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The Transformation of Property Rights in the Philippine Timber and Gold Mining Industries during the American Colonial Period

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ABSTRACT. From the onset of American colonial rule in the Philippines, institutions were set up to facilitate the exploitation of the archipelago's mineral and timber resources. Property rights pertaining to mining and lumber operations, unlike those concerning sugar plantations owned by local elites, were part of a colonial design that was supposed to work to the advantage of American business interests. However, changing market conditions and the transition to self-government by the Filipino political establishment altered the policy environment in these industries. As such, divergent patterns of ownership within these industries evolved throughout the period of American rule despite the fact that they operated within the same colonial framework.

KEYWORDS. property rights · timber · gold mining · American colonial period · Commonwealth

Introduction

> The forests of Negroes (sic), Mindanao, Mindora (sic), Paluan (sic), and parts of Luzon are invaluable and intact. The wood of the Philippines can supply the furniture of the world for a century to come. . . . At Cebu the best informed man in the island told me that 40 miles of Cebu's mountain chain are practically mountains of coal . . . I have a nugget of gold picked up in its present form on the banks of a Philippine creek. [Beveridge holds up a rock.] . . . And this wealth is but a small fraction. (Beveridge 1900)

About two minutes into Senator Albert J. Beveridge's speech to the US Senate on January 9, 1900, he mentioned one of the most tangible gains that America could derive from its occupation of the Philippines: access to its vast forest and mineral resources. While his statement seemed to imply that these resources were "ripe for the picking," the reality was that over the next four decades, the motivations of various stakeholders, both Filipino and foreign, to secure property rights for the extraction of these resources would be affected by various historical factors. The colonial government would play a key role in creating the policy framework that would support the growth of the timber and gold mining industries, mainly to benefit American business interests. However, despite the abundance of these natural resources for exploitation, historical sources would show that various factors affected the actual costs involved in extracting these resources, therefore making it quite prohibitive for the colonizers themselves. For one thing, large infusions of capital were needed to ensure the growth and profitability of these industries. Because the local elites were mostly engaged in the sugar industry, a different breed of mostly American capitalists would invest in lumber and gold mining, both of which would eventually become major Philippine industries. However, as the American colonial era advanced into the late 1930s, other factors would alter the development of these industries.

Aside from the security of property rights, market conditions for the export of gold and timber also affected the development of these industries. The early colonial legislation that supported the property rights of American companies, such as Insular Lumber Company and Benguet Consolidated Mining Company, may have helped them become among the biggest companies in the world in their respective industries (Bradney 1926; *American Chamber of Commerce Journal* 1933a). However, market conditions and capitalization were ultimately the determinants of their continued profitability. While returns in the lumber industry may have been immediate due to its domestic demand, mining was a much riskier enterprise due to its reliance on the export market, as well as the more complex process of extracting and processing resources from the bowels of the earth. These were just some of the factors that differentiated the type of stakeholders in gold mining and the timber industry, as well as the nature by which the government acted as an agent in the transactions of those stakeholders.

This article will discuss the historical development of the timber and gold mining industries in the Philippines, and how they were affected by three critical junctures during the period of American colonial rule.

The first one was the enactment of early American colonial policy with regard to the property rights for stakeholders in gold mining and timber industries. Faced with the reality of over a thousand American soldiers staying in the country after 1901 to prospect for gold, William Howard Taft (who was then head of the Philippine Commission) recognized the need to protect the property rights of these stakeholders through institutional support (Bureau of Insular Affairs 1904). At the same time, timber was being cut from Philippine forests based on a continuation of a Spanish-era policy, which according to Secretary of the Interior Dean Worcester (1914) was both destructive and unprofitable to the government in terms of revenues. Because these were hardly the conditions that would have attracted American capital, legislation was enacted early on to meet colonial objectives.

The second critical juncture was the Great Depression. While economic conditions in the United States significantly reduced the demand for timber shipments from the Philippines, it was during this period that the price of gold significantly increased and brought about a huge inflow of investment in gold mining; eventually, gold would place second to sugar as the country's top export in terms of value. On the other hand, timber shipments to the United States never recovered to the pre-Depression era levels, but this was more than made up for by an increase in exports to Japan, which was well on its way to becoming a superpower in the Far East. It was these circumstances that ensured the profitability of these two industries throughout the 1930s.

The third critical juncture that would have a significant impact on the extraction of gold and timber in the Philippines during the American colonial period would be the inauguration of the Commonwealth government. Up until the enforcement of the Commonwealth Constitution, property rights in these industries were based on a colonial framework that greatly favored American stakeholders. But even before the inauguration of the Philippine Commonwealth on November 15, 1935, the state—that is, the elite-led Philippine government—sent a clear signal to the huge American interests that they no longer enjoyed the same protection as they did during the first three decades of colonial rule. Accordingly, the Commonwealth government did not only enact legislation that entitled it to a greater share of revenues from the extraction of gold and timber but also played a significant role with regard to the property rights in what were at this time major export industries. In the timber industry, for instance, the number of stakeholders who obtained timber concessions greatly expanded to include personalities with strong political affiliations and even those with alien interests. In the case of gold mining, however, which was a more capital-intensive enterprise, the dominance of huge corporations that were more accountable to the state was more pervasive. As such, the ownership structure in timber and gold mining took very different forms.

Because of the Japanese invasion, which took place halfway through the transitional cycle of the Commonwealth government, the development of the timber and gold mining industries came to a sudden halt, and would languish throughout the period of the Japanese occupation. As with many other institutions in the country, however, the institutions that determined the property rights in these industries would continue to persist, but this time under a supposed environment of freedom from colonial rule.

