatch AsiaPacific/Tebtebba Foundation, an Organizing Committee was subsequently formed to prepare and organize the conference. The Organizing Committee was composed of representatives from different networks active in the mining campaign: Tebtebba Foundation, The New Patriotic Movement (BAYAN), Legal Rights and Natural Resource Center (LRCKSK), Cordillera Peoples Alliance (CPA), DIOPIIM Committee on Mining Initiative (DCMI), KALIKASAN and Center for Environmental Concerns (CEC).

With support from the Third World Network (TWN), the Philippine Indigenous Peoples Links (PIPLINKS) and Mineral Policy Center (MPC), the National Conference on Mining was held last May 6-8, 2002 in Baguio City. Approximately 130 participants attended the conference, representing about 70 local community people's organizations, and regional, national and international support groups. Setting aside political and ideological differences, members of different networks came together, making the conference a broad gathering of people commonly working on the issue of mining. In addition, aside from representatives from the church sector, there was a substantial participation of local government officials who actively campaigned in opposing the entry of mining in their respective localities.

Objectives of the Conference

1. To get updated on and analyze current operations and maneuvers of mining transnational corporations (TNCs) in the national and global

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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 point of view;

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), especially relative to international financing institutions (IFIs), the United Nations (UN) and other intergovernmental bodies, and world events like the forthcoming World Summit on Sustainable Development (WSSD or Rio+10).

2. To share people's 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 of new mines;

c. To link up national and selected local campaigns with global regional and international campaigns against mining TNCs; and

d. To strengthen the networking among people's organizations and NGOs doing work on mining and help ensure that continuing information and education activities on mining are sustained.

Conference Results

A strength of the conference was in meeting its objectives through the sharing of experiences in 11 Case Study Presentations, further sharing by participants in open forums, panel discussions on current trends and developments on the national and international levels, and further building of unity through workshop discussions. At the end of the three days, the participants came out with a Resolution to Scrap the Philippine Mining Act of 1995 and a Conference Declaration (Annex A).

What the case studies and community sharing show

It is very ironic that seven years after the enactment of the Philippine Mining Act of 1995, the government's Mines and Geosciences Bureau (MGB) and mining corporations operating in the Philippines are now calling for "Sustainable Development through Responsible Mining". It was the conclusion of the Conference, upon hearing the testimonies of representatives from mining affected communities, that:

- There can be no "Sustainable Development through Responsible Mining" for so long as the country's economic policy is an export-oriented and import dependent one.

- Sustainable development can never be achieved if the mining industry is geared towards supporting an economy where the large-scale extraction of minerals is merely geared for export and to satisfy mainly the needs of the international market. How can there be Responsible Mining when, according to testimonies:

1. Placer Dome until now has not acknowledged its culpability in the disaster it brought to the Boac River and to the people of Marinduque, and its responsibility to undertake rehabilitation work. Instead, it has run away from this obligation. In the meantime, five more tailings dams by Marcopper are in danger of collapse.

2. In mined out areas especially where open pit mining was used, such as by Benguet Corporation in Itogon, Benguet, rehabilitation has not been done. The promise that the land would be restored to a state better than the original and to bring back the river to its original course has become "empty words". Instead, the mining company is slowly converting

the area into a real estate and tourist project, which threatens the surrounding communities with further physical dislocation.

3. The mining company does not conduct genuine community consultation before it conducts a survey, ore sampling and exploration work on a mining project. Instead, it gathers signatures on blank papers and attaches these to applications for mining permits as proof that the community has already been consulted and given their consent for the entry of the mining corporation.

4. The mining company does not go into the tedious process of doing the required environmental Impact Study. Instead, it contracts this out to "professional consultants" who do not involve the community in the process of scoping, etc. These "professional consultants" deliberately lie by citing that the mining project does not have adverse impacts on the environment and to the community as the proposed site is inhabited. On the basis of such studies, the mining company is granted an Environmental Compliance Certificate (ECC). But, testimony also shows that some mining companies started their mining project without an ECC, or that they use the ECC of another mining project.

5. In Indigenous Peoples' communities, mining companies do not secure genuine Free and Prior Informed Consent (FPIC) of the people. Instead, they "create" *datus* (tribal chieftains) and tribal leaders whom they show off as proof that they have consulted with the community and been given their consent for their entry.

