

SENATE BILL NO. 27

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Introduced by Senator M. A. Madrigal

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EXPLANATORY NOTE

No less than Principle 1 of the 1992 Rio Declaration on Environment and Development asserts that: "Human beings are at the center for sustainable development. They are entitled to a healthy and productive life in harmony with nature."

Republic Act 7942, otherwise known as the Philippine Mining Act of 1995, miserably fails to fulfill Principle 1 of the Rio Declaration. Outright experiences bear this out across the country. Field data show that not only is the Mining Act "anti-Filipino," it also acquiesces to the "development aggression" which numerous studies blame on foreign mining companies whose operations ravage communities and capitalize on the economic vulnerability of impoverished populations.

The current administration argues that the mining industry could propel the country as the "fifth mining power in the world." The argument, however, is illusory and one-sided. It glosses over the debilitating effects of mining activities to the environment, the indigenous cultural communities and the health and safety of people as well as their means of livelihood, derived largely from fishing and farming. At most, the non-economic aspects of mining are largely ignored.

In November 2005, the Senate Economic Planning Office (SEPO) came out with a policy insight entitled, "Extracting Growth from Mining." The paper cross-examined the economic effects of mining vis-à-vis its adverse effects on the community and the environment. It raised the bottomline question: *Can the country really gain from these resources?* The study triggers off equally serious issues relating to how RA 7942 promotes the plunder of the Philippine environment and natural resources and gives transnational mining firms the impunity to exploit our remaining patrimony. When disasters happen, these firms are the first to run away, leaving communities and people sick, with no other sources of livelihood and a damaged environment.

Mining as an industry is highly prospective. The chances of success are generally slim with industry experts pegging the odds of finding mineral deposits during exploration at 1:500, according to the SEPO paper. Estimates made by the Mines and Geosciences Bureau during the 1990s also reveal that most of the remaining mineral deposits in the country are actually low-grade ore. The poor quality of ore results in higher operating costs per ounce of metal produced since

less metal is recovered for every ton of ore mined and process in the country.

Philippine experience shows that mining investments are vulnerable to the prevailing socio-economic environment in the country. Mines across the country were closed down, suspended, or scaled down during the latter part of the 1980s as the Philippine economy struggled to cope with political uncertainty. By the mid-1990s, the number of active mines being operated in the country had fallen from 58 in 1981, to just 27 in 1997. As a result, the average annual employment in mining and quarrying fell by 7.5% during the 1990s. Average mineral production during the same period likewise fell by 18.9% to US\$967 million, while mineral exports also dropped by 3.8% to US \$709 million.

The ambiguity of government policies has also caused the decline in mining activities as it did in the 1990s, noted the SEPO study. The passage of the Mining Act in 1995 was supposed to clarify and streamline existing government policies towards revitalizing the domestic mining industry. However, public sentiment weighed heavily against mining following the 1996 Marcopper tragedy in Marinduque. A year later, various environmental and civil society groups led by the Legal Rights and Natural Resources Center–Kasama sa Kalikasan (LRC-KsK) managed to stay the implementation of the Mining Act by challenging its constitutionality before the Supreme Court.

To be sure, the impact of mining on the environment may be difficult to measure but the adverse economic and social effects are real. To date, most of all financial or technical assistance agreement (FTAA) and mineral production sharing agreement (MPSA) applications in the country employ open-pit mining or combination of open-pit and other forms of extraction. The practice of open-pit mining has already been banned in several industrialized countries including the United States and Canada, because of its negative impact on the environment.

Open pits are usually over 2.5 km. long, 0.5 km deep, and 1.2 km. wide. It has been estimated that three tons of mineral waste are produced for every gold wedding made. Waste materials and smelters are also known to cause sulfurous dust clouds that result in acid rain. Abandoned strip mines are often used as unregulated landfills for hazardous wastes. Tailings runoffs can contaminate nearby water sources with heavy metal pollutants used in mining, such as cadmium, mercury, sodium cyanide, and zinc, rendering them useless as sources of food, water, and livelihood. It has been estimated that 160,000 tons of mine tailings find their way into rivers, lakes, and irrigation systems across the country everyday.

Mining disasters have not helped the cause of the industry and have only created negative public sentiment, as the SEPO paper notes. There have been several documented cases of river poisonings across the country but all of them pale in comparison to the infamous Marcopper tragedy in 1996, considered to be one of the biggest environmental disasters to ever hit the Philippines. Up until today, the effects of the breach of the tailings dam which spilled some three million toxic tailings, are still felt. It has resulted in the biological death of the

Boac and Makulapnit rivers, and inundated an additional 823 hectares of once productive farmland. It has likewise adversely affected the physical well-being and livelihood opportunities of more than 20,000 families living in 42 communities adjacent to the Boac River.

The fact that there has been no clear resolution to the tragedy further erodes the confidence of the public on the capacity of the government to regulate the industry. To this day, Marcopper and its former majority shareholder, Canadian mining firm, Placer Dome Inc., continue to deny responsibility for most of the damages caused by mining activities in Marinduque. Placer Dome Inc., the second largest mining firm in Canada, has since then divested its share in Marcopper and continues to operate mines around the globe. Marinduqueños, on the other hand, have to daily contend with the adverse effects of the tailings.