To put a historical perspective on the creation of those institutions, this article will be divided into three parts. The first will describe early colonial policy that created the institutional framework for the protection of property rights in the gold mining and timber industries. The second part will describe how these industries flourished within a colonial framework and went on to become major export commodities. The Commonwealth government and the assurance of eventual independence had a profound effect on the security of property rights in the extraction of timber and gold, and the impact of the emerging power at the hands of local elites will be a central point of discussion in the third part.

There have not been any major studies focusing on the institutions that determined the security of property rights for the extraction of gold and timber during the American colonial period. It is notable, however, that several publications give a historical perspective on mining, logging, and American colonial policy pertaining to land use. Commissioned by the Chamber of Mines of the Philippines, Salvador P. Lopez published the most complete account on the history of the mining industry, *Isles of Gold*, in 1992. Through a judicious use of historical documents, he presented the evolution of government mining policy, as well as the rise of gold mining and huge mining syndicates. While Lopez focused on the contributions of mining to the national economy, Marites Danguilan Vitug (1993) focused on the rent-seeking environment that enabled the local elites to enrich themselves from the logging industry, which ultimately led to the destruction of Philippine forests. Rent-seeking, which is basically the relations by which the property rights of a stakeholder are protected by the state from competition in the market, is a framework that is widely used to describe the country's political economy.[1]

As this article will focus on the transformation of property rights within these industries during the American colonial period, the aforementioned publications would be most useful in subsequent analysis. The following shall be discussed: (1) the legal framework as it evolved through various stages of American colonial rule (i.e., how the protection of property rights developed starting with a period of military government up until the day when the Philippines was guaranteed its eventual independence), (2) the implementation and effectivity of these legal guidelines through a period of over three decades, and (3) the roles of pertinent actors whose innovations were instrumental in the development of the gold mining and timber industries, notwithstanding the policy environment.

It may be expected that any analysis pertaining to the extraction of natural resources would also touch on its environmental impact as well as the effect on local communities, particularly indigenous peoples. Despite the fact that Dean Worcester acted on these issues as early as 1901, this article will focus on the property rights of the stakeholders, which formally contributed to the country's economic output and ultimately benefited from the extraction of timber and gold (which was the only major mineral export during the American colonial period).

Major Turning Points in the Legal Context for Gold and Timber Extraction

Right after the Filipino-American War ended, about 1,200 gold prospectors, mostly American soldiers, went out to seek their fortunes mostly around what is now the Mountain Province. While many of them remained due to the existence of valuable gold deposits, the lack of capital and property rights proved to be a dilemma as described in this excerpt from the Taft Report of 1901:[2]

> American prospectors have fully demonstrated the existence of copper, gold, coal and iron. Capital is only awaiting opportunity to invest in these properties. Our prospectors have been an exceptionally good class of men. They have never caused any serious disturbance of public order, but on the other hand have often pushed into the mountains in advance of the Army, and have established friendly relations with many wild tribes. Some of them, after locating properties which they believed to be valuable and staying by them until their last dollar was gone, have been forced to abandon the attempts to secure recognition of their claims. Others are still holding on. (Bureau of Insular Affairs 1904)

Although the colonial government effectively disenfranchised the indigenous peoples of the Cordilleras and enhanced their access to the region's natural resources through the creation of the Bureau of Non-Christian Tribes in October 1901 (Lynch 2011), the dilemma of the miners was only partially resolved when the US Congress acted on the colonial regime's need for a mining law and passed the Philippine Bill of 1902, otherwise known as the Organic Act. Enacted on July 1, 1902, the major sections of this bill provided for a bill of rights, as well as the creation of a bicameral legislature, which would include an elected assembly. Significantly, although the elected members of the Philippine Assembly (which was established in 1907) did not have any jurisdiction over "non-Christian provinces" (Lynch 2011, 246), the bulk of the bill defined the policy for the allocation of forest land and mineral resources for the next three decades. Section 21, for instance, outlined the guidelines for the exploitation of mineral lands:

> That all valuable mineral deposits in public lands in the Philippine Islands, both surveyed and un-surveyed, are hereby declared to be free and open to exploration, occupation, and purchase, and the land in which they are found to occupation and purchase, by citizens of the United States, or of said Islands: Provided, that when on any lands in said Islands . . . mineral deposits have been found, the working of such mineral deposits is hereby forbidden until the person, association, or corporation who or which has entered and is occupying such lands shall have paid to the Government of said Islands such additional sum or sums as will make the total amount paid for the mineral claim or claims in which said deposits are located equal to the amount charged by the Government for the same mineral claims. (Government of the Philippine Islands 1933, 2)

The remaining sections of the said document (22–65) further defined the guidelines for the actual disposition of property rights on mineral lands. Accordingly, gold mining companies complied with the regulations under a freehold system, in which a claimant was given a possessory title to enable him to do development work on his claim and apply for a patent of ownership. Those involved in this transaction included the chief of the Division of Mineral Resources, the agriculture and commerce secretary, and finally the governor-general, who served the actual patent (Government of the Philippine Islands 1933). Both Filipinos and Americans were given the right to explore, occupy, and purchase mineral lands under this system (ibid.). With a colonial policy guaranteeing the protection of property rights for gold prospectors now in place, all that was needed was capital for the development of the mining industry.

