



Women & Large-scale Mining in the Philippines

A Scoping Study

A study commissioned by the
Philippine Extractive Industries Transparency Initiative (PH-EITI)

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ACRONYMS

ADB	Asian Development Bank
AEPEP	Annual Environmental Protection and Enhancement Program
AO	Administrative Order
CAR	Cordillera Administrative Region
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CESCR	Committee on Economic, Social and Cultural Rights
CRC	Convention on the Rights of the Child
CSR	Corporate Social Responsibility
DAO	DENR Administrative Order
DOLE	Department of Labor and Employment
DBM	Department of Budget and Management
DENR	Department of Environment and Natural Resources
ECC	Environmental Compliance Certificate
EIA	Environmental Impact Assessment
EIS	Environmental Impact Statement
EITI	Extractive Industries Transparency Initiative
EMB	Environmental Management Bureau
EPEP	Environmental Protection and Enhancement Program
EO	Executive Order
FAO	Food and Agriculture Organization
FGD	Focus Group Discussion
FPIC	Free and Prior Informed Consent
GAD	Gender and Development
GI-ESCR	Global Initiative for Economic, Social and Cultural Rights
HRBA	Human Rights-Based Approach
HRC	Human Rights Council
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILO	International Labour Organization
IP	Indigenous Peoples
IPRA	Indigenous Peoples Rights Act
IRA	Internal Revenue Allotment
KII	Key Informant Interview
LGU	Local Government Unit
MICC	Mining Industry Coordinating Council
MGB	Mines and Geosciences Bureau
MPDO	Municipal Planning and Development Office
MSG	Multi-Stakeholder Group
NAP	National Action Plan
NAPC	National Anti-Poverty Commission
NCIP	National Commission on Indigenous Peoples
NEDA	National Economic and Development Authority
OECD	Organisation for Economic Co-operation and Development
OHCHR	Office of the UN High Commissioner for Human Rights

PEISS	Philippine Environmental Impact Statement System
PDP	Philippine Development Plan
PH-EITI	Philippine Extractive Industries Transparency Initiative
PSA	Philippine Statistics Authority
RA	Republic Act
SDGs	Sustainable Development Goals
SDMP	Sustainable Development and Management Program
SLA	Sustainable Livelihoods Approach
SLF	Sustainable Livelihoods Framework
STEAM	Science, Technology, Engineering, Agriculture and Mathematics
UN	United Nations
UNDP	United Nations Development Programme
UN DRIPS	United Nations Declaration on the Rights of Indigenous Peoples
UNGA	United Nations General Assembly
UNTS	United Nations Treaty Series
UPR	Universal Periodic Review
URTI	Upper Respiratory Tract Infection
VAWC	Violence Against Women and Children

EXECUTIVE SUMMARY

The Philippine Extractive Industries Transparency Initiative (PH-EITI) commissioned this study in order to inquire into the impact on women of mining in the Philippines. This study is pursuant to the PH-EITI's mandate of ensuring transparency and accountability in the extractive industries. Previously, the PH-EITI's work has focused primarily on the disclosure of information about the operations of extractive industries in the Philippines and the Government's receipts of payments from extractives. In 2019, the global Extractive Industries Transparency Initiative (EITI) ratified a new standard that required including gender considerations in how implementing countries carry out the objectives of EITI. The standard requires multi-stakeholder groups (MSGs) to consider gender balance in representation; requires disclosure of employment figures by company, gender, and occupational level; encourages gender considerations in the dissemination of EITI data; and encourages MSGs to document how they have taken gender considerations and inclusiveness into account.

This study is PH-EITI's initial contribution to promoting the new EITI standard in its transparency and accountability initiatives in the Philippines.

Based on the PH-EITI-defined objectives, the researchers focused the study on the following research questions:

- (1) Where are women situated in the mining industry, particularly in large-scale mining companies? What are their roles and participation?
- (2) What are the social, economic, and environmental impacts of mining on women in the mining communities of Mankayan, Benguet and Maco, Davao de Oro?
- (3) What are the issues and challenges that women in those mining communities face?
- (4) What are the international, national and subnational policies on women's rights and gender equality in relation to natural resource and governance? How do those policies address the gender impacts and the issues and challenges identified?
- (5) What are the policy gaps in addressing the impacts as well as the issues and challenges identified?
- (6) What could be done to address the gender impacts and the issues and challenges identified?

This is essentially a qualitative study, involving a desk review of literature and data on women and mining in the Philippines and two case studies that focused on two mining sites: Mankayan, Benguet in Luzon where the Lepanto Consolidated Mining Company operates and Maco, Davao de Oro in Mindanao, the mining site of the Apex Mining Co., Inc.

In order to explore the situation of women who are employed in large-scale mining companies, the research team, with the assistance of the PH-EITI Secretariat, distributed a questionnaire to large-scale mining companies participating in the PH-EITI. Unfortunately, only seventeen (17) of those companies completed the questionnaire. Thus, this study is far from being representative of the situation of women in large-scale mining companies in the Philippines. The findings of the social,

economic, and environmental impact of large-scale mining on women included here only provide a glimpse of the problems presented. Further research is definitely needed.

The study also examined the SDMP reports for 2008-2019 of twenty-seven (27) large-scale mining companies to determine the impact of their social development programs on mining communities.

To be able to identify the policy gaps, the study starts from the identification of existing domestic laws and policies as well as international human rights instruments and policy guidance that are relevant to gender equality and natural resource governance.

Significance and limitations of the study

In recent years, the situation of women in extractive industries has come under scrutiny. International development organizations increasingly recognize that there is structural gender inequality in the extractive industries. Yet, despite this growing recognition, there has been no comprehensive study to provide hard data for such recognition, particularly in large-scale mining.

This study is an initial contribution to efforts to examine the situation of women in the mining industry. As a scoping study, it seeks to explore the social, economic, and environmental impact on women of large-scale mining in the Philippines by examining pertinent legal and development frameworks and data towards informing and guiding future research, programs, and policy. It is admittedly limited in scope.

The study could hopefully influence both national agencies and local government units in at least three ways: (1) to examine the situation of women in communities where large-scale mining companies operate; (2) to ascertain how they could, through their mandates, address the gender dimensions of mining; and (3) to take significant and sustained action in this regard to address the needs of women, protect and fulfill their human rights, and promote their empowerment.

Framework of the study

This study utilizes three frameworks: (1) gender, (2) human rights, and (3) the Sustainable Livelihood Framework (SLF).

Gender analysis examines the differences in the situation of men and women based on their gender roles and responsibilities and the power relations reflected in and resulting from those gender arrangements. In the context of this study, this gender analysis is extended to the impact of mining on women.

The human rights-based approach includes all the dimensions of human rights: civil, political, economic, social, and cultural rights, as well as collective rights, including the right to a clean, safe, healthy, and sustainable environment. They serve as standards for laws, policies, programs, and other governmental action. The human rights-based approach also focuses on State obligations to respect, protect, and fulfill human rights, particularly of women.

The SLF puts people and their households at the center of the analysis. It looks at what people are capable of achieving given their vulnerability contexts, assets, and capabilities. The SLF proposes the concepts of capability, equity, and

sustainability instead of the production, employment, and poverty-line thinking that dominate conventional research. Capability is more than being able to perform certain skills. It is also about *being able* to ensure that one is properly nourished and clothed, to avoid escapable morbidity and preventable mortality, to lead a life without shame, and to cope with stresses and shocks. Sustainability, on the other hand, is not just about self-sufficiency. In SLF, it is more about ‘the ability to maintain and improve livelihoods while maintaining or enhancing the local and global assets and capabilities on which livelihoods depend’. Equity in conventional terms is understood to be relative income distribution, but in SLF, equity is about equal distribution of assets, capabilities, and opportunities and especially enhancement of those of the most deprived. The combination of these three concepts is the bedrock of sustainable livelihoods. Sustainable livelihoods are the validation of structures (government and non-government) and processes (laws, policies, culture, and institutions) that have worked towards increasing people’s livelihood assets. These fundamental and interlinked concepts put this scoping study in a space where people are at the center.

Summary of findings

Women are involved in mining in the Philippines. Historically, women were a significant part of small-scale mining in the Cordillera where mining was a centuries-old livelihood. In large-scale mining companies, women constitute a minority of the workforce. Very few occupy leadership positions. The gender division of labor is apparent in the nature of work that they perform. Still, the participation of women in various jobs involving highly specialized and technical work, albeit in small number, is a positive development.

In general, employment in mining companies is not sustainable. Data shows that employment in mining fluctuates. In 2016 and 2017, the share of direct employment in mining and quarrying in the total national employment was just 0.5%. Women’s employment in large-scale mining companies covered by the case studies was insignificant. Mining operations also appear to have had no significant positive impact on their economic situation.

Participants in the case studies reported some environmental problems that they have experienced, including subsidence, shrinking of land area for cultivation, pollution of rivers and streams, drying up of water sources, and displacement of people. They attributed some of these environmental problems directly to the mining operations in their communities. The disturbing stories of environmental destruction included here demand action from the Government and the companies involved.

Outside of employment in the mining companies, women’s other sources of livelihood did not appear consistent and sustainable given their lack of adequate training and financial capital. The environmental problems in their communities have also affected community resources or assets that could have been used to develop sustainable livelihoods.

Under the law, mining companies are supposed to contribute to the development of their host and neighboring communities through their SDMPs. However, women participants in this study claimed that they had no meaningful and significant participation in the development of those programs. This resulted in a failure to develop programs that are gender-responsive. The bulk of the SDMP projects reviewed in this study focused on hard or physical infrastructure. Only a

couple of companies designed programs specifically targeting women. Others only included women as beneficiaries in addition to men. The impact of the SDMPs reviewed is not shown in their reports.

There exists an adequate international and domestic legal, policy, and normative framework that addresses the gender dimensions of mining. However, there are also significant gaps in content and implementation. One significant gap is the absence of gender considerations or any mention of gender in the Philippine Mining Act of 1995 and most mining-related administrative issuances. The implementing rules and regulations of the Philippine Mining Act include a couple of provisions on gender. The Magna Carta of Women, enacted in 2009, could be used to address the gaps. Another significant gap is the absence of guidelines on the inclusion of gender-responsive projects in the SDMPs.

The Philippines has yet to develop a national action plan to comply with the UN Guiding Principles on Business and Human Rights. None of the companies included in this study has undertaken the key steps pursuant to the Guiding Principles on business and human rights.

Recommendations

Women's human rights must be respected, protected, and promoted at all times, both by the State and mining companies. To ensure this, this study recommends that measures be taken in the areas of research, law and policy, and regulation of mining companies. The study also lists recommendations to mining companies and local government units.

The study recommends further research to look into the employment of women in the mining industry to ascertain what gender-based barriers exist to their employment. The research should identify the measures that the State should undertake to address any gender-based barriers in compliance with State obligations under international human rights treaties to eliminate discrimination against women and to promote substantive equality. Such research should cover all mining companies in the Philippines.

The study also recommends separate research on each area of social, environmental, and economic impacts of mining on women. Such would allow an in-depth analysis of the impacts in every area of concern. The research should address the question of whether mining companies, and extractive industries in general, have made a significant contribution to the reduction of poverty among rural women in host and neighboring communities and how their operations have affected the sustainability of livelihoods of women and men in those communities.

Research on women and artisanal and small-scale mining should also be conducted. This recommendation stems from women's expressions in this study that they have more access to the benefits of artisanal and small-scale mining than of large-scale mining. This research could inform law and policy in this area.

In the area of law and policy, this study recommends that the Philippine Mining Act of 1995 and all mining-related issuances should be reviewed and revised towards integrating a gender dimension in all areas of regulation of the mining industry. Such review and revision must take into account and be consistent with the Magna Carta of Women.

Further, mining companies and all companies in the extractive industries should be required to adopt an equal opportunity policy for the employment of women, particularly of rural women. They should also be required to support the education and training of women, particularly rural women, to make them qualified for work in mining operations other than in traditional jobs made available to them.

To generate national and comprehensive sex-disaggregated data on gender and mining, mining companies should be required to periodically generate and submit sex-disaggregated data that goes beyond the number of women and men employees. This is in compliance with the Magna Carta of Women. The data should also include the nature of work performed by men and women in specific and detailed categories, their participation in decision-making and in the development and implementation of programs, their gender issues and concerns, and the programs that have been developed to address those issues and concerns. Data specific to rural women employees should be included.

To comply with human rights norms and standards and the Magna Carta of Women, mining companies should be required to ensure the equal, full, meaningful, and inclusive participation of rural women in the the planning, development, and implementation of their SDMPs. At the same time, there should be detailed guidelines on the inclusion of gender-responsive projects in the SDMPs that particularly target rural women in impact communities.

The study also recommends certain measures to mining companies, such as voluntary participation in the UN Global Compact, compliance with all laws and policies related to women's issues, adopting an equal employment opportunity policy, developing a program for its implementation, and ensuring that SDMPs are developed and implemented with the equal, full, meaningful, and inclusive participation of a diversity of community women.

Finally, the study includes recommendations to local government units that came from the women participants in the case studies. Those recommendations are included here pursuant to the commitment of the research team to bring them to the attention of government agencies.



CHAPTER 1

Introduction

Statement of the problem
Objectives
Research questions
Significance of the study
Scope and limitationsng Study

CHAPTER 1 INTRODUCTION

The total land area of the Philippines is thirty million hectares (30,000,000 ha.). Of this, 2.34% (702,715.39 ha.) is occupied by mining tenements. In 2018, exports of metallic and non-metallic minerals and mineral products totalled US\$ 4.26 billion. About nine million hectares (9,000,000 ha.) of the country's land area are identified as having high mineral potential.¹

In 2018, 212,000 workers were employed in the minerals industry. It is estimated that 'for every job in the industry, about four indirect jobs may be generated in the upstream and downstream sectors'. This industry contributed PhP25.70 billion in national and local taxes, fees, and royalties to the Philippine economy in 2017. Further, mining companies committed PhP19.5 billion as of February 2019 for Social Development and Management Programs. SDMPs are intended for the development of the host and neighboring barangays where mines operate. Roughly 837 barangays are expected to benefit from projects drawn up in the SDMP plans.²

STATEMENT OF THE PROBLEM

Through Executive Order No. 79, s. 2012³ issued by the President of the Philippines, the Philippines committed its participation in the Extractive Industries Transparency Initiative (EITI). The EITI is a global multi-stakeholder initiative that seeks to promote the open and accountable management of oil, gas, and mineral resources.⁴ The EITI has established a global standard that 'requires the disclosure of information along the extractive industry value chain, from licensing to extraction, to how revenue makes its way through the government, to how it contributes to the economy and wider society. In doing so, the EITI strengthens public and corporate governance, promotes transparent and accountable natural resource management, and provides data that informs debate and reform in the extractive sector.'⁵ Governments, companies, and civil society participate in the EITI. The Philippine Extractive Industries Transparency Initiative (PH-EITI), instituted through Executive Order No. 147, s. 2013, implements the EITI process in the country. A multi-stakeholder group (MSG) oversees the process, communicates the findings through the publication of reports, and encourages the integration of this process in transparency efforts.

In 2019, the EITI ratified a new standard that requires implementing countries to include gender considerations in carrying out the objectives of the EITI.⁶ The standard requires multi-stakeholder groups (MSGs) to consider gender balance in

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MGB

<<http://mgb.gov.ph/attachments/article/162/mining%20facts%20and%20figures%20updated%20M arch%202019.pdf>> accessed 3 October 2019

² *ibid*

³ This Executive Order is titled, 'Institutionalizing and Implementing Reforms in the Philippine Mining Sector, Providing Policies and Guidelines to Ensure Environmental Protection and Responsible Mining in the Utilization of Mineral Resources'.

⁴ EITI, 'Global Factsheet' (August 2020) <<https://eiti.org/who-we-are>> accessed 10 September 2020

⁵ *ibid*

⁶ EITI <<https://eiti.org/board-decision/2019-25>> accessed on 10 October 2019

representation; requires disclosure of employment figures by company, gender, and occupational level; encourages gender considerations in the dissemination of EITI data; and encourages MSGs to document how they have taken gender considerations and inclusiveness into account.⁷

This gender standard is at the heart of what this study seeks to inquire into. However, this study is limited to women and large-scale mining.

Extractive projects are expected to create jobs, reduce poverty, and drive economic growth. Businesses presumably can flourish in the extractives' supply chain. Extractive industries are also expected to invest in the local community through development projects. However, it is increasingly recognized that 'the most vulnerable or marginalized members of communities – such as women, children, and indigenous peoples – tend to be the most excluded from the economic benefits of mining, and to bear the brunt of its negative social and environments impacts'.⁸

This recognition has led to efforts to ensure that the gender dimensions in extractive projects are identified, recognized, considered, and addressed in all aspects of extractive projects. These efforts are geared towards ensuring equitable access by men and women, particularly vulnerable groups of women, to the economic and social benefits that extractive projects can provide. At the same time, these efforts seek to mitigate the environmental risks that such projects pose and to ensure that whatever risks exist do not disproportionately burden women.

This scoping study hopes to contribute, even in a modest way, to such efforts.

OBJECTIVES

The objectives that PH-EITI defined in commissioning this study guided this research. Those objectives are:

- (1) Identify the impacts (positive and negative) – social, environmental, economic – of extractives on women; the issues/challenges faced by women in this context; and the policy gaps in addressing them;
- (2) Identify national and subnational/local policies as well as international instruments that relate to women's rights and gender equality in relation to natural resources or resource governance;
- (3) Make recommendations (to the MSG) on how to make EITI implementation in the Philippines more gender-sensitive and compliant or aligned with standards for protecting and promoting women's rights, including 'genderizing' disclosure and dialogue in the extractives;

⁷ *ibid*; EITI, 'Towards gender-responsive EITI implementation (Guidance Note 30, September 2019) 3 <https://eiti.org/files/dcouments/guidance_note_30_towards_gender-responsive_eiti_implementation.pdf> accessed 10 October 2019

⁸ Oxfam Australia, 'Women, communities and mining: The gender impacts of mining and the role of gender impact assessment' (December 2009) 5 <<https://oxfamilibrary.openrepository.com/bitstream/handle/10546/293093/ml-women-communities-mining-011209-en.pdf;jsessionid=F1FE6721C690B4FA63CBC6904F88C983?sequence=1>> accessed 1 February 2019

- (4) Recommend to the MSG capacity-building activities aimed at training women's organizations in resource governance, including, but not limited to, participating in EITI; and
- (5) Cite specific case studies, especially in the Philippines, that relate to challenges and opportunities faced by women in the extractives and in participating in resource governance.

RESEARCH QUESTIONS

Based on the PH-EITI-defined objectives, the researchers focused this study on the following research questions:

- (1) Where are women situated in the mining industry, particularly in large-scale mining companies? What are their roles and participation?
- (2) What are the social, economic, and environmental impacts of mining on women in the mining communities of Mankayan, Benguet and Maco, Davao de Oro?
- (3) What are the issues and challenges that women in those mining communities face?
- (4) What are the international, national and subnational policies on women's rights and gender equality in relation to natural resource and governance? How do those policies address the gender impacts and the issues and challenges identified?
- (5) What are the policy gaps in addressing the impacts as well as the issues and challenges identified?
- (6) What could be done to address the gender impacts and the issues and challenges identified?

SIGNIFICANCE OF THE STUDY

In recent years, the situation of women in extractive industries has come under scrutiny. International development organizations increasingly recognize that there is structural gender inequality in the extractive industries, in all phases of operations including the extractive industries' value chain.⁹ Yet, despite this growing recognition, there has been no comprehensive study to lend hard data for such recognition, particularly in large-scale mining. Available studies on women and mining in the Philippines focus on women in artisanal and small-scale mining.¹⁰

This study is an initial contribution to efforts to examine the situation of women in the mining industry. As a scoping study,¹¹ it seeks to explore the social, economic, and environmental impact on women of large-scale mining in the Philippines. Its examination of pertinent legal and development frameworks and data seeks to

⁹ See for example A Eftimie, K Heller and J Strongman, 'Gender Dimensions of the Extractive Industries: Mining for Equity' (The World Bank August 2009) <<https://openknowledge.worldbank.org/bitstream/handle/10986/18236/511140NWP0extr10Box342018B01PUBLIC1.pdf?sequence=1&isAllowed=y>> accessed 15 February 2020

¹⁰ See M Chaloping-March, 'The Place of Women in Mining in the Cordillera Region, Philippines' in K Lahiri-Dutt and M Macintyre (eds), *Women Miners in Developing Countries: Pit Women and Others* (Ashgate 2006) 185-207

¹¹ See K O'Brien and others, 'Advancing scoping study methodology: a web-based survey and consultation of perceptions on terminology, definition and methodological steps' <<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4962390/>> accessed on 6 February 2020

inform and guide future research, programs, and policy. It is admittedly limited in scope.

The study could hopefully influence both national agencies and local government units in at least three ways: (1) to examine the situation of women in communities where large-scale mining companies operate; (2) to ascertain how they could, through their mandates, address the gender dimensions of mining; and (3) to take significant and sustained action in this regard to address the needs of women, protect and fulfill their human rights, and promote their empowerment.

Mining companies may find this study useful in deciding how to implement EITI standards in addressing the gender dimensions of extractive projects.

SCOPE AND LIMITATIONS

This study focused only on women and large-scale mining companies. To answer the research questions, the research team conducted desk review of available related literature, both domestic and international. They examined the laws, policies, and regulations pertaining to large-scale mining in the Philippines that are relevant to the issue of gender. They also looked at international human rights standards and policy guidelines relevant to gender and mining. The research team conducted field research in two mining sites – Mankayan, Benguet and Maco, Davao de Oro (formerly Compostela Valley)¹² – for the two case studies included here. Lepanto Consolidated Mining Company (or Lepanto for brevity) operates in Mankayan, Benguet, while Apex Mining Co., Inc. (or Apex for brevity) operates in Maco, Davao de Oro.

For Mankayan, Benguet, the research team conducted field research on 4-7 February 2019 and 21-23 February 2019. For Maco, Davao de Oro, the team conducted field research on 11-14 February 2019 and 26-28 February 2019. The team conducted interviews during the first visit and focus group discussions (FGDs) and more interviews during the second visit.

