

# philippine studies

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*Philippine Studies* vol. 54, no. 1 (2006): 3–40

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Fri June 30 13:30:20 2008

## **Mining and the Environment in the Philippines: The Limits on Civil Society in a Weak State**

David Wurfel

*This article examines events in Marinduque and the nation to identify trends in environmental policy as related to mining. It discusses the extent to which nongovernment organizations have influenced environmental policy in a weak state and the methods by which these organizations pursue their objectives. It sees the presidency, local elites, and the bureaucracy as intervening variables. It also looks at the global dimension, including foreign capital and the world market, but also the global connections of civil society groups in the Philippines. Despite better laws and scientific reports, the protection of the environment is far from complete and many tasks remain.*

**KEYWORDS:** *nongovernment organizations, weak state, mining, environmental policy, Marinduque*

### **Civil Society in a Weak State**

The Philippines has been characterized as a “weak state” on many occasions by both scholars and politicians. This is the context in which mining policy is devised and in which civil society exercises some influence. The weakness referred to is that of state institutions, especially the bureaucracy, in relation to corporate interests and to civil society, such as nongovernment organizations (NGOs) and church and people’s organizations. Unlike in mature democracies, Philippine political parties are not institutionalized and have no strength separate from that of the personalities that dominate them. In fact, parties are weaker today than they were in the 1960s. Despite some efforts to strengthen the state,

“good governance” in international development circles tends to focus on the technical factors that could produce a stronger state: better record keeping, better education and better pay for bureaucrats, better access to new technology, more carefully drafted laws, more effective legal mechanisms for preventing corruption, and so on. But these technical factors have only a limited capacity to build stronger state institutions. Strengthening the state also requires political, social, and cultural change.

It is important for a strong state to have wide acceptance of the rule of law in the political culture. To change a political culture, of course, is a long-term and difficult project. And to build that culture of law, which is now undermined by the patron-client system dominating the bureaucracy, poverty must be reduced. Impoverished clients are discouraged from ever organizing against their patrons because, in the absence of a social safety network, clients have no other means of protecting themselves from financial and other disasters than clinging to their patrons. Yet, if within the democratic political process a certain balance of competing social forces arises from fundamental structural change, then habits, and even political culture, will change eventually.

A strong democratic state is not one that simply ignores pressures, whether negative and positive, from other sectors of society. If it did, it would be authoritarian and lose legitimacy in the process. The bureaucracy in a strong *democratic* state derives its “relative autonomy,” or strength, from the balance of forces attempting to influence it. Thus, an emerging balance is crucial for both cultural and institutional change. A Department of Environment and Natural Resources (DENR) on which *only* corporate interests made demands would be at their mercy, as it sometimes has been. Yet a department that totally ignored these interests might be considered “strong,” but would be less than democratic. The hope for state institutions, both strong and democratic, is based on the prospect of competing elites appreciating the rule of law as benefiting all groups, a view that emerges when no one elite segment dominates. Then, at a later stage of political development, mass organizations emerge to balance elite interests, such as environmentalists and fisherfolk balancing the clout of mining executives, or human rights groups emerging to challenge the excesses of state power over weak individuals.

Sustaining that challenge is difficult, but in other countries it has been achieved. To be sure, more efficient organization and higher pay would help the Philippine bureaucracy become "stronger," but in the long run only competing social forces making demands upon it would give it the option to pursue the public interest, and strengthen the rule of law. Mining policy provides ample opportunity to observe the emergence of new social forces, note the obstacles to that rise, and evaluate its outcomes.

The Philippines is widely recognized as having more NGOs per capita than any other country in the Third World, which is supposed to help create that balance of sociopolitical forces that facilitate the state's "relative autonomy." Fastest growth was in the decade 1986 to 1996, which followed the overthrow of the Marcos dictatorship, as over 70,000 groups were registered by the end of that period. (CODE-NGO, the largest NGO network, recognizes about 3,000 as "development NGOs" [ADB 1999, 1].) In fact, associational activity had been expanding for several decades, as a result of American colonial policy and early economic growth. (The Philippines in the 1960s was the most developed country in Southeast Asia.) The suppression of political parties by Ferdinand Marcos created an incentive to find alternative forms of organization. By the early 1980s even the National Democratic Front (NDF), the civilian wing of the revolutionary movement, had recognized the advantages of linking with friendly NGOs or creating new ones. Then, after 1986, the administration of Pres. Corazon Aquino lifted almost all restrictions on NGO formation. Furthermore, politicians, both local and national, and the government itself began to create NGOs (or GO-NGOs), finding them convenient tools for a variety of purposes; thus the spurt in registrations. Unregistered NGOs were multiplying perhaps even more rapidly. By the 1990s NGOs had become sufficiently prominent on the national scene in the Third World that even the Asian Development Bank and the World Bank recognized them as worthy channels of development assistance. It may be noted that some authors equate expanding associational activity with the growth of "social capital" (Putnam 2002).

Genuinely independent NGOs (hereafter referred to simply as "NGOs") were usually led by the middle class. They helped provide social

services or policy advocacy for farmers, fishers, and workers, who were often mobilized within “people’s organizations,” or POs. In the process of doing so they competed with traditional patronage hierarchies. Some middle-class NGO leaders—especially if they were able to access substantial foreign funds—became patrons themselves. But the more progressive NGOs that facilitated the organization of mass-based POs may have contributed to some change in class structure. Meanwhile, NGOs that were elite-dominated and still entwined in the old patron-client system, perhaps partially funded by government, simply reinforced the existing class structure.

David Korten (1990, 115–27) has categorized NGOs as moving through four stages: from charity goals, to development, to more and more emphasis on mass mobilization and policy advocacy, even reaching transformative goals at the fourth stage. Most Philippine NGOs fall into the second and third of Korten’s stages; we might say that those with revolutionary connections have entered the fourth stage, while some are still stuck in the first. Many have activities that draw from different stages. Those more driven by ideology, whether secular or religious, are likely to emphasize third- and fourth-stage strategies.

It is very difficult to say anything very precise about the size, finances, policies, or accomplishments of most NGOs. Those that are more or less dependent on foreign funding constitute a large proportion, perhaps a majority (ADB 1999, 5). Even if many now have their own websites, which is certainly an improvement, these websites usually conceal more than they reveal, and few are kept up-to-date. Other forms of reporting are, at best, intermittent. But anecdotal evidence indicates that in some provinces and in some policy areas accomplishments have been quite significant.

At the end of martial law the expectation of many NGO leaders in the Philippines was for great political influence to follow from larger numbers and more extensive operations. In fact, achievements have usually been short of those expectations. Under the administrations of Pres. Corazon Aquino and Pres. Fidel Ramos (1986 to 1998), it was said that “NGOs and the state had forged one of the closest relationships to be found anywhere in the developing world” (Clarke 1998, 93).

Nevertheless, the links formed tended to be more rhetorical than substantive, designed to strengthen the democratic legitimacy of the government without much change in the substance of government policy or practice and, in most cases, without seriously denting the existing patron-client networks.

In the 1970s civil society had been stimulated to expand its functions by the Catholic Church, influenced by liberation theology from Latin America, and began to pay much more attention to social justice and human rights than before. In the 1970s Basic Christian Communities (BCCs)—not introduced to Marinduque until the 1980s—became an important vehicle for expressing such concerns (Coumans 1996). Secular NGOs also emerged, ranging from middle-class advocates dedicated to legal, nonviolent tactics to allies of the New People's Army (NPA) dedicated to revolution—and many permutations in between. NGO tactics varied, of course, depending upon how they were first organized, and by whom. The degree of cooperation among these different types has also varied by time and place.

Environmental NGOs are differentiated largely because of the different foci of their activities. A focus on sustainable agriculture, for instance, may lead to projects to encourage organic farming, as well as perhaps policy advocacy and criticism of producers and distributors of chemicals. But because constructive activities are more likely to get government or overseas funding—and facilitate linkages with international NGOs—attacks on the chemical industry are inclined to diminish in relative importance over time. The same could be said about NGOs concentrating on the protection of endangered species. NGOs involved in trying to stop the destruction of forests also have dual aims: to halt the destruction, by policy advocacy and direct action (e.g., organizing roadblocks against trucks hauling from illegal logging sites—sometimes successful, but often dangerous [Vitug 1993]), and to encourage reforestation, with the second approach again more likely to attract funding and engender cooperation with government. All environmental NGOs are engaged in some form of educational activity.

NGOs trying to protect the environment, including aquatic resources, from rapacious mining seldom have the option to start externally funded

rehabilitation projects; the cost would be too great and the necessary cooperation from the mining company unlikely. (In any case, most NGOs believe that cleanup costs are the mine's responsibility.) The emphasis, they feel, must be on *halting* the polluting activities of large corporations, some foreign. This requires direct action at the local level, mass mobilization, and policy advocacy in Congress and in the bureaucracy. Thus, it is fair to say that, in mining, NGOs tend to focus on mass mobilization and policy advocacy more than do their counterparts in most other fields.