The *Philippine Commission Reports* also contain detailed descriptions of the forest resources in the archipelago, as well as recommendations for the protection of property rights and the development of the timber industry. However, since a continuous supply of lumber was needed for the construction of dwellings for the large number of Americans arriving in the Philippines, the Inspeccion General de Montes was renamed as the Forestry Bureau on April 14, 1900, and placed under the command of Captain George P. Ahern. The policy environment became more favorable to American timber interests in October 1902 with the visit of Gifford Pinchot, chief of the Forestry Bureau from Washington. Upon reviewing local conditions, Pinchot drafted proposals to amend existing forest laws and proposed that licensing terms be made more inclusive to stimulate more investments in the logging industry and so that its commercial potential could be realized (Worcester 1914). This led to the passage of the Philippine Forestry Act of 1904, which allowed the Forestry Bureau chief to classify forests as alienable agricultural land as follows:

> Lands in public forests, upon the certification of the Chief of the Bureau of Forestry that said lands are better adapted and more valuable for agricultural than forest purposes and not required by the public interests to be kept under forest, shall be declared by the Secretary of the Interior to be agricultural lands. (Department of the Interior 1904, 10)

This act provided licenses for timber concessionaires and sawmill to operate under renewable terms for a maximum period of twenty years, thereby defining the mechanisms for the protection of property rights of both American and Filipino-owned lumber companies with regard to the use of public forests. The Organic Act, on the other hand, provided similar security to American gold miners up until 1935. Hence, when the Payne-Aldrich Law was enacted in 1909 to allow for the entry of duty-free exports to the United States, the environment for the development of gold and timber as major exports had been set. These circumstances validated what O. D. Corpuz (1997, 219) referred to as the "economy of special relations" in which the Philippines became a cheap source of raw materials for American industries while it served as a market for American exports.

While the Forestry Act of 1904 remained in effect until 1975, a major shift in the policy environment for gold mining would emerge in 1934, when the enactment of the Tydings-McDuffie Act set the stage for the eventual withdrawal of the United States from the Philippines. A provision of this act was the election of delegates to a convention for the drafting of the Constitution, which was certified by President Roosevelt, and subsequently ratified in a national plebiscite. It was very similar to the American Constitution, except for its adoption of a regalian doctrine, which would have major implications on American gold mining and timber operations.

Article XIII, section 1, of the 1935 Constitution struck a nationalistic tone as far as gold mining and timber licensing was concerned:

> All agricultural timber, and mineral lands of public domain . . . belong to the State, and their disposition, exploitation, development, or utilization shall be limited to citizens of the Philippines or to corporations or associations at least sixty per centum of which is owned by such citizens, subject to any existing right, grant, lease, or concession at the time of inauguration of the Government established under this Constitution. Natural resources, with the exception of public agricultural land, shall not be alienated, and no license, concession, or lease for the exploration, development or utilization of any of the natural resources shall be granted for a period exceeding twenty-five years, renewable for another twenty-five years . . .

As expected, gold miners attempted to influence policy in order that the property rights they enjoyed under colonial rule would be upheld. John Haussermann, the biggest American gold miner in the Philippines, sought the intercession of Governor-General Frank Murphy to support a law that would grant ownership to mining companies that had been in operation before the inauguration of the Commonwealth government (Romero 1979). A series of political maneuvers that followed led to the passage of the Mining Act of 1936, which effectively upheld the property rights of Haussermann's Benguet Consolidated Mining Company.

As in the case of gold mining, timber production grew steadily during the Commonwealth years, but unlike the former, a lot of the transactions seemed to have taken place outside of the formal constitutional framework, and had a lot to do with exports to Japan, which was fast becoming an economic and military power in the Far East. As the lumber industry became threatened by the increasing shipments to Japan of unprocessed logs, Forestry Bureau Chief Arthur Fischer proposed a law in 1936 to impose an export tax on log shipments to countries that do not take at least twice the amount in sawn lumber (US High Commission 1939). As no action was taken on Fischer's proposal, it was renewed in 1938 by his successor, Dr. Florencio Tamesis, but still to no avail (Guerrero 1967). Nonetheless, legislators made further attempts to reign in on the Japanese intrusion into the timber industry.

Japanese stakeholders managed to circumvent the legal framework for timber extraction due to their connivance with local elites. In 1932, for instance, local politicians with vested interests tried to undermine the efforts of the Forestry Bureau. They attempted to merge it with the Bureau of Lands. Fischer, however, whose effective administration had even been given credit by Agriculture and Commerce Secretary Eulogio Rodriquez, put up a hard fight to prevent it from happening (*Philippines Free Press* 1941). Indeed, as early as 1930, Act 3674 (1941) was already in place to bar foreigners from owning lumber concessions (Harris 1934), while Act 100, approved and effective from October 28, 1936, effectively banned the leasing of timber concessions to Filipinos and foreigners alike (US High Commission 1937). Moreover, President Manuel L. Quezon's development initiatives in Mindanao were also meant to curb the encroachment of Japanese interests in that region while the Anti-Dummy Law (Commonwealth Act No. 421) had also been in place since May 31, 1939, to prevent Filipino businessmen from acting as fronts for Japanese timber interests (Guerrero 1967). Despite the enactment of all these legislations, however, President Quezon played another card by assuring Japanese interests of protection, and conveniently placed the blame on Filipinos for cooperating with them to begin with (ibid.). This type of transactional environment persisted within the timber industry until 1941, and is a manifestation of the inability of the state to implement its legislation. On the other hand, the property rights of stakeholders in the gold mining industry were vulnerable to state regulation despite the fact that institutions to protect the interests of American gold miners were set up right at the onset of colonial rule. It has therefore become apparent that the manner in which the property rights of the two industries involved in resource extraction were secured took divergent paths as colonial institutions and historical actors adapted to different historical stages and economic conditions.