The research team interviewed barangay captains – almost all men – of the different barangays of Maco and Mankayan.

The women participants in the KIIs and FGD in Mankayan, Benguet represented sitios of barangays affected by mining operations (Taneg, Suyoc, and Paco). The women participants in the KIIs and FGD in Maco, Davao de Oro were barangay officials and officers and members of the women's organizations in affected barangays (Elizalde, Limbo, Masara, Mainit, New Leyte, Tagbaros, and Teresa).

The research team also interviewed some women employees of Lepanto. The same was done with Apex women employees, but only four showed up for the interview. This severely limited the representation of the situation of women employees of Apex.

To provide an overview of women's position and situation as employees in mining companies, the research team, with the assistance of the PH-EITI Secretariat, distributed a questionnaire (see **Annex 1**) to large-scale mining companies

¹² Compostela Valley has been renamed Davao De Oro under Republic Act No. 11297 (2019). Its new name became effective after it was ratified by a majority of the votes cast by qualified voters in a plebiscite held on 7 December 2019.

participating in the PH-EITI. Unfortunately, only seventeen (17) of those companies completed the questionnaire.

This study also examined the SDMPs of twenty-seven (27) large-scale mining companies for the period 2008-2019. The examination sought to determine the impact of the SDMPs on mining communities and particularly on women.

This study is far from being representative of the situation of women in large-scale mining companies in the Philippines. The findings of the social, economic, and environmental impacts included here provide only a glimpse of the problems presented. Further research is definitely needed.

Budgetary constraints limited the scope of this study and the data gathering conducted. Moreover, during the field research, logistical problems related to women's geographical location and lack of access to transportation, in addition to gender-related concerns, limited their participation, reduced the researchers' time for KIs and FGDs, and lessened the number of intended women participants.



CHAPTER 2

Research Methodology

Research design
Data gathering method
Research sites
Research participants

CHAPTER 2 RESEARCH METHODOLOGY

RESEARCH DESIGN

This study by design is a qualitative, participatory research where the women participants defined their own issues, context, and realities.¹³ The aim of this design was to ‘enable people who traditionally have been merely “subjects” of research to take an active part in making their own voices heard’.¹⁴ This method was chosen so that the participants, in defining their realities, would feel ownership over the process and create value for the knowledge and shared learning that they surfaced. The knowledge they generated could be used as they plan development programs for their communities.

DATA GATHERING METHOD

This study utilized qualitative research methods particularly key informant interviews, focus group discussion, and a workshop using the Sustainable Livelihoods Framework (SLF). Using the SLF, the participants made an assessment of their vulnerabilities (shocks, trends, and seasonalities) and assets or capital (human, natural, physical, social, and financial) in terms of control or access.

The interviews with barangay officials and key informants and some personal and first-hand narrations served to give the researchers an overview of the community situation and some appreciation of the women’s plight in the impact barangays in both sites.

The FGD using the SLF served to surface issues, problems, and needs, and to clarify and validate what some women had mentioned in the interviews previously conducted.

A questionnaire was sent out in order to explore the situation of women within large-scale mining companies. Unfortunately, not all the companies sent back the answered questionnaires. Only seventeen (17) large-scale mining companies responded to the questionnaires.

The researchers also examined the data from the SDMPs of twenty-seven (27) large-scale mining companies from 2008 to 2019 to determine the impact of the social development programs of companies on mining communities and particularly women.

Research sites

The case studies were conducted in two main sites. One was in Maco in Davao de Oro, where there were four host barangays of the Apex mines (Masara, Mainit, Tagbaros, and Teresa) and four neighboring barangays (New Leyte, New Barili, Elizalde, and Panibasan). The other site was Mankayan, Benguet where there were two host barangays (Paco and Suyoc) and one neighboring barangay (Taneg). These two sites were chosen due to the presence of both large-scale and small-scale mining operations in the area.

¹³ S Laws, C Harper and R Marcus, *Research for Development: A Practical Guide* (Sage 2003) 31

¹⁴ *ibid* 49

Lepanto has operated in Mankayan, Benguet for more than eight decades.¹⁵ The barangays surrounding the Lepanto mines have small-scale mining sites that have been mined for generations. Apex, on the other hand, has been in operation in Maco, Davao de Oro for over forty years.¹⁶ The Apex mines are also surrounded by sites of small-scale mining operations.

RESEARCH PARTICIPANTS

During the first field visit in Barangay Taneg, Mankayan, the researchers learned that every sitio had a women's group. It was the same for all sitios in all the barangays in Mankayan. Taneg has seven sitios, so there were seven women's groups in Taneg alone. It was not feasible to bring together all the members of these women's groups due to logistical constraints for both the women and the researchers. Only representatives from barangay Paco, Suyoc, and Taneg participated in both the KIIs and the FGD. The research team also interviewed the barangay captains of Paco, Suyoc, and Taneg.

In Maco, the key informants in the KII included community women who were members of the councils of women and barangay officials (both men and women) from barangay Elizalde, Limbo, Mainit, Masara, New Leyte, Tagbaros, and Teresa. Two women were IP representatives. Those who participated in the focus group discussion were members of the councils of women and female barangay officials from barangay Elizalde, Mainit, Masara, New Leyte, and Limbo.

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¹⁵ Lepanto Consolidated Mining Company, 'Lepanto Celebrates 80 Years of Responsible Mining' <<https://www.lepantomining.com>> accessed 2 February 2020

¹⁶ Apex Mining Co., Inc., 'Company Profile' <<http://www.apexmines.com/home/about-us/company-overview/>> accessed 2 February 2020



CHAPTER 3

Framework of the Study

Gender
Human rights
Sustainable livelihoods framework

CHAPTER 3 THE FRAMEWORK OF THE STUDY

This study adopts several frameworks. The first is gender. In addition to gender, two major approaches frame this study: the human rights-based approach (HRBA) and the sustainable livelihoods approach (SLA). The human rights-based approach includes all the dimensions of human rights: civil, political, economic, social, and cultural rights, as well as collective rights, including the right to a clean, safe, healthy, and sustainable environment. It has four main principles: (1) equality and non-discrimination; (2) universality and indivisibility; (3) participation and empowerment; and (4) accountability and the rule of law.¹⁷ The HRBA and the SLA share common features: both are people-centered and holistic and seek to empower the marginalized. These make the two approaches suitable to fulfill the objectives of this study.

In putting people and their households at the center of the analysis,¹⁸ the SLA looks at what people are capable of achieving given their vulnerability contexts, assets, and capabilities. The HRBA, on the other hand, 'is concerned with individual's and people's entitlements, including the rights necessary for accessing assets and for achieving specific outcomes'.¹⁹ Both approaches seek to enhance the participation of people in decision-making and to bring focus on the fact that even the poorest and most vulnerable have capabilities or assets that poverty reduction interventions can build on.²⁰ As holistic frameworks, both the SLA and the HRBA reiterate the need to look deeply into the context and reality where people are immersed in, whether they be natural, social, cultural, economic, and political. Both approaches seek to establish the connections of constraints that people face in different spheres, the ways that people can overcome these, and the connection between the micro realities and the macro developments.²¹

1. GENDER

Gender analysis examines the differences in the situation of men and women based on their gender roles and responsibilities and the power relations reflected in and resulting from those gender arrangements. In the context of this study, this gender analysis is extended to the impact of mining on women.

There are several established gender analysis frameworks²² that may be used in studying the impact of mining on women. Noteworthy is the gender impact assessment framework that Oxfam Australia developed particularly for mining projects, which referred to the aforementioned established gender analysis

¹⁷ M Foresti, E Ludi, and R Griffiths, 'Briefing Note: Human Rights and Livelihood Approaches for Poverty Reduction' (2007) 2-3 <<https://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/2297.pdf>> accessed 2 October 2019

¹⁸ *ibid* 3

¹⁹ *ibid*

²⁰ *ibid*

²¹ *ibid* 4

²² Those are the Harvard analytical framework, the Moser framework, Longwe's Women's Empowerment Framework, the Social Relations Approach, and the Gender Analysis Matrix. See Oxfam Australia, 'Women, communities and mining: The gender impacts of mining and the role of gender impact assessment' (n 8) 16

frameworks. It involves an analysis of how the issues and problems that mining has introduced 'intersect with and impact on gender relations and roles, including in relation to:

- gender and power relations;
- women's access to and control over resources;
- gender roles and responsibilities, and the gender division of labour and workload of women;
- women's participation in community management and decision-making processes; and
- community wellbeing, including health, livelihood and education.²³

The study used this gender impact assessment framework, to the extent possible, in the crafting of questions for key informant interviews and FGDs and in the gathering and analysis of data. It involved a conscious reflection on what appropriate methods to use and how to collect data in the most sensitive and most participatory way possible. This was to better understand what women do, what resources they have access to or control of, what their needs and priorities are,²⁴ what their capabilities in sustaining a livelihood are, and what livelihood assets are available to them.

2. HUMAN RIGHTS

The situation of women in the mining industry implicates human rights. Specifically, any gender-based discrimination or gender inequality that occurs within the extractive industries implicates international human rights law. The principles of equality and non-discrimination are basic and general principles and rights that are well-established in international human rights law, and particularly in the core international human rights treaties to which the Philippines is a party.

As in other aspects of life, tackling any gender-based discrimination or gender inequality within the extractive industries will require a fundamental shift in the values, norms, and practices that produce and maintain gender bias within the sector. It will demand adopting or developing new normative frameworks that puts the States' overriding obligation to respect, protect, and fulfill human rights, including women's human rights, at the center of how the industry is conceptualized, organized, and governed. This section discusses international human rights law and the global consensus agreements upon which domestic normative frameworks and programmatic interventions can be based to address the economic, social, and environmental impacts of mining on women.

2.1. THE HUMAN RIGHTS DIMENSIONS

Human rights have several dimensions. These dimensions are sometimes called categories of human rights. They are referred to as civil and political rights, economic, social, and cultural rights, and collective rights. The Universal Declaration of Human Rights covers all these human rights dimensions. There is no hierarchy in

²³ *ibid* 4-5

²⁴ FAO, *Gender in Food and Nutrition Security Programming: Conducting a gender analysis for programme design* (FAO 2014) 5

the dimensions of human rights recognized under international human rights law. Rather, international human rights law anchors the respect, protection, and promotion of human rights on the principles of universality, inalienability, interdependence, indivisibility, and interrelatedness of human rights.

The Philippines is a party to the nine core international human rights treaties that guarantee the different dimensions of human rights. Those are the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social, and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, the Convention on the Rights of the Child, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the International Convention for the Protection of All Persons from Enforced Disappearance, and the Convention on the Rights of Persons with Disabilities.

The Philippines as a State Party to these international human rights treaties has the obligation to respect, protect, and fulfill the human rights of women guaranteed under the treaties.

The only women-specific treaty of the nine core international human rights treaties is the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The CEDAW prohibits discrimination against women. It obliges States Parties to adopt measures to eliminate all forms of discrimination against women and achieve substantive equality. Interpreting and applying the CEDAW should be in cross-reference to other international human rights treaties, such as, for example, the International Covenant on Economic Social and Cultural Rights (ICESCR) that the Philippines acceded to in 2000. The ICESCR, like the CEDAW, is legally binding and enforceable in the country. The *Montreal Principles on Women's Economic, Social and Cultural Rights* developed by a group of experts in 2002 offers a guide in interpreting and implementing the guarantees of non-discrimination and equal exercise and enjoyment of economic, social and cultural rights found in Articles 3 and 2(2) of the ICESCR. Similarly, other treaties such as the numerous conventions of the International Labour Organisation that the Philippines ratified or acceded to can also be used to expound on the interpretation of the CEDAW, particularly its Article 11 on employment.

2.2. THE PRINCIPLES OF AND RIGHTS TO NON-DISCRIMINATION AND EQUALITY

The Philippines signed and acceded to the CEDAW in 1981 without any reservation.²⁵ A committee of experts, called the Committee on the Elimination of Discrimination Against Women ('CEDAW Committee'), monitors the implementation of the CEDAW by States Parties by examining periodic State reports. The CEDAW Committee also issues *General Recommendations*, which are interpretations of the provisions of the treaty and guide States in complying with their obligations under the Convention. Finally, the CEDAW Committee also receives individual complaints for violations of rights guaranteed under the CEDAW.

²⁵ Convention on the Elimination of All Forms of Discrimination Against Women (entered into force 3 September 1981) United Nations Treaty Series (UNTS) Vol 1249 13 <<https://treaties.un.org/doc/Publication/UNTS/Volume%201249/v1249.pdf>>

The CEDAW under Article 2 states that States Parties 'condemn discrimination against women in all its forms'. Article 1 of the CEDAW defines discrimination against women as:

any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Forms of discrimination against women may either be direct, indirect, or intersectional.

Direct discrimination against women 'occurs when a difference in treatment relies directly and explicitly on distinction based exclusively on sex and characteristics of men or of women, which cannot be justified objectively'.²⁶ Even when laws, policies, programs or practices are seemingly gender-neutral, discrimination may still exist, indirectly. This indirect discrimination occurs when gender-neutral laws, policies, programs, or practices, when applied or implemented, perpetuate or exacerbate pre-existing inequalities or fail to take into account aspects of women's life experiences that differ from those of men thus causing a disadvantage to women.²⁷

The concept of indirect discrimination serves two distinct purposes. First, it serves 'to unmask instances of conscious discrimination, which hide behind the use of apparently neutral criteria, in order to arrive at the same result as would follow from the explicit use of prohibited discrimination criteria'. Second, it serves 'to challenge certain rules or practices which, although not calculated to produce such effect, impose a specific disadvantage on certain groups, or have a disproportionate impact on such groups, without there being a justification for such disadvantage or such impact. In this second conception, indirect discrimination may be completely detached from any kind of intention to discriminate.' The conception of indirect discrimination may be used as a tool to identify and 'revise permanently institutionalized habits and procedures in order to make them more hospitable to difference'.²⁸

The CEDAW Committee General Recommendation No. 28 urges States Parties to recognise intersecting forms of discrimination as part of their obligation under Article 2. Discrimination against women based on sex or gender inextricably *intersects* with other categories such as race, ethnicity, religion or belief, health, age, class, caste, sexual orientation, and gender identity. These categories do not operate independently but reinforce each other and could give rise to multiple forms or dimensions of discrimination. This is called *intersectional discrimination*. The concept of *intersectionality* is a useful tool to analyze and understand women's experiences (of discrimination) by looking at the 'intersections' of women's multiple identities and location, the convergence and interaction of the different systems of

²⁶ UN Committee on Economic, Social and Cultural Rights, 'General Comment No 16' (11 August 2005) para 12 E/C.12/2005/4.

²⁷ UN CEDAW, 'General recommendation No. 25: Article 4, paragraph 1 of the Convention (temporary special measures) (2004) para 7 <https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/1_Global/INT_CEDAW_GEC_3733_E.pdf>; UN CESCR, 'General Comment No. 16' (n 26) para 12 and 13.

²⁸ O De Schutter, *International Human Rights Law* (Cambridge 2010) 626.

subordination involved in those identities and location, and the compounded consequences for women of such convergence and interaction.²⁹

The CEDAW Committee further elaborates on a framework of substantive equality as both the standard and goal in addressing discrimination against women. This framework consists of ensuring *equality of opportunity* and *equality of outcomes*. *Equality of opportunity* means that everyone should, at the outset, have the same opportunities so that they can realise their capabilities and participate in all areas of economic, social, political, and cultural life as equals. *Equality of outcomes* means that progress towards equality must bring about long-term changes in gender relations, including transforming institutions, systems, and structures of gender inequality. The standard of substantive equality requires non-identical treatment of men and women who are differently situated to address biological as well as socially and culturally constructed differences between men and women.³⁰

Article 2 of the CEDAW details the general obligations of States Parties to respect, protect, and fulfill women's human rights. The obligation to *respect* requires States Parties to refrain from making laws, policies, regulations, programs, administrative procedures that either directly or indirectly result in the denial of women's equal enjoyment of their rights. The obligation to *protect* requires States Parties under Article 2 (e) 'to take all appropriate measures to eliminate discrimination against women by any person, organisation or enterprise' or private actors. The obligation to *fulfill* requires States Parties to take all necessary steps to ensure that women and men enjoy equal rights *de jure* and *de facto*, including, where appropriate, adopting temporary special measures in line with Article 4(1).³¹

The States Parties' obligation under Article 2 not to cause discrimination against women encompasses both *acts or omissions* of State and private actors. This Article imposes a due diligence obligation on States Parties to prevent private actors from engaging in discriminatory acts against women as defined in the Convention. The appropriate measures that States Parties are obliged to take include the regulation of activities of the private sector with regard to employment, health policies and practices, working conditions, and work standards, among others.³² Clearly, under this provision, the CEDAW can be invoked to hold both the government and businesses accountable for any form of discrimination against women in extractive industries such as mining.

Overall, the CEDAW provides a gender-transformative articulation of the International Bill of Human Rights³³ by setting the goal to eradicate all forms of discrimination against women and achieve substantive equality between men and women. In addition to the States Parties' obligations under Article 2, the following

²⁹ See K Crenshaw, 'Mapping the Margins: Intersectionality, Identity Politics and Violence Against Women of Color' (July 1991) vol 43 no 6 Stanford Law Review 1241-1299.

³⁰ See S Dairam, 'Women's Right to Equality: The Promise of CEDAW' (UN Women 2014) 21-24.

³¹ Committee on the Elimination of Discrimination Against Women (CEDAW Committee), 'General recommendation No. 28 on the core obligations of States parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women' (16 December 2010) para 9 UN Doc CEDAW/C/GC/28.

³² *ibid* para 10 and 13.

³³ The International Bill of Human Rights comprises the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights.

articles of the CEDAW can also be relied upon to integrate a gender perspective in holding businesses accountable for human rights violations:

- (a) Article 5 on modification of customary practices and gender stereotypes prejudicial to women;
- (b) Article 7 on women's equal participation in political and public life;
- (c) Article 10 on women's equal right to education;
- (d) Article 11 on the equal right to employment, including equal remuneration and benefits;
- (e) Article 12 on equal access to health care services;
- (f) Article 13 specifically on equal right to bank loans, mortgages and other forms of financial credit; and
- (g) Article 16 on equality before the law, including equal right to enter into contracts and other private instruments.

RURAL WOMEN

Article 14 of the CEDAW is the only provision in an international human rights treaty that recognises the rights of rural women. The CEDAW General Recommendation No. 34 explains in detail how Article 14 relates to each of the Articles cited above to pinpoint specific State obligations to ensure rural women the full enjoyment of their rights.³⁴ General Recommendation No. 34 also contains provisions that are particularly relevant to hold States Parties accountable for specific violations of women's human rights related to the exploitation of land and natural resources through extractive industries.

General Recommendation No. 34 emphasises that 'States Parties should ensure that macroeconomic policies, including trade, fiscal and investment policies, as well as bilateral and multilateral agreements are responsive to the needs of rural women'. Rural women should be ensured full participation in designing, planning and implementing such policies. States Parties should take all necessary steps to address the negative and differential impacts of economic policies, including the 'liberalisation, privatisation and commodification of land, water, and natural resources on the lives of rural women and the fulfillment of their rights. They should address specific threats posed to rural women by extractive industries, and ensure that rural women enjoy a safe, clean and healthy environment.'³⁵

The CEDAW Committee further affirms under General Recommendation No. 34 that the requirement under Article 2(e) to eliminate discrimination by private actors extends to acts of national corporations operating within their jurisdiction or operating extraterritorially. The CEDAW Committee directs that 'appropriate and effective remedies should be available to affected rural women when a State Party has violated its extraterritorial obligations'. This provision is particularly relevant to hold governments of foreign corporations liable for violations committed by these corporations in their operations abroad.

Rural women must be regarded as drivers of sustainable development, asserts the CEDAW Committee. States Parties must recognise their crucial contributions to local and national economies. They should strengthen local rural economies, including through promotion of social and solidarity economies, and creation of

³⁴ CEDAW Committee, 'General recommendation No. 34 (2016) on the rights of rural women' (7 March 2016) UN CEDAW/C/GC/34.

³⁵ *ibid* para 10 and 11.

livelihoods for rural women in the context of sustainable development. In particular, States Parties should review policies, laws and regulations to eliminate practices that discriminate against women in rural labour markets, such as not hiring them for certain jobs.³⁶ Such discriminatory practices in rural employment is particularly prevalent in mining industries where jobs are dominated by men.

The CEDAW Committee also directs States Parties to create enabling conditions, including adopting temporary special measures such as quotas for rural women's participation in decision-making at all levels, to promote their empowerment and ensure their independence. States Parties must take all steps necessary to ensure that they directly benefit from, and participate as decision-makers in the design and development of rural development programs including those related to health, education, employment, social security, and others. Such programs should be gender-sensitive and provided an adequate budget.³⁷

General Recommendation No. 34 emphasises that rural development initiatives should be 'implemented only after participatory gender and environmental impact assessments have been conducted with full participation of rural women'. Free, prior and informed consent of the affected communities, including of rural women in the locality, is a prerequisite. The results of the assessments 'shall be considered as fundamental criteria for taking any decision regarding the implementation' of any development initiatives. Effective and appropriate measures should be undertaken to mitigate possible adverse environmental and gender impacts, including addressing the health and safety hazards of using harmful chemicals in extractive industries.³⁸

Article 14 paragraph 2(g) in relation to Article 13 of the CEDAW obliges States Parties to undertake all necessary measures to accord rural women equal rights in relation to land and natural resources. Such measures should include strengthening customary and statutory institutions and mechanisms to address discriminatory beliefs, attitudes, and practices that impede their rights. For example, there should be legislative guarantees as well as revisions in customary systems to ensure that rural and indigenous women are able to own and control land and natural resources on an equal basis with men, irrespective of their civil or marital status.