The magnitude and severity of environmental damage in areas near mines make the nature of the environmental movement more confrontational in dealing with mines than with some other sources of pollution. There is usually no doubt about the source of the environmental damage, and the culprit is near at hand. The simultaneous economic dependence of so many in the community on the mine entices collaborators, but also helps further intensify the opposition from those who suffer. When the hand expected to feed becomes the hand that kills, there is a special sense of betrayal. Compromise is not easy with a force that threatens, and may already have damaged, health and livelihood, even life.

Corporate mining interests are also well organized, and have access to decision makers at high levels. Yet, even if NGOs were stronger so that they could capitalize on crises and counteract mining interests, there would be no guarantee of stable policies for the greater good if the bureaucracy remained weak, i.e., lacking in self-confidence, inefficient, and without a commitment to the rule of law. If that bureaucracy remained open to manipulation through the patron-client system, as it is today, great wealth would have an inherent advantage. The wealthy do finance election campaigns (not unique to the Philippines), and presidents and members of Congress reward their benefactors not only with favorable policies but with the appointment of friends who can do "special favors." Any attempt by bureaucrats in this situation to enforce the law, so as to restrict the opportunities for profit by a wealthy benefactor, would be quickly blocked or punished.

NGOs and POs representing mass interests *need* a strong, responsive bureaucracy, willing and able to enforce laws and regulations over the

long term. For, if the bureaucracy is not committed to the rule of law, today's NGO policy "victory" will be viewed simply as a special dispensation to particular supplicants. Even new legislation or executive orders may be meaningless tomorrow when the configuration of political forces has changed, as has happened with the Mining Act of 1995. Thus, any attempt to improve environmental policies affecting mining must deal not only with shifting relationships of power between civil society and corporations, but with a bureaucracy for whom the rule of law—and environmental principles—are a "sometime thing." However, under present circumstances the goal of political survival seems, for most top bureaucrats, to exclude all other considerations.

Unfortunately, even those Philippine political leaders who seemed to have had the strongest commitment to democracy, such as President Aquino, have given little attention to the necessary strengthening of state institutions. She made no effort to institutionalize a political party, and seemed not to understand the necessity of freeing the bureaucracy from the control of political patrons. She was content simply to restore the pre-1972 political system. Under these circumstances, therefore, it is remarkable that on some occasions the environment *has been* protected.

## Mining

Copper mining in the Philippines has the greatest potential of all ores, since the Philippines is third in the world in proven reserves. But by 1997 the Philippines had slipped to twenty-second place in the world for copper production. While in 1996 copper constituted nearly 40 percent of mining product exports (Tujan and Guzman 1998, chaps. 1 and 3), mining generally had declined in importance over the decades. In 1973 mining made up 25 percent of Philippine exports by value; by 1996 it was only 3.7 percent. It was not a simple case of mining being displaced as the Philippines diversified its exports. From 1975 to 1996 production by volume in silver declined by half, in copper it declined by more than 70 percent, and by the latter year iron production had nearly ceased.

In 1995 there were five large-scale copper mines, of which Marcopper was fifth in production.

## Mining Policy

The 1990s was a time when the Philippines, under longer World Bank guidance than any other Third World country, came under increasing influence from globalization, just as the domestic mining industry struggled to revive and hoped for more foreign capital. Thus, the Mining Act of 1995, pushed by the World Bank, was born. A mining boom seemed imminent until 1996, when the ecological disaster in the Boac River, caused by a rupture of the Marcopper mine's tailing pond, received wide publicity and sparked considerable outrage. Coincidentally, after this incident world prices for minerals began to slide.

The mining industry had pushed hard for the Mining Act of 1995, and was delighted with its passage, since the provision on Financial or Technical Assistance Agreements (FTAAs) under the act provided a mechanism to skirt the Philippine constitution and permit 100 percent foreign investment. (Initially, both the industry and environmental NGOs tended to ignore another important provision in the act, that new mines required indications of "social acceptance" from surrounding communities.) In the first year after the act's adoption more than sixty applications for FTAA were made, with Australian firms in the lead; Canadians came in second with sixteen submissions. These applications covered 22 percent of the Philippine land surface.

Filipinos, remembering the Marcopper disaster, understandably felt threatened, and the act became a stimulus to organization in the environmental movement. The Catholic Bishops' Conference of the Philippines (CBCP) called for the repeal of the mining act. The Legal Rights and Natural Resources Center-Kasama sa Kalikasan (LRC-KSK), an environmental law group, challenged its constitutionality before the Supreme Court. At the same time, President Ramos, ambiguously friendly to NGOs, appointed some top personnel in the DENR who were serious about protecting the environment. But, by the late 1990s, as mining activity began to decline the sense of threat to the environment faded.

Some NGO activists have claimed primary credit for halting a potential avalanche of destructive mines. Says Catalino Corpuz (1999), "the broad masses of the Filipino people [have] sustained a campaign against

the exploitation of the country's mineral resources. As a result . . . the Philippine Mining Act of 1995 has not yet been fully implemented." Mining industry spokespersons have been inclined to agree with this NGO analysis, although concerned about very different areas of the act's implementation.

To be sure, a crusading head legal officer at the DENR, who drafted a more restrictive set of implementing regulations for the mining act in response to environmentalist pressures, may have discouraged some of the least persistent prospectors. The challenge to the mining act in the Supreme Court might have deterred others. And at some locations community activists were able to arouse popular opposition to mining initiatives, especially after the Boac disaster.

But the largest factor in causing this fall-off in corporate interest appeared to be a drop in world market prices. Prices in the early 1990s were on a rapid rise, hitting a record high in 1995. But by 1998 copper prices on the London Metals Market had dropped by 43 percent in three years. The fate of FTAA applications at the DENR reflected market realities. In April 1996, shortly after the DENR's Mines and Geosciences Bureau (MGB) began to accept applications, more than 100 had been filed, while by July 1999 the accumulated total number of applications was 152, with only 2 approved and 16 denied or cancelled. In addition, 55 had been abandoned or withdrawn, 7 expired, and 72 were "under process," in large part because applicant corporations had not submitted the necessary documents.

Since 1998, however, copper prices have slowly recovered, and by March 2004 were at an eight-year high of US\$1.36 per pound (*Washington Times*, 24 Mar. 2004). Recovery in world prices has sparked renewed interest in the reopening of the Atlas Toledo copper mine in Cebu, once the largest in the Philippines, and triggered other financial, legal, and exploration activities in preparation for mining operations.

Revival of interest in mining investments put pressure on Pres. Gloria Macapagal-Arroyo to ease regulations. In addition to what international financial institutions assert, the president's own advisors seemed persuaded that a dramatic increase in mining was good for the economy, despite some persuasive research to the contrary. For instance, Harvard economists Jeffrey Sachs and Andrew Warner (1995) studied ninety-five

countries between 1970 and 1990 and found that “the higher the dependence on natural resource exports, the slower the growth rate in GDP per capita.” A British economic geographer, who studied eighty-five countries over an even longer period, found that that subset of nations who relied heavily on the export of solid minerals (excluding oil and gas) actually had negative growth between 1970 and 1993 (Power 2002, 29). Obviously the push to expand mining derived from something other than objective economic analysis.

An initiative to create a “National Minerals Policy” had already been launched by the MGB during the time of DENR Secretary Antonio Cerilles in the brief administration of Pres. Joseph Estrada. Because of political distractions little was accomplished until 2002, when attention from the mining industry mounted. In March 2002 the Foreign Chambers of Commerce of the Philippines signed a manifesto, which requested “the current administration to issue a strong message stating that it supports a sustainable and responsible mining industry and that it welcomes foreign investment” (*Manila Times*, 8 Mar. 2002). The manifesto claimed that foreign investors had been “turned off” by the 1995 Mining Act, failing to admit that the FTAA mechanism under the act gave unprecedented opportunities for foreign investors. Putting it a little differently, the Foreign Chambers of Commerce asked Malacañang to take a “firmer stand” on liberalization of mining “by endorsing the National Minerals Policy that opens the mining sector to foreign investors.” They either did not know what the National Minerals Policy (NMP)—based upon the 1995 Mining Act—actually included, or were distorting it for their own purposes.

In any case, the president and the MGB (the MGB had always been closer to the mining industry than the DENR as a whole) took the manifesto seriously. In 2003 the DENR-MGB launched a series of conferences and workshops, with the support of the United States Agency for International Development (USAID) “as part of continuing efforts to revitalize the Philippine minerals industry,” after the president had announced in January 2003 a “policy-shift from tolerance to promotion of mining” (MGB 2003a, b). The regional conferences invited participants from NGOs (some of those most critical of present policy did attend), religious organizations, the business sector, and local governments.