In the same SEPO report, contrary to the government's aggressive stance that the mining industry is a vital source of economic contribution, the industry only contributed on the average, 1.44% of the country's gross domestic product in the past 35 years. In terms of exports, the share of mining exports to total exports only average 11.27%, with a high of 24.56% in 1973.

Added the SEPO report: "In Masbate, Camarines Norte and Agusan, where the country's bigger gold and copper mines are situated, poverty levels are one of the highest in the country. In Region IV, where the contribution of mining to regional output is the highest at 17%, poverty levels have remained at 39.7%, well above the national average of 24.7%."

On a global scale, the report has this to say: "...historical data from the last two centuries for each of Canada, United States and Australia show that mining's share of annual GDP has not been significant, contributing only 1 to 5%. (A) study points out that the sustained growth of these three countries was not driven by mining and other extractive industries per se but by the successful development of upstream and downstream industries, which relied heavily on the processing of mineral products, serving as inputs to domestic manufacturing and production."

The SEPO report concluded that the country can no longer afford to inefficiently manage what little natural resources it has left, especially in the light of the mining industry's adverse impact on both society and the natural environment. The conclusion of Ross in his 2001 study on mining can well serve as a basic policy guideline for mining. As pointed out in that study, "When mineral development occurs in a context of underdeveloped social, political, and economic institutions, the non-renewable resource wealth tends to be squandered, the level of social conflict increases, and nearly irreparable damages is inflicted on the environment. This can leave a developing nation *permanently* poorer."

In October 2005, another toxic waste spillage was reported in the island of Rapu-Rapu in Albay. Spillages of cyanide and mercury, attributed to the mining

activities of the Australian mining firm, Lafayette Mining, Inc., caused fish kills, endangering the food supply in the island, as well as the neighboring areas of Albay and Sorsogon.

This recent mining disaster triggered another round of protests from different sectors including the Catholic Bishops' Conference of the Philippines (CBCP), which issued a strong statement calling for the repeal of the mining law.

Twelve years since the passage of the Mining Act, the law has only served as the conduit for the government to barter away the national patrimony to transnational mining corporations and their local counterparts. Rivers are dying, indigenous communities are being robbed of their ancestral domains and people are dying of heavy metal contamination, and natural resources are being plundered because of mining. Mining is not an economic tool; rather, it is a tool for killing life.

As stated in "Breaking Promises, Making Profits: Mining in the Philippines," a Christian Aid and PIP Links report (December 2004): "Because the benefits to the national economy remain so unclear, with negative effects appearing to be at least as likely as positive ones, it is vital to focus on the local impact of mining. Here the picture is clear – people who live near mines in the Philippines are overwhelmingly being made worse off, because of environmental degradation, economic stagnation and human rights concerns. Only a small minority are benefiting from the few jobs available, and the occasional company-sponsored community program."

The existence of the Mining Law of 1995 is a continuing human rights violation where the State itself perpetuates the step-by-step destruction of not only its environment but also of its people. Because of mining, many communities and peoples are destroyed in whole or in part just to give way to the greed of a few. The failure to repeal this law is not only a betrayal of the Filipino people but it is also an outright trade-off of the remaining patrimony of the country to economic plunder. No self-respecting nation should allow this to happen.

It's way past the time to heed the call about saving life and conserving the future. The Mining Act must be repealed. The passage of this Bill is earnestly requested.

**M. A. MADRIGAL**

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Introduced by Senator M. A. Madrigal

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AN ACT  
REPEALING REPUBLIC ACT 7942, "AN ACT INSTITUTING A NEW  
SYSTEM OF MINERAL RESOURCES EXPLORATION, DEVELOPMENT,  
UTILIZATION AND CONSERVATION," OTHERWISE KNOWN AS  
"THE PHILIPPINE MINING ACT OF 1995"

*Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:*

**Section 1. *Short Title.*** – This Act shall be known as "An Act Repealing Republic Act 7942, "An Act Instituting A New System of Mineral Resources Exploration, Development, Utilization and Conservation," otherwise known as "The Philippine Mining Act of 1995."

**Section 2. *Declaration of State Policies.*** – It is the State's policy to protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature. The State also recognizes and promotes the right of indigenous cultural communities within the framework of national unity and development.

**Section 3. *Repealing Clause.*** – Any provision of law to the contrary notwithstanding, Republic Act 7942, otherwise known as "The Philippine Mining Act of 1995," is hereby repealed.

**Section 4. *Separability Clause.*** – If any part of this Act is declared unconstitutional or invalid, the other provisions not affected thereby shall continue to be in full force and effect.

**Section 5. *Effectivity.*** – This Act shall take effect fifteen (15) days after its complete publication in the *Official Gazette* or in at least two (2) newspapers of general circulation.

**Approved,**