6. Mining companies employ divide and rule tactics. They create or employ their own nongovernment organization to conduct education and organizing work and set up a pro-mining bloc within the community. These groups are used to neutralize community members who oppose the entry or operation of mining companies. Those in the pro-mining bloc are offered socioeconomic projects, which serve to further divide the community.

7. Communities where opposition is strong are now heavily militarized. Paramilitary groups are organized in these areas and intelligence work is intensified. Testimony shows that mining companies have even employed food blockades against the people who have barricaded entrances to their community to prevent the entry of the mining

company. Some leaders have not only been harassed, they have also been arrested and detained.

How can there be Sustainable Development when, according to testimonies:

1. Large tracts of land are being offered by government for mining operations including agricultural and protected areas. Exceptions are being made in areas declared as protected areas, thus giving access to mining companies.

2. Agriculture as an economic livelihood has lessened in mine affected communities, as agricultural lands and water sources are destroyed due to mining. Agricultural lands are also converted to mineral lands, making mining a bigger priority than agriculture. Water tables are contaminated, and water sources for irrigation are poisoned, destroyed or diverted.

3. Instead of the promise of more jobs, mining operations have displaced more people from their economic activity. The 300,000 who used to be engaged in small-scale mining, which produced 30 percent of total gold production, have been economically dislocated. This is the result of the shift from underground to open pit mining, and the employment by some mining companies of concentrators to catch further the gold that escaped into the river system. Farmers near the river system, where a mining operation is, are without land to till because of siltation and erosion. Fisherfolk have less and less fish to catch as a result of siltation and water contamination. The thousands of mine workers that used to be employed in mining companies have been reduced to a minimum due to mechanization. The majority of those who now work in the mines are contractuels; they do not have job security.

4. Mining has further caused grave health problems in affected communities. The resulting economic deprivation in a mining community leads to poverty, which further leads to poor nutrition. Due to water and air contamination, many get sick. In Marinduque alone, 75 youth were found to have suffered from blood poisoning. In the open pit mine areas of Benguet Corporation, some women suffered miscarriages that were attributable to the air pollution in the area.

State of local community struggle

As a result of concerted actions by directly affected communities and their allied NGOs, church groups, scientists and, to a certain extent, local government officials, the Philippine Mining Act of 1995 was not fully implemented. This also gives credence to the statement by the mining industry that the "Philippine Mining Act of 1995 is the only economic liberalization measure that has failed to benefit the economy". In its assessment, there are three main reasons for this: legal setbacks in 1997, land use conflicts and a growing people's movement. According to a mining industry report, the people's movement deterred most of the over "20 foreign mining companies that expressed interest in investing in the mining industry". The people's movement either stopped the entry, blocked the initial operation or delayed the operation of mining corporations, which include Mount Isa, Phelps Dodge, Western Mining Corporation, Newmont Mining, Climax, Mindex, Toronto Ventures Inc., Rio Tinto Zinc, Normandy Asia Phils., Barrick Gold Phils. Inc., Newcrest, Billiton etc. As a result of the strong people's movement, some provincial governments took the stand of the people by promulgating Ordinances and Resolutions that call for a ban or a moratorium on mining in their provinces. Again, this helped a lot in deterring the entry of mining corporations. Also of great help is direct campaigning and lobbying on the international level with the assistance of international support groups. The legal setbacks suffered by the mining industry in 1997 which contributed in blocking the entry of mining TNC's were: 1) the filing of a case with the Supreme Court on the constitutionality of the FTAA, 2) the passage of the Indigenous Peoples Rights Act (IPRA), and 3) the declaration of the Oil Deregulation Law as unconstitutional.

State of the mining industry

The MGB and the mining industry envision a "Competitive and Prosperous Mining Industry." Since the enactment of the Philippine Mining Act of 1995, the Department of Environment and Natural Resources has approved 169 Mineral Production Sharing Agreements (MPSAs), 64 Exploration Permits (EPs) and 2 Financial or Technical Assistance Agreements (FTAAs); these cover an aggregate land area of 758,000 hectares. In addition, as of December 2001, there are 2,347 applications which include 43 FTAAs; 1,578 MPSAs; 380 EPs and 346 Ips; these are pending or being processed. The 43 FTAA applications cover an area of about 2.2 million hectares. From a peak of 21 million

hectares or 70 percent of the country's total 30 million hectare land area that were covered by applications in 1996 and 1997, the area now being applied for is down to only more than 3 million hectares. This is a concrete victory for the people's movement.