The Implementation and Execution of Colonial Law on Resource Extraction

When the Forestry Bureau was set up in 1900, it continued to function based on a continuation of Spanish regulations through which yearly licenses for cutting timber in definite small areas were given to small Filipino operators (Worcester 1914). Among the first issues the bureau chief had to deal with were the practice of underpayment of tariffs on the part of the landowners, and the corrupt bureau enforcers. Under Ahern's leadership, government interests were immediately protected, with the increase in staff from 8 men to 225 after three years as revenue collections rose from Mex$ 199,373 after the bureau's first year of operations, to Mex$ 527,414 after the third year (Bureau of Insular Affairs 1904). While the role of the bureau in increasing government revenues from forest products was commendable, there was hardly any American investment in the timber industry due to restrictions to corporate holdings in the Organic Act, which prevented American corporations from owning forest land (Worcester 1914). Hence, local elites, whose property rights have been legally secured since the Spanish period, were able to preserve, and even expand their landholdings, and therefore remained the main beneficiaries of forest development (Lynch 2011). Furthermore, with the support of the local press, these elites opposed the opening up of timber tracts to American investors (Worcester 1914). In this light Dean Worcester was concerned not only about exclusion of Americans from forest development but also about the irresponsible destruction of forest resources under the misguided notion that "timber is growing much faster than it can be cut," particularly by farmers who engaged in "caingin" practices at the behest of their landlords who profited from such undertakings (Bureau of Insular Affairs 1904, 576, 855). Therefore, despite the provision for limited duty-free exports to the United States with the enactment of the Payne-Aldrich Tariff Act in 1909, little American investment was made in the timber industries and the export quota was not even met. As far as gold mining was concerned, output remained insignificant as activities had been largely exploratory (Corpuz 1997). Actually, as early as 1910, the commercial potentials claimed by Albert Beveridge in 1900 with regard to extracting natural resources had been disproven (Lynch 2011). Despite the security to American property rights as stipulated in the Organic Act (which remained in effect until the ratification of the Commonwealth Constitution in 1935), the outlook remained dim for American investors in gold mining and timber.

When the Underwood-Simmons Tariff Act, which practically removed quotas on all Philippine exports to the United States, superseded the Payne-Aldrich Tariff Act in 1913, lumber was still being imported into the Philippines to meet the demand for new building construction (Worcester 1914). It was also during this year that Manuel L. Quezon engineered the appointment of New York congressman Francis Burton Harrison as governor-general (Karnow 1989). In 1914, he pursued a Filipinization policy in which Filipinos were given more posts in the civil service at the expense of Americans. An exception to this development, however, was the retention of an American in the Forestry Bureau. Indeed, during the nineteen-year term of Arthur Fischer, which started in 1916, there were significant increases in revenue collections (*American Chamber of Commerce Journal* 1935b). An American presence in this institution, however, did not necessarily favor American investment in the timber industry. As in the case of gold mining, what it would take for these industries to develop was an unusual entrepreneurial zeal of certain American investors, and favorable export market conditions. In the case of gold mining, it was the second critical juncture described in this article: the Great Depression.

In 1929, the prices of gold increased as it became an attractive investment compared to stocks and bonds in the wake of the Great Depression. The demand for gold would have a further boost after October 21, 1933, when President Franklin D. Roosevelt gave the US Treasury permission to buy gold at market prices (*American Chamber of Commerce Journal* 1933b). After the price of gold shot up overnight from USD 20.67 per ounce to USD 32.12 per ounce, a fresh inflow of capital entered the gold mining industry, thereby enabling mines to expand their operations and adopt more modern technology. By the end of 1935, there would be fifty-seven gold mining companies listed on the Manila Stock Exchange, compared to only six at the start of 1933 (*American Chamber of Commerce Journal* 1936). As this surging interest in gold mining took place around the time that the country's sugar barons were beginning to pay off the debts they incurred in the expansion of their haciendas and the construction of sugar mills, even more capital was diverted into gold mining (de Jesus 1978, 29).

One offshoot of the gold mining boom was the increased demand for local timber. Mines needed timber for constructing shafts and tunnels, as well as for the construction of plants and mining community infrastructure. In 1934, Baguio mines used thirty-three million feet of timber, which accounted for one-sixth of the Philippine industry's total yield (*American Chamber of Commerce Journal* 1939). By 1938, total timber consumption by Philippine mines would reach more than eighty million board feet (ibid.). This led to prosperity for the Heald Lumber Company, founded in Baguio in 1904 by Philippine-American war veteran Herbert Heald (Afable 2004). At that time, there were only fourteen sawmills operating in the country, but this would rise to 124 by 1934 (*American Chamber of Commerce Journal* 1934b). Most of the mills had smaller capacities and were Filipino-owned, but over half the capitalization in the industry came from large American companies. Unlike the gold mining companies that profited from the demand for gold in the United States, exports of timber to that market peaked in 1929 and dropped by three quarters in the wake of the Great Depression (Hartendorp 1953). Compounding that predicament was American resistance to the importation of Philippine lumber, which was very apparent as the Gillespie Furniture Company of Los Angeles filed a case in 1931 against the Philippine timber industry for the misleading use of the trade name "Philippine Mahogany," based on the argument that the species being exported (locally known as *lauan*), had a completely different genetic makeup from mahogany (*American Chamber of Commerce Journal* 1931). The case was dismissed with the help of Insular Lumber (the largest American lumber company in the Philippines) in financing the legal defense (ibid.). Henceforth, more investments were put into the lumber industry, with the Chinese comprising the second largest investor in the lumber industry after the Americans. Most of their operations, however, were unlicensed (Wong 1999).