Further, State parties should protect rural women 'from the impact of land acquisition by national and transnational companies' due to the development of extractive industries and megaprojects. Land acquisition, including contracts of sale or lease of lands, should not result in violating the rights of rural women, such as forced evictions.³⁹ Any land acquisition or expropriation, or projects affecting rural lands or territories and resources require free, prior and informed consent of the rural women affected. 'When such land acquisitions do occur, they should be in line with international standards, and rural women should be compensated adequately.'⁴⁰

In relation to the CEDAW Committee's General Recommendation No. 19⁴¹ on violence against women, Article 14 as elaborated upon under General

³⁶ *ibid* para 51.

³⁷ CEDAW Committee (n 34) para 17 (a) and (c).

³⁸ *ibid* para 55 (e)

³⁹ *ibid* para 62 (c)

⁴⁰ *ibid* para 62 (d)

⁴¹ General Recommendation No. 19 was updated by General Recommendation No. 35 on gender-based violence against women. CEDAW Committee, 'General recommendation No. 35 on gender-24 | A Scoping Study

Recommendation No. 34 also draws special attention to rural women human rights defenders. The CEDAW Committee points out that they ‘are often at risk of violence when working, for example, to protect victims, transform local customs, or secure natural resource rights’.⁴² States Parties are called upon to implement measures ‘to prevent and address threats and attacks against rural women human rights defenders, with particular attention to those engaged on issues related to land and natural resources.’ Such measures should aim to end gender-based violence, and discriminatory customs and practices that put them at risk.⁴³

Under Article 2 of the CEDAW, States Parties should undertake to incorporate the Convention into their domestic legal systems. As explained under General Recommendation No. 28, they should provide appropriate remedies for women who are subjected to discrimination contrary to the Convention. ‘Such remedies should include different forms of reparation, such as monetary compensation, restitution, rehabilitation and reinstatement; measures of satisfaction such as public apologies, public memorials, and guarantees of non-repetition; changes in relevant laws and practices; and bringing to justice the perpetrators of violations of women’s human rights.’ The CEDAW Committee affirms that such remedies could be judicial and non-judicial in nature.⁴⁴

States Parties must ensure that women can invoke the principle of substantive equality in support of complaints for any acts contrary to the Convention committed by either public officials or private actors. States Parties must provide women with affordable, accessible and timely forms of redress, with legal aid as necessary. Courts are bound to interpret the law, to the maximum extent possible, in line with the obligations of States Parties under the Convention. Judicial and law enforcement officials should be trained accordingly. The CEDAW Committee stresses that ‘domestic laws may never be used as justification for failures by States Parties to carry out their international obligations’.⁴⁵

To ensure compliance with all the obligations stipulated under CEDAW, States Parties are required under Article 18 to submit to the CEDAW Committee periodic reports on the legislative, judicial, administrative, and other measures that they have adopted to give effect to the Convention.

2.3. THE RIGHT TO PARTICIPATION

Human dignity is the foundation of all human rights and fundamental freedoms, as articulated in the Universal Declaration of Human Rights.⁴⁶ From its conception of human dignity, international human rights law stresses the importance of individual autonomy and self-determination. These principles form the basis of the human right to participation. Human dignity stresses active choice of people, as opposed to them

based violence against women, updating general recommendation No. 19’ (26 July 2017) UN Doc CEDAW/C/GC/35

⁴² CEDAW Committee (n 34) para 24

⁴³ *ibid* para 25 (e)

⁴⁴ CEDAW Committee (n 31) para 32

⁴⁵ *ibid* para 33

⁴⁶ United Nations General Assembly, ‘Universal Declaration of Human Rights’ (UNGA Paris 10 December 1948) preamble and art 1 <<https://www.un.org/en/universal-declaration-human-rights/>>

being 'passive recipients of benefit' and to conceptions of 'welfare' often traditionally used in development discourse.⁴⁷

The Office of the UN High Commissioner for Human Rights (OHCHR) stresses the significance of participation:

1. Participation enables the advancement of all human rights. It plays a crucial role in the promotion of democracy, the rule of law, social inclusion and economic development. It is essential for reducing inequalities and social conflict. It is also important for empowering individuals and groups, and is one of the core elements of human rights-based approaches aimed at eliminating marginalization and discrimination.
2. While the responsibility and accountability for taking decisions ultimately rests with public authorities, the participation of various sectors of society allows the authorities to deepen their understanding of specific issues; helps to identify gaps, as well as available policy and legislative options and their impact on specific individuals and groups; and balances conflicting interests. As a consequence, decision-making is more informed and sustainable, and public institutions are more effective, accountable and transparent. This in turn enhances the legitimacy of States' decisions and their ownership by all members of society.⁴⁸

The right to participation is recognized and guaranteed under international human rights law. There is no single human right to participation that is spelled out in international human rights instruments. Rather, different aspects of the right to participation are dealt with in various human rights instruments.

The 1986 UN Declaration on the Right to Development⁴⁹ provides:

Article 2

3. States have the right and the duty to formulate appropriate national development policies that aim at the constant improvement of the well being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom.

Article 8

2. States should encourage popular participation in all spheres as an

⁴⁷ Global Initiative for Economic, Social and Cultural Rights, 'A Rights-Based Approach to Participation, A GI-ESCR Practitioners Guide' (May 2014) 5 <<http://globalinitiative-escr.org/wp-content/uploads/2014/05/GI-ESCR-Practitioners-Guide-on-Right-to-Participation.pdf>> accessed 23 February 2020

⁴⁸ Office of the UN High Commissioner for Human Rights, 'Guidelines for States on the effective implementation of the right to participate in public affairs' (adopted by Human Rights Council resolution 39/11 October 2018) para 1-2 <https://www.ohchr.org/Documents/Issues/PublicAffairs/GuidelinesRightParticipatePublicAffairs_web.pdf>

⁴⁹ UNGA, 'Declaration on the Right to Development' (adopted by General Assembly resolution 41/128 of 4 December 1986) UN Doc A/RES/41/128

important factor in development and in the full realization of all human rights.

Participation in all stages of development is anchored on the first article of both the International Covenant on Civil and Political Rights (ICCPR) and the ICESCR. It states that all peoples have the right to self-determination and that 'by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development'. Further, the ICCPR guarantees the right to take part in the conduct of public affairs under Article 25 while the ICESCR protects the right to participate in cultural life under Article 15.

Several international human rights instruments deal with the right to participation of particular groups that have suffered from historical discrimination, such as women,⁵⁰ persons with disability,⁵¹ children,⁵² minorities,⁵³ and indigenous peoples.⁵⁴ Other instruments deal with the right to participation in specific areas of concern, such as health⁵⁵ and the environment.⁵⁶

⁵⁰ CEDAW (n 25), preamble, arts 7 and 14

⁵¹ Convention on the Rights of Persons with Disabilities (entered into force 3 May 2008) UNTS Vol 2515 3, preamble, arts 3, 9, 19, 24, 26, 29 & 30 <<https://treaties.un.org/doc/Publication/UNTS/Volume%202515/v2515>>

⁵² Convention on the Rights of the Child (entered into force 2 September 1990) UNTS Vol 1577 44, arts 13, 15 & 31 <<https://treaties.un.org/doc/Publication/UNTS/Volume%201577/v1577.pdf>>

⁵³ UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UNGA resolution A/RES/47/135 adopted 18 December 1992) art 2

Its Article 2 provides:

1. Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practice their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.
2. Persons belonging to minorities have the right to participate effectively in cultural, religious, social, and economic and public life.
3. Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation.

⁵⁴ UN Declaration on the Rights of Indigenous Peoples (UNGA resolution A/RES/61/295 adopted 13 September 2007) art 2

⁵⁵ World Health Organization, 'Declaration of Alma-Ata (International Conference on Primary Health Care Alma-Ata USSR 6-12 September 1978) IV, VII <https://www.who.int/publications/almaata_declaration_en.pdf?us=1>

It provides:

IV

The people have the right and duty to participate individually and collectively in the planning and implementation of their health care.

According to the OHCHR, '[t]he right to participate in public affairs cannot be considered in a vacuum. The effective exercise of this right requires an environment where all human rights, in particular the rights to equality and non-discrimination, to freedom of opinion and expression and to freedom of peaceful assembly and of association, are fully respected and enjoyed by all individuals.'⁵⁷ The OHCHR calls this 'a safe and enabling environment that is conducive to the exercise of the right to participate in public affairs'.⁵⁸ It is the duty of the State to create and maintain this environment. It would require 'a long-term commitment by public authorities, together with their genuine political will, an emphasis on agency and a shift in mindset regarding the way of doing things'.⁵⁹

The OHCHR also identifies the forms and levels of participation in public affairs in non-electoral contexts and guidelines for meaningful participation. Participation may be through formal structures. Such structures 'should be accessible to and inclusive of individuals and groups that are marginalized or discriminated against, including those from disadvantaged socioeconomic backgrounds, in particular women and girls'. Participation could also be before, during, and after decision-making. Participation before decision-making involves participating 'in shaping the agenda of decision-making processes in order to ensure that [the participants'] priorities and needs are included in the identification of the subject matter and content for discussion'. Participation during decision-making should start at 'an early stage, when all options are still open'. Adequate time should be given for participants to prepare and make their contributions during the decision-making process. Participation after decision-making entails (1) disseminating the outcome of the participation process, (2) providing information on the grounds and reasons underlying the decision, (3) allowing feedback on the decision-making process and its

VII

Primary health care:

....

5. requires and promotes maximum community and individual self-reliance and participation in the planning, organization, operation and control of primary health care....

⁵⁶ UNGA, 'Report of the United Nations Conference on Environment and Development' (Rio de Janeiro 3-14 June 1992) Principle 10 UN Doc A/Conf.151/26 (Vol 1)

It states:

Principle 10

Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available.

⁵⁷ OHCHR (n 48) para 14

⁵⁸ *ibid* para 19

⁵⁹ *ibid* para 8

outcome, and (4) participation in the implementation or monitoring of the implementation of the decision.⁶⁰

For women in particular, their participation requires more than simply physical presence. Normative standards under international human rights law require that the participation of women must be *equal, full, meaningful, and inclusive*.⁶¹ For this to be possible, both the Government and businesses must pay attention to the obstacles that restrict or impede women's equal, full, meaningful, and inclusive participation. Those may include low literacy levels, language barrier, the distance of the consultation venue from women's homes, lack of transportation, the cost of attending consultations, domestic violence, and women's gender-based responsibilities at home, including childcare. Measures such as holding consultations in women's locations, using the local language or dialect, designing the consultative process in a manner that ensures that women's voices are heard and considered, and providing logistical support such as transportation could help address the barriers. It is also important to ensure that a *diversity* of women is consulted, especially including those who are marginalized and discriminated against.

The CEDAW Committee notes in its General Recommendation No. 23:

10. In all nations, the most significant factors inhibiting women's ability to participate in public life have been the cultural framework of values and religious beliefs, the lack of services and men's failure to share the tasks associated with the organization of the household and with the care and raising of children. In all nations, cultural traditions and religious beliefs have played a part in confining women to the private spheres of activity and excluding them from active participation in public life.

11. Relieving women of some of the burdens of domestic work would allow them to engage more fully in the life of their communities. Women's economic dependence on men often prevents them from making important political decisions and from participating actively in public life. Their double burden of work and their economic dependence, coupled with the long or inflexible hours of both public and political work, prevent women from being more active.

In this regard, the following recommendation of the OCHR is relevant in addressing the barriers to women's equal, full, meaningful and inclusive participation particularly in the context of mining:

24. States should empower rights holders to effectively exercise the right to participate in public affairs.

...

(c) Targeted capacity-building and civic education programmes should be provided for individuals and groups that are marginalized or discriminated against, and should take into account specific challenges, such as illiteracy and language and cultural barriers, in order to empower

⁶⁰ *ibid* para 56-86

⁶¹ *ibid*; CEDAW Committee, 'General recommendation No. 23: Women in public life (1997) UN Doc A/52/38/Rev.1

them to be active participants in public life. This includes the adoption of measures promoting the engagement and collaboration of all relevant civil society actors, including the media, and community and religious leaders, to bring about a shift in the norms and values restricting the exercise of the right to participate in public affairs, especially for women.⁶²

Since the adoption of the UN Declaration on the Rights of Indigenous Peoples (UN DRIPS), there has been much progress in the recognition of the right of indigenous peoples to participate in decision-making in matters that affect their land, territories, and resources, or their rights and lives. 'Historically, indigenous peoples have been forced off their ancestral lands to make way for large infrastructure projects, resource extraction ventures, or other so-called development initiatives. Without access to the land on which they depend, many end up in extreme poverty.'⁶³ International human rights law recognizes the unique identity of indigenous peoples and affirms that they have 'the right to decide their own future to ensure their cultural and physical survival'.⁶⁴ The UN DRIPS particularly recognizes the right of indigenous peoples to self-determination, to freely pursue their economic, social, and cultural development.⁶⁵ The UN DRIPS declares that indigenous peoples shall not be forcibly removed from their lands or territories nor relocated to another place without their 'free, prior, and informed consent'.⁶⁶

2.4. THE RIGHT TO A CLEAN, SAFE, HEALTHY, AND SUSTAINABLE ENVIRONMENT

The right to a clean, safe, healthy, and sustainable environment,⁶⁷ or simply the right to a healthy environment, is particularly relevant in mining which undeniably has adverse environmental effects. While the consequences of environmental degradation affect everyone, these 'are felt most acutely by those segments of the population that are already in vulnerable situations'.⁶⁸ Women and girls are affected disproportionately by the adverse impact of environmental degradation 'because of discriminatory laws and practices and gender stereotypes that keep them in unequal power relationships with men within their families and communities'. These limit their autonomy and participation in decision-making as well as their access to resources, labor, education, health services, and justice, leaving them more vulnerable to the impacts of environmental degradation and the climate crisis.⁶⁹

While there is no particular international human rights treaty that deals specifically with the right to a healthy environment, there is widespread global recognition of the right. This legal recognition is found in national constitutions and

⁶² OHCHR (n 48) para 24

⁶³ Global Initiative for Economic, Social and Cultural Rights (n 47) 6

⁶⁴ *ibid*

⁶⁵ UN DRIPS (n 54) art 3

⁶⁶ *ibid* art 10

⁶⁷ The UN Human Rights Council uses the 'enjoyment of a safe, clean, healthy and sustainable environment' as a term of art.

⁶⁸ Human Rights Council, 'Human rights and the environment' (HRC resolution 37/8 adopted 22 March 2018) Preamble UN Doc A/HRC/RES/37/8

⁶⁹ Raoul Wallenberg Institute on Human Rights and Humanitarian Law, 'Women's Human Rights and the Right to a Clean, Safe, Healthy, and Sustainable Environment: Reference Manual for Judges' (2019) 26

national legislation of over 100 states,⁷⁰ regional human rights instruments,⁷¹ and decisions of regional human rights bodies.⁷² International human rights treaty bodies, such as the UN Human Rights Committee and the UN Committee on Economic, Social, and Cultural Rights (CESCR) have also recognized that environmental degradation affects human rights such as the rights to health, life, food, water, etc., rights that are guaranteed under the nine core international human rights treaties.

2.5. GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS

On 16 June 2011, the Human Rights Council endorsed through a resolution the Guiding Principles on Business and Human Rights: Implementing the UN's 'Protect, Respect and Remedy' Framework.⁷³ The Special Representative of the Secretary General on the issue of human rights and transnational corporations and other business enterprises developed the Guiding Principles in order to provide a coherent and comprehensive template on the effective prevention and redress of business-related human rights violations. The Guiding Principles does not create new international legal obligations. Rather, it elaborates on the implications of existing standards and practices for States and businesses. Hence, its enforceability rests on imposing the same range of human rights duties that States Parties have accepted for themselves under treaties they have ratified under international human rights law.⁷⁴

The framework of the Guiding Principles rests on three pillars. The first is the State duty to protect citizens against human rights violations by third parties, including those committed by business enterprises. The second is the corporate responsibility to respect human rights, including the responsibility of business enterprises to act with due diligence to avoid violating human rights and to address the adverse impacts of their actions. The third is the need for both States and businesses to provide victims greater access to effective remedy, both judicial and

⁷⁰ HRC, 'Right to a healthy environment: good practices: Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment' (30 December 2019), para 10 & 12, A/HRC/43/53

⁷¹ *ibid* para 11. See the African Charter on Human and Peoples' Rights (entered into force 21 October 1986) UNTS Vol 1520 217 art 24 ('all peoples shall have the right to a general satisfactory environment favourable to their development') <<https://treaties.un.org/doc/Publication/UNTS/Volume%201520/volume-1520-I-26363-English.pdf>>; the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights (entered into force 16 November 1999) art 11 ('everyone shall have the right to live in a healthy environment') <<http://www.oas.org/juridico/english/treaties/a-52.html>>; and the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (entered into force 30 October 2001) UNTS Vol 2161 447 preamble ('every person has the right to live in an environment adequate to his or her health and well-being') < <https://treaties.un.org/doc/Treaties/1998/06/19980625%2008-35%20AM/37770-En.pdf>>

⁷² Raoul Wallenberg Institute on Human Rights and Humanitarian Law (n 69) 48.

⁷³ HRC, 'Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie: Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework' (21 March 2011) UN Doc A/HRC/17/31 <https://www.ohchr.org/Documents/Publications/GuidingPrinciplesHR_EN.pdf> accessed 16 October 2019.

⁷⁴ *ibid* para 2.

non-judicial.⁷⁵ The Guiding Principles is intended to apply to all Member States of the UN and to all business enterprises regardless of their size, sector, location, ownership, and structure.

Subsequently, the Working Group on the issue of human rights and transnational corporations and other businesses developed a gender framework intended to provide guidance to Member States and businesses on integrating a gender perspective in implementing the Guiding Principles.⁷⁶ The Working Group proposed a three-step gender framework: (1) gender responsive assessment – that any assessment such as evaluating the terrain of laws, policies, norms, and practices in a sector or locality should be able to respond to differentiated, intersectional, and disproportionate adverse impacts particularly on women; (2) gender transformative measures; and (3) gender transformative remedies, which means that the measures and remedies should be capable of changing unequal power relations that underpin discrimination against women.⁷⁷

In order for Member States to carry out their specific duty to protect human rights under the Guiding Principles, the Working Group encourages governments to adopt national action plans (NAPs) in consultation with stakeholders. Through the NAP, governments are expected to specify actions to be taken in order to comply with the Guiding Principles, to identify the government agencies that would be responsible for implementing the actions with cross-departmental collaboration, to ensure multi-stakeholder monitoring of the implementation, and to evaluate the impact of the NAP and periodically update it also in consultation with stakeholders.⁷⁸ To date, twenty-five countries have developed national action plans. Unfortunately, the Philippines is not among these countries.⁷⁹ The Philippine Commission on Human Rights and other stakeholders introduced the Guiding Principles in a consultation among the private sector and civil society on 25 March 2014.⁸⁰ In November 2016, the Presidential Human Rights Committee held a government consultation for the development of a national action plan on business and human rights. On 6 March 2017, an undersecretary for the Presidential Human Rights Committee announced that the Philippines will embark ‘on the formulation of the 3rd Philippine Human Rights

⁷⁵ *ibid* para 6.

⁷⁶ HRC, ‘Gender dimensions of the Guiding Principles on Business and Human Rights: Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises’ (23 May 2019) UN Doc A/HRC/41/43 <<https://www.google.com/search?client=safari&rls=en&q=A/HRC/41/43&ie=UTF-8&oe=UTF-8>>

⁷⁷ *ibid* para 39

⁷⁸ For guidance on NAP development, see UN Working Group on Business and Human Rights, ‘Guidance on National Actions on Business and Human Rights’ (Geneva November 2016) <https://www.ohchr.org/Documents/Issues/Business/UNWg_NAPguidance.pdf> accessed on 1 October 2020

⁷⁹ OHCHR, ‘States that have produced a national action plan’ <<https://www.ohchr.org/en/issues/business/pages/nationalactionplans.aspx>> accessed 30 September 2020

⁸⁰ UNDP Philippines, ‘UN Guiding Principles on Business and Human Rights introduced to the Philippine business sector’ (25 March 2014) <<http://www.ph.undp.org/content/philippines/en/home/presscenter/articles/2014/03/25/un-guiding-principles-on-business-and-human-rights-introduced-to-the-philippine-business-sector.html>> accessed 15 October 2019

Action Plan, 2018-2022'.⁸¹ Whether this plan will cover business and human rights is not certain.⁸² To date, the Philippine Government has yet to release its 3rd Philippine Human Rights Action Plan.