These culminated in a national conference held in Manila in December 2003, which was also supported by the Canadian and other governments. These meetings were clearly designed to mobilize public support for the NMP. (At an earlier regional conference, MGB director Horacio Ramos, to the question, “What is the major hindrance to opening of large scale mining?” replied, “public sentiment.”) The president promised to issue an executive order endorsing the NMP in December, but failed to get strong support for that endorsement at the National Mining Conference. The executive order did not appear until January 2004.

The nineteen-paged single-spaced NMP document, revised in November 2003, is remarkable for its vagueness, contradictory paragraphs, and seemingly unqualified adoption of environmentalist language—even while it lists, as a desired outcome of the policy, “Full government support at the local and national level to mineral resources development.” This document, although admitting that mining and sustainable development are “a contradiction to many,” insists that it is not so. But its arguments for compatibility meander into oblivion. Nevertheless, the NMP proclaims a “paradigm shift from traditional mining to a new regime of pro-people, pro-environment minerals industry embodied [sic] in the Philippine Mining Act of 1995.” In one of its few specifics, it endorses the “polluter pays principle,” without suggesting any mechanics by which it would be applied. Happily it also commits government “to ensuring that civil society organizations are provided the opportunities for genuine and meaningful participation in decision making,” but again offers no proposal for implementing this principle. At the same time, the document asserts that “the competitiveness of the minerals industry is fundamental to the sustainable development of the country’s mineral resources,” and that the role of the world market must be recognized. “All agencies . . . of government shall endeavor to work together and ensure that a positive investment climate is maintained” (MGB 2003c). However, it seems unlikely that mining companies would recognize such a climate as positive, if all of the commendable environmental principles enunciated had actually been implemented.

In summary, in the Philippines a new initiative to promote mining was being pursued in a fog of internationally correct environmental rhetoric. But whether the polluters are ever made to pay remains to be

seen. That this agenda is *not* that of the environmental movement is clear from the number of NGO declarations condemning the National Minerals Policy and continuing to demand that the 1995 Mining Act be repealed. Support by the mining industry for the NMP further clarified its real significance.

The executive order issued in January was much briefer than the NMP statement. Although it held that "Protection of the environment shall be of paramount consideration in every stage of a mining operation," this and other high-sounding phrases were entirely separated from any mechanism of enforcement. For its part, the DENR was directed by Executive Order 270, dated 16 January 2004, to set guidelines on the "simplification and streamlining of permitting and clearance systems" (MGB 2004a). In fact, months before, DENR Administrative Order No. 2003-46 had already been issued amending the "Revised Implementing Rules and Regulations of the Philippine Mining Act of 1995" (Administrative Order 2005-15). These revised rules provided numerous procedures by which mining applicants could do an end run around requirements for environmental assessment.

Despite her various promining initiatives, in January 2004 President Macapagal-Arroyo suffered a serious setback at the hands of the Supreme Court. On 27 January the court issued a decision that invalidated the FTAA's found in the Mining Act of 1995 (Supreme Court 2004a), which, as noted, were specifically designed to circumvent the constitutional prohibition against exploitation of national resources by fully foreign-owned companies. The court held the FTAA to be unconstitutional. Immediately, the DENR filed a motion for reconsideration. On 22 April DENR Sec. Elisea Gozun issued a memorandum stating that, until the Supreme Court decision was "final and executory," the Department "shall continue to implement the Mining Act and its implementing rules and regulations" (MGB 2004b).

By the end of the same year, however, the president was blessed by a dramatic reversal of the Supreme Court's position. Less than a year after it had declared the Mining Act of 1995 unconstitutional, the court found its provisions acceptable. The lengthy decision went through some remarkable "logical" hoops (Supreme Court 2004b). The court's major-

ity expounded at length on how “little profit” mining companies gained, and urged “fairness for business.” It argued that mining investment created “vast employment.” What happened behind the scenes to help facilitate such a quick switch by the usually slow-moving court is yet to be known.

After the president’s reelection and even before the Supreme Court’s dramatic reversal, mining policy had been moving toward more and more vigorous promotion of foreign investment. In January 2005, as if it had been planned for some time, an announcement was made by Malacañang of an “international mining summit” to be held in early February. Over 150 of the world’s top mining executives were invited to the conference, the slogan of which was “The Philippines—Open for Business.” It cannot be ascertained how many actually attended (within a few months the conference website was blank), but press coverage about the summit’s success was generous. At its end it was announced that over US\$6 billion of new investments would be forthcoming (MGB 2005a). However, the MGB website later admitted that nearly six months after the “mining summit” only US\$18.5 million in new mining investments actually had arrived (MGB 2005b).

The “mining summit” at Malacañang was followed by some national meetings designed by civil society to demonstrate public opposition to mining policy. The very next week the Church People’s Conference on Mining was held at the University of Santo Tomas in Manila. People from affected areas told how mining had damaged their communities and their environment. Since it was an ecumenical meeting, the general secretary of the National Council of Churches in the Philippines (NCCP) also spoke, calling for a total ban on mining in the ancestral domain of indigenous peoples (Makilan 2005).

On 10 June 2005 diocesan social action centers around the Philippines organized protests, demanding “Scrap the Mining Act” and “Defend Patrimony.” In Zamboanga over 4,600 people gathered at rallies in the cities of Pagadian and Dipolog. Although ecumenical, these rallies were organized by the National Secretariat for Social Action (NASSA), with Catholic bishops taking the lead. The campaign statement specifically called on the government, among others, to require mining companies

to clean up mine tailings, rehabilitate open pits, and strictly adhere to regulations prescribed by law (Mineral Policy Institute 2005).

Indicating perhaps some divergence in the environmental movement, in the same week an alliance of secular groups, "Defend Patrimony!," organized the Second National People's Conference on Mining in Antipolo City. The conference theme was "Ten Years of People's Struggle against Mining Liberalization and Plunder." In early 2005 there were also other protest rallies and conferences (Mines and Communities 2005).

Unfortunately, however, there was no indication that this activity was constraining the implementation of government policy, even if it might have reduced the enthusiasm of some foreign investors. At the same time, there seems to have been increasing armed conflict around mining sites. The pattern seems to be for mining companies to rely on private guards, or nearby Philippine army units, to try to control, even repress, local opposition to the mine. The opposition often remains quite bold, even while nonviolent. At the same time, the NPA, the armed wing of the Communist-led revolutionary movement, has sometimes justified its own attacks in terms of protecting villagers who have resisted mining depredations. For instance, in northern Luzon in June 2005 an NPA attack killed nine soldiers who were said to be "helping mining firms." In Luzon and beyond, several environmental activists have been assassinated, apparently by the military or local police. Those with left-wing connections have been especially targeted.

Thus, despite many hours spent on consultation, by 2005 policy confusion was perhaps greater than it had been for years. This meant that pressure politics operating in the shadow of a promining Malacañang would determine the most significant decisions of the DENR. And mining companies would often proceed on their own, if they felt constrained.

To recapitulate, the general mood among mining policy makers has come full circle since the passage of the 1995 act, which had been drafted with the assistance of mining companies, after an invitation to do so by the DENR. The legislation that emerged had been described at the time by *The Mining Journal* as "among the most favourable to mining companies anywhere" (Coumans and Nettleton 2000, 57). Then there

was general euphoria in corporate boardrooms and gloom among environmentalists because of the prospect of a rapid expansion in foreign-funded mining. But the drop in world prices and the Marcopper tailings spill in 1996 began to reverse that mood. The mining industry was sometimes excoriated in the press and even in Malacañang by President Ramos, while corporate profits dropped. Growing awareness around the country of the damage to the Marinduque environment, a relatively environment friendly DENR, and the unexpected appearance of helicopters and mineral exploration teams in remote areas because of the mining act stimulated the formation of environmental groups and gave new determination to existing ones.

Then in 1999 the trend again shifted: rising world prices excited miners. President Estrada was captive of the mining industry and followed their policy advice, while the absence of another major mining disaster left the environmental movement without a negative stimulant. Since then government and corporate miners have grown even closer, using the rhetoric of environmentalism to clothe a new battle against environmental regulations and the forces supporting them. The election of Pres. Macapagal-Arroyo in 2004 did not change the course of this battle, as she continued vigorously to promote and protect mining interests.