Notwithstanding such irregularities in the export of timber, exports grew steadily during the Commonwealth years, although a lot of transactions seemed to have taken place outside of the formal constitutional framework. Despite the credible performance of the Forestry Bureau under Arthur Fischer's leadership, another group that took advantage of weak institutional oversight in the lumber industry were the Japanese. With their presence established since they were recruited to work as laborers in the construction of Kennon Road in 1903, the Japanese presence in the Philippine economy expanded to investments in banking, retailing, manufacturing, fishing, mining, and, most significantly, timber. Japan was fast becoming an economic and military power in the Far East, especially after they emerged victorious after the Russo-Japanese War in 1905, and eventually overtook the United States after the Great Depression as the leading destination for

Philippine timber exports. However, their preference for raw logs over sawed lumber had become a concern for the Forestry Bureau (*American Chamber of Commerce Journal* 1934a). Aside from the local economy losing out in terms of wages, taxes, and other value-added economic activities, Fischer would later find out that Philippine logs underwent further processing in Japan and would eventually get shipped to Singapore and even the United States as plywood. As the lumber industry became threatened by these increasing shipments to Japan of unprocessed logs, Fischer proposed a law in 1936 to impose an export tax on log shipments to countries that do not take at least twice the amount in sawn lumber. As no action was taken on Fischer's proposal, it was renewed in 1938 by his successor, Dr. Florencio Tamesis,[3] but still to no avail. Nonetheless, legislators made further attempts to reign in on the intrusion of Japanese into the timber industry. However, despite all these attempts at state control over property rights in the timber industry, the extralegal extraction of Philippine timber by Japanese stakeholders continued.

While the role of institutions as an agent in securing the property rights of stakeholders in the timber industry was questionable, the degree of control over the gold mining industry particularly during the Commonwealth era was more transparent, and not necessarily beneficial to gold mining companies. As gold mines continued to prosper throughout with protection under the Gold Mining Act, Quezon suggested in 1937 that the government should be entitled to larger revenues from mining operations (Quezon 1937). The Chamber of Mines lobbied against this proposal but the government was able to increase its tax revenues from gold mining operations that were disproportionately higher than the increase in gold production (*American Chamber of Commerce Journal* 1938; 1939). Although gold mining had now become a costlier venture, output continued to grow and established mines were able to continue paying dividends to their stockholders (US High Commission 1939, 160). With skillful political maneuvering combined with strong institutional controls over the property rights of large and highly visible stakeholders, it was apparent that both the Commonwealth government and the big mining companies were able to reap the benefits from the gold boom of the 1930s. The biggest among them was the empire of Judge John Hausserman, who along with other stakeholders in both gold mining and timber, would be instrumental in charting the course of the development of these industries.

The Pertinent Actors

Despite the lack of interest in gold mining during the early years of American colonial rule, some companies would persist despite minimal profits. Among them was Benguet Consolidated Mining Company. Located in Antamok Creek, about ten kilometers from Baguio, it was founded in 1903 but would only issue its first dividends in 1916. A major factor in this company's turnaround was the leadership of Judge John W. Haussermann, a former second lieutenant in the expeditionary forces, who returned to the Philippines to establish a legal practice. After he got into financial insolvency in 1914 due to the massive destruction of its equipment in the aftermath of a major typhoon in 1911, creditor banks put him in charge of the company (ibid.). Over the next two decades, total Philippine gold output would grow modestly, but would suddenly increase by 77 percent in 1929 (Hayter 1935) when Balatoc Mining, which Haussermann had acquired two years earlier, produced a sensational gold find (Lopez 1992), thereby setting the stage for a major boom in gold output, which was sustained on the wake of the Great Depression of 1929.

Henceforth, the gold mining industry attracted new major players such as Marsman and Company, founded by Jan Hendrick Marsman, a former technologist at the Malabon Sugar Refinery who became a much sought-after management contractor for the industry. After founding Itogon Mining Company in Benguet in 1925, Marsman gained control of previously neglected fields in Paracale with companies such as San Mauricio Mining Co., United Paracale Mining, and Coco Grove, Inc. (Keeler 1936). Another industrial leader, Don Andres Soriano, entered the industry in 1932 when he founded Antamok Goldfields in Itogon, Benguet, with Francisco Ortigas as his partner[4] (*American Chamber of Commerce Journal* 1935a). Ultimately, dozens of new companies got listed on the stock exchange, but no entity was more profitable than the Haussermann holdings, which included Benguet Consolidated and Balatoc Mining. George Malcolm wrote about the phenomenal performance of Benguet stock:

> If a person had invested 5,000 pesos (USD 2,500) in Benguet Consolidated stock in 1912 or 1913 when stock sold at twenty centavos (ten cents) a share, he would have received up to the end of 1934, dividends totaling 1,000,000 pesos (USD 500,000). In other words, his 5,000 pesos (USD 2,500) would have grown more than 2,000,000 pesos (USD 1,500,000) by now. (Malcolm 1936, 265)

With Benguet and Balatoc accounting for two-thirds of Philippine gold output for most of the decade, the main beneficiary from the surge in mining profits was Hausserman. As Benguet Consolidated became one of the most successful enterprises of the 1930s, Haussermann, probably the richest American in the Philippines during the colonial period, earned the title "American Gold King of the Far East" (*American Chamber of Commerce Journal* 1933a).

While the Haussermann empire dominated the gold mining industry, the largest of the American lumber operations was Insular Lumber Company. Set up in 1904 by a well-known lumberman from Washington State named W. P. Clark and his partner, A. Burlingame Johnson, Insular Lumber Company was patterned after the most advanced mill in the Pacific Northwest. Located in Negros Occidental, it would later become the largest producer of hardwood lumber in the world (Bradney 1926). Johnson was an optimistic businessman who had no experience in the lumber industry. He was compelled to make additional investments in mill machinery and logging and railroad equipment in 1906, yet the company encountered financial difficulties in 1912 (ibid.). Not giving up, Clark sought additional capital from New York, which, combined with strong demand for lumber during World War I and the years that followed, resulted in profitable operations until their equipment became run-down by 1921 (ibid.). With production costs doubling as lumber prices went down, it was no longer viable to operate in the middle of the Visayas, yet the owners got their finances out of the red, and decided to invest in recreation facilities for their employees, such as a modern cinema and dance hall. As staff morale became higher, Insular Lumber practically doubled its production and broke the world record for hardwood production in 1925 (ibid.).