Although the primary duty to protect human rights remains with States, the Guiding Principles clarifies that companies are not freed from the responsibility to respect human rights in their operations. This responsibility exists over and above compliance with national laws and regulations protecting human rights'.⁸³ While companies have tended to be selective with the social issues to address through their corporate social responsibility (CSR) programs, under the Guiding Principles they may not select only the issues they are comfortable with. The human rights framework at the core of the Guiding Principles requires companies to respect all human rights.⁸⁴

The Guiding Principles consists of 31 principles. The principles outline comprehensive steps that businesses should take to integrate human rights in their operations. Briefly, these steps should include the following:

- (1) adopt and implement a human rights policy throughout the company's operations and supply chain;
- (2) assess the human rights impacts of the company's operations - directly and indirectly on all peoples;
- (3) comply with laws and regulations and adopt codes of practice relevant to human rights;
- (4) set up a transparent monitoring and reporting system on human rights impacts and performance;
- (5) communicate externally the company's human rights performance and steps taken to mitigate adverse impacts;
- (6) establish accessible and appropriate systems of redress, such as dispute resolution mechanisms.⁸⁵

2.6. VOLUNTARY ACCOUNTABILITY MECHANISMS FOR EXTRACTIVE INDUSTRIES

Aside from the accountability mechanisms discussed above, there are others that governments and companies can consider to subscribe to:

- **The Women's Empowerment Principles**, launched in 2010, consists of seven principles aimed at promoting gender equality in the workplace, marketplace,

⁸¹ National Economic and Development Authority, 'Human Rights Action Plan to be crafted in PH' <<http://www.neda.gov.ph/human-rights-action-plan-to-be-crafted-in-ph/>> accessed 15 October 2019

⁸² The Danish Institute for Human Rights, 'NAP Development Process' <<https://globalnaps.org/country/philippines/>> accessed 15 October 2019

⁸³ HRC (n 76)

⁸⁴ The UN Working Group on Business and Human Rights, 'The UN Guiding Principles on Business and Human Rights: An Introduction' (undated) <https://www.ohchr.org/Documents/Issues/Business/Intro_Guiding_PrinciplesBusinessHR.pdf>

⁸⁵ Australian Human Rights Commission, 'Integrating human rights into Australian business practice: How should business integrate human rights into core business practice' (2015) <<https://humanrights.gov.au/our-work/employers/integrating-human-rights-australian-business-practice>>

and community. Representatives of more than 2,000 companies from different sectors operating all over the world have signed a statement of support for the principles.⁸⁶

- **The OECD Due Diligence Guidance for Responsible Business Conduct** ‘provides enterprises with practical guidance in implementing the due-diligence components of the OECD Guidelines for Multinational Enterprises’. It includes recommendations to companies to apply a gender perspective to their due diligence efforts.⁸⁷
- The **Voluntary Principles on Security and Human Rights** are a set of principles intended to guide companies on the relationship between extractive companies and the public or private security forces they rely on for protection. They focus on how companies should seek to prevent human rights abuses by those security forces as well as how companies should respond when abuses occur.⁸⁸
- **The Extractive Industries Transparency Initiative (EITI)** is a coalition of governments, companies, and civil society organisations that promote transparency in extractive industries. EITI governments should ‘disclose how much they receive from extractive companies operating in their country, and these companies [should] disclose how much they pay’.⁸⁹
- **The United Nations Global Compact** is a global and voluntary corporate sustainability initiative ‘to align strategies and operations with universal principles on human rights, labour, environment and anti-corruption’. It has a multi-year strategy that seeks to drive business awareness and action in support of achieving the SDGs by 2030.⁹⁰

2.7. SUSTAINABLE DEVELOPMENT GOALS

In 2015, the United Nations (UN) General Assembly adopted a resolution titled, ‘Transforming Our World: 2030 Agenda for Sustainable Development’, which outlines 17 Sustainable Development Goals (SDGs) and 169 targets that governments and other stakeholders aim to implement by 2030 to achieve sustainable development on a global scale (hereinafter ‘SDG Resolution’).⁹¹ While not legally binding, the SDG Resolution gained global acceptance through the consensus generated among Member States present at the 70th anniversary session of the UN General Assembly. It builds upon what remains unachieved of the Millennium Development Goals set out in the UN Millennium Declaration, another consensus document adopted by the General Assembly in 2000. The SDG Resolution is also grounded in the Universal Declaration of Human Rights and international human rights treaties, which are legally binding commitments among States Parties.

The SDG Resolution provides for countries like the Philippines a rights-based development framework to guide national planning for sustainable development. It articulates the interdependent dimensions of sustainable development and explicitly

⁸⁶ HRC (n 76) para 27

⁸⁷ *ibid* para 31

⁸⁸ The Voluntary Principles Initiative, ‘The Voluntary Principles on Security and Human Rights’ <<https://www.voluntaryprinciples.org/the-principles/>> accessed 16 October 2019

⁸⁹ EITI <<https://eiti.org/>>

⁹⁰ United Nations Global Compact <<https://www.unglobalcompact.org/>>

⁹¹ UNGA, ‘Transforming our world: the 2030 Agenda for Sustainable Development’ (UNGA resolution adopted 25 September 2015) UN Doc A/RES/70/1 <https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_70_1_E.pdf> accessed 1 October 2019

commits governments and other stakeholders to achieve it in its ‘three dimensions – economic, social and environmental – in a balanced and integrated manner’.⁹² It states that ‘sustainable development recognises that eradicating poverty in all its forms and dimensions, combating inequality within and among countries, preserving the planet, creating sustained, inclusive and sustainable economic growth and fostering social inclusion are linked to each other and are interdependent’.⁹³ It also emphasizes that realising gender equality is crucial as ‘sustainable development is not possible if one half of humanity continues to be denied its full human rights and opportunities’.⁹⁴

SDG Goal 15 is particularly relevant in defining limits to the exploitation of natural resources such as through extractive industries like mining. It sets the goal by 2030 to ‘protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss’.⁹⁵ There are over ten specific targets under this goal, which include ‘integrate ecosystem and biodiversity values into national and local planning, development processes, poverty reduction strategies and accounts’⁹⁶ by 2020. The commitment of the Philippine Government under its Philippine Development Plan (PDP) 2017–2022 towards ‘ensuring ecological integrity, clean and healthy environment’⁹⁷ as critical foundations for sustainable development indicates a consideration towards the national implementation of SDG Goal 15.

SDG 5 to ‘achieve gender equality and empower all women and girls’⁹⁸ is also relevant since it is considered a prerequisite in achieving all the other goals. It is a stand-alone as well as a cross-cutting goal which could be invoked to ensure gender-responsive achievement of the 2030 sustainable development agenda. The goal includes ending all forms of discrimination against women,⁹⁹ including ensuring women’s full and effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life.¹⁰⁰ Specifically, it directs governments to undertake reforms to give women equal rights to economic resources such as access to ownership and control over land, including natural resources, in accordance with national laws.¹⁰¹

While the SDGs are bold and ambitious, compliance remains weak since implementation is deemed voluntary. In the Philippines, compliance is through the PDP 2017-2022 where nationally determined targets were identified and reflected in the results matrices of the PDP.¹⁰² The Philippines submitted its first voluntary review in 2016, and the second one in 2019, to the High Level Political Forum on Sustainable Development. The recent review however did not provide much detail in relation to achievements of SDG Goals 5 and 15 since these goals were not among the

⁹² *ibid* para 2

⁹³ *ibid* para 13

⁹⁴ *ibid* para 20

⁹⁵ *ibid* Goal 15

⁹⁶ *ibid* Target 15.9

⁹⁷ Philippine Development Plan 2017–2022 (abridged version) 42 <http://www.neda.gov.ph/wp-content/uploads/2017/12/Abridged-PDP-2017-2022_Final.pdf> accessed 1 October 2019

⁹⁸ UNGA (n 91) Goal 5

⁹⁹ *ibid* Target 5.1.

¹⁰⁰ *ibid* Target 5.5.

¹⁰¹ *ibid* Target 5.a

¹⁰² Sustainable Development Goals Knowledge Platform, ‘Voluntary National Review 2019’ <<https://sustainabledevelopment.un.org/memberstates/philippines>>

Government's specifically chosen targets. It only noted under Goal 8 on decent work and economic growth that males still dominate the labor force at 62.3% as of 2017.¹⁰³

Hence, it appears that the transformational normative framework offered by the SDGs 'to protect the planet from degradation' through sustainably managing its natural resources and 'to ensure that all human beings can fulfill their potential in dignity and equality and in a healthy environment'¹⁰⁴ has not fully permeated the national development processes adopted by the Philippine Government. The strategies of sustainable integrated area development and participatory environmental governance, including strengthening environmental and social safeguards for mineral resources development mentioned in the PDP 2017–2022¹⁰⁵ has yet to bear results that resonate with the SDGs.

3.

SUSTAINABLE LIVELIHOODS FRAMEWORK

In any effort to inquire into the ways women's lives are affected by mining, women's livelihoods, their capability to make a living, and their ability to cope with vulnerabilities (specifically shocks, trends, and seasonalities) must be explored. This study makes use of the Sustainable Livelihoods Framework or Sustainable Livelihoods Approach (SLF or SLA) for the purpose. This framework was chosen because it proposes concepts that can provide clarity in how women's lives and well-being are affected by mining. The SLF proposes the concepts of capability, equity, and sustainability instead of the production, employment, and poverty-line thinking that dominate conventional research. Chambers and Conway¹⁰⁶ point out that production-thinking, employment-thinking, and poverty-line thinking, when used in development-related research and analysis, suffer from 'an industrialized country imprint' and 'reductionism for ease of measurement'. 'Their concepts and measures, generated in urban conditions and for professional convenience, do not fit or capture the complex and diverse realities of most rural life. They account for the failure of much conventional analysis to pick up or show the plural priorities of the rural poor and their many and varied strategies to obtain a living.'¹⁰⁷

Capability is more than being able to perform certain skills. It is also about *being able* to ensure that one is properly nourished and clothed, to avoid escapable morbidity and preventable mortality, to lead a life without shame, and to cope with stresses and shocks.¹⁰⁸ Sustainability, on the other hand, is not just about self-sufficiency. In SLA, it is more about 'the ability to maintain and improve livelihoods while maintaining or enhancing the local and global assets and capabilities on which livelihoods depend.'¹⁰⁹ Equity in conventional terms is understood to be relative income distribution, but in SLA, equity is about equal distribution of assets, capabilities, and opportunities and especially enhancement of those of the most

¹⁰³ NEDA, 'Voluntary National Review (2019): High-Level Political Forum on Sustainable Development' <<http://sdg.neda.gov.ph/voluntary-national-review-of-the-sdgs-2019/>>

¹⁰⁴ UNGA (n 91) 2

¹⁰⁵ PDP 2017–2022 (n 97) 43

¹⁰⁶ R Chambers and G Conway, 'Sustainable Rural Livelihoods: Practical Concepts for the 21st Century' (Institute of Development Studies Discussion Paper, Cambridge 1992) 2

¹⁰⁷ *ibid* 3

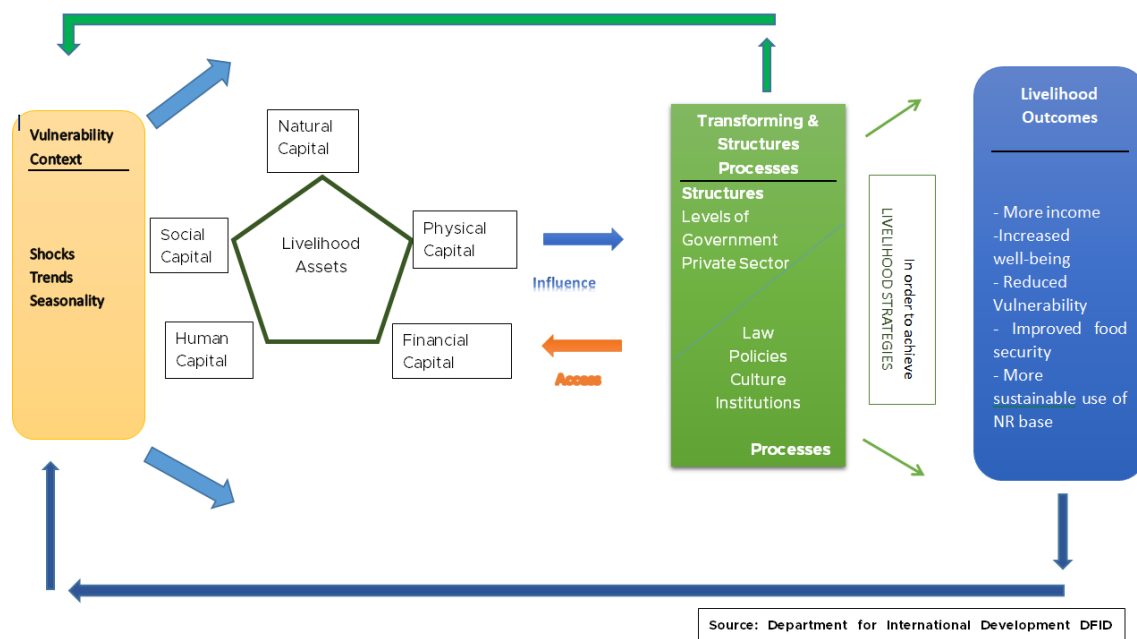
¹⁰⁸ *ibid* 4

¹⁰⁹ *ibid* 5

deprived.¹¹⁰ The combination of these three concepts are the bedrock of sustainable livelihoods. Sustainable livelihoods are the validation of structures (government and non-government) and processes (laws, policies, culture, and institutions) that have worked towards increasing people's livelihood assets. These fundamental and interlinked concepts put this scoping study in a space where people are at the center. People are the priority, not the resources they use.¹¹¹

The SLF is a *holistic* approach to appreciating people's livelihoods as an integrated whole, with many aspects that interact with each other. It is also as *dynamic* an approach as the institutions that influence people's livelihoods. Any relevant development framework must be able to create space for learning from changes, so as to attenuate negative impacts of change. Kollmair and St. Gampe¹¹² propose that SLF *builds on strengths* in that it recognizes a person's inherent potential to take away her own constraints and realize potentials, which in the end will help her to accomplish her objectives. Most development activities focus on either the macro level or the micro level. The SLF *bridges the macro and micro levels* and looks at how interactions between these two can facilitate sustainable development. *Sustainability* is linked to all the other characteristics. Chambers and Conway suggest that sustainability allude to self-sufficiency and long-term self-reliance. In the *livelihood* context, sustainability means that local and global assets and capabilities on which livelihoods depend have the ability to be maintained and improved.¹¹³

Figure 1: The Sustainable Livelihoods Framework (SLF)



¹¹⁰ ibid 4

¹¹¹ M Kollmair and St. Gamper, 'The Sustainable Livelihoods Approach: Input Paper for the Integrated Training Course of NCCR North-South Aeschried, Switzerland (9.-20. September 2002)' (University of Zurich 2002) 3 <<https://www.alnap.org/help-library/the-sustainable-livelihoods-approach-input-paper-for-the-integrated-training-course-of>> accessed 3 September 2019

¹¹² ibid 4

¹¹³ Chambers and Conway (n 106) 5



CHAPTER 4

Philippine Law on Mining and Women

Mining as a development strategy
Gender and national development
Compliance with CEDAW commitments

CHAPTER 4 PHILIPPINE LAW ON MINING AND WOMEN

Under the Philippine Constitution, the exploration, development, and utilization of mineral resources shall be under the full control and supervision of the State.¹¹⁴ This State regulation is pursuant to the State ownership of all mineral resources in public and private lands within the territory and exclusive economic zone of the Philippines.¹¹⁵

Republic Act No. 7942, otherwise known as the Philippine Mining Act of 1995,¹¹⁶ and its implementing rules and regulations¹¹⁷ primarily regulate the mining industry in the Philippines. In 2012, the Philippine Government issued Executive Order No. 79, s. 2012 (EO 79).¹¹⁸ EO 79 sets policies and guidelines to ensure environmental protection and responsible mining in the utilization of mineral resources. EO 79 also constituted the Mining Industry Coordinating Council (MICC), an inter-agency forum tasked to ensure the implementation of the EO and other reforms related to the mining industry. It is co-chaired by the Chairpersons of the Climate Change Adaptation and Economic Development Clusters of the Cabinet. Its members include the Secretary of the Department of Justice, the Chairperson of the National Commission of Indigenous Peoples, and the President of the Union of Local Authorities of the Philippines. EO 79 has not been repealed or amended to date. To implement EO 79, the Department of Environment and Natural Resources (DENR) issued Administrative Order No. 2012-07.

EO 79 also committed the government's participation in the Extractive Industries Transparency Initiative (EITI) in order to improve transparency, accountability, and governance in the extractive industries. The DENR is mandated to ensure that mechanisms are established to operationalize the EITI in the mining sector, in consultation and coordination with the mining industry and other concerned stakeholders. Under this mandate, the Philippine Extractive Industries Transparency Initiative (PH-EITI) was established under the Department of Finance.

The PH-EITI implements the EITI standard by showing the contributions of extractives to the economy, by reinforcing natural resource management, and by boosting government systems. PH-EITI also aims to enhance public understanding of resource management and the availability of data. They also intend to bring about dialogue and constructive engagement to increase trust amongst stakeholders. Further, the PH-EITI aspires to contribute to sustainable development by enhancing the contributions of extractives. The multi-stakeholder group (MSG), made up of representatives from the industry, civil society, and the government, oversees the process and circulates the findings of the EITI reporting.

¹¹⁴ Const, art XII, sec 2

¹¹⁵ Const, art XII, sec 2; Rep Act No 7942, sec 2

¹¹⁶ This law is titled, 'An Act Instituting a New System of Mineral Resources Exploration, Development, Utilization and Conservation'.

¹¹⁷ DENR Administrative Order (DAO) 2010-21 ('Revised Implementing Rules and Regulations of R.A. 7942, otherwise known as the Philippine Mining Act of 1995')

¹¹⁸ Titled 'Institutionalizing and Implementing Reforms in the Philippine Mining Sector, Providing Policies and Guidelines to Ensure Environmental Protection and Responsible Mining in the Utilization of Mineral Resources'

The DENR is the government agency primarily responsible for carrying out the State's constitutional mandate to control and supervise the exploration, development, utilization, and conservation of the country's natural resources, including mines.¹¹⁹ The Mines and Geosciences Bureau (MGB), a line bureau under the DENR, is responsible for the proper management and disposition of mineral lands and mineral resources. Its functions include advising the DENR Secretary on matters pertaining to geology and mineral resources exploration, development, utilization and conservation, including the granting of mining rights and contracts over areas containing metallic and non-metallic mineral resources.¹²⁰

The Environmental Management Bureau (EMB), another line bureau of the DENR, advises the DENR Secretary on matters relating to environmental management, conservation, and pollution control. It formulates environmental quality standards, recommends rules and regulations for environmental impact assessments, and provides technical assistance for their implementation and monitoring.¹²¹

MINING AS A DEVELOPMENT STRATEGY

Based on State enactments, mining is a development strategy of the Philippine Government. The Philippine Mining Act of 1995 declares that the responsibility of the State to promote the rational exploration, development, utilization and conservation of all mineral resources in public and private lands is 'to enhance *national growth* in a way that effectively safeguards the environment and protect the rights of affected communities'.¹²² In the Rules and Regulations to Implement Executive Order No. 79,¹²³ the first of the six-point agenda in the implementation of responsible mining policies is 'to ensure mining's contribution to the country's sustainable development (i.e., economic and social growth and environmental protection)'. Another is to 'ensure the consistency of local issuances with the Constitution and national laws'.

Indeed, mining as a national development strategy must be consistent with the Philippine Constitution. The Constitution provides that 'the goals of the national economy are a more equitable distribution of opportunities, income, and wealth; a sustained increase in the amount of goods and services produced by the nation for the benefit of the people; and an expanding productivity as the key to raising the quality of life for all, especially the underprivileged'.¹²⁴

The State policy under the 1987 Philippine Constitution is to promote a *just and dynamic social order* and *social justice* in all phases of national development. These State policies and principles are declared thus:

The State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free people from poverty through policies that provide adequate social services, promote

¹¹⁹ EO 292, Book IV, Title XIV, Chapter 1, sec 2

¹²⁰ *ibid* Chapter 3, sec 16

¹²¹ *ibid* Chapter 3, sec 17

¹²² Rep Act 7942, sec 2

¹²³ DAO 2012-07 dated 10 September 2012 ('Rules and Regulations to Implement Executive Order No. 79 Dated 6 July 2013 Entitled: Institutionalizing and Implementing Reforms in the Philippine Mining Sector, Providing Policies and Guidelines to Ensure Environmental Protection and Responsible Mining in the Utilization of Mineral Resources')

¹²⁴ Const, art XII, sec 1

full employment, a rising standard of living, and an improved quality of life for all.¹²⁵

The State shall promote social justice in all phases of national development.¹²⁶

In addition to these, the Constitution also declares as State policies and principles valuing human dignity and full respect for human rights,¹²⁷ the fundamental equality before the law of women and men,¹²⁸ the protection and promotion of the people's right to health,¹²⁹ the protection and advancement of the people's right to a balanced and healthful ecology,¹³⁰ the prioritization of education, science and technology, arts, culture, and sports to promote total human liberation and development,¹³¹ the protection and promotion of workers' rights and welfare,¹³² the development of a self-reliant and independent national economy effectively controlled by Filipinos,¹³³ the promotion of a comprehensive rural development and agrarian reform,¹³⁴ the recognition and promotion of the rights of indigenous cultural communities,¹³⁵ the prohibition of political dynasties as may be defined by law, and encouragement of nongovernmental, community-based, or sectoral organizations that promote the welfare of the nation.¹³⁶ These State policies and principles constitute a comprehensive sweep of elements needed in promoting a just and dynamic social order and social justice.

According to the Philippine Supreme Court, the constitutional provision on the right of the people to a balanced and healthful ecology carries with it 'the correlative duty to refrain from impairing the environment'.¹³⁷ The Philippine Supreme Court also related this fundamental legal right to the people's right to health and related constitutional provisions on the conservation, development, and utilization of natural resources. To protect and advance the right to a balanced and healthful ecology, the Philippine Supreme Court promulgated the Rules of Procedure for Environmental Cases, which govern cases involving enforcement or violations of environmental and other related laws, rules, and regulations. Among the laws specifically covered by the Rules are the Philippine Mining Act (Republic Act No. 7942) and the People's Small Scale Mining Act (Republic Act No. 7076).

In addition to the foregoing State policies and principles, the Constitution devotes a long Article with nineteen sections to social justice and human rights. The Article recognizes structural inequalities and prescribes structural reforms. It covers the areas of labor, agrarian and natural resources reform, urban land reform and housing, health, women, and human rights. It has sections on the role and rights of people's organizations. The Article opens with the following provisions:

¹²⁵ Const, art II, sec 9; emphasis supplied

¹²⁶ *ibid* sec 10; emphasis supplied

¹²⁷ *ibid* sec 11

¹²⁸ *ibid* sec 14

¹²⁹ *ibid* sec 15

¹³⁰ *ibid* sec 16

¹³¹ *ibid* sec 17

¹³² *ibid* sec 18

¹³³ *ibid* sec 19

¹³⁴ *ibid* sec 21

¹³⁵ *ibid* sec 22

¹³⁶ *ibid* sec 23

¹³⁷ *Oposa v Factoran*, GR No 101083, 30 July 1993

SECTION 1. The Congress shall give highest priority to the enactment of measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good.

To this end, the State shall regulate the acquisition, ownership, use, and disposition of property and its increments.

SECTION 2. The promotion of social justice shall include the commitment to create economic opportunities based on freedom of initiative and self-reliance.