### **Marinduque as Microcosm of Philippine Mining**

Marinduque, a small island-province only a half-hour by air from Manila, has had experiences similar to those of other provinces as well as some distinctive ones. Marcopper was one of the early copper mines in the Philippines, starting production in the 1960s under the management and part ownership of Placer Dome, Inc., of Canada. During martial law President Marcos quietly, and by a variety of means, took a majority personal ownership of the mine, but management continued in the hands of Placer Dome. By the time BCCs began to be organized in the early 1980s environmental damage, particularly in Calancan Bay, was severe. For many of these village-level organizations, the focus of social concern was to get the mine to stop dumping tailings into the rich fishing grounds of the bay and to get them to compensate villagers for

the damage done. Given the role of Marcos, it was not surprising that rulings against the mine as a result of environmentalist action were overturned more than once. What was remarkable was that subordinate officials sometimes actually ruled against the mine, which revealed the “inefficiency” of the dictatorship.

Compared with other provinces, Marcos’s participation in mining in Marinduque was particularly direct, while support of the Catholic Church for environmental protection was particularly strong. After 1986, when the Marcos share of the mine was first seized by the Presidential Commission on Good Government (PCGG) and then sold to private interests, Placer Dome continued as part owners and managers. The struggle between mining interests and environmentalists evolved to become more like that in other provinces, with the polluter a private corporation. (However, Marinduque did not have an indigenous population, as did several mineral-rich provinces. From the 1990s indigenous peoples acquired rights that facilitated opposition to mining; this was not a factor in Marinduque.)

Marinduque politics was typical of smaller Philippine provinces until the late 1990s: dominated by a few wealthy families, who were both large landowners and closely tied to whatever foreign investors operated within the province. By the early 1990s Placer Dome/Marcopper had enmeshed the key families in a variety of contracts that allowed each of them to profit from some aspect of the mining operation. In 1995 one of those families, headed by the mayor of Santa Cruz, was surprisingly defeated by a mayoral candidate critical of the mine. Obviously, intraelite competition and the growth of a mass movement had made some difference. At the same time, another mayor critical of the mine was elected in the other main town, Boac. The mass mobilization efforts of the Marinduque Council for Environmental Concerns, based at the Diocesan Social Action Center in Boac, were beginning to have some impact. They drew on the support of committed villagers through the BCCs, and were linked to national and international networks with the help of Sr. Aida Velasquez of Lingkod Tao Kalikasan.

More recently events in Marinduque have again taken on a more distinct character, primarily because the mine has remained closed since the tailings spill in 1996. Provincial elites, and even many of their follow-

ers, earlier thought they could not live without the mine, but have learned to do so, with a certain success. And, with little or no Marcopper financing for local politicians, some of them have become more responsive to citizen demands. The citizens of Marinduque have also been especially fortunate in being the beneficiary of the skillful efforts of a Canadian environmentalist, long familiar with the provincial scene, who helped focus international NGO attention on their problems and helped broker an agreement that brought the U.S. Geological Survey (USGS) to the island to make the first comprehensive study of ecological problems. Yet, in the meantime, a waste rock dam and a tailings pond have so deteriorated that they can break with the next heavy rain, causing a disaster that can raise conflict with Marcopper (whose administration remains on the scene) to a new level. Because of Placer Dome's earlier exaggerated claims to be sensitive to "environmental sustainability," it has gained worldwide notoriety for walking away from its responsibilities.

Sensing their increasing unpopularity, Marcopper/Placer Dome had allocated their resources carefully during the 1998 election. The campaign for governor by the sitting congresswoman, Carmencita Reyes—a scion of the family that in the 1950s was the largest owner of rice lands in the Philippines—was beneficiary of a large company grant for electric power development. Her well-funded campaign was successful. The alliance with the mining company, still hopeful of reopening, seemed to consolidate her family's political control. Her son, Edmund Reyes, won the race for congressman even if he had no previous electoral experience. There seemed to be recognition of mutual benefit between the Reyes family and Marcopper/Placer Dome. And then a funny thing happened.

Edmund Reyes, who was often viewed by his critics during the campaign as tied to his mother's apron strings—and she was *formidable*—was a bright young lawyer with considerable international experience. After election he seemed to have a conversion experience. He decided to do politics differently, a decision also made by several well-educated children and grandchildren of traditional province-controlling families in other parts of the Philippines, although overall their numbers are still insufficient to bring a systemic change. The decision of Edmund Reyes seemed to have stemmed from a combination of altruism and self-

interest. He had a dream for his province quite different from that of a *trapo*, or traditional patronage politician. For one, he wanted to turn the notoriety of Marinduque as a mining disaster into an asset by setting up a research institute focusing on environmental regulation of mining and rehabilitation after disasters.

At the same time his participation in the 1998 campaign brought him closer to the people. Unlike many politicians, he listened. Afterwards he told one friend, "They hate me." He became aware that his whole family was unpopular, despite well-oiled electoral victories. He recognized that a change of image would be good for reelection, and it was. In fact, he had persuaded his mother, along with most other local politicians, to oppose the reopening of the mine. The "image change" has involved a lot of policy substance. He became the crucial supporter of the launching of an independent environmental assessment in Marinduque by the USGS. He even got the endorsement of DENR Secretary Cerilles for this assessment, an indication that congressional clout could sometimes be exercised for laudable public purposes.

Subsequently, Reyes used the power of congressional investigation to highlight one of the most contentious policy issues, submarine tailings disposal (STD), which Marcopper/Placer Dome had pushed for years, against strong local opposition. The issue is even more contentious since the mining lobby is advocating that this procedure for tailings disposal be authorized nationwide—despite its being illegal in the U.S. and Canada. Congressional hearings brought in experts who were able to spell out the environmental dangers posed by STD, thus allowing the DENR to resist pressure from mining companies.

The most recent initiative by Reyes is a bold one, potentially very beneficial for both Marinduque and himself. In 2005 he contacted an experienced American law firm to prepare a multimillion dollar lawsuit against Placer Dome to cover costs of rehabilitation in Boac, Mogpog, and Calancan Bay. The law firm is launching the suit on behalf of the provincial board of Marinduque, thus indicating that the governor is also behind it. Yet many legal hurdles remain.

The Reyes family certainly has less economic interest in supporting the mine today—after eight years of closure—than it did earlier. But to

have taken a cautiously proenvironment stance represents a greater degree of foresight than is typical of traditional Filipino politicians. A shift in thinking by an influential individual can have a major impact on policy, a shift in this case not unaffected by the growth of a mass movement. This shift has also opened up communication channels for environmental spokespersons in Marinduque, helping to legitimize that movement.

The provincial political elite, including the governor, two of three mayors, the bishop, and several members of the provincial board, went so far as to sign a statement opposing any large-scale mining in the province in the coming generation (Mines and Communities 2003). Such blanket opposition to mining has also been formalized by provincial boards in other provinces.

### **Factors and Forces Influencing Policy**

Corporate interests and civil society are the two main forces influencing policy, which is determined formally by state institutions that, in the Philippines, are notoriously weak. From time to time over the last forty years corporations and civil society (although more often the former) have penetrated, and even directed, the decisions of those institutions.

One important area in which politicians, mining companies, and environmentalists interact is in the confirmation process for secretaries of the DENR, who usually have been the most important figures in implementing mining policy. Under the Philippine Constitution the Commission on Appointments is made up of representatives from both houses of Congress; its confirmation is required for all cabinet-level appointments, as well as many others.

In 1987 President Aquino ended the nine-month term of a disreputable politician in that post and appointed a human rights lawyer, Fulgencio Factoran, as secretary of the DENR. He headed a department riddled with corruption, unable to enforce rules against illegal logging. In 1990 1,700 people died in a terrible flood in Leyte, believed to have been caused by extensive illegal logging in the river's headwaters. This disas-

ter attracted national attention. Factoran brought in the leader of an environmental NGO, Delfin Ganapin, as undersecretary, and tried to clean up the department, bringing 443 corruption cases against department personnel during his term (Clarke 1998, 86). These efforts impressed foreign observers, and funding for reforestation and other forest programs expanded rapidly, some of it channeled through NGOs. (Unfortunately, some NGO executives were themselves corrupted in the process.)

Ramos was narrowly elected president in 1992 with some support from NGOs, and desired to enhance his legitimacy by further contact. So he listened to the advice of NGOs, who nixed the first names he proposed for DENR secretary. Finally, he appointed Dr. Angel Alcala, an environmental scientist affiliated with the respected Haribon Foundation; Alcala was president of Silliman University, the premier Protestant institution in the Philippines. Ganapin remained as undersecretary. President Ramos also established the Philippine Council for Sustainable Development, with a minority of NGO representatives, to draft the Philippine response to the Rio Conference. NGO leaders were ecstatic at being treated as “partners” of government. A consensus was achieved, but the program was never funded and the council fell into disuse. Unfortunately, Alcala proved to be a poor administrator, often described as “naïve” or “indecisive”; he was replaced after a couple of years by Victor Ramos, who had no relation to the president. This period was an enormous learning experience for NGOs. “Haribon, . . . closely assisting Alcala, [gradually became] exposed to the nuances and difficulties of running a bureaucracy. . . . Governance . . . can be a world apart from simple advocacy” (Vitug 1993, 177).