The approved and pending mining applications show the areas which the mining industry wants to mine — what it calls 10 “world-class” ore deposits — and where it wants to do continuous exploration work for ore deposits. To assist the mining industry to exploit the so-called 10 “world-class ore deposits”, the Mines and Geosciences Bureau drafted a National Minerals Policy, which the mining industry is urging the President to endorse through a Presidential Memorandum Order. The National Minerals Policy highly recommends the destructive Submarine Tailings Disposal system as a viable and advanced technology for waste disposal.

Need to maintain vigilance

While the mining industry acknowledges its setbacks over the past years, this does not mean that communities have been able to stop mining companies' appetite to exploit the country's mineral resources. Since the implementation of the Philippine Mining Act of 1995, the mining industry must have accomplished something. The development of a mine involves a long gestation period before it becomes productive. Over the last seven years, the mining industry must have made an assessment of the volume and quality of the country's mineral resources; and some must have already made.

Financial Feasibility Studies show that some areas are financially viable for development and actual mining. Thus, the recommendation to exploit the so-called 10 “world-class ore deposits”, which the MGB and the mining industry say will lead to a lean and mean but highly competitive mining industry. The reason why the mining industry is pushing for the Presidential endorsement of the draft National Mineral Policy is to hasten the resolution of many of our conflicting laws through the Executive branch. Resolving this through Congress would take a long time. The mining industry also proposes the formulation of a National Land Use Policy and that it be an active participant in framing this policy. The industry wants mineral-rich areas to be declared as Strategic Mineral Development Zones (SMDZs).

These two measures are stopgap measures which will allow mining corporations to access and exploit our mineral resources. However, a long-term plan is in the works by 2004, the President having committed to allow Charter change when her term ends in that year. With Charter change, the barriers now besetting the mining industry to land access, dealing with indigenous peoples, full control of investment, would be strategically resolved in their favor.

Alternative, what lies ahead

The main resolution of the National Conference on Mining is the call to "Scrap the Philippine Mining Act of 1995". It is the embodiment of the interest of the Filipino people who are directly and indirectly affected by mining. In addition to the scrapping of this law, the Conference Declaration also calls for a moratorium on the opening of new large mines and the expansion of existing ones until a pro-people alternative to the Mining Act can be legislated. Our proposed alternative is a policy on mining that responds to the needs of the Filipino people and not the international market and to solve the ailing economic and social situation of the country. This calls for the formulation of an Economic Plan that will stabilize the economy, provide jobs, assure food security and a livable environment. This Economic Plan should be implemented at our pace and capability. Under this Economic Plan, agriculture should be strengthened and national industrialization, initiated. It is within this Economic Plan that the role of the mining industry will be defined.

Need to strengthen regional network in Asia and Oceania

The initiatives of the mining industry in Asia and Oceania must be met with one voice in order that we can be more effective against the exploitation by mining TNC's of our mineral resources, against the environmental disasters that go with exploitation, and against the violation of basic human rights. The holding of national conferences on mining issues in India, Indonesia, the Philippines and elsewhere contributes to the analysis of problems, formulating strategies and deterring the abuse of mining TNC's. The holding of an International Workshop on Mining during the WSSD PrepCom IV in Bali, Indonesia provides an opportunity for mining activists to gather once again in an international forum to discuss matters of campaign strategy on the issue of mining on a wider scale. But like our counterparts in Africa and Latin America, we, representatives from Asia and Oceania, can maximize this opportunity to

discuss matters of common concern and to raise one voice for the mining industry to hear — that there can be no such thing as "Sustainable Development through Responsible Mining" as long as Southern countries are used by industrialized countries as their resource base, as long as trade inequality exists between rich and poor countries, and as long as debt is used to impose disadvantageous policies. ❁

Annex A

Conference Declaration
NATIONAL CONFERENCE ON MINING
Baguio City, Philippines
May 6–8, 2002

DECLARATION

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 nongovernmental 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;

Gathered together to collectively consider the situation and problems brought about by large mining operations in our country, and the environment of neo-liberal globalization in which these take place;

Advance the following analysis and declare our position on the issue of imperialist mining and the impact it has had on our land and our people.