Reading all the aforementioned Articles of the Constitution together, it is evident that the State policy in the promotion of a just and dynamic social order has the goal of freeing people, including women, from poverty. Social justice is the defining goal of all phases of national development. Social justice requires measures that protect and enhance the right of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good. The enactment of these measures shall be given the highest priority by Congress. In all these, the right to a balanced and healthful ecology, which by implication includes the right to a healthy environment, must be protected and advanced.

This should be the general framework of the State with respect to mining.

Philippine Mining Act and related issuances

Pursuant to the view of mining as a development strategy, the Philippine Mining Act of 1995 ensures the Government's share in the extraction and production of minerals. That share comes in the form of excise tax on mineral products in cases of mineral production sharing agreements, a negotiated share in co-production and joint-venture agreements as well as other compensations for government contributions, and in the case of financial or technical agreements, the contractor's corporate income tax, excise tax, special allowance, withholding tax due from the contractor's foreign stockholders arising from dividend or interest payments to the said foreign stockholders, and other taxes, duties, and fees as provided under existing laws.¹³⁸ The local government units where the mining sites are located have a share in the collections of the national government, in accordance with the Philippine Mining Act and the Local Government Code.¹³⁹

¹³⁸ Rep Act 7942, sec 80

¹³⁹ Rep Act 7942, sec 82; Rep Act 7160, sec 290

The Local Government Code (Rep Act 7160) provides:

SECTION 290. Amount of Share of Local Government Units. - Local government units shall, in addition to the internal revenue allotment, have a share of forty percent (40%) of the gross collection derived by the national government from the preceding fiscal year from mining taxes, royalties, forestry and fishery charges, and such other taxes, fees, or charges, including related surcharges, interests, or fines, and from its share in

SDMP

The law imposes obligations on mining companies in regard to their host and neighboring communities.¹⁴⁰ DAO 2010-21 requires those with mining lease contracts, or parties to mineral agreements or financial or technical assistance agreements, or holders of mining permits or mineral processing permits to assist in the development of their host and neighboring communities by developing and implementing a Social Development and Management Plan (SDMP) every five years.¹⁴¹ The SDMP is a five-year plan towards 'the sustained improvement in the living standards of the host and neighboring communities by creating responsible, self-reliant and resource-based communities capable of developing, implementing and managing community development programs, projects, and activities in a manner consistent with the principle of people empowerment'.¹⁴² It is submitted to the MGB for approval. Based on the approved five-year SDMP, an annual SDMP is prepared which outlines the yearly community development programs/ projects/ activities that should be implemented.¹⁴³

Mining contractors or permit holders are required to allocate seventy-five percent (75%) of at least one and a half percent (1.5%) of their operating costs for the implementation of the SDMP.¹⁴⁴ The SDMP should be prepared 'in consultation and in partnership with the host and neighboring communities'.¹⁴⁵

Certain activities or expenditures may be credited to the SDMP particularly:

a. For the development of the host and neighboring communities:

1. Human Resource Development and Institutional Building - P/P/As geared towards strengthening existing local institutions, fostering the creation of new community organizations, and providing marginalized/disadvantaged groups the opportunity to participate fully in the development of their communities. These shall include, but not limited to, capacity- and capability-building on project management, organizational development, entrepreneurship, and skills development/training;
2. Enterprise Development and Networking – P/P/As geared towards the development and promotion of economically viable community enterprises by providing members of the community access to capital and thereby enhance and stimulate existing livelihood industries and other income generating activities, help create new ones, and develop market

any co-production, joint venture or production sharing agreement in the utilization and development of the national wealth within their territorial jurisdiction.

¹⁴⁰ Rep Act 7942, sec 57, 58. Host community refers to the people living at the barangays outside the mine camp, where the mining project is located. Neighboring communities refer to the people living at the barangays which are adjacent to the host community; areas covered by the mining tenement of the project; areas where mining facilities are located; and immediate areas which will be affected by the mining operations. DAO 2010-21, sec 5 (at)

¹⁴¹ DAO 2010-21, sec 134 (a)

¹⁴² *ibid* sec 5 (co)

¹⁴³ *ibid* sec 5 (c)

¹⁴⁴ *ibid* sec 134 (d)

¹⁴⁵ *ibid* sec 136-A

diversification. These shall include income generating activities, such as animal husbandry, provision of farm implements, establishment of small/micro-businesses, such as household-based food processing, horticulture and agronomy, traditional handicrafts, support to small local businesses through preferential procurement of goods and services from local sources, as well as cooperative development, market linkaging and networking, among others;

3. Assistance to Infrastructure Development and Support Services – P/P/As geared towards stimulating and facilitating other forms of economic activity, such as the development, construction, improvement, and/or maintenance of farm-to-market roads, water systems, post-harvest facilities, bridges, and electric power, among others;

4. Access to Education and Educational Support Programs – P/P/As geared towards providing educational opportunities to members of the community, including scholarships from primary to tertiary education, technical/vocational education, provision of apprenticeship programs, construction/repair/improvement of school buildings and related facilities, provision of school furniture and fixtures, and subsidy to teachers, among others;

5. Access to Health Services, Health Facilities and Health Professionals – P/P/As geared towards achieving overall improvement in the living conditions and health of the host and neighboring communities, such as the provision of health facilities, access to health services, medicines and professionals, health education and preventive measures, training of health paraprofessionals, maternal-child health care and family planning, provision of health insurance, establishment of nutrition and immunization programs, access to clean and potable water, and provision of waste and sewage disposal facilities, among others;

6. Protection and Respect of Socio-Cultural Values – P/P/As geared towards safeguarding the existing socio-cultural values of the host and neighboring communities to promote social cohesion and cultural awareness, and to instill community pride; and

7. Use of facilities/services within the mine camp or plant site, such as hospitals, schools, among others, by members of the host and neighboring communities, the expenditures of which shall be apportioned pro-rata according to the number of people from said communities accommodated in such facilities.¹⁴⁶

EPEP

Section 69 of the Philippine Mining Act of 1995 requires every mining contractor to undertake an environmental protection and enhancement program (EPEP) covering the period of the mineral agreement or permit. The EPEP is required to be incorporated in the work program that the contractor submits as part of its application for a mineral agreement or permit. It should cover the rehabilitation, regeneration, revegetation and reforestation of mineralized areas,

¹⁴⁶ DAO 2010-21, sec 135

slope stabilization of mined-out and tailings covered areas, aquaculture, watershed development and water conservation; and socioeconomic development.¹⁴⁷ Based on the EPEP, the mining contractor prepares a yearly environmental management work plan, called the annual environmental protection and enhancement program (AEPEP).¹⁴⁸

As an environmental management plan spanning the life of the mining project, the EPEP is expected to operationalize the environmental protection and enhancement commitments of mining companies under the Philippine Mining Act of 1995 and DAO 2010-21, the environmental compliance certificate (ECC) under Presidential Decree No. 1586,¹⁴⁹ and the contractors' plan of mining operation. It is the description of the expected and considered acceptable impacts and shall set out the life-of-mine environmental protection and enhancement strategies based on best practice in environmental management in mining.

The preparation, submission, and approval of the EPEP are mandatory conditionalities in the issuance of an ECC. The ECC refers to the document issued by the DENR that allows the acquisition of approvals from regulatory agencies, after which implementation of the project can proceed. It certifies that the proponent has complied with the requirements of the environmental impact assessment system, that the proposed project will not cause a significant negative impact on the environment, and that the proponent commits to implement its approved environmental management plan. It directs the project proponent to comply with the conditions of the ECC and to comply with existing environmental regulations or operate within the best environmental practices.¹⁵⁰

GENDER AND NATIONAL DEVELOPMENT

The broad policy of the State specific to gender is expressed in the constitutional provision declaring that 'the State recognizes the role of women in nation-building, and shall ensure the fundamental equality before the law of women and men'.¹⁵¹ The 1987 Constitution also has a specific provision on working women:

Section 14. The State shall protect working women by providing safe and healthful working conditions, taking into account their maternal functions, and such facilities and opportunities that will enhance their welfare and enable them to realize their full potential in the service of the nation.¹⁵²

Despite the existence of these constitutional policies, the Philippine Mining Act of 1995 does not all mention the issue of gender.

¹⁴⁷ Rep Act 7942, sec 69; DAO 2010-21, sec 5 (ag)

¹⁴⁸ DAO 2010-21, sec 5 (c), (ag). Due to the limitations of this research, no examination was made of the EPEP and AEPEP submitted by large-scale mining companies and its gender dimensions.

¹⁴⁹ This 1978 Presidential Decree establishes an 'Environmental Impact Statement System founded and based on the environmental impact statement required, under Section 4 of Presidential Decree No. 1151, of all agencies and instrumentalities of the national government, including government-owned or controlled corporations, as well as private corporations, firms and entities for every proposed project and undertaking which significantly affect the quality of the environment' (sec 2).

¹⁵⁰ DAO 2010-21, sec 5 (ab), (ag)

¹⁵¹ Const, art II, sec 14

¹⁵² Const, art XIII, sec 14

Employment

There are several provisions in the Philippine Mining Act of 1995 that evidently demands a gender dimension. One is Section 62. It directs the preferential employment of Filipinos in all types of mining employment in the country insofar as they are qualified to perform the corresponding work with reasonable efficiency and without hazard to the safety of operations. The provision has exceptions, such as for technical and specialized work that requires highly specialized training or long experience. Another is Section 64, where the law uses gender-neutral language when it comes to mine labor by stating that 'no person under sixteen (16) years of age shall be employed in any phase of mining operations and no person under eighteen (18) years shall be employed underground in mine'.¹⁵³ However, it makes no mention of adopting a gender-fair policy or of creating opportunities for women to be employed in the mining industry.

Section 136 of DAO 2010-21 also calls for the inclusion of gender considerations. It lists as one of the duties and responsibilities of mining contractors, permit holders, and lessees in the development of their host and neighboring communities the following:

Give preference to qualified Filipino citizens in the hiring of personnel for its mining operations, the majority of which shall originate according to priority from the host and neighboring communities, the host municipality and province where the mine is located: Provided, That the Contractor/Permit Holder/Lessee shall organize, at its own expense, skills enhancement programs in the absence of the needed skills: Provided, further, That it shall give its firm commitment to skills re-formation and entrepreneurship development for people in the mining communities as an integral part of the mine closure process.

In two sections, DAO 2010-21 includes a gender-related human rights standard related to employment. It provides that the following shall be incorporated in the terms and conditions of a mineral agreement or a financial or technical assistance agreement:

A stipulation that the Contractor is obliged to give preference to Filipinos in all types of mining employment for which they are qualified and that the technology shall be transferred to the same;

A stipulation that the Contractor shall not discriminate on the basis of gender and that the Contractor shall respect the right of women workers to participate in policy and decision-making processes affecting their rights and benefits.¹⁵⁴

Related to these are the provisions of the Labor Code and the Women in Development and Nation Building Act¹⁵⁵ on women, development, and employment.

The Women in Development and Nation Building Act declares that 'the State shall provide women rights and opportunities equal to that of men'.¹⁵⁶ It directs the

¹⁵³ Rep Act 7942, sec 64

¹⁵⁴ DAO 2010-21 sec 39 (h) (i), sec 56 (j) (k)

¹⁵⁵ Rep Act 7192 (1992)

¹⁵⁶ *ibid* sec 2

NEDA to 'formulate and prioritize rural or countryside development programs or projects, provide income and employment opportunities to women in the rural areas and thus, prevent their heavy migration from rural to urban or foreign countries'.¹⁵⁷

Article 135 of the Labor Code, as amended by Republic Act No. 6725 (1989), makes it unlawful for any employer to discriminate against any woman employee with respect to terms and conditions of employment solely on account of her sex. Acts of discrimination include: (a) payment of a lesser compensation, including wage, salary or other form of remuneration and fringe benefits, to a female employee as against a male employee, for work of equal value; and (b) favoring a male employee over a female employee with respect to promotion, training opportunities, study and scholarship grants solely on account of their sexes.¹⁵⁸ The DOLE Implementing Rules dated 16 January 1990 define 'work of equal value' as 'activities, jobs, tasks, duties or services, workers or employees are required or called upon to perform and which are identical or substantially identical. Payment of a lower compensation or benefits to a female employee does not constitute a failure to comply with this Section if the difference between the rates of pay is based on length of service or seniority, on location or geographical area of employment, or any factor other than sex and factors on which the difference is based would normally justify such difference in rates of pay'.

This definition of 'work of equal value' does not conform to the CEDAW or the ILO Convention No. 100 when it refers to work that is 'identical or substantially identical'.¹⁵⁹ It has been pointed out that:

some types of work may not be identical or even substantially identical, and indeed they may be very different, but, nonetheless, the work may be of equal value and therefore should be equally remunerated. Consequently, the legislation requires amendment to meet good practice and international norms.¹⁶⁰

In the UN Report to the 2017 UPR of the Philippines, the Government has been urged 'to amend the definition of "work of equal value" with reference to equal remuneration for men and women'.¹⁶¹ The Philippines is obliged to apply the principle of equal remuneration for men and women workers for work of equal value under the ILO Convention No. 100 which it has ratified. Remuneration 'includes the ordinary, basic or minimum wage or salary and any additional emoluments whatsoever payable directly or indirectly, whether in cash or in kind, by the employer to the worker and arising out of the worker's employment'. 'Equal remuneration for men and women workers for work of equal value refers to rates of remuneration established without discrimination based on sex.'¹⁶² The Convention urges States Parties 'to promote objective appraisal of jobs on the basis of the work to be performed' where such action will assist in giving effect to its provisions.¹⁶³

¹⁵⁷ *ibid* sec 4(1)

¹⁵⁸ Article 135 as renumbered. See *The Labor Code of the Philippines Renumbered, DOLE edition* <https://www.dole.gov.ph/php_assets/uploads/2017/11/LaborCodeofthePhilippines20171.pdf>

¹⁵⁹ R Layton and F MacPhail, *Gender Equality in the Labor Market in the Philippines* (ADB 2013) 52, 62

¹⁶⁰ *ibid* 52

¹⁶¹ OHCHR, 'UN Report to the 2017 UPR of the Philippines' <<http://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=4166&file=EnglishTranslation>>

¹⁶² ILO Convention No. 100 (Equal Remuneration Convention, 1951) art 1

¹⁶³ *ibid* art 3 (1)

Other provisions in the Labor Code that prohibit discrimination against women are:

Art. 134. [136] **Stipulation against marriage.** It shall be unlawful for an employer to require as a condition of employment or continuation of employment that a woman employee shall not get married, or to stipulate expressly or tacitly that upon getting married, a woman employee shall be deemed resigned or separated, or to actually dismiss, discharge, discriminate or otherwise prejudice a woman employee merely by reason of her marriage.

Art. 135. [137] **Prohibited acts.** It shall be unlawful for any employer:

(1) To deny any woman employee the benefits provided for in this Chapter or to discharge any woman employed by him for the purpose of preventing her from enjoying any of the benefits provided under this Code.

(2) To discharge such woman on account of her pregnancy, or while on leave or in confinement due to her pregnancy;

(3) To discharge or refuse the admission of such woman upon returning to her work for fear that she may again be pregnant.

Participation

There is no mention in the Philippine Mining Act of community participation in the grant of mining permits, except for the requirement of prior consent of the indigenous cultural community (or indigenous peoples) concerned for any mining to be allowed in an ancestral land and of prior consultation with local government units, nongovernmental and people's organizations, and other concerned sectors of the community in making an environmental impact assessment. Still, the latter does not apply to exploration permits.¹⁶⁴ There is also no mention of community participation or consultation with respect to environmental protection and enhancement programs that contractors are required to undertake during the period of the mineral agreement or permit, or with respect to rehabilitation, regeneration, revegetation and reforestation of mineralized areas, slope stabilization of mined-out and tailings covered areas, aquaculture, watershed development and water conservation, and socioeconomic development.¹⁶⁵ However, DENR AO No. 2017-15 establishes guidelines on public participation under the Philippine Environmental Impact Statement (EIS) System at the various stages of the environmental impact assessment (EIA) process. Such public participation is required in the assessment, management, and monitoring of environmental impacts before, during, and after project implementation and abandonment. The issuance of an environmental compliance certificate (ECC) depends on the conduct of the EIA process. The AO seeks to achieve 'meaningful public participation'. One of its identified outcomes is the 'consideration of the needs of the vulnerable and disadvantage and of gender concerns'.¹⁶⁶ This is the only mention of gender in the AO.

¹⁶⁴ Rep Act 7942, sec 70

¹⁶⁵ *ibid* sec 69

¹⁶⁶ DAO 2017-15, sec 1 and 2

For indigenous peoples, the IPRA has provisions regarding the right of IPs to determine and decide their own priorities for development affecting their lands and territories and to participate in the formulation, implementation and evaluation of policies, plans and programs for national, regional and local development that may directly affect them.¹⁶⁷ Their free and prior informed consent (FPIC) is required for the exploration, development, and use of land, energy, mineral, forest, water, marine, air, and other natural resources equiring permits, licenses, lease, contracts, concession, or agreements from the appropriate national or local government agencies, including feasibility studies.¹⁶⁸ One section in the IPRA states that the 'participation of indigenous women in the decision-making process in all levels, as well as in the development of society, shall be given due respect and recognition'.¹⁶⁹

Environmental protection

Executive Order No. 79, which focuses on environmental protection and responsible mining, is silent on the issue of gender in those aspects. The EO directs the DENR to create a centralized database of all mining-related information, which shall include all available data on the industry from all government agencies and instrumentalities as well as information and data gathered from the conduct of Resource Accounting or Full-Cost Benefit Analysis Studies, in line with the Wealth Accounting and Valuation of Ecosystem Services (WAVES) and the National Climate Change Action Plan (NCCAP). However, there is no directive to ensure that the data that should be generated by agencies has a gender dimension. This omission is significant given that the central base created 'shall be used for evaluation of future mining projects and for the performance review of existing mining operations'.¹⁷⁰

MINING AND THE MAGNA CARTA OF WOMEN

The gaps and weaknesses of mining-related laws passed after the 1987 Constitution was ratified has been addressed to some extent by the Magna Carta of Women or Republic Act No. 9710, which took effect in 2009. However, unless there is consciousness to refer to the Magna Carta of Women in the regulation and operations of the mining industry, gender could very well be still overlooked.

The Magna Carta implements the gender equality provision of the Philippine Constitution, prohibits and provides sanctions or penalties for acts of discrimination against women,¹⁷¹ promotes substantive equality of women and men,¹⁷² and codifies into domestic law women's fundamental rights guaranteed under the CEDAW and all the rights recognized under international human rights treaties that the Philippines has ratified.¹⁷³ The enactment of this law provides a clear basis for the enforceability and implementation of the CEDAW and other human rights treaties in the country, including the comprehensive application of its standards of non-discrimination and substantive equality in regulating and operating businesses such as mining companies.

¹⁶⁷ Rep Act 8371, sec 7 (b) and 17

¹⁶⁸ NCIP Administrative Order 3 ('The Revised Guidelines on Free and Prior Informed Consent (FPIC) and Related Processes of 2012'), sec 19 and 20

¹⁶⁹ Rep Act 8371, sec 26

¹⁷⁰ DAO 2012-07, sec 18

¹⁷¹ Rep Act 9710, sec 35 and 41

¹⁷² *ibid* sec 2, 5 (c)

¹⁷³ *ibid* sec 8

Alongside the broad prohibition of discrimination and the promotion of substantive equality, the Magna Carta of Women guarantees certain rights that are critical in addressing women's situation in the extractive industries and in communities affected by extractive projects.

First, the Magna Carta declares that the State, as the primary duty-bearer, shall protect women against discrimination and from violation of their rights by private corporations, entities, and individuals.¹⁷⁴ Companies in the extractive industries are included in the scope of this duty.

Second, the Magna Carta guarantees women's right to representation and participation. It declares the following as a State policy:

The State shall provide the necessary mechanisms to enforce women's rights and adopt and undertake all legal measures necessary to foster and promote the equal opportunity for women to participate in and contribute to the development of the political, economic, social, and cultural realms. The State, in ensuring the full integration of women's concerns in the mainstream of development, shall provide ample opportunities to enhance and develop their skills, acquire productive employment and contribute to their families and communities to the fullest of their capabilities.

In pursuance of this policy, the State reaffirms the right of women in all sectors to participate in policy formulation, planning, organization, implementation, management, monitoring, and evaluation of all programs, projects, and services. It shall support policies, researches, technology, and training programs and other support services such as financing, production, and marketing to encourage active participation of women in national development.¹⁷⁵

The law further specifies women's right to participation in its Sections 11 and 25. In Section 11, the State commits to undertake temporary special measures to accelerate the meaningful participation of women in the formulation, implementation, and evaluation of policies, plans, and programs for national, regional, and local development, and their equitable representation in the decision-making and policy-making processes in government bodies (local and national), international bodies, as well as in the private sector, in order for them to fully realize their role as agents and beneficiaries of development. A similar commitment is stated in Section 25. The Section particularly mentions the participation of grassroots women leaders in decision and policy-making bodies in their respective sectors, including government agencies involved in agrarian reform, national and community-based resource management bodies, local housing boards, the National Commission on Indigenous Peoples, the National Anti-Poverty Commission, and the Presidential Commission for the Urban Poor. These provide concrete legal basis for women's right to participate in a meaningful manner in decisions affecting them and their communities with respect to extractive projects and social development programs of mining companies.

¹⁷⁴ *ibid* sec 5 (b)

¹⁷⁵ *ibid* sec 2

Third, the Magna Carta ensures women's right to information regarding policies, programs, projects, and funding outlays that affect them. This right is critical in ensuring the right to participation.¹⁷⁶

Fourth, the Magna Carta provides that the State shall institute policies and programs that seek to reduce the poverty and vulnerability to risks and enhance the social status and rights of marginalized women by promoting and protecting livelihood and employment, protecting against hazards and sudden loss of income, and improving people's capacity to manage risks.¹⁷⁷ This provision is significant given the findings in the two case studies covered here.