Often confirmation of an appointee is fairly easy, but in the last decade two cases of DENR secretaries, that of Antonio Cerilles in 1998–1999 and Heherson Alvarez in 2001–2002, were prolonged battles, involving extensive public hearings and press debate. Cerilles, appointed by Estrada, was finally confirmed and served until Estrada was removed; Alvarez, appointed by Macapagal-Arroyo but who served for nearly two years without confirmation, was confirmed only after a deal had been struck by which he would step down within a few months. Neither outcome was beneficial to the environment.

Cerilles was a congressman from Mindanao, and operated a quarry. He was strongly supported by Ronaldo Zamora, executive secretary to the president, and his brother Manuel, a nickel mining magnate. Before his appointment Cerilles was widely believed to have violated the law and DENR regulations in the operation of his quarry. Forty-four environmental NGOs lined up to testify to these facts. But Cerilles was also a popular member of the Mindanao caucus in Congress, which was eager to have Mindanao better represented in the cabinet. Poorly coordinated, sometimes poorly prepared, even suspicious of each other, environmental groups were no match for the combined forces of a congressional caucus, the executive secretary, and big mining interests, specifically the Chamber of Mines of the Philippines. Yet the warnings environmentalists gave in the hearings about Cerilles's bias for mining companies proved all too accurate when he was in office.

Alvarez was a much better known public figure at the time of his appointment than Cerilles had been. Alvarez had been a leading activist in the anti-Marcos campaign in the U.S. and was appointed secretary of agrarian reform in the Aquino cabinet. Subsequently, he was elected senator, and then, because of term limits, a representative to the Lower House. He also had formed an environmental NGO, headed by his wife. Although he had never served before in the DENR, he had authored major pieces of environmental legislation.

Alvarez had had a checkered career, not always squeaky clean. But when he was first appointed DENR secretary he showed signs of "turning over a new leaf," making a series of decisions to distinguish himself from Cerilles and establish his credentials with environmentalists. This was, in part, his downfall. The most celebrated case was his firing of a holdover assistant secretary of the DENR for illegally issuing licenses for the importation of ozone depleting substances (*Philippine Daily Inquirer*, 26 Nov. 2001). The assistant secretary, Peter Abaya, was the son of a congressman, who swore vengeance on his son's accuser, and made up some accusations of his own. Alvarez, perhaps imagining that he had the full backing of the president, refused suggestions from the Speaker of the House that he "make a deal" with the hostile congressman. Alvarez had also issued regulations to protect small traditional inshore fishers, which restricted the opportunities for large boats some of which were

owned by members of Congress (*Philippine Daily Inquirer*, 23 May 2002). He rescinded a number of Environmental Compliance Certificates (ECCs) issued in the last hours of the Estrada administration, which would have allowed mining in places where, in fact, environmental requirements had not been met. Soon after assuming office in May 2001, Alvarez had shut down operations of Hinatuan Mining Corp. (reportedly owned by Manuel Zamora) after one of the mines' trucks had run over and killed a fisherman-protester (*Philippine Daily Inquirer*, 5 May 2001). All these acts hurt companies with good political connections in different parts of the Philippines. Also, Alvarez was opposed by multimillionaire Enrique Zobel because of his forest management policies (*Cyberdyaryo*, 6 Jan. 2002). If environmental NGOs and their supporters felt any gratitude to Alvarez for these actions, it was not expressed in any substantial way.

If President Macapagal-Arroyo had backed Alvarez, who was also president of the ruling party, the way Estrada had backed Cerilles, he might have been confirmed earlier (*Philippine Daily Inquirer*, 25 Feb. 2002). But a president who never mentioned the environment in her first state of the nation address in July 2001 apparently did not want to expend political capital on a vulnerable environmentalist. (However, she did include Alvarez in her entourage visiting Canada in January 2002, and made an appeal to the Canadian government, without success, perhaps expected, to get Placer Dome to live up to its responsibilities in rehabilitating Marinduque.) Months before the vote in the Commission on Appointments she had unofficially expressed her willingness to appoint someone else (*Philippine Daily Inquirer*, 4 Mar. 2002). In addition, Alvarez was not popular among his former congressional colleagues; he was sometimes accused of a certain arrogance, an unforgivable sin in Filipino political culture. His actions before entering the DENR also made environmentalists less than enthusiastic in his defense; some distrusted the intentions behind even his apparently environmentally friendly decisions; and some would not have supported anyone who did not promise to abolish the 1995 Mining Act. Alvarez's most outspoken backers were journalist Belinda Olivares-Cunanan and Fr. Romeo Intengan, S.J., then Superior of the Philippine Province, Society of Jesus. A group of scientists from the University of the Philippines also spoke out in defense

of his attempt to prevent the importation of ozone depleting substances. But up against the money and power of the mining industry and its political friends, such backers were quite insufficient.

In a face saving device, Alvarez was finally confirmed by the Commission on Appointments on 21 August 2002 and replaced by a new appointee, Elisea Gozun, on 30 November. Before he ended service Alvarez had closed down seventeen companies for violations of environmental regulations. Alvarez's only satisfaction with the confirmation process was that, before he left office, Peter Abaya's libel case against him was dismissed by the prosecutor's office, and Abaya himself had to answer charges before the Ombudsman. But within months Alvarez had to resign as party president, and was excluded from the president's senatorial slate. To make matters worse, he was replaced by a former Estrada supporter.

Although earlier she had an NGO background, Secretary Gozun had been in government service, off and on, since the early days of the Aquino administration, more a technocrat than politician, thus easier to get confirmed (*Philippine Daily Inquirer*, 11 Jan. 2004). By 1991 she had risen to DENR assistant secretary for planning and policy studies. She had also been a consultant to the World Bank, USAID, and the Asian Development Bank. A representative of the World Wildlife Fund-Philippines called Gozun "consistently consultative," i.e., with mining companies as well as affected communities. "Sustainable development," Gozun has said, "is not about closing down erring companies." Her husband of thirty-two years, Conrado Gozun was a retired top executive of the Philippine Associated Smelting and Refining Corp. (PASAR), the only smelter and refinery in the country. On her last day in office she left a special legacy: she issued administrative orders opening to development 27,000 hectares of forest lands, thus facilitating some mining applications (Mines and Communities 2004).

After her election, President Macapagal-Arroyo appointed a new DENR secretary, a former congressman and close political ally, Michael Defensor, with no particular expertise on environmental matters. He took office in September 2004 (and remained in the post until early 2006). Still then in his thirties, Defensor in 1992 had been the youngest member of the Quezon City Council. In 1999 he had been cited by

*Asiaweek* as one of Asia's "Political Leaders of the New Millennium" (Office of the President 1999).

As part of the preparations for the "mining summit" in February 2005, the president sent Defensor to China to recruit a stellar delegation. But it was not until April that he revealed his most distinctive approach to mining issues. After a trip to Mindanao to meet indigenous leaders who had proved cooperative with the small Canadian mining company, Toronto Ventures International (TVI), he held a press conference. He warned international NGOs that "they have no right to meddle in the affairs of the country. They should respect the policies of the Philippines, especially the economic policy to do mining," adding, "I can go to the point of having them arrested if we have proof that they are directly agitating communities" (*Philippine Daily Inquirer*, 27 Apr. 2005). He ignored the fact that the great majority of the people in the area of TVI operations was resolutely opposed to the mine and international NGOs had been invited to assist them in their opposition campaign.

When Defensor's confirmation hearings came up in May, it was not surprising that about twenty organizations, led by the LRC-KSK, opposed his appointment. The LRC-KSK issued a press release accusing Defensor of "turning a blind eye" to violations of human rights and environmental law by mining as well as logging companies. Despite this opposition and because of their close cooperation in the past, the president fully backed Defensor's appointment, which was subsequently approved.

Since the mid-1990s the DENR has moved from the best secretary of the department, Victor Ramos, to the worst (in terms of probity and environmental protection), Cerilles. Then came Alvarez whose motives were suspect, but on balance was a pretty good protector of the environment. After him came a female technocrat who was apparently an effective administrator, enthusiastic about expanding investment in mining, and with family connections that might well have helped fuel that enthusiasm. Defensor, young and articulate, was also enthusiastic about supporting mining.

Although environmental NGOs were not unimportant in affecting this uneven pattern—they had an influential voice under President Ramos—they were far from being the dominant factor. The quest for environ-

mentalist support by Alvarez might have improved the quality of his performance, but certainly did not prolong his tenure.