Mining has had a long history in our country. Small-scale mining has been practiced by Philippine peoples for more than a millennium, and large mining by foreign firms and their domestic counterparts for more than a century. Despite decades of imperialist plunder, our country's mineral resources remain rich. Towards the close of the last decade, its major mineral reserves still included more than 200 million metric tons of gold ore, almost five billion metric tons of copper ore, over a billion metric tons of nickel-bearing ore, and nearly 35 billion metric tons of lime, clay, silica, and other nonmetallic minerals. At least ten of the ore bodies located within its shores are regarded as world-class deposits.

In recent years, this mineral wealth has attracted the interest of many transnational corporations, several of them world giants in the mining industry: BHP Billiton, on Rio Tinto, Anglo-American, Placer Dome, WMC, Newmont, and Phelps Dodge. Together with somewhat smaller TNCs like Oxiana, Climax Arimco, TVI Pacific, and Philex Gold, these giants have applied for Exploration Permits and Financial or Technical Assistance Agreements that cover millions of hectares of Philippine territory. Approved applications for ExPs cover 290,624 hectares, and those for FTAA's cover 54,385 hectares. TNCs like Crew Development have also transacted deals with Filipino firms like Aglubang Mining, Lepanto Consolidated, Benguet Corporation, and Sagittarius Mines for the operation of Mineral Production Sharing Agreements. Approved applications for MPSAs cover another 249,036 hectares.

Large mining TNCs have been in the Philippines for quite some time. But it is only since the Mining Act of 1995 took effect that TNC applications for rights to explore and contracts to exploit Philippine mineral resources have proliferated. The Mining Act is one in a series of laws whose passage in different countries has been orchestrated by the World Bank for the explicit purpose of liberalizing the policy environment surrounding large mining. Like the other countries' laws, it caters to mining TNCs who want to fully globalize their operations.

The operations of mining TNCs have been responsible for impoverishing many Third World countries. Along with their domestic counterparts in large mining, TNCs have used up the un-renewable resources of underdeveloped countries. By wiping out forests, destroying groundwater systems, poisoning streams, silting up rivers, ruining pastures and croplands, and polluting the seas, they have deprived these countries'

tribal and peasant populations of land and subsistence. Quickly depleting the resource base for their operations, they have been able to provide local labor with only short or, at best, medium term employment. They have exploited laborers, paying them low wages, and subjecting them to unsafe and unhealthy working conditions. In contaminating even the air around their mine sites with toxic pollutants, they have spread disease to countless communities. This has not only taxed the meager healthcare resources of the communities; it has increased the burden, shouldered mostly by women, for the care of children.

Our people's experiences with imperialist mining are no different from the experiences of others. How is it, then, that in this country and others, large mining TNCs and their local cohorts can even dare to claim that they are champions of development – indeed, of *sustainable* development?

The TNCs and their local cohorts make it appear that they have made a paradigm shift and adopted a program for sustainable and responsible mining. Internationally, they promote their new image by convening “multi-stakeholder dialogues” under the Global Mining Initiative (GMI); the Mines, Minerals, and Sustainable Development (MMSD) Project; the International Council for Mining and Metals (ICMM); etc. The MMSD was a one-sided initiative of some mining executives and financed by the industry. Its agenda serves their ends. We who are the people most affected by mining did not endorse it or participate in it. We had no hand in the formulation of its agenda. The MMSD has no legitimate claim to be a multi-stakeholder dialogue. We fear the central purpose of GMI and MMSD is not to move towards a sustainable relationship upon the Earth but simply to sustain and ensure the future of a few mining corporations.

We know many of the companies behind the GMI, the MMSD project and the ICMM because they are the very same ones that are exploiting us and our land in a wasteful and unsustainable way or are seeking, even at this time, to acquire “rights” over our lands and against our wishes through tricks, deceit, intimidation, militarization and abuse. We know and condemn the practice of Western Mining Corporation in South Cotabato, Rio Tinto in Zamboanga, Anglo-American in Surigao, BHP in Aurora, Luzon and Mindanao, Newmont in the Cordillera and Placer Dome in Marinduque. We have learned we have no basis to trust them

or other companies. We urge all to examine the reality of mining rather than the promises and claims of industry propagandists.