Fifth, the Magna Carta ensures equal access and elimination of discrimination in education, scholarships and training, and specifically mentions that nontraditional skills training for women shall be encouraged.¹⁷⁸ This is pursuant to the State policy to provide women 'ample opportunities to enhance and develop their skills, acquire productive employment and contribute to their families and communities to the fullest of their capabilities'.¹⁷⁹ These provide legal basis for programs that seek to develop women's qualification and skills to hold jobs that are not traditionally given to women in large-scale mining companies.

Sixth, for women in marginalized sectors, the Magna Carta ensures food security¹⁸⁰ and the equal rights of women to the enjoyment, use, and management of land, water, and other natural resources within their communities or ancestral domains.¹⁸¹ This goes back to women's participation in decision-making processes related to extractive projects and the social development programs developed by large-scale mining companies and how that participation, or lack thereof, determines the benefits, if any, that women receive from the use of natural resources within their communities.

Seventh, the Magna Carta provides that a GAD database shall be generated and maintained. The law provides that 'all departments, including their attached agencies, offices, bureaus, state universities and colleges, government-owned and-controlled corporations, local government units, and other government instrumentalities shall develop and maintain a GAD database containing gender statistics and sex-disaggregated data that have been systematically gathered, regularly updated, and subjected to gender analysis for planning, programming, and policy formulation'.¹⁸² The lack of sex-disaggregated data and gender statistics pertaining to women and large-scale mining can be addressed through the implementation of this provision.

Finally, the Magna Carta provides that the development of a GAD program of any government agency or LGU shall proceed from a *gender audit* of that agency or LGU and their policies, programs, services, and the situation of their constituencies.¹⁸³ Gender audit is a form of 'social audit' or 'quality audit' that determines whether the organization's internal practices and related support systems for gender

¹⁷⁶ Rep Act 9710, sec 26

¹⁷⁷ *ibid* sec 27 (b)

¹⁷⁸ *ibid* sec 13

¹⁷⁹ *ibid* sec 2

¹⁸⁰ *ibid* sec 20

¹⁸¹ *ibid* sec 20 (b) (5)

¹⁸² *ibid* sec 36 (c)

¹⁸³ *ibid* sec 36 (a)

mainstreaming are effective, reinforce each other, and are being followed. This will establish a baseline for the identification of critical gaps, challenges, and recommendations.¹⁸⁴

COMPLIANCE WITH CEDAW COMMITMENTS

The Philippines submitted its combined seventh and eighth periodic reports under the CEDAW on 5 July 2016. The CEDAW Committee issued its Concluding Observations on 25 July 2016 pertaining to the Government's achievements and the gaps in its efforts to fulfill its obligations under the Convention.¹⁸⁵

In its Concluding Observations, the CEDAW Committee expressed its concern 'that women living in rural areas are disproportionately affected by poverty and by food and water insecurity as a result of the discrimination that they face in relation to income, to access to land tenure, to extension services and training, and to participation in decision-making'. It also expressed its concern 'that land appropriation and the resulting displacement due to extractive industries, development projects and disasters continue to affect rural women disproportionately'.¹⁸⁶ It calls on the Philippine Government to integrate a gender perspective in rural development programs, enabling women to participate as decision-makers and beneficiaries. Specifically, it directs the Government to implement 'temporary special measures provided under Sections 11 (a) and (b) of the Magna Carta of Women that do not require legislation for implementation', specifically ensuring 'women's representation on development councils at all levels'.¹⁸⁷ Rural working conditions should also be improved by the Government, setting living wages for women particularly in the informal sector, and closing the gender wage gap between men and women in all areas of employment.¹⁸⁸

The Philippine Government is not due to submit its ninth report to the CEDAW Committee until July 2020,¹⁸⁹ in which it will have to respond to the concerns raised in the recent Concluding Observations. Even then, the CEDAW Committee does not have the authority to enforce compulsory compliance. It can only encourage the Government to comply in good faith with its obligations under the Convention. Hence, the enforceability of the CEDAW remains weak. The Optional Protocol to the CEDAW, a separate treaty that the Philippines acceded to in 2001,¹⁹⁰ provides a more enforceable mechanism for redress. It gives individuals the right to submit a complaint before the CEDAW Committee regarding any violation of their rights under the Convention. However, no complaint pertaining to violations of women's human rights in the context of extractive industries has been filed to date.

¹⁸⁴ The Implementing Rules and Regulations of Republic Act No. 9710, Otherwise Known as the "Magna Carta of Women" (2010) rule II sec 7 (G)

¹⁸⁵ CEDAW Committee, 'Concluding observations on the combined seventh and eighth periodic reports of the Philippines' (25 July 2016) UN Doc CEDAW/C/PHL/CO/7-8

¹⁸⁶ *ibid* para 43

¹⁸⁷ *ibid* para 22 (b)

¹⁸⁸ *ibid* para 35 (c)

¹⁸⁹ *ibid* para 57. The Philippines has yet to submit this report as of the finalization of this study in October 2020.

¹⁹⁰ Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (entered into force 22 December 2000) UNTS Vol 2131 83 <<https://treaties.un.org/doc/Publication/UNTS/Volume%202131/v2131.pdf> >



CHAPTER 5

Women and Mining

Women in large-scale mining companies
Case study 1
Case study 2

CHAPTER 5 WOMEN AND MINING

There is no comprehensive national data on women's participation in the mining industry in the Philippines. There is employment data from the MGB based on the monthly production and employment reports that mining companies submit. According to the MGB, as of 2019, the total employees, both direct and indirect, of forty-two (42) metallic mining companies totalled 34,375. Of this number, 3,791 are female, representing eleven percent (11%) of the total employees (see **Table 1**). Over a period of three years from 2017 to 2019, there was a gradual increase in the *monthly* direct and indirect employment of women in metallic mining companies, from a range of *mostly* a little over nine percent (<9%) to a little less than eleven percent (>11%) in 2017, from over ten percent (<10%) to over eleven percent (<11%) in 2018, and from *mostly* over ten percent (<10%) to over than eleven percent (<11%) in 2019. In one month of 2019, the total employment of women was 16.14 percent (16.14%) of the total employees. The MGB figures show that employment for both men and women in the metallic mining companies fluctuates on a monthly basis.¹⁹¹

PH-EITI's 2017 employment data based on the reports of mining companies participating in the PH-EITI shows a total employment of 25,729 for both men and women. Of this number, 3,174 were women, or 12.33 percent (12.33%). Of the total women employees, 2,393 were regular; the rest were contractual. Of the total women employees, 50 were IPs.¹⁹²

In terms of contribution to national employment, the figure is less than one percent (1%). The PH-EITI reports:

In 2017, direct employment in mining and quarrying was estimated by the PSA and MGB at 203,000. The number has been steadily declining from around 250,000 in 2012 and 2013 to 240,000 in 2014 to 237,000 in 2015 and 220,000 in 2016. The share in total national employment has gone down from 0.66% in 2012 and 2013 to 0.62% in 2014 and 0.61% in 2015. In 2016 and 2017, the share was just 0.5%.

However, per the MGB, it is conservatively assumed that for every job in the mineral industry, about four indirect jobs may be generated in the upstream and downstream sectors.¹⁹³

This study identifies two groups of women in mining. The first group of women are those employed in large-scale mining companies. The second group are those found in mining communities. Some of the women in the second group are also involved in small-scale mining based on conversations with women in the case studies, but since small-scale mining is not the focus of this study, their participation in small-scale mining was not pursued.

Available literature shows that the Philippines has always had a tradition of mining which involved both men and women. One study of Minerva Chaloping-March discusses the historical participation of women in small-scale mining in the Cordillera Region since pre-colonial times, calling it a 'centuries-old livelihood'.¹⁹⁴ The study

¹⁹¹ MGB, 'Employment in Metallic Mining Companies for CY 2017-CY 2019' (Table 1)

¹⁹² PH-EITI, 'Forging New Frontiers: The Fifth PH-EITI Report (FY 2017)' 28

¹⁹³ *ibid* 27

¹⁹⁴ M Chaloping-March (n 10)

describes women's 'ubiquitous' participation in all phases and activities of small-scale mining.¹⁹⁵

The study also tracked the education of women for technical work in large-scale mining in the Philippines from 1927 until 2003. It found that 'in the Philippines mining engineering has essentially been a career pursued almost exclusively by men'. From 1927 to 2003, women comprised only 1.49 percent (1.49%) of the total registered mining engineers in the Philippines.¹⁹⁶ Geology is another field considered a 'masculine' discipline. From 1957 to 2003, women represented only 21.7 percent (21.7%) of the total geology graduates from the National Institute of Geology Sciences of the University of the Philippines.¹⁹⁷ While the number of women in mining-related courses has increased somewhat in recent years, their number is still less than fifty percent. In April 2016, the Philippine Government, in response to the request of the CEDAW Committee for sex-disaggregated data on the situation of education for women and girls, reported that '[m]ore males than females are enrolled in Science, Technology, Engineering, Agriculture and Mathematics (STEAM) courses, while more female[s] than males are enrolled in non-STEAM courses'. Females constituted 32.01 percent (32.01%) of the total enrollees in STEAM courses at the tertiary education level.¹⁹⁸ In its concluding observations, the CEDAW Committee expressed concern about this and recommended that the Philippines 'enhance its efforts to overcome gender segregation in higher education with a view to increasing women's enrolment in non-traditional fields of study such as science, technology, engineering, math and agriculture'.¹⁹⁹

While Chaloping-March highlights women's ubiquitous presence in small-scale mining in the Cordillera, she also shares some of the cultural and other barriers that hindered women's participation in underground mining work, particularly in large-scale mining:

Mining in the Cordillera has commonly been known to consist of tunnels and excavations. Since tunnels require heavy rock and earth works, women are seen as unsuitable to handle the activities thus women have never been included as workers. The nature of the tasks required is considered too strenuous for women. Letting women work in underground areas is deemed insensible because of the risks associated with drilling, blasting and shovelling. The following observation of a mining engineer who used to work at Benguet Corporation's Balatoc mine indicates how women are regarded in terms of involving them in underground work:

We give very high respect to our women here in the Cordillera and in the Philippines in general. Women are to be protected and cared for. Why dare allow them to be exposed to the dangers underground? There's blasting, there's too much noise, there are fumes, there are accidents. Sure, women are as able as men. But that is not the issue. The issue here is about wantonly endangering women. The most difficult and dangerous jobs such

¹⁹⁵ *ibid* 197

¹⁹⁶ *ibid* 189

¹⁹⁷ *ibid* 190

¹⁹⁸ CEDAW Committee, 'List of issues and questions in relation to the combined seventh and eighth periodic reports in the Philippines; Addendum: Replies of the Philippines' (22 April 2016) para 11.3 and Table 7 UN Doc CEDAW/C/PHL/Q/7-8/Add.1

¹⁹⁹ CEDAW Committee (n 185) para 34 (c)

as those performed by miners and muckers are meant to be for men, not at all for women.

Similarly, an engineer and recently retired senior officer of Philex remarked:

I agree that mining is not a typical workplace for women, that is, if the workplace refers to the actual underground excavation site. This is due to the risks associated with it and also due to the physical exertion required of the job. However, mining cannot be done without the support services like geology, finance and accounting, metallurgy, medical, human resource, legal, environmental management, assaying, and others. These jobs, though not always, are known to have been ably handled by women.

Taboo on women's entry into underground areas

The idea of mining being a man's territory interweaves with certain beliefs that women are not supposed to be entering underground work areas. In Lepanto, prohibiting women from entering underground workings has become an established rule. Among the Kakana-ey in Mankayan, stories have been told and re-told that the gold underground is owned by the *anito* (ancestor gods). People believe that specifically in Lepanto, the gold underneath is being protected by a lady *anito*. She became jealous if women are allowed into the underground workings and gets provoked to bring a curse in the form of an untoward incident. In 1989, the Resident Manager of Lepanto issued an official order prohibiting women from the tunnels following a couple of disasters which are believed to have been caused by the violation of the Kankana-ey custom.

...

Unlike Lepanto, Benguet Corporation and Philex do not have policies prohibiting women in the tunnels. A few engineers who used to work at Benguet Corporation's Balatoc and Acupan mines recall that women were not welcome to the underground areas simply because there are many risks. In addition, miners and muckers who perform most of the jobs within the underground workings usually do not wear clothes except underpants due to the extremely hot temperature. Under such circumstances, women entering the tunnels will undoubtedly cause distraction and commotion, if not accidents as a result. Thus far, the only women who used to enter the tunnels consisted of one or two engineers conducting safety inspections. In Philex, women visitors frequent the tunnel for mine tours.²⁰⁰

1. Women in large-scale mining companies

Large-scale mining companies in the Philippines were asked to answer a questionnaire (see **Annex 1**) that would generate a profile of women's participation in their business. Out of the thirty-five (35) participating companies in PH-EITI that

²⁰⁰ M Chaloping-March (n 10) 195-197
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received the questionnaire, only seventeen (17) responded. One of the seventeen has two areas of operation with separate sets of employees. Of the seventeen, six are operating in Luzon, three in the Visayas, and eight in Mindanao.

Women workers

Based on the answers to the questionnaire, the women workers in large-scale mining companies belong to four sub-groups: (1) regular employees, (2) project workers, (3) seasonal workers, and (4) sub-contractual employees (see **Table 2**). All seventeen (17) companies are male-dominated, with women constituting a low of one percent (1%) to a high of forty percent (40%) of the workforce. The forty percent (40%) was reported by a company with only ten (10) employees. Seasonal and project women workers were included in the percentage of women employed. Some discrepancies were noted in the figures reported by several companies.²⁰¹

Gender-based division of labor

The gender-based division of labor is evident in the positions of women in mining companies (see **Tables 3 & 4**). While there are women who perform highly technical and specialized work, their number is small. Very few women hold managerial and supervisory positions. Many are in administrative and office work, finance services, community relations, medical or health services, and general services. Despite this, however, the highly technical and specialized work that some women perform in actual mining operations (as mining engineers, geologists, geodetic engineers, metallurgists, chemists, chemical engineers, mechanical engineers, electrical engineers, civil engineers, and assayists) is heartening.

Compensation and Benefits

Table 5 shows eighteen (18) answers to the four questions on compensation and benefits. As earlier stated, one company has two project sites, which answered the questionnaire separately. For these four questions on compensation and benefits, this study counted the answers from the two sites separately since one project site answered 'yes' to one of the four questions, while the other project site answered 'no'.

Fifteen (15) companies that responded to the questionnaire claimed that women employees enjoy equal pay with their male counterparts of the same rank or position. Two companies answered 'no'. Many of the fifteen explained that they have a salary structure or scale that is followed and that gender is not a factor in deciding on compensation. Others wrote 'gender equality' by way of explanation. One company that answered that women do not receive pay equal to their male counterparts' who occupy the same rank or position said 'based on experience' to explain the 'no' answer.

Fourteen (14) companies claimed that female employees receive the same pay as their male counterparts for work of the same nature. They provided the same explanation stated above. Three (3) companies answered 'no'. Again, one company wrote 'based on experience' to explain the 'no' answer. The two others that answered 'no' did not provide any explanation.

²⁰¹ See Table 2 for the details of these discrepancies.

Sixteen (16) companies said that female employees are given the same work assignment and opportunities as their male counterparts of the same educational qualification or training. One said 'no' without providing any explanation, while another did not answer.

Finally, according to sixteen (16) companies, female employees have equal opportunity for promotion as their male colleagues who have the same or similar educational qualification and perform the same or similar work. They gave as explanation 'gender equality' and 'salary scale' or 'salary band' where gender is not a factor. One said that qualification and work experience are the factors that determined work assignment and opportunities. One company answered 'no', while another did not answer.

One problem implicated in the companies' answers is the definition of 'work of equal value' under the law which does not conform to the CEDAW and the ILO Convention No. 100.

Table 6 shows that several companies do not provide some legally mandated benefits for their women employees, particularly the solo parents' leave²⁰² and the VAWC leave.²⁰³

Table 7 shows that many of the seventeen companies have on-site primary care facilities. Three said they have an on-site hospital. Four have an on-site dental clinic. Seven have an on-site pharmacy. Fifteen companies have an ambulance available.

Union

Nine (9) of the seventeen (17) companies have a union, which includes some women as members. Only two have an all-women organization or association. One of the two is called a women's club. The other was not named, but in the questionnaire, the company vice president for finance and administration claimed that its purpose is 'to promote feminist ideals, eliminate discrimination, and achieve equal rights of all women'.

Training for women employees

Companies cited various education and training activities for their women employees. The categories of education and training reported are related to: (1) career development and skills enhancement, including professional conventions; (2) occupational health, safety, and environmental hazards; (3) financial management; (4) taxation; (5) mandatory continuing legal education; (6) leadership; (8) human rights; (8) certain laws (i.e., cybercrime law, Philippine Mineral Reporting Code). The gender-specific education and training reported included those on the following topics: violence against women and children, sexual harassment, women's health, women's empowerment, women's self-defense, and gender-sensitivity.

Training for community women (host and neighboring barangays)

²⁰² This is mandated under Republic Act 8972 (2000).

²⁰³ This is mandated under Republic Act 9262 (2004).

Companies that said that they provided training for community women in host and neighboring barangays said that those training activities consisted mostly of seminars or training for livelihood.

Complaints of women

The companies listed the following complaints that they had received. The number in parentheses represents the number of companies that provided the answers. Seven companies consistently did not answer any of the questions.

- Unsafe working conditions (3)
- Inappropriate working conditions (1)
- Personal safety and security (2)
- Sexual harassment (5)
- Disrespect for women (3)
- Domestic violence (1)
- Other forms of abuse (2)
- Lack of services for women-specific needs (3)
- Salary/compensation/benefits (1)
- Promotion (0)
- Work opportunities/assignment (1)
- Training for professional skills/development (1)
- Treatment by supervisors/managers/male colleagues (2)

Four companies admitted that sexual harassment occurs within the workplace and that they received a sexual harassment complaint (**Table 8**). Three companies are totally non-compliant with the Anti-Sexual Harassment Act.²⁰⁴ Five companies are only partially compliant since they have no established committee on decorum and investigation as required by law.

SDMPs

This study examined the SDMP reports of twenty-seven (27) large-scale mining companies for 2008 to 2012 (two companies), 2009 to 2013 (six companies), 2010 to 2014 (two companies), 2011 to 2015 (seven companies), 2012 to 2016 (four companies), 2013 to 2017 (four companies), and 2014 to 2019 (two companies). Data from the reports was categorized according to the nature of the programs, projects, and activities reported, particularly: (1) environment, (2) education, (3) health, (4) infrastructure, and (5) livelihood. Some key observations on the SDMPs reviewed are:

- (1) While mining companies are required to have an EPEP, which separates their commitments to environmental protection and rehabilitation from their SDMPs, two companies specified projects and activities connected to environmental management and set budgets for the activities. One company listed quite a number of activities and projects, but failed to set a budget for them. Two companies specifically mentioned envisioning 'a community with sustainable environment' and 'enhancing environmental awareness' but made no mention of any project, program, or activity that would bring about a sustainable environment or enhanced environmental awareness.

²⁰⁴ Rep Act 7877 (1995)

(2) On education, most of the companies gave detailed programs, projects, and activities with a corresponding budget. One company did not specify projects, programs, and activities for impact communities. A big bulk of the companies' budget for education was allocated for scholarship programs. One company even gave scholarships until the post-graduate level. A considerable amount of the budget for education went to hard infrastructure (building and repair of physical structures). Other activities included purchase of educational materials, vocational courses or technical skills training, teachers' development training, provision of computers, multi-media facilities, supporting the alternative learning system, and providing supplemental salaries for teachers and parateachers.

(3) There were two companies that did not list programs, projects, and activities for health. Most companies conducted yearly medical and dental missions and feeding programs. A big bulk of the companies' budget went to the construction of health centers, day care centers, birthing clinics, repairs of health facilities, and purchase of medical equipment and medicines. A handful of companies set a budget for hospitalization assistance or subsidies. Two companies purchased new ambulances. Only one company had a program specifically for people with special needs. One company gave a budgetary allocation for indigenous peoples.

(4) Most of the livelihood projects that companies supported were agricultural (farming crops, livestock) and fishing. A number provided funding for crafts (mat and basket weaving, loom weaving, stuffed toy making, handmade paper making, paper bag making) and home industries (food processing, sewing, tailoring, garment production). A few companies provided funds for micro-lending. Several mentioned training and seminars.

(5) Physical infrastructure was given the biggest budgetary allocation in all the SDMPs, running in the millions and even hundreds of millions of pesos. Compared to this, the budget for the other categories was insignificant. Majority of the infrastructure projects was for the construction, repair, and maintenance of roads, access roads, farm-to-market roads, footbridges, pathways, and water drainage systems. A number of companies allotted budget for water pipes, new water systems, or maintenance of existing water systems. A large portion of the budget also went to the construction of multi-purpose halls, basketball courts, badminton courts, barangay library, daycare centers, and other community infrastructure.

2.

CASE STUDY 1²⁰⁵ MACO, DAVAO DE ORO AND APEX MINES

Apex Mining Co., Inc. (Apex) is a gold mining company with mining operations in the municipality of Maco, Davao de Oro in Mindanao since 1974.²⁰⁶

²⁰⁵ Unless otherwise stated in the footnotes, all the data included in this case study came from the field research, particularly from interviews with key informants and the focus group discussion with community women participants.

²⁰⁶ Apex Mining Co., Inc., 'Company Profile' <https://www.apexmines.com/home/about-us/company-overview/>> accessed 1 December 2019

Maco is considered a first class municipality in terms of income.²⁰⁷ Maco's total population as of 2015 was 81,277,²⁰⁸ with an annual growth rate of 2.27 percent (2.27%).²⁰⁹

Maco has thirty-seven (37) barangays and covers a total land area of 34,223 hectares.²¹⁰ Apex operates in four host barangays of Maco (Teresa, Masara, Mainit, and Tagbaros). Another four neighboring barangays are affected by its mining operations, namely, New Leyte, New Barili, Elizalde, and Panibasan.

The impact barangays in Maco are part of the ancestral domain of the Mansaka, the original IP inhabitants of the area. The Mansaka population varies from barangay to barangay. The Mansaka tribe is represented by the tribal chieftain and the Indigenous People Mandatory Representative on the local legislative councils and all policy making bodies in the local government unit as required by law.²¹¹ The tribal chieftain in Barangay Teresa is a woman.