The policy orientation of the president was also crucial, as when President Estrada, despite rhetoric about his love for “the poor,” gave the helm of the DENR to one of the country’s richest mining families. The president’s political stability was also an important factor. Macapagal-Arroyo was weak in the first months of her term, having come to power in a most unconventional way, and thus she appointed a major political figure she thought would strengthen her. But this person became a political liability. After dilly-dallying, the president dumped him. Being more confident in late 2002, Macapagal-Arroyo turned next to a technocrat with connections to both the NGO and mining sectors to run a “trouble free” DENR. The new secretary shared the president’s drive to bring in more investments to mining, a drive inherently incompatible with enhanced protection of the environment. When the president assessed her weakness after the 2004 elections, she opted again to appoint a political ally. In the end, environmentalists were disadvantaged by the fact that representatives of mining interests were more often appointed to high office than were NGO leaders.

Of course, the DENR is not the only setting in which decisions affecting the environment are made. Some emerge from the judicial process, some reflect the dynamic relationships between governors—and their patrons—and the governed at the local level, and some come out of direct interaction between mining companies and NGOs working with POs. Each nexus can be the proper subject of another research project. Here we will bring local politics and the role of Filipino NGOs into a more general discussion of “success.”

### **Assessing “Environmental Success” and Its Causes**

How shall we categorize policy outcomes? And what has been the role of NGOs in achieving them? Reliable data are not available to allow quantification. Rough approximations may be partly speculative, but they are all that we have. They should, nonetheless, stimulate future investigations. For example, some questions can be asked: Approximately how many ECCs have been granted based on genuine “social acceptance”? Or,

how many ECCs were denied for lacking that true approval? How many times have initiatives by environmental NGOs produced a positive response by mining companies, by local governments, and by the DENR? How many times have such initiatives been rebuffed? How many mine sites have unsafe practices, such as use of STD? Approximately how many sites have been rehabilitated from environmental damage? Have environmental policy victories been sustained at any time over a decade, or a generation? If not, why not? Answers to these questions are *very* hard to find, yet essential to our understanding of the environmental policy process.

Perhaps it would be easier to identify at the local level any successes for which NGO activity was crucial. In Marinduque, in the beginning of this century, environmentalists pointed to three main problems that needed solution. First was the cleanup of the 1996 tailings spill into the Boac River, which runs past the major city. Those who are aware (including almost all political participants in the province) that STD is illegal in both the U.S. and Canada are determined that this method of cleanup not be used, even as Marcopper/Placer Dome have repeatedly proposed it. The second task for which Placer Dome has denied any responsibility, despite their management of the mine at the time, is the cleanup of Calancan Bay. Here, more than 200 metric tons of tailings were dumped from 1975 to 1991, fisherfolk were not compensated for loss of income, and children suffered heavily from metal poisoning. The third task, only recently recognized as urgent, is the cleanup of the Mogpog River and the reinforcement of the tailings dam at its headwaters.

The first task, completing the cleanup of Boac River without resorting to STD, can be counted as at least a partial, if possibly temporary, victory. In the early months after the 1996 spill the whole country was outraged; local officials and popular movements in Marinduque, mostly based in the Catholic Church, were most vociferous. President Ramos condemned the Placer Dome managers for negligence, and criminal charges were brought against them by DENR lawyers. For a company that had tried to build a reputation of social responsibility worldwide (certainly successful in Canada), this incident was especially embarrassing. To refurbish its corporate image, a commitment to cleanup was made. Tailings in the riverbed were bulldozed to the sides and some

compensation was paid to fishers and farmers who suffered loss of income. A subsidiary of Placer Dome, Inc., Placer Dome Technical Services, which was created to undertake the cleanup, was tactically astute enough to allow Mayor Roberto Madla of Boac to personally hand out the compensation checks. But the mayor did not withdraw his opposition to STD as a method to complete the tailings cleanup. The compensation process was inexplicably halted midway.

Marcopper's application to the DENR to use STD was turned down twice, once in 1997 and again in 1999. But Marcopper/Placer Dome continued to push the idea, trying to get village councils to express their approval in exchange for livelihood projects and "other incentives." The organizational and educational work of the Marinduque Council for Environmental Concerns, having close links with the villages, blunted the Placer Dome offer of money in most cases. The role of Canadian NGO representatives, such as Catherine Coumans, also became crucial, since Placer Dome was making statements denying that STD was illegal in Canada. Armed with exact information, Coumans extended valuable assistance to provincial and municipal leaders. Placer Dome was furious and distributed a scurrilous leaflet attacking Coumans. Pressures on the DENR by Marinduque activists, backed up by Congressman Reyes, have all together blocked the use of STD, so far. Yet removal of tailings from the riverbed is not complete, and the idea of using STD is not dead as no satisfactory alternative has been agreed on. Land-based disposal back to the old Tapani pit has become more dangerous by the year, as geologists note the increasing weakness of that structure. The DENR's demands that Marcopper repair the weakened pit have gone unheeded.

The fight against the use of STD in Marinduque was inevitably linked to a similar struggle against a Norwegian/Canadian mining company on the adjacent island of Mindoro. In fact, the proposed mining site in both Mindoro Occidental and Oriental would pollute the same body of water, the Tablas Straights, as would have been damaged by Marcopper/Placer Dome. Mineral exploration for nickel and cobalt in Mindoro began in 1997 without approval by local government units or affected communities. Nevertheless, exploration proceeded and, in the last days of the Estrada administration, a Mineral Production Sharing Agreement (MPSA) was handed to the mining company—which was revoked by Secretary

Alvarez a few months later. Despite strong support from the Canadian ambassador, Robert Collette, the mining company's appeal to President Macapagal-Arroyo brought only a confirmation of the revocation (Coumans et al. 2002, 11).

Meanwhile, a very broad popular movement had emerged in Mindoro against the mine, and especially against STD, which could devastate hundreds of fishing families on the coast. Environmentalists were fortunate to have the strong support of the provincial governors of Mindoro Oriental from the very start. Nearly 25,000 signed their names on a petition against the mine, while municipal councils and the provincial board passed motions for the same end. This effort was strongly supported by the Catholic bishop, and also by some Protestant churches. The broad environmental alliance, ALAMIN, included some left-wing groups; the NPA also expressed its opposition to mining by burning down an office building at the mine site.

The mining company made its countermoves. It offered Governor Bartolome Marasigan of Mindoro Oriental, the most affected province, an "educational tour" abroad, but he was honest enough to decline. Bribery of local officials was also attempted, sometimes successfully. But the boldest move was to set up a puppet tribal organization, *Kabilogan ng mga Mangyan*, made up mainly of mine employees, with the collusion of the National Commission on Indigenous Peoples (NCIP), which had been set up to administer the Indigenous Peoples' Rights Act. The NCIP obviously had priorities other than indigenous. It issued the mine the required Certification of Free and Informed Consent (supposedly coming from indigenous peoples having rights to the land) even before the bogus Mangyan organization had requested it. The genuine tribal groups were outraged.

Finally, as the president shifted toward closer and closer friendship with the mining industry, replacing Secretary Alvarez with Secretary Gozun, the ongoing threats and entreaties from the mining company in Mindoro, and from the Canadian embassy, paid off. On 10 March 2004 Malacañang withdrew the revocation of the MPSA and, treating the matter as a "dispute," handed it to an unnamed "panel of arbitrators" (MGB 2004c). The mining company requested increased military forces,

to which the president acceded. In Mindoro a vice-mayor and a few other antimining activists were shot and killed in the first three years of the century. Many environmentalists suspect the military, but investigations have not been completed. Meanwhile, exploration by the mining company continues. The militarization of the conflict and the handouts of the mining company have successfully "persuaded" some municipal officials, who had previously gone on record against the mine. But environmental groups and their political allies continue to organize protests.

In the case of the second task in Marinduque, the cleanup of the Calancan Bay, the compensation of fisherfolk whose livelihood was disrupted and the adequate testing and treatment for those suffering from heavy metal poisoning have been difficult goals to achieve. These problems date back to the 1970s when Placer Dome flatly refused to accept any responsibility, even denying any environmental damage at all. Furthermore, until the early 1990s the mayor of Santa Cruz, where the bay is located, was so close to the mine manager that he would offer no support to the aggrieved. Later, the venerable Senator Lorenzo Tañada helped fishers file a damage suit, which never prospered. The Department of Health, which had sent in researchers, also confirmed that there were children suffering from heavy metal poisoning. But Marcopper/Placer Dome tried to discredit them all by claiming "political motivation." At one point activists were even able to get President Ramos, upon the intercession of an aide who hailed from Santa Cruz, to declare a "state of emergency" in the town to help mobilize resources for healthcare. But neither Placer Dome, nor its agent, Marcopper, offered any help, and government assistance was minimal. There was not even an authoritative database about health and environmental conditions. That is why the USGS, with DENR funding arranged at the initiative of Congressman Reyes and Mining Watch Canada, was important. An impartial scientific report could become the basis of future claims and of cleanup plans. Even though the preliminary report by USGS was disappointing, especially on health issues, the USGS investigation is the only success that can be claimed in dealing with this problem. International NGO intervention, in concert with the actions of a reformist politician, was clearly responsible for this success.