Also located in Negros, the second-largest lumber company in the country was Negros Philippine Lumber Co. acquired by Dee C. Chuan in 1922. Although they started out in the early 1900s with primitive sawmills, the prominence of Chinese businessmen in the timber industry changed with Dee's acquisition. Eventually to be known as the "Lumber King," he would go on to establish Philippine Lumber Manufacturing Co. in 1928 and would be instrumental in forming the Philippine Hardwood Export Association the following year along with other prominent Chinese businessmen (Wong 1999). By 1934, Chinese businessmen would account for 20 percent of investment in the industry, and by 1937, lumber would be their biggest investment next to real estate and merchandising (Valdepeñas and Bautista 1977). However, 90 percent of their operations were actually unlicensed (Wong 1999).

Another group that conducted their transactions in the timber industry outside of the legal framework were the Japanese, whose participation in the timber industry was not only limited to the importation of logs. Their direct investments in the industry became another concern for the government. In "Davaokuo," the de facto Japanese economic center in the country, for instance, three of the largest timber concessions were Japanese-owned: the Mitsui Bussan Kaisha-owned Tagum and Tibungko lumber companies, and Gulf Lumber (Allied Geographical Section 1944), which, ironically, also had quotas to export lumber to the United States (*American Chamber of Commerce Journal* 1935b). Moreover, a national security concern also emerged, as Mitsui-owned timber concessions in Tayabas, Zamboanga, Cotabato, and Agusan were made open to Japanese vessels, through which the exchange of military intelligence was highly suspected (Guerrero 1967). For example, a US War Department report stated that the Philippine Lumber Company, located in Northern Tayabas, was being secretly prepared as a rendezvous point for Japanese submarines (ibid.). All these were probably among the reasons as to why the Forestry Bureau had made continuous efforts since 1928 to abate the threat posed by the Japanese presence in the timber industry, by sponsoring bills to limit areas under license by the Bureau of Forestry to Filipinos and Americans (Fischer 1928). It would be seen later that these efforts were futile as the Japanese would continue to be dominant in the timber industry up until the start of the war. This was also made possible through their connivance with the Filipino elites, and such connections would also be a factor in their entry into the mining industry.

Aside from their extralegal dominance of the timber industry, Japanese interests also made calculated moves to get hold of the entire Philippine gold output (Guerrero 1967). However, with Haussermann dominating the gold mining industry, they focused instead on purchasing base metals, thereby stimulating the exploitation of manganese, iron, copper, and chromium deposits (ibid.). To further enhance their access to these mineral resources, mergers between Filipino and Japanese businessmen took place, in which Filipinos were assigned major shares of stock in order to meet constitutional provisions for 60 percent Filipino ownership of corporations (ibid.). For example, Pío Duran, the eventual chief of miltary training of the pro-Japanese Kalipunang Makabayan ng mga Pilipino (Makapili) or Patriotic League of Filipinos (Agoncillo [1965] 2001), was the principal stockholder, along with three other Filipinos who had major shares in the Philippines Nippon Company, notwithstanding the fact that the Securities and Exchange Commission[5] classified it as being under the control of the Japanese, of whom there was only one member in the board (Guerrero 1967). Jose P. Laurel, who was also the nominal president of Insular Mines Operators, was implicated in the blasting of the mouth of the Malaquit River in Camarines Sur for the purpose of allowing Japanese barges to pass through and sail directly to and from Japan (ibid.), while businessman and later senator Vicente Madrigal was "hand in glove" with Mitsui interests on ownership of one-twelfth of Lepanto shares (Quirino 1987). As far as Haussermann and the other American gold miners were concerned, however, they did not take the base metal industry seriously (Guerrero 1967); they were more concerned with the implications of the Commonwealth Constitution on their gold mining operations.

With their operations at stake owing to the Regalian Doctrine in the Commonwealth Constitution, gold miners attempted to influence policy in order that the property rights they enjoyed under colonial rule would be upheld. Haussermann sought the intercession of Governor-General Frank Murphy to support a law that would grant ownership to mining companies before the inauguration of the Commonwealth government (Romero 1979). While President Quezon had promised Murphy his full support, he impressed upon Rep. Jose E. Romero, chairman of the Committee on Rules in the 1934 Congress and floor leader at the Constitutional Convention, that legislators were free to register their opposition on the matter. This gave Romero the impression that the president was actually opposed to the mining bill that favored Haussermann's interests. What Romero did not realize was that Quezon had privately instructed Speaker Quintin Paredes to spread the word among other legislators that Quezon had to stand by his word to Murphy, and that they should vote accordingly out of loyalty to the president (Romero 1979). The result of that political maneuver by President Quezon was the passage of the Mining Act of 1936, which effectively upheld the property rights of Haussermann's Benguet Consolidated.