Key informants in the KII included community women who were members of the councils of women and barangay officials (both men and women) from barangay Elizalde, Limbo, Mainit, Masara, New Leyte, Tagbaros, and Teresa. Those who participated in the focus group discussion were members of the councils of women and female barangay officials from barangay Elizalde, Mainit, Masara, New Leyte, and Limbo.

Barangay Limbo is neither a host nor a neighboring barangay of the Apex mine operations, but several women from the barangay came to participate in the KIIs and FGD in order to share their experience of fish kills and pollution of the river from which they derive food. Barangay Limbo is situated downstream of the Masara River. The Masara River flows to lower level areas in Davao de Oro.

Livelihood

Barangay Masara has the highest number of workers employed by Apex with 295 workers, followed by Teresa with 230 workers. The rest of the impact barangays have far lesser number of persons employed by the company. Mainit has forty workers while Tagbaros has thirty workers in the mines. Almost all of these workers are in the rank and file: miners, mine helpers, machine operators, and machinists.

Except for the employment mentioned above, the host and neighboring barangays continue to depend on farming for their livelihood. The IRA is the main source of revenue of the host and neighboring barangays. In 2010, Elizalde's IRA

²⁰⁷ Philippine Statistics Authority (PSA), 'Philippine Standard Geographic Code' <<https://psa.gov.ph/classification/psgc/?q=psgc/citimuni/118200000>> accessed 2 October 2020

²⁰⁸ PSA, Regional Statistical Services Office XI, Davao Region, '2017 Regional Social and Economic Trends Davao Region' (Table 1.2) <rso11.psa.gov.ph/sites/default/files/2017%RSET%20DAVAO%20Region.pdf> accessed 5 January 2020

²⁰⁹ PSA, 'Quick Statistics', <rso11.psa.gov.ph/sites/default/files/content/QS2017R1182-02ComVal%20QuickStatFeb2017_Updated.pdf> accessed 5 January 2020

²¹⁰ The Official Website of the Municipality of Maco <<https://www.maco.gov.ph>> accessed 5 January 2020

²¹¹ Rep Act 8371, sec 16; 'Rules and Regulations Implementing Republic Act No. 8371, Otherwise Known as "The Indigenous Peoples' Rights Act of 1997"' (1998), sec 6

was the highest at PhP1,908,599, followed by Panibasan's at PhP1,815,091, Masara's at PhP1,444,692, New Leyte's at PhP1,248,424, Teresa's at PhP1,096,102, and Tagbaros' at PhP1,102,049. Mainit and New Barili had the lowest, at PhP811,281 and PhP793,108 respectively.²¹²

The province of Davao de Oro (as Compostela Valley) was ranked 34th poorest of seventy-nine provinces in the country with 0.4644 poverty incidence based on 2000 data sources.²¹³ The poverty incidence in Maco was 35.2% in 2006 and 30.6% in 2009. It went down to 29.6% in 2012.²¹⁴ However, this reported reduction in *income* poverty was not reflected in conversations with women from the communities of Elizalde, Limbo, Mainit, Masara, New Leyte, Tagbaros, and Teresa. They described the hardships they faced and expressed a dire need for livelihood opportunities. Women from those communities have very little opportunities for employment or livelihood. As one woman said during the FGD, '*wala masyadong trabaho, kasi bundok.*' (There is not much work here in the mountains.) Another said, '*konti lang ang may trabaho.*' (Very few have jobs.) When they were asked if they knew of women from their communities who were employed in Apex, they could not name any, except for one mother who said her daughter was working in the cafeteria in one of the housing buildings.

Social and environmental problems

Displacement is a serious problem of poor households in Maco, Davao de Oro. The areas declared as non-habitable or danger zones are increasing. According to the MPDO report, 211 households were displaced due to natural and man-made disasters while thirty-one (31) households were displaced due to armed conflict. The rest of the displacements was due to infrastructure and development projects as well as other types of causes.

Barangay Masara in Maco faces eventual dissolution as the whole barangay area was declared landslide-prone and therefore non-habitable. In Masara, informal mining operates alongside the operations of Apex under an agreement between the informal miners, Apex, and the government. Elizalde is the relocation site of forty-three (43) families who were displaced by a landslide near the mine site in Masara in 2008. Apex relocated them and provided them with livelihood program support.

Women participants said that those of them in the barangays located in the lowland are affected by whatever happens in the upland barangays. However, since they are not host or neighboring barangays of the mining site, they are not considered priority for assistance from the mining company. When the dike uphill overflows, the silt settles in the lowland barangays. Coconuts and vegetables get destroyed. Their irrigation system was destroyed. They claimed that they get the chemical pollution from the upland mining operation.

²¹² DBM, 'CY 2010 Internal Revenue Allotment for Barangays, Region XI, Prov. of Compostela Valley' <https://www.dbm.gov.ph/wp-content/uploads/Issuances/2010/Local%20Budget%20Memorandum/CY2010_IRA/ro11/ro11_brgy_cvalley.pdf>

²¹³ National Statistical Coordination Board, 'Estimation of Local Poverty in the Philippines' (November 2005) <https://psa.gov.ph/sites/default/files/NSCB_LocalPovertyPhilippines_0.pdf> accessed 1 December 2019.

²¹⁴ Philippine Statistics Authority, *2012 Municipal and City Level Poverty Estimates* (31 May 2016) <<https://www.psa.gov.ph/sites/default/files/2012%20municipal%20and%20City%20Level%20Poverty%20Estimates%20Publication%20%28%29.pdf>> 110 accessed 5 January 2020.

In December 2012, Typhoon Pablo brought heavy rains in Davao de Oro (then Compostela Valley) that led to landslides and flashfloods in the different municipalities of the province.²¹⁵ Many houses as well as agricultural crops were destroyed. Farming animals died. Two residents were killed due to the destruction of a bridge and riverways. The women participants expressed fear that another strong typhoon might bring the mountain down on them. If natural hazards like floods and landslides were to occur, their sources of livelihood would be gone.

The viability of sustaining the local economy is severely compromised by environmental degradation. Land for cultivation is decreasing. According to one barangay captain and some women participants, pollution of rivers and streams result in regular fish kills and incidence of skin diseases. These result in poverty that breeds the problems identified by the MPDO in its Municipal Development and Barangay Development Plans: malnutrition among children and diseases, including an unusually high incidence of Upper Respiratory Tract Infection (URTI). As early as 2005, Maco had ranked URTI as the the number one cause of morbidity and pneumonia as the leading cause of mortality in the municipality. URTI was particularly listed as the number one cause of morbidity in Masara, Teresa, and Tagbaros.²¹⁶

Infrastructure

During the research team's field visit, most of Maco's roads were unpaved and extremely dusty. During the monsoons, the roads became muddy and difficult to navigate. A document provided by the Maco MPDO speaks of the 'poor road condition in rural barangays' and states that 'graveled provincial roads and barangay roads dominate the road networks of Maco'.²¹⁷ Communication was extremely difficult because of the lack of, or at best spotty, mobile phone signal in the research areas. Internet was not available in most of the research sites. Public mass transport within the research sites was non-existent. People traveled in the research areas mostly by motorcycle.²¹⁸

As of 2015, forty-eight percent (48%) of households in rural areas have no electricity. The percentage of households without electricity in the host and neighboring barangays of Apex is as follows: Mainit, 87.99%, Tagbaros, 63.78%; New Barili, 67.71%; Panibasan, 55.3%; Elizalde, 48.74%; Teresa, 47.12; and New Leyte, 39.94%.²¹⁹

²¹⁵ Sometime after Typhoon Pablo, some residents of Elizalde, Masara, and Tagbaros organized themselves and held a rally outside the gate of Apex. The residents blamed the company for the flooding.

²¹⁶ Apex Mining Company, Inc., 5-year Social Development and Management Program 2013-2017, 20-21, citing 2015 data from the Municipality of Maco.

²¹⁷ The MPDO of Maco provided this data by email on 14 February 2019 in a document titled 'Integrated Social Sector Analysis'.

²¹⁸ *ibid.* All these posed challenges to the research team and limited the number of women who were able to participate in the field research. According to the Maco MPDO document, there are tricycles providing transport from the Poblacion to the neighboring barangays. Jeepneys and multi-cabs ply the Tagum City-Maco routes, while buses plying the Davao City-Mati, Davao Oriental routes pick up passengers from the Maco Integrated Transport Terminal.

²¹⁹ Maco MPDO (n 218).

Maco has abundant sources of water due to its watershed areas. However, lack of potable water supply is a problem in the municipality. The Municipal Waterworks System serves only forty-one percent (41%) of the total household demand for water supply. The most common water system in the barangays is Level I, consisting of deep wells, serving forty-three percent (43%) of the total households. The host and neighboring barangays of Apex, except for Masara, have a Level II water supply, which involves communal faucet systems drawing water from developed springs through gravity flow.²²⁰

SDMP

The SDMP is supposed to contribute to the 'sustained improvement' in the living standards of barangays hosting and surrounding the mining areas. However, the women participants expressed that they did not feel the positive effects of this program. Most of the programs were focused on hard infrastructure projects. Admittedly, physical infrastructure is needed, but in areas where it most counts for women, like access to medical services, education, and programs that help women build sustainable livelihoods, support was not adequate. Most importantly, aside from women barangay officials, women participants claimed that they were not consulted about the projects that would form part of the company's SDMP.

3. Case Study 2²²¹ Mankayan, Benguet and Lepanto Mines

Mankayan is a first class municipality in the province of Benguet in the Cordillera Administrative Region (CAR). Lepanto Consolidated Mining Company (Lepanto) operates in the municipality. Lepanto has operated in Mankayan since its incorporation in 1936.²²²

Mankayan has a total land area of 130.48 square kilometers, which makes up 4.71% of the Benguet province's total area.²²³ According to the 2015 census, its population was 35,953, which was 8.09% of Benguet's total population.²²⁴ In 2018,

²²⁰ *ibid.*

²²¹ Unless otherwise stated in the footnotes, all the data included in this case study came from the field research, particularly from interviews with key informants and the focus group discussion with community women participants.

²²² Lepanto Consolidated Mining Company, 'Our History' <<https://www.lepantomining.com/our-history>> accessed 15 August 2020

²²³ PhilAtlas, 'Mankayan, Province of Benguet' <<https://www.philatlas.com/luzon/car/benguet/mankayan.html#sectionLocation>>

²²⁴ PSA, Philippine Standard Geographic Code (PSGC) <<https://psa.gov.ph/classification/psgc/?q=psgc/citimuni/141100000>>

Benguet's per capita poverty threshold was PhP11,820,²²⁵ while the poverty incidence²²⁶ was 8.6%.²²⁷

People who hail from Mankayan identify as Kankana-ey. Kankana-ey is the people, the language, and the culture. It is a culture that hails from the belief that they are descendants of the hero-god Lumawig and his wife Bangan. Theirs is a culture that is bound to the land. The Kankana-ey of old used a calendar (see **Table 9**) to base their activities on. It was in balance with nature's processes. The Kankana-ey calendar shows that mining has always been part of their tradition, involving both men and women. However, they were known to practice swidden farming. This meant rotational farming that involved clearing of the land (most times by fire) for cultivation. The land was later on left alone to regenerate. This is worthy of mention because in recent times this practice of burning in order to clear the land has persisted, but the part where the land is left to regenerate is no longer consistently practiced. This practice and other factors, like erosion, land use, and use of synthetic fertilizers, contribute to the acidity of the soil.

In the present day, economic activities still include farming (of cut flowers and upland vegetables) and small-scale mining. During periods when small-scale mining cannot be done (due to a stoppage order or inclement weather), some men seek work in construction sites. A small number find employment in the large-scale mining company (Lepanto).

Most areas within Benguet are at least 1,000 meters above sea level, with steep slopes of thirty percent (30%) and above in eighty-five percent (85%) of its total land area. This makes the province, as most of the CAR, prone to rain-induced landslides.²²⁸ Further, the CAR lies in a seismically active region of the Philippines. The so-called killer quake of July 1990 originated from one active fault, the Digdig Fault.²²⁹ The combination of elevation, percentage of slope, and the proximity to the active fault makes the whole region vulnerable to natural hazards.²³⁰ Mankayan with its history of large-scale mining (especially in Lepanto), spanning over eighty years, is all the more vulnerable. Mankayan is also covered by the Hapol-Agan Forest Reservation.²³¹ Most of the land in Mankayan, and 80.5% of Benguet, is classified as forest land that includes protected areas.²³² 'Such land classification, along with the

²²⁵ PSA, 'First Semester 2018 Poverty Statistics of the Cordillera' (Table 1) <<http://rssocar.psa.gov.ph/content/first-semester-2018-poverty-statistics-cordillera>>. This poverty threshold includes Baguio City. *Poverty threshold* is the minimum income required for a family or individual to meet basic food and non-food needs (clothing, housing, transportation, health and education expenses).

²²⁶ *ibid.* This poverty incidence includes Baguio City. *Poverty incidence* is the proportion of people below the poverty threshold to the total population of the Cordillera Administrative Region.

²²⁷ PSA, 'First Semester 2018 Poverty Statistics of the Cordillera' (Table 3) <<http://rssocar.psa.gov.ph/content/first-semester-2018-poverty-statistics-cordillera>>. *Poverty incidence* is the proportion of people below the poverty threshold to the total population of the Cordillera Administrative Region.

²²⁸ Cordillera Administrative Region Regional Development Plan 2017-2022, 22, 23, 25 <<https://www.neda.gov.ph/wp-content/uploads/2018/02/CAR-Cordillera-RDP-2017-2022.pdf>> accessed 26 September 2019

²²⁹ *ibid* 26

²³⁰ *ibid* 26

²³¹ *ibid* 29

²³² *ibid* 29-30

steep terrain of the region, limits areas suitable for agriculture and settlements such that farms and built-up areas encroach into forest areas.²³³

The barangays that participated in this study were Suyoc (Palasaan), Taneg, and Paco. In 2016, the combined population of these three barangays is 10,102.²³⁴ In 2018, Barangay Taneg received an IRA of PhP2,085,449, Barangay Paco PhP4,466,136, and Barangay Suyoc PhP2,442,791.²³⁵ According to Taneg's barangay captain, when their IRA was divided among the seven sitios, it was not enough to answer all the needs of the barangay.

Livelihood

Lepanto reported 1,924 employees in May 2019. Of this, only 161 were female. Of the 1,706 regular employees, 115 were female. Only 351 were from host barangays, 315 male and 36 female. It reported 1,512 employees from the neighboring barangays. Of this, 96 were female.²³⁶

Women from the host and neighbouring barangays reported that in terms of livelihood assets, it is the financial assets that they needed help with. They did not earn money regularly since they depended mostly on their harvests (if any) and income from small-scale mining. In their words, '*daming lakas bago mo madatnan ang gold, kung meron man, it's not sure*'. (So much work is required to get to the gold, if there is any.) With the stoppage order against small-scale mining, they had to look for other sources of income. The women who participated in this study were not qualified to work in the mining company since they did not meet Lepanto's hiring requirements. Just like in Maco, they did not know of women from their communities who worked in the mining company, except for a handful who work as kitchen staff near the staff houses.

Those who worked in Lepanto and those who depended on husbands who worked in Lepanto were affected when Lepanto's production was low. Some women reported that sometimes salaries were delayed. Even those women who owned small businesses in and around the mines felt the pinch when production was low.

In Taneg, when asked if they would go hungry if Lepanto closed the next day, a number of women said they would not. They had ways, they said. They even said that they could take over from the mining company and operate it themselves. '*Kami na lang. Sigurado pa na kami ang makikinabang, mapupunta sa amin talaga*.' (We could take over from them. For sure it will directly benefit us.)

One hopeful thing was the enduring *bayanihan* spirit that was still felt in the community. This was for them a great source of social capital in that they could rely on each other. Since the Kankana-ey tend to live close to each other, support is easily sought and received. This enduring spirit prevails in Mankayan because it is reinforced by the Kankana-ey culture of treating neighbours as family members. During the KII, they were asked if they knew of children who did not go to school because of poverty. They said that it did not happen because when they saw that

²³³ *ibid* 30

²³⁴ CARO DOH, 'Population by Barangay, Cordillera Administrative Region, 2011-2016' <caro.doh.gov.ph/wp-content/uploads/2014/12/Barangay-Population-CAR-2011-2016.pdf> accessed on 21 September 2019.

²³⁵ The barangay captains of the three barangays provided this data in the KII.

²³⁶ Discrepancies were noted in these numbers. See Company 3 in Table 2, with observations in footnote 6.

their neighbours needed help, they provided help. While the Maco women also have a women's group, it was not apparent that they functioned as closely as the women in Mankayan. One factor could be that the women population in Maco came from different cultural or ethnic groups, which affects the way they connect with each other as a community.

*Social and environmental problems*²³⁷

The Kankana-ey calendar gives us an idea about their relationship with the land, their dependence on nature's resources, and how in the present day changes in nature also change the way people live and sustain themselves. With the way the Kankana-ey feel kinship with the land, the women participants expressed concern about how their landscape has changed. Green mountains are now brown. Where it was easy to make crops grow, the soil is now unyielding. They shared that crops that used to grow in abundance (like *sayote* or chayote, *camote* or sweet potato, and guava) were not growing well anymore. Their *sayote* matures looking like bitter melon (*ampalaya*), the *camote* dies before it is able to form, and the guava grows with black spots on them. This led them to assume that the soil has become acidic.

The availability of water was also a major concern. Where there used to be an abundance of water from mountain streams, now the water shortage was almost life-threatening especially in the summer. Livelihood sustainability relied heavily on natural resources. Without the natural resources that they could depend on, their situation was dire especially since farming was their only option after small-scale mining was no longer possible.

Mining increased the community's vulnerability to hazards. In portions of the land in Barangay Suyoc, the ground was already sinking, which some participants attributed to Lepanto's underground mines. This and other previous incidents of subsidence led to protests and petitions for the closure of the Lepanto mines, as reported in 2016.²³⁸ Residents first observed the ground sinking in Mankayan in 1972, almost four decades after Lepanto started operations in 1936, in Barangay Poblacion. Massive and disastrous subsidence occurred in that barangay on 5 June 2009 and in Colalo, Mankayan on 26 July 1999.²³⁹ Over the years, there had been several reported occurrences of subsidence. Residents attributed these incidents to the underground tunnel operations of Lepanto.²⁴⁰

²³⁷ The Cordillera People's Alliance prepared a case study on the impacts of mining and dams on the environment and indigenous peoples in Benguet, Cordillera which it presented at the International Expert Group Meeting on Indigenous Peoples and the Protection of the Environment. For a copy of this paper, see <http://www.un.org/esa/socdev/unpfii/documents/workshop_IPPE_cpp.doc>.

²³⁸ Devteam, 'More villages call to stop Lepanto mines' (Philippine Task Force for Indigenous Peoples' Rights, 3 February 2016) <<http://philtfip.org/2016/02/03/more-villages-call-to-stop-lepanto-mines/>>

²³⁹ Maria Elena Catajan, 'The tale of two towns: Sinking villages in Itogon and Mankayan' *S Baguio* (29 September 2018) <<https://www.sunstar.com.ph/article/1766744/Baguio/Feature/The-tale-of-two-towns-Sinking-villages-in-Itogon-and-Mankayan>>; Harley Palangchao, 'Huge slide sparks off Mankayan evacuation' *Baguio Midland Courier* (14 June 2009) <<http://www.baguiomidlandcourier.com.ph/front.asp?mode=%20archives/2009/june/6-14-2009/front6.txt>>; Aldwin Quitasol, 'Mankayan sinking due to rains and bulk mining' *Northern Dispatch* (21 June 2009) <<https://nordis.net/2009/06/21/article/mankayan-sinking-due-to-rains-and-bulk-mining/>>

²⁴⁰ In one statement, the BAMPIS Mining Watch demanded that, other than suspension or even permanent shutdown of Lepanto's operations, the DENR should also order Lepanto to backfill its

The incidents of ground subsidence in Mankayan have caused constant fear among its residents. One woman expressed it this way:

Wherever I am – in my vegetable garden at work or being here in front of you today – I am never at peace knowing that anytime, another disaster will happen. I think of my children who are now in school. What if the ground will suddenly collapse and sink again, like it did last June 5?²⁴¹

SDMP

Lepanto's SDMP focused on hard infrastructure such as road improvement and repair. While roads were important and provided access to the communities, 'sustained improvement in the living standards of the host and neighboring communities' requires more than road construction, repair, and improvement. Still, despite the focus on hard infrastructure, farm-to-market roads were still lacking. The town mayor validated this when he addressed the women during the FGD.

The women participants explained that they would have benefited from the SDMP if they had continued financial support after the livelihood training they attended. For example, some of them took a meat-processing training in Guinawang, but they were not able to make use of the skills when they went back to their communities because they did not have the machine to process meat. The company also offered hog-raising training. If one were interested, she could enlist for the training. Someone would inspect if the applicant had provisions for a pig pen. If the applicant qualified, she was trained and given a pig to raise. If an interested applicant did not have provisions for a pig pen, she was disqualified from the program. Some of the women from Barangay Paco said that some had been successful in establishing lucrative businesses in their communities after they received training. However, they had the advantage of a strategic location and a bigger barangay population, resulting in better traffic for the shops.