The third task is the repair and remediation of the Mogpog River, which flows from the mountains north of Boac. The waste rock siltation dam at the headwaters had already flooded the valley after a break in 1993. The dam was raised after that, but never adequately strengthened; acids continued to leach into the river. In 1993 Marcopper/Placer Dome, as it did with Calancan Bay, had disclaimed any responsibility, but handed out small amounts of cash (through a corrupt mayor) to those whose houses and fields were damaged by the flood. More recently, USGS geologists have warned that the same dam is dangerously close to breaking again. Recent tests have indicated that the contamination of the Mogpog water is even worse than that of the Boac River. In 2002 LRC-KSK lawyers inaugurated a lawsuit against the mine on behalf of residents along the Boac River, but, like most such cases in the Philippines, it is moving at a snail's pace. Marcopper is pleading bankruptcy and Placer Dome claims that it no longer has any stake in the mine (contrary to a ruling of the Court of Appeals, 8 January 1999). Although official recognition of the critical condition of the siltation dam has raised the hopes of residents, it is much too early to proclaim any environmental "victory." The lawsuit against Placer Dome covering all damaged areas initiated in October 2005 by an American law firm on behalf of the provincial board (and on the initiative of Congressman Reyes) may be more successful.

## Conclusion

Since the 1980s the Philippine environmental movement has grown, both at national and local levels, giving increasing attention to the dangers of mining. But it has remained fractured, partly for ideological reasons and partly for the simple difficulty of communicating between far-flung provinces. Coalitions may also break up because of leadership disputes. In some provinces where potential mine sites are inhabited by indigenous peoples, the revival of tribal consciousness and the new legislation protecting indigenous rights have helped thwart the plans of mining companies, although not very effectively in the case of Mindoro. The conflicting perspectives and interests of affected communities, on one side, and of mining executives, on the other, have fueled the struggle. In

a weak state the bureaucracy has, over time, favored one perspective or the other, depending on the degree of pressure mounted by communities or by corporations. Usually corporations have won. The stance of the DENR has also been heavily influenced by the orientation of political leaders, particularly the president and the department secretary, who themselves have played money politics. Because bureau chiefs have been very weak, often they have been unable to enforce regulations, even if they have wanted to; their will to do so could not always be assumed. As with the USGS in the United States, the MGB has often seemed like the voice of the mining industry.

The restraints placed on the expansion of mines under the 1995 Mining Act—requiring “social acceptance,” with stronger provisions than in most Third World countries—could be seen in part as a victory of the environmental movement, even though much of that movement calls for the repeal of the act. But less than expected levels of mining activity was also due to a sharp decline in world mineral prices after 1996. The real test for environmentalists, both Filipinos and their international supporters, comes as a promising president acts in the context of world market conditions favorable for mining. Market experts expect copper prices to be sustained by high demand from China (International Copper Study Group 2004, 8).

However, over the decades that we have examined, neither the bureaucracy that deals with mining, nor the civil service in general, has changed significantly. They may now have their websites, which post the most recent department order, but their commitment to the rule of law and principles of sustainable development, may be no more likely to survive contrary pressures from a powerful patron than they were a few decades ago. Nor has the character of national politicians changed, still looking for the wealthy campaign donor, hoping that rhetoric alone will satisfy mass movements. But there are some places where local officials, closer to their constituencies, have recognized that they must defend the environment, and the health and livelihood of their constituents so closely connected to it, in order to hang on to office. Marinduque has witnessed the unexpected emergence of a congressman who has the political will to defend the environment, despite membership in the traditional elite.

There have been some noticeable environmental gains in the last two decades, often the result of Filipino NGO efforts. "Environmental protection" has been placed on the agenda for both business and government as it was not before. A shift in worldwide moods and the growth of international environmental NGOs have also helped. Yet, it is hard to say that the Filipino environmental movement is any stronger, relative to corporate power, than it was in 1986. The rate of proliferation of NGOs has actually declined since 1993 (Clarke 1998, 192). Local confrontations have often been dramatic, bringing short term victories for the environment, which are, however, hard to sustain in the longer run against big money and, sometimes, armed force. For instance, in Cagayan de Oro in the early 1990s, one NGO was able to work out an arrangement with the DENR regional office whereby they cooperated in collecting data that led to confiscations, injunctions, and lawsuits against polluters and illegal loggers. Many saw this cooperation as a model for DENR and environmental NGOs in other areas. But two years later the NGO leader was hiding from the goons hired by illegal loggers and had to withdraw from much of his environmental activity (Silliman and Noble 1998, 203-5). Occasionally, elected provincial and municipal officials become environmentalists' allies, but these alliances are seldom long term unless environmental NGOs reinforce their mass base and make themselves "essential" to the politicians, as yet a rare occurrence. The case of Secretary Alvarez must make some politicians wary of relying too much on the favor of environmental NGOs.

In fact, since the excitement of the aftermath of the 1996 Boac tailings spill, the movement's influence has probably declined. New NGOs have emerged, and some have faded. There is little national coordination, despite occasional efforts to achieve it. And factionalism, always affected by personal ambitions and conflicts, is also sustained by suspicions across ideological boundaries, despite the creation of broad coalitions (*ibid.*, 41, 215). Some of the most intense suspicions exist between factions of the Left, since the split in the Communist Party of the Philippines in the early 1990s (Rocamora 1994). Some of the far Left groups that have been most effective at mass mobilization and calling attention to corporate greed have neglected, at the same time, to become involved in detailed policy advocacy, which they deride as "tinkering." Their

understandable distrust of government is so great that negotiating agreements that involve compromise are impossible. Frontal attacks on the mining act are more their style. (A temporary victory over that act was achieved via the Supreme Court, but it did not last.) Those NGOs that do try to influence the fine points of mining policy may not have the numbers behind them to make their demands credible. And there is always the danger that they become corrupted by participation in the policy process.

Basically, the lack of institutionalization, which explains the weak Philippine state, also plagues NGOs. Gunder-Frank has argued that “institutionalization weakens social movements” (Clarke 1998, 199). To be sure overbureaucratization can sometimes be a problem. But in the Philippines the main difficulty is insufficient NGO structure and legitimized processes to survive changes in leadership (ADB 1999, 11). Fox and Brown (1998), who studied the impact of NGOs on World Bank policy in several countries, point out that this problem is not unique to the Philippines. Putting their analysis in the context of the “social capital” concept, Fox and Brown (1998, 474) argue:

The social capital created by these [NGO] coalitions does not necessarily accumulate. New relationships and trust may not survive the coalition itself, which may be terminated by either success or failure; . . . the trust developed in such new relationships is, at least initially, embodied in individuals rather than in groups or organizations, so the capital may not be transferable to their organizational successors. There is evidence for the creation of social capital in these cases but how it becomes institutionalized as a durable feature of an inter-organizational relationship is less clear.

In fact, the social capital even within an organization may not be institutionalized.

This phenomenon in the Philippines has been noted by sociologists for many years, and popularly known as *ningas kugon*, “a term derived from the way cogon grass burns very brightly and rapidly when first put to the torch, but then dies out almost immediately” (Hollnsteiner 1963, 125). To be sure a number of NGOs in recent years have demonstrated

staying power, developing their own institutional structures. But the demise of an organization after its founder moves on, the epitome of *ningas kugon*, is still all too common.

The concept of social capital involves a large carryover from ideas of political culture, in so far as it emphasizes “trust,” as well as from interest-group theory in its focus on networking. But here we see how it may contribute to our understanding of why the potential for growing strength of the NGO movement is frequently unrealized. In any case, the social capital literature does not seem to recognize the persistence of patron-client networks in many parts of the world, the kind of networks that do *not* produce the beneficial consequences the theory originally expected.

And when the bureaucracy itself lacks institutional stability or strength, the problems for the NGOs are compounded. Meanwhile, corporations learn new tricks, adopting new strategies to deal with the “environmentalist onslaught.” And at the pinnacles of power the president is determined to remove obstacles to the expansion of the mining industry. The struggle to protect livelihood, health, and the environment from the depredation of mining goes on.

As citizens we may struggle, but as academics we must also describe and analyze. In this article, generalizations about the environmental policy process and the role of NGOs are based on observations of mining issues. Thus, they may be justifiably challenged by those who have observed other policy areas more closely. But, perhaps rather than trying to develop an analysis that is equally valid for all aspects of environmental policy, it would be best to compare the process as it affects different areas, e.g., air quality, water, forests, and mining. In analyzing the causes for difference in each of these policy areas we would surely come to a better understanding of all of them than we now have. Furthermore, the most realistic analysis should follow issues, protests, and policy implementation over a substantial period of time, a decade at a bare minimum, preferably a generation. As in all policy areas there are ups and downs, victories and defeats for the contending forces. Only when we look at events over a substantial time period can we accurately assess the effectiveness of the strategies and tactics that those forces deploy. The research tasks are formidable.