In our country, their image-promotions campaign is the work of the Philippine Chamber of Mines. They are aided in this campaign by no less than the President of the Republic and the officials of the Department of Environment and Natural Resources.

Deception is the name of the game. And the large mining firms, both TNC and domestic, are experts at it.

It is through deception, coupled with bribery that these firms have gotten around the very laws which allow them access to our people's patrimony. For example, the Mining Act of 1995 requires the consent of indigenous communities to mining operations on ancestral land. To circumvent this requirement, TNCs have gotten officers of the National Commission on Indigenous Peoples to declare that their mining applications do not cover ancestral lands, when, in fact, they do.

To comply with a similar requirement imposed by the Indigenous Peoples' Rights Act, TNCs have organized fake tribal councils who can sign for them documents of Free and Prior Informed Consent. It is by making false promises of sizeable monetary returns, livelihood development, and gainful employment that they are able to persuade people into joining these so-called tribal councils. The same promises have earned large mining projects the support of traditional leaders and barangay councils in poor peasant villages where farmers and fisherfolk have become desperate for opportunities for material upliftment.

Along with bribes, such promises have also enticed local government units into endorsing or even facilitating the projects of the TNCs and their domestic counterparts in large mining. LGU endorsement is required by the Local Government Code. False assurances of environmental compliance have worked as well.

But the TNCs and their local cohorts have clearly not succeeded in deceiving the majority of the communities and people's organizations in the areas where they wish to operate. Where their lies have failed, they have resorted to violence.

The present regime's militarist policies foster the use of violence against tribal and peasant communities, environmental and social activists, who have risen in protest against large mining by TNCs and their domestic counterparts. The state, as well as local politicians and the mining companies themselves, have used the Armed Forces of the Philippines, various paramilitary formations, private armies, pseudo-revolutionary *armados*, vigilante groups, fanatic cults, and criminal gangs to kill or threaten people who put up a resistance to large mining, and to drive small-scale miners out of mineral rich areas.

Their image-promotions campaign, payoffs, and financing of terror must cost the TNCs and their local cohorts huge sums of money. But the expense will surely prove tiny in comparison to the profits that they can expect to reap. The Mining Act of 1995 assures them of this. Among the guarantees it provides transnational operators of FTAA's, in particular, are duty-free importation of capital equipment; a tax holiday covering the first four to six years of operations; after this, taxation based on accelerated depreciation; full repatriation of investments and earnings. Imposing only minimal occupation and waste disposal fees on both FTAA and MPSA operators, the Mining Act places the burden of dealing with practically all the environmental costs of large mining *not* on the shoulders of the mine operators, *but* on the shoulders of our people.

It is us, the Filipino people, who have to deal with the devastation of our forest, aquatic, and agricultural resources. It is our communities who have to deal with the diseases that result from mining pollution. It is our families, and especially our women, who have to tend all the children who fall ill.

The damage that imperialist mining inflicts on us and our land will be permanent. Our peasantry will find it extremely difficult to survive being dispossessed of their means of livelihood. Our indigenous peoples will be unable to endure the trauma of being dislocated from their ancestral lands, of seeing their communities dismembered, and of having their cultures destroyed. Our workers will never be able to recover the use of limbs that have been broken as a result of mining injuries, or the health of lungs that have been invaded by mine dust. Our families will never be able to bring back to life all those who have died from the violence perpetrated for the sake of imperialist mining.

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 FTAA's, MPSA's, 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. Hold mining companies responsible and accountable for the rehabilitation of land and other resources ravaged by their operations.

6. Restore the land and its resources to the people. Effect genuine land reform.

7. Recognize and respect the rights of indigenous peoples to their ancestral lands, to ancestral domain, and to self-determination.

8. 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.

9. Assert the sovereignty of the Filipino people! Junk pro-imperialist policies! Oppose imperialist globalization!

10. Develop an alternative mining industry in the framework of nationalist industrialization.

11. Condemn the initiatives of the international mining industry including the GMI and MMSD as mere propaganda exercises aimed not to improve their mining practices but to restore their credibility destroyed by the many social and environmental disasters caused by their operations.