Barangay Taneg's five-year SDMP plan submitted in 2018 showed the allocation of a 6.9 million budget.²⁴² The amount was allocated for concreting pathways, restoring roads, installation of water pipes, construction of a water tank, purchase of medical equipment and supplies and school kits, and workshops on technical writing and project proposal-making. There was only one livelihood program: concrete

channels. It said: '[Lepanto's] driving, development, and mining of these tunnels has [sic] caused tremors, and the cracking, subsidence, and caving of the surface – e.g. in Aurora within the Poblacion of Mankayan, Benguet, where 50 square meters of the Mankayan National High School grounds caved in 2009; in Pacda and Tabbac within barangays Suyoc and Bulalacao, Mankayan, where the driving and development of the Nayac Twin Decline tunnels has generated so much ground subsidence that the floors and walls of houses have cracked and sank by as much as half a meter.' BAMPIS Mining Watch, 'Philippines: Denr should ensure proper mine closure, tailings dam decommissioning and rehabilitation of areas damaged by Lepanto' (Indigenous Peoples Human Rights Defenders Network 29 September 2016)

<<https://iphndefenders.net/philippines-denr-ensure-proper-mine-closure-tailings-dam-decommissioning-rehabilitation-areas-damaged-lepanto/>>

²⁴¹ MAC, 'Philippines: Lepanto - Shattering its Own Myth of Safe and Responsible Mining' (10 July 2009)

<<http://www.minesandcommunities.org/article.php?a=9349>>

²⁴² The barangay captain of Barangay Taneg provided this document.

hollow block-making. The target beneficiaries of this program were out-of-school youth and unemployed men in the community. There was no plan for any livelihood program for women. In the 2012-2016 SDMP plan of Lepanto for Barangay Suyoc and Paco, there was no allocation for any livelihood development program. Just like in Maco, the women participants in this study said that only women barangay officials were present in the planning of Lepanto's SDMP.



CHAPTER 6

Key Findings

Employment in large-scale mining companies
Sustainable livelihood
SDMPs
Environmental impact
Law and policy

CHAPTER 6 KEY FINDINGS

The data shows that women are employed in large-scale mining industries. However, they constitute a small minority of the workforce.

Historically, Mankayan women were active participants in traditional small-scale mining. In Maco small-scale mining communities, women also help in washing the mud from rocks. In addition to their traditional roles in the home, women also earn livelihood outside of mining. They also hold knowledge about their environment. They are the holders of their history, as Apong Pacing of Suyoc, Mankayan is, making sure that their stories, the story of women in mining, and that of the land are not forgotten.

1. *Employment in large-scale mining companies*

(a) While the companies that responded to the survey said that they have a policy on equal employment opportunity for qualified women in available positions, the actual number of women employed in the companies was small. The MGB and PH-EITI data on women's employment is similar. Tested against the substantive equality standard of the CEDAW, this low number is inconsistent with the *equality of opportunity* and *equality of outcomes* that the State is supposed to work for in the area of employment of women.

(b) Several factors could account for this low employment of women. One could be the cultural and physical barriers that Chaloping-March discussed in her study, particularly the view that heavy rock and earth works are considered too strenuous for women and the taboo on women's entry into underground mining sites. Another could be the educational track of women, shown in the Philippine Government's data that fewer women compared to men enrol in STEAM courses at the tertiary education level. The recruitment and hiring policies and practices of companies could be another. Further research is needed in this area to ascertain what barriers to women's employment in mining companies exist, particularly in jobs considered traditionally male, and how the recruitment and hiring policies and practices of companies affect women's employment. Since the low employment of women in the mining industry *could indicate* discrimination against them and *could implicate* the State's obligation to address discrimination against women, this research should ascertain whether direct, indirect, or intersectional discrimination against women accounts for the small number of women employed in large-scale mining companies. The research should also identify measures that the State should undertake to eliminate any discrimination against women in employment in the mining industry.

(c) The cultural factors that Chaloping-March identified in her study that impede women's participation in mining work implicate the State's obligation under Article 5 of the CEDAW. Article 5 obliges States Parties to 'take all appropriate measures to modify social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women'. Any further study should identify the extent that cultural factors impede women's employment in the mining industry and recommend measures that the State could undertake to comply with its obligations under Article 5.

(d) The gender division of labor is evident in the work that women perform based on the answers of the seventeen (17) large-scale mining companies to the questionnaire. Very few women are in supervisory and managerial positions in the companies that participated in the study. Most women occupy jobs that are administrative. Similar to the above, further research is needed in this area in order to determine the reasons for this and to identify the biases, if any, that exist against the employment of women in positions other than those that they traditionally occupy. The study should also explore how gender roles and responsibilities in the family and the community affect, if at all, the ability of qualified or skilled women to be employed in large-mining companies. Similarly, the study should identify measures that the State should undertake to address any gender biases or barriers in this area.

2. Sustainable livelihood

(a) The communities involved in the case studies had no sustainable livelihood. Employment in the mining companies is not sustainable. This is consistent with national data that shows that direct employment in mining and quarrying fluctuates and that as of 2016 and 2017, its share in national employment was only 0.5%. Agriculture and fishing are the main economic activities in the impact barangays. Farmers in the impact barangays complain of the shrinking area for cultivation. Fishing is also unsustainable with the frequent occurrence of fish kills due to the pollution of rivers and streams.

(b) From the standpoint of the women participants in this study, the employment of women from their communities in Apex and Lepanto is insignificant. In fact, the women who participated in the case studies could not mention, even when asked repeatedly, about the number of women employed by Apex and Lepanto from their *own* communities. This is consistent with the MGB and PH-EITI data showing that women constitute only a very small percentage of the total employed in mining companies.

(c) Outside of employment in the mining companies, women's sources of livelihood did not appear consistent and sustainable given their lack of adequate training and financial capital. They do not have full access to the resources around them so that they can adapt to changes around them.

(d) The environmental problems narrated by the participants in the case studies, some of which they attributed directly to the mining operations in their areas, have affected community resources or assets that could have been used to develop sustainable livelihoods. With the threat of hazards like subsidence, landslides, flooding, erosion, water pollution, and soil degradation, there is little hope for inter-generational sustainability of any livelihood.

(e) Despite the financial and other economic contributions of large-scale mining to the impact communities in Maco, the host and neighboring communities remain largely poor.

(f) Mankayan has better roads than Maco. It has clear mobile phone signals that allow people to communicate with each other. In Maco, most of the barangays did not have mobile phone signal. The roads and transport are always a challenge for most. These makes it difficult for people to communicate and stay connected

with each other. If they are deprived of access to means of communication with each other, their social capital will have little chance of being strengthened.

3. SDMPs

(a) The SDMPs of the two large-scale mining companies involved in the case studies had positive contribution to the communities, especially in terms of physical infrastructure and livelihood. But, as shown in the case studies, the livelihood component was not sustainable.

(b) Consultations were reportedly conducted in the development of the SDMPs as required by law. Some women reportedly attended those consultations, but according to the participants, those women were barangay or LGU officials. This did not constitute equal, full, meaningful, and inclusive participation under the normative standards of international human rights law and the Magna Carta of Women.

(c) The bulk of the SDMP projects focused on hard or physical infrastructure. Compared to the expenditure on physical infrastructure, the allocation for livelihood, health, and education was significantly small. These latter areas matter to women most, as articulated by the participants in the case studies.

(d) Only a couple of companies designed programs specifically targeting women. Others only included women as beneficiaries in addition to men. It is not clear whether any of the companies had an appreciation of gender as a critical factor in designing and implementing programs. This failure can be attributed to the lack of guidelines in the development of SDMPs for the inclusion of gender-responsive projects.

4. Environmental impact

(a) In Mankayan, Benguet, specifically in Barangay Suyoc, there are sitios where the ground is sinking. Clean water is also a main concern. The old water sources, *ubbug* or springs, have dried up.

(b) Displacement is a serious problem of poor households in Maco, Davao de Oro. The areas declared as non-habitable or danger zones are increasing.

(c) A major negative impact is on tribal communities, particularly the loss of ancestral sacred places and the threat of losing ancestral land. Traditional flora and fauna have been decimated by the continuous extraction of mineral ores and expansion of mining operations. Especially for the impact barangay communities of Mankayan, who mostly are Kankana-ey, these effects are significant because of their connection to the land. Where they used to base human activities on nature's processes, now they are at the mercy of the negative effects of large-scale mining operations. The rains do not come as often as it used to, leaving the ground very dry. Forest fires happen more frequently than ever.

(d) The viability of sustaining the local economy is severely compromised by environmental degradation. Land for cultivation is decreasing. Pollution of rivers and streams results in regular fish kill and incidence of skin diseases.

(e) The environmental problems that the participants identified are indications of a failure to enforce environmental laws and standards, implicate State obligations to protect and fulfill the right to a clean, safe, healthy, and sustainable environment,

and negate the achievement of SDG Goal 15 to ‘protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss’.

5. Law and policy

There exists an adequate international and domestic legal, policy, and normative framework that addresses the gender dimensions of mining. However, there are also significant gaps in content and implementation. Those gaps must be addressed in order to ensure compliance with State obligations on human rights and to facilitate interventions to address the needs of rural women in mining communities. Specifically, the gaps are:

(a) There is no gender dimension or any mention of gender in the Philippine Mining Act of 1995, EO 79, and most of the mining-related administrative issuances. The implementing rules and regulations of the Philippine Mining Act have two provisions requiring mining companies to commit not to discriminate on the basis of gender and to respect women workers’ right to participate in policy and decision-making processes affecting their rights and benefits.

(b) The right to consultation and participation specifically of *rural* or *grassroots* women from mining communities is not specified in the laws and administrative issuances related to mining. This gap explains in part the lack of consultation with community women in the two study sites in crafting the SDMPs of the mining companies. The Magna Carta of Women could be used to require participation of and consultation with grassroots women in decision-making involving extractive projects and the development of SDMPs.

(c) There is no policy or detailed guidelines on including gender-responsive projects in SDMPs. This explains the lack of gender-responsive projects in the SDMPs reported by twenty-seven (27) large-scale mining companies.

(d) There is evident non-compliance with or violations of laws related to women’s rights by some of the seventeen (17) large-scale mining companies that responded to the survey. In particular, some companies failed to comply with the Anti-Sexual Harassment Act (Republic Act No. 7877), the Anti-VAWC Act (Republic Act No. 9262), and the Solo Parents’ Act (Republic Act No. 8972). This implicates the State obligation to protect women from human rights violations by business enterprises. Companies that are non-compliant not only violate the laws mentioned but also their corporate responsibility to respect human rights under the Guiding Principles on Business and Human Rights.

(e) None of the companies included in this study has undertaken the key steps pursuant to the UN Guiding Principles on Business and Human Rights. There is also no national action plan to comply with the Guiding Principles. With no voluntary compliance from the companies and in the absence of a NAP for business and human rights, holding companies in extractive industries accountable for business-related human rights violations becomes a serious challenge.

(f) The definition of ‘work of equal value’ under the implementing rules of Article 135 of the Labor Code does not conform to the CEDAW and the ILO Convention No. 100. This non-compliance with human rights norms and standards has serious implications for women employed in the mining industry who are not protected from discrimination in terms of remuneration.

Due to the limitations of this research,²⁴³ it was not possible to generate adequate data on gender and power relations, women's access to and control over resources, and gender roles and responsibilities in the research sites that would enable a gender analysis of how the issues and problems that mining has introduced 'intersect with and impact on gender relations and roles' in the impact communities.

²⁴³ See Chapter 1 on Scope and Limitations.



CHAPTER 7

Conclusion & Recommendations

CHAPTER 7

CONCLUSION AND RECOMMENDATIONS

Women are involved in mining in the Philippines. There is literature that describes women's historical participation in small-scale mining, considered a 'centuries-old livelihood' in the Cordillera region. There is no national data on women's actual participation in small-scale mining in the Philippines, but the research team's conversations with the women in Mankayan, Benguet indicate that women are a significant part of whatever small-scale mining occurs in or around the communities of Mankayan.

Women's participation in large-scale mining is a different story. As shown in this study, large-scale mining companies are male-dominated. Women constitutes a small minority of the labor force. The gender division of labor is apparent in the large-scale mining companies that participated in this study. Very few women are in leadership positions. Majority of the women employed in large-scale mining companies occupy rank and file positions and perform jobs that are either perceived as women's work or extensions of women's work at home. Still, that a number of women employees, albeit very small, perform highly specialized and technical work in mining operations is heartening.

The case studies show that women in communities try to be agents of change in their situations. However, constraints stop them from improving their lives and the lives of their families. Mining operations in their communities appear to have had no significant positive impact on their economic situation. Based on women participants' responses in the case studies, employment of rural women from host and neighboring barangays was insignificant. Yet, they and their communities bear the brunt of the environmental destruction around them, some of which they directly attributed to the operations of mining companies.

Under the law, mining companies are supposed to contribute to the development of their host communities through social development programs. However, the women participants in this study reported that, with the exception of women barangay officials, mining companies failed to provide spaces for their meaningful participation in the development of those programs. This resulted in a failure to develop programs that are gender-responsive.

Women's human rights must be respected, protected, and promoted at all times, both by the State and mining companies. To ensure that measures are taken in pursuit of this, the research team recommends the following:

RESEARCH

(1) Further research is needed on the employment of women in the mining industry, given the low employment of women and the gender division of labor in the nature of work that they perform in the large-scale mining companies included in this study. The research should ascertain what gender-based barriers – educational, physical, socio-cultural, and others – exist against their employment, particularly in jobs considered traditionally male, and how women are recruited. The research should be able to ascertain whether discrimination against women accounts for the small number of women employed in large-scale mining companies. The research should identify the measures that the State should undertake to address any gender-based barriers in compliance with the obligations of the State under international

human rights treaties to eliminate discrimination against women and promote substantive equality.

(2) The research conducted here involving seventeen large-scale mining companies should be expanded to include all mining companies in the Philippines towards generating comprehensive data. The instrument used in this study could be improved towards this end.

(3) Further research is needed on the impacts of mining on women. In order to explore in depth the social, environmental, and economic impacts of mining on women, specific research on each particular area should be done. Such research should also address the question of whether mining companies, and extractive industries in general, have made a significant contribution to the eradication of poverty among rural women in host and neighboring barangays and how their operations have affected the sustainability of livelihoods of women and men in communities. A comprehensive assessment of the impact of the SDMPs of mining companies should be included in this research.

(4) In order to complete the picture of the impact of mining on women, research should also be done on women in artisanal and small-scale mining. In conversations with women involved in the two case studies, they expressed that they have more access to the benefits of artisanal and small-scale than in large-scale mining which is primarily employment-related and where opportunities are largely for men. This research could inform law and policy in this area.

(5) An adequate budget should be provided for all the researches recommended above.

LAW AND POLICY

(1) The Philippine Mining Act of 1995 and all mining-related issuances should be reviewed and revised towards integrating a gender dimension in all areas of regulation of the mining industry, including exploration, exploitation, and utilization of mineral resources. Such revision should particularly ensure: (a) the equal, full, meaningful, and inclusive participation of rural women in all decision-making processes related to the mining industry and in mining-related activities; and (b) the development of women's qualifications and skills, particularly of rural women, to enable them to benefit directly from employment in extractive projects. Such review and revision must take into account and be consistent with the Magna Carta of Women.

(2) The Government should adopt, at the soonest possible time, a national action plan to implement the UN Guiding Principles on Business and Human Rights. Such national action plan should be developed with the equal, full, meaningful, and inclusive participation of a diversity of women and particularly including grassroots or rural women.

(3) Mining companies and all companies in the extractive industries should be required to adopt an equal opportunity policy for the employment of women, particularly of rural women. At the same time, mining companies and all companies in the extractive industries should be required to support the education and training of women, particularly rural women, to make them qualified for work in mining operations other than in traditional jobs made available to them.

(4) The Government should amend the definition of ‘work of equal value’ under the implementing rules of Article 135 of the Labor Code in order to make it conform to the CEDAW and the ILO Convention No. 100.

(5) Mining companies should be directed to fully comply with all laws, particularly those related to women, including the Magna Carta of Women, the Anti-Sexual Harassment Act, the Solo Parents’ Welfare Act, and the VAWC Act. The Government should monitor the companies’ compliance with these laws.

(6) Pursuant to the Magna Carta of Women, mining companies and all companies in the extractive industries should be required to generate and maintain sex-disaggregated data on women and gender in extractive industries, including but not limited to the employment of women and men, the nature of their work, their participation in decision-making and in the development and implementation of programs, their gender issues and concerns, and the programs that have been developed to address those issues and concerns. Such sex disaggregated data should further include specific data related to rural women.

(7) The Government should conduct an environmental audit of the two mining sites covered by the case studies given the serious environmental problems that the study participants identified. Such an audit is necessary to address the problems identified, to protect and promote the right of women and their communities to a clean, safe, healthy, and sustainable environment, and to promote the achievement of SDG Goal 15.

(8) Mining companies and all companies in the extractive industries should be required to ensure the equal, full, meaningful, and inclusive participation of rural women in the host and neighboring barangays in the planning, development, and implementation of programs or projects pursuant to the companies’ obligation to develop and implement a social development and management plan.

(9) There should be detailed guidelines for the SDMPs in the allocation of funds for community projects other than physical infrastructure. Such policy and guidelines should require the inclusion of gender-responsive projects in SDMPs particularly targeting rural women in host and neighboring communities of mining sites.

(10) Mining companies should be required to conduct a periodic gender impact assessment of their operations. The results of such gender impact assessment should form part of government’s monitoring and evaluation of the operations of mining companies and should inform law and policy.

(11) There should be focus on developing sustainable livelihoods for rural women as a central component of any poverty eradication program.²⁴⁴

FOR MINING COMPANIES

Mining companies should:

²⁴⁴ For an extensive critique of the Government’s poverty eradication and development policies, see National Anti-Poverty Commission Secretariat, ‘Reforming Philippine Anti-Poverty Policy: A Comprehensive and Integrated Anti-Poverty Framework’ (2017) <<http://www.napc.gov.ph/sites/default/files/documents/articles/Reforming%20Philippine%20Anti-Poverty%20Policy.pdf>>.

(1) consider voluntary participation in the UN Global Compact towards aligning business practices with the principles of business and human rights and towards contributing to the achievement of the SDGs.

(2) comply with all laws and policies pertaining to women, including the Magna Carta of Women, the Solo Parents' Welfare Act, the VAWC Act, and the Anti-Sexual Harassment Act.

(3) adopt a policy of equal employment opportunity for women who are qualified for available company positions as well as develop and implement a program to make the implementation of such policy possible.

(4) ensure that SDMPs are developed and implemented with the equal, full, meaningful, and inclusive participation of a diversity of community women, particularly rural women from host and neighboring barangays, and not only women who are LGU or barangay officials.

(5) ensure that SDMPs include gender-responsive projects and are gender-responsive to the strategic needs and interests of rural women.

FOR LOCAL GOVERNMENT UNITS²⁴⁵

Local government units should:

(1) ensure the equal, full, meaningful, and inclusive participation of rural women who are not barangay or LGU officials in the development of programs and projects that concern women and their communities.

(2) take into account gender issues in all aspects of their work.

(3) undertake programs and projects that promote sustainable livelihoods in communities and ensure that any livelihood training is progressive, sustained, and supported.

(4) give priority to the development of a fully equipped and staffed municipal hospital, tertiary level education facilities, and a K-12 school in every barangay.

(5) develop and implement education and training activities on human rights, women's rights, and mining-related and environmental laws.

(6) Set up a materials recovery facility for every barangay.

(7) Explore technology to handle solid waste (e.g., a machine that could recycle plastic wastes as raw materials for other products such as plastic chairs).

(8) Support and fund projects of women's associations, including providing support for women's associations that want to establish a women's cooperative.#

²⁴⁵ The recommendations for LGUs included here came from the women participants in the case studies. These are included here pursuant to the commitment of the research team to bring the women's recommendations to the attention of government agencies.

LEGAL AUTHORITIES

I. Domestic

1987 Philippine Constitution

Statutes

Executive Order No. 292 (1989)
Presidential Decree No. 442 (1974), as amended and renumbered
Presidential Decree No. 1586 (1978)
Republic Act No. 7160 (1992)
Republic Act No. 7192 (1992)
Republic Act No. 7877 (1995)
Republic Act No. 7942 (1995)
Republic Act No. 8371 (1997)
Republic Act No. 8972 (2000)
Republic Act No. 9262 (2004)
Republic Act No. 9710 (2009)
Republic Act No. 11297 (2019)

Administrative Issuances

Executive Order No. 79 (2012)
Executive Order No. 147 (2013)
DENR Administrative Order No. 2010-21 (28 June 2010)
DENR Administrative Order No. 2012-07 (10 September 2012)
DENR Administrative Order No. 2017-15 (2 May 2017)
NCIP Administrative Order No. 3 (2012)
Implementing Rules and Regulations of Republic Act No 9710, Otherwise Known as the “Magna Carta of Women” (2010)
Rules and Regulations Implementing Republic Act No. 8371, Otherwise Known as “The Indigenous Peoples’ Rights Act of 1997” (1998)

Supreme Court Decision

Oposa v. Factoran, G.R. No. 101083, 30 July 1993

II. International

International Treaties

International Covenant on Civil and Political Rights (1966)
International Covenant on Economic, Social and Cultural Rights (1966)
Convention on the Elimination of All Forms of Discrimination Against Women (1979)
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (1999)
Convention on the Rights of the Child (1989)
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TABLES

Table 1. Employment in Metallic Mining Companies CY2019

Name of Producer	Project Name	2019		
		Male	Female	Total
Filminera Resources Corporation	Masbate Gold Project	1,015	137	1,152
Philippine Gold Processing & Refining Corporation	Masbate Gold Project	703	82	785
Philsaga Mining Corporation	Banahaw Gold Project	2,899	61	2,960
Mindanao Mineral Processing & Refining Corp./Philsaga Mining Corporation		31	9	40
APEX Mining Company, Inc.	Apex Maco Gold Operation	1,756	142	1,898
Lepanto Consolidated Mining Company (MPSA No. 01-90-CAR)	Victoria Gold Project	1,936	215	2,151
Greenstone Resources Corporation	Siana Gold Project	86	26	112
FCF Minerals Corporation	Runruno Gold-Molybdenum Project	503	222	725
Benguet Corporation	Acupan Contract Mining Project	788	87	875
Itogon-Suyoc Resources Corporation	Sangilo Gold Project	359	42	401
Oceanagold Phils., Inc.	Didipio Copper-Gold Project	1,067	148	1,215
Philex Mining Corporation	Padcal Copper Project	2,254	199	2,453
Carmen Copper Corporation	Toledo Copper Project (Carmen Area)	2,243	191	2,434
Carmen Copper Corporation	Toledo Copper Project (Lutopan) under care & maintenance	12