## Note

The author conducted interviews with staff members of the Commission on Appointments in 1999, and with staff members of the DENR in 1998.

## Abbreviations of specialist terms used

ECC	Environmental Compliance Certificate
FTAA	Financial or Technical Assistance Agreements, Mining Act of 1995
LRC-KSK	Legal Rights and Natural Resources Center-Kasama sa Kalikasan
MGB	Mines and Geosciences Bureau, Department of Environment and Natural Resources
MPSA	Mineral Production Sharing Agreement
NMP	National Mining Policy
STD	submarine tailings disposal
USGS	United States Geological Survey

## References

- Asian Development Bank (ADB). 1999. *A Study of NGOs in the Philippines*. Internet document, <http://www.adb.org/NGOs/docs/>.
- Banks, Glenn. 2000. Demystifying the miners: Multinational mining corporations in the Asia-Pacific. Unpublished paper.
- Baron, Stephen, John Field, and Tom Schuller, eds. 2000. *Social capital: Critical perspectives*. New York: Oxford University Press.
- Broad, Robin, with John Cavanagh. 1993. *Plundering paradise: The struggle for the environment in the Philippines*. Berkeley: University of California Press.
- Clarke, Gerard. 1998. *The Politics of NGOs in South-East Asia: Participation and protest in the Philippines*. London: Routledge.
- Corpuz, Catalino, Jr. 1999. National situation: The mining industry in the Philippines. Minewatch Asia-Pacific, Oct. Internet document, <http://www.minesandcommunities.org>.
- Coumans, Catherine. 1996. A history of the struggle of Marinduqueños against the Marcopper Mining Corporation: 1968–1996. Unpublished paper.
- . 1998. Ideology, social movement organization, patronage and resistance in the ongoing struggle of Marinduqueños against Marcopper/Placer Dome Inc. (1990–1998). Paper presented at the meeting of the Canadian Asian Studies Association, Ottawa, June.
- Coumans, Catherine and Geoff Nettleton. 2000. The Philippines. In *Undermining the forests: The need to control transnational mining companies—A Canadian case*

- study*. N.p.: Forest Peoples Programme, Philippines, London Indigenous Peoples Links, and World Rainforest Movement.
- Coumans, Catherine, et al. 2002. *STD toolkit: Philippine case studies, Marinduque and Mindoro*. N.p.: Project Underground and Mining Watch Canada.
- Court of Appeals, Republic of the Philippines. 1999. Notice of judgement, 8 Jan.: M. R. Holdings Ltd. vs. Hon. Leonardo P. Ansaldo and Solidbank Corp., et al. C.A.-G.R. S.P. no. 49226.
- Fox, Jonathan A. and L. David Brown, eds. 1998. *The struggle for accountability: The World Bank, NGOs, and grassroots movements*. Cambridge, MA: MIT Press.
- Hooghe, Marc and Dietlind Stolle, eds. 2003. *Generating social capital: Civil society and institutions in comparative perspective*. New York: Palgrave.
- Hollnsteiner, Mary R. 1963. *The dynamics of power in a Philippine municipality*. Quezon City: Community Development Research Council, University of the Philippines.
- International Copper Study Group. 2004. *Copper Bulletin*, Apr.
- Korten, David. 1990. *Getting to the 21st century: Voluntary action and the global agenda*. West Hartford, CT: Kumarian Press.
- Makilan, Aubrey. 2005. Church conference bats for people's mining policy. Internet document, <http://www.bulatlat.com/news/5-2/5-2-mining.html>.
- Mineral Policy Institute. 2005. Over 2600 participate in an anti-mining caravan which culminates in Dipolog City. Internet document, [http://www.mpi.org.au/regions/asia/phil/caravan\\_2005](http://www.mpi.org.au/regions/asia/phil/caravan_2005).
- Mines and Communities. 2003. Marinduqueños unite against mining, 8 Dec. Internet document, <http://minesandcommunities.org/Action/press227.htm>.
- . 2004. massive forest conversion seen; calls made to revoke midnight Gozun orders, 10 Nov. Internet document, <http://www.minesandcommunities.org/Action/press493.htm>.
- . 2005. Guns, goons, gold: Mining revitalisation turns into a bloody war, 9 June. Internet document, <http://www.minesandcommunities.org/Action/press648.htm>.
- Mines and Geosciences Bureau (MGB). 2003a. Roadmap for the Philippine minerals industry. Internet document, [http://www.mgb.gov.ph/revitalization\\_files/roadmap.htm](http://www.mgb.gov.ph/revitalization_files/roadmap.htm).
- . 2003b. Cabinet action/decision, 65th cabinet meeting, Declaration on the policy-shift from "tolerance to promotion" of mining operations, 3 Jan. 2003. Internet document, [http://www.mgb.gov.ph/revitalization\\_files/memo\\_policy-shift.htm](http://www.mgb.gov.ph/revitalization_files/memo_policy-shift.htm).
- . 2003c. National minerals policy. Internet document, <http://www.mgb.gov.ph/nmp>.

- . 2004a. Executive order no. 270, 16 Jan. 2004. Internet document, [http://www.mgb.gov.ph/policies\\_eo270.htm](http://www.mgb.gov.ph/policies_eo270.htm).
- . 2004b. Updates on the revitalization of the minerals industry program. Internet document, [http://www.mgb.gov.ph/mgb@your\\_service\\_april2004.htm](http://www.mgb.gov.ph/mgb@your_service_april2004.htm).
- . 2004c. Aglubang case is no sweetheart deal, 6 Apr. Internet document, [http://www.mgb.gov.ph/news/crew\\_040604.htm](http://www.mgb.gov.ph/news/crew_040604.htm)
- . 2005a. News, 21 Jan. 2005. Internet document, [http://www.mgb.gov.ph/news/012105\\_mgbaccomplishment.htm](http://www.mgb.gov.ph/news/012105_mgbaccomplishment.htm).
- . 2005b. News, 18 July 2005. Internet document, <http://www.mgb.gov.ph/news/071805>.
- Office of the President. 1999. Profile of Michael Defensor. Internet document, [http://www.op.gov.ph/profiles\\_defensor.asp](http://www.op.gov.ph/profiles_defensor.asp).
- Power, Thomas Michael. 2002. Digging to development? A historical look at mining and economic development. A report prepared for Oxfam America, Sept. Internet document, [http://www.oxfamamerica.org/newsandpublications/publications/research\\_reports/pdfs/digging.pdf](http://www.oxfamamerica.org/newsandpublications/publications/research_reports/pdfs/digging.pdf).
- Putnam, Robert D., ed. 2002. *Democracies in flux: The evolution of social capital in contemporary society*. New York: Oxford University Press.
- Romero, Segundo Jr., and Rostum Bautista. 1995. Philippine NGOs in the Asia Pacific context. In *Emerging civil society in the Asia Pacific community: Nongovernmental underpinnings of the emerging Asia Pacific regional community*, ed. Tadashi Yamamoto, 187–213. Singapore: Institute of Southeast Asian Studies; Tokyo: Japan Center for International Exchange, in cooperation with the Asia Pacific Philanthropy Consortium.
- Rocamora, Joel. 1994. *Breaking through: The struggle within the Communist Party of the Philippines*. Pasig City: Anvil.
- Sachs, Jeffrey D. and Andrew M. Warner. 1995. *Natural resource abundance and economic growth*. Development Discussion Paper 517a. Cambridge, MA: Harvard Institute for International Development.
- Severino, Howie G., ed. 1994. *The green guide: A sourcebook on the Philippine environment*. Quezon City: Philippine Center for Investigative Journalism.
- Silliman, G. Sidney, and Lela Garner Noble, eds. 1998. *Organizing for democracy: NGOs, civil society and the Philippine state*. Quezon City: Ateneo de Manila University Press.
- Supreme Court, Republic of the Philippines. 2004a. La Bugal-B'laan Tribal Association, Inc. et al. vs. Victor O. Ramos, Secretary, DENR, et al., G. R. no. 127882, 27 Jan.

- . 2004b. La Bugal-B'laan Tribal Association, Inc. et al. vs. Victor O. Ramos, Secretary, DENR, et al., G. R. no. 127882, 1 Dec.
- Tujan, Antonio A. Jr., and Ros-B Guzman. 1998. *Globalizing Philippine mining*. Manila: IBON Foundation.
- United States Geological Survey. 2000. An overview of mining-related environmental and human health issues, Marinduque Island, Philippines, May.
- Vitug, Marites Dañguilan. 1993. *Power from the forest: The politics of logging*. Quezon City: Philippine Center for Investigative Journalism.