It was not only the lobbying efforts of gold mining interests that legislators had to deal with during the Commonwealth era. In 1938, Assemblyman Apolonio D. Curato from Agusan filed a bill to investigate Japanese lumber concessions, but it was opposed by the National Assembly amid concerns about scaring away foreign capital. This was the same reasoning used to shoot down a similar proposal the previous year by Agriculture and Commerce Secretary Eulogio Rodriguez to enact a law that would prohibit the extraction of logs by foreign interests (Romero 1979). Ultimately, however, the reality regarding Japanese investments in the timber industry came to light as Benigno Aquino, Rodriguez's successor at the Agriculture and Commerce Department, made the following report:

> various lumber concessions received advance money from foreigners to be repaid in logs to be cut from areas covered by the concessions . . . a skillful way by which foreigners are able to acquire indirect control of the management and operation of forest licenses and thereby violate the Constitutional inhibition regarding acquisition of natural resources by aliens . . . (Aquino 1939 quoted in Guerrero 1967, 58)

In 1939, Francisco Tamesis prepared a list of timber exporters to Japan that exposed the role of local elites in log sales to Japan. Noticeably, a huge number of Filipino-owned lumber companies and prominent shippers were known to be dummies for Japanese firms. One firm, Dingalan Lumber Company, was under the control of Japanese managers although its single major stockholder was Felipe Buencamino Jr., who at the time was congressman from the second district of Tayabas (Guerrero 1967, 56). Misamis Lumber, on the other hand, was sold to Japanese interests by its owner, Judge Francisco Capistrano (Cagayan de Oro City 2009). From the province of Lanao, at least two prominent Iligan clans were engaged in the Japan trade: the Andradas, owners of Iligan Lumber, and Miguel Sheker (Acut 2009). The Velosos of Misamis exported to Japan in 1935 and 1936, while Mariano E. Villafuerte, Camarines Norte's representative from 1928 to 1934 and its governor in 1942 (Kawanaka 1998), was an exporter in 1937. The business of all these companies paled in comparison to the business of the two top firms: Anakan Lumber, owned by Elizalde and Co., and Santa Clara Lumber owned by Rafael F. Roces. It is interesting to note that Santa Clara only had a license for machine-logging operations in 1930 (Department of the Interior 1904), an indication that it existed solely for the exportation of logs to Japan. Surprisingly, however, this same company won a building contract for public projects in the newly chartered Quezon City after they offered a ridiculously low bid and later allowed by the People's Homesite Corporation to quote new prices when the contract was ultimately awarded to them (McCoy 1989).

Another corporation created during the Commonwealth period was the National Development Corporation, which was headed by Juan Elizalde, also the vice president of Anakan Lumber (Skyscrapercity 2009). Another Filipino elite businessman/politician, Vicente Madrigal, who owned the Port Lamon Lumber Co. in Surigao, had a large timber concession that had a quota for export to the United States (Allied Geographical Section 1944). Similar licenses were also given to at least two individuals with political connections: Tomas Morato, who operated five mills in Tayabas, and Juan Gallego who had two mills in Camarines Sur (ibid.). With the help of Assemblyman Francisco Celebrado, the town of Gallego in Camarines Sur would be named in his honor in a ceremony in 1936 that would be attended by President Manuel L. Quezon himself (Veluz 2009). By this time, the Philippines was now in a transition toward its eventual independence, and it has become apparent that in the timber industry, close connections to the state apparatus were helpful in ensuring successful enterprise, regardless of the existing legal framework.

The Persistence of Colonial-Era Institutions

Right at the onset of colonial rule, institutions were set up to protect the property rights of American stakeholders in their desire to exploit the natural resources of the Philippines. Yet despite the enactment of the Organic Act in 1902 as well as the Forestry Act of 1904, American capital was still found wanting in the gold mining and timber industries. What it took for these industries to develop was a combination of desirable market conditions and the business acumen of the founders of large American firms such as Benguet Consolidated and Insular Lumber. Their success opened up the playing field to other stakeholders, which included local elites, Chinese, and Japanese (who were largely in partnerships with local politicians), in what was essentially a capitalist and export-oriented political economy. Yet while both the gold mining and timber industries operated under similar colonial institutions and started becoming relevant to the colonial economy under similar patterns of ownership, different patterns in the protection of their respective property rights became apparent, particularly in the wake of the Great Depression.

As gold became a more stable investment asset from 1929 onward, gold mining in the Philippines became a profitable industry that would eventually contribute the second largest share to Philippine exports after sugar. As gold output had became a source of revenue for the state, Benguet Consolidated and other huge and profitable mining companies, which were few in number, were held accountable to the state as far as the collection of government revenues were concerned. Although the contribution of lumber to the national economy was nowhere close to the level of gold, particularly after the Great Depression significantly reduced the demand for Philippine timber in the United States, the relevance of the industry expanded as timber producers turned to an alternative market outside of the traditional colonial economy: Japan.

A more diverse mix of stakeholders in the timber industry emerged as the Philippines reached the transition stage in which independence from the United States became a certainty. Indeed, aside from the simpler technology involved in chopping logs as compared to mining for gold, the wider area open to licensing for extraction and the expanding Japanese market attracted a more diverse mix of investors in the timber industry. Unlike gold mining, however, in which stakeholders had to comply with the policy of the state (such as the 1936 Mining Act), stakeholders in the timber industry, mostly local elites, were able to evade the power of the state and profit from extra-constitutional arrangements with Japanese interests. This clearly illustrates how the lack of information pertaining to transactions between principals in vital industries makes the state an ineffective enforcer of legal contracts, which, in the case of the lumber industry, benefited foreign interests in collusion with local elites.

From the colonial experience, it is apparent that certain patterns in the protection of property rights emerged with the development of industries that exploited natural resources. Interestingly, the incentive to risk capital in a new industry was a bigger hurdle to the development of the gold mining and timber industries as compared to landownership. But once a pioneering American company took that first step, other stakeholders easily jumped into the fray, especially in the wake of a boom in commodity exports. While the local elites had been profiting from the licensing of lands for timber extraction since the Spanish era, their diversification into gold mining corporations listed on the stock market involved a more formal accountability to institutions, while the operations of stakeholders engaged in timber extraction all over the archipelago tended to be less transparent.

Chinese investments in the timber industry broke their traditional stereotype as wholesalers and retailers, but it was the involvement of the Japanese in this industry that was particularly telling of the nature of the country's institutions. In fact, Japanese interests were also heavily involved in the mining of base metals aside from timber, and in both cases they were able to establish their presence with the help of local elites and politicians who even acted as fronts for their companies and kept the full extent of their operations under wraps. Then, of course, notwithstanding the deluge of foreign interests, the local elites were never excluded from the scene.

Obviously missing in the discourse on property rights largely involving capitalists and political institutions during the American colonial period are the property rights of indigenous peoples. As early as 1902, however, a legal precedent had been set when a certain Jose Fianza, heir to about 183,000 square meters of ancestral lands, eventually lost his claim to a certain John Reavis, whose possession of said lands through peaceful means, was eventually upheld by the US Supreme Court by virtue of the Organic Act of 1902 (Lopez 1992). In the years that followed, the commodification of public lands at the expense of ancestral claims was reinforced by a string of legislative acts that culminated with the regalian doctrine enshrined in the Commonwealth Constitution (Molintas 2004). This very doctrine is still preserved in the 1987 Constitution—it is the state that still has the final say with regard to the disposition of ancestral lands. As such, the divergent paths taken as far as the property rights in the timber and gold mining industries since the end of the Japanese occupation persist up to this day.

While the Commonwealth government had been somewhat hostile toward big gold mining companies, the largely pro-American government that emerged after the Philippines was granted independence actually provided subsidies to companies that were distressed after the wartime years (such as Haussermann's Benguet Consolidated). By the time that Americans became minority owners in the mining industry due to the expiration of parity rights in 1974, new mining giants, such as Atlas Consolidated (owned by Don Andres Soriano), Lepanto, Marinduque, Philex, and Marcopper, dominated the industry and profited immensely, particularly during the 1970s owing to the performance of copper and other metals in the world market and the institutional support provided by Ferdinand Marcos (Lopez 1992). By 1982, however, metal prices dropped drastically, and the industry practically collapsed amid the debt crisis, which coincided with a tumultuous era in Philippine politics (ibid.). Although there was some modest recovery after democratic institutions were restored after 1986, Congress never passed a law that would provide the necessary security of property to ensure continued investment in the mining sector.

As in the case of mining, the 1970s was also characterized by a boom in the logging industry, which was back to prewar levels of production as early as 1949 (Kummer 1992). Unfortunately, the thriving export of logs resulted in a rapid decline in the country's forest cover, which reached its highest levels during the years of the Marcos regime (ibid.). The main instrument used to exploit the forests was the timber license agreement (TLA), which Marcos used not just to enrich friends and keep politicians under his patronage but also to buy the loyalty of returning Muslim rebels (Vitug 1993). Although the issuance of TLA has ceased since 1987, more than twenty policy issuances on logging ban had been issued nationwide over the last three decades, while deliberating on a law for a total log ban has not been a priority agenda in the legislature (Bugayong 2006). It is very apparent that today, just as it was during the American colonial era, there has never been a shortage of laws pertaining to property rights of stakeholders—and for that matter, indigenous peoples—as far as the extraction of natural resources is concerned. However, governance and implementation has remained poor and susceptible to political machinations. Hence, despite the existence of a policy environment that was meant to protect existing forests, illegal logging and timber poaching, which are in all likelihood done under the noses of local government officials, continue unabated due to poor law enforcement (Vitug 1993).

While the strict enforcement of logging ban policy is essential for the preservation of our remaining forests, a clear mining policy is needed to promote a mining industry that is both sustainable and equitable (Disini 2013). Indeed, President Gloria Macapagal-Arroyo's reissuance of the Philippine Mining Act of 1995 in 2004 was supposed to be an effort to revive the mining industry, which at the time had been dormant for about a quarter century (Macapagal-Arroyo 2004). Until this day, however, investments in mining have been coming in mere trickles, owing to prohibitive taxation and uncertainty about the security of property rights (Gamboa 2014). And now that big mining companies have become irrelevant as they contribute less than 1 percent of gross domestic product (GDP) to the national economy (*Mining Philippines News* 2013), the parties involved in illegal mining now engage in transactions that are strikingly similar to how the Japanese extracted timber during the Commonwealth period. Such is the case of black sand mining in Zambales in which the provincial governor granted permits to Chinese interests despite being forbidden by law to do so (Bondoc 2013). As Philippine natural resources continue to be exploited under such a corrupt institutional framework, which has persisted since the colonial times, it seems that the present form of governance as far as our natural resources are concerned is very much in line with what F. Sionil Jose (2014) refers to as "the trauma of history," in which the country's very own elites continue to perpetuate the worst vestiges of our colonial past.❁

Notes

1. As the institutions under which these stakeholders operated could be traced to colonial origins, Lynch (2011) is a most useful reference in analyzing the origins of the institutional framework that undermined the interests of stakeholders in the timber and gold mining industries, and which persist to this day.
2. Led by William Howard Taft, the Taft Commission was the second of such commission (after the Schurman Commission) tasked to recommend colonial policy over the "Philippine Islands."
3. Although Fischer was replaced at the Forestry Bureau, he was retained as technical adviser of agriculture and natural resources to Malacañang until he left in 1941 to join the US Army reserves (*Philippine Free Press* 1941, 26, 28).
4. Antamok would later merge with two other Soriano mining operations in Masbate and is now known as Atlas Consolidated Mining and Development Corporation (Philippine Stock Exchange 2014).
5. The Securities and Exchange Commission was created in 1936 by virtue of Commonwealth Act No. 83 in order to regulate the sales of securities brought about by the unprecedented stock speculation and swindling brought about by a gold boom in 1936 (Quezon 1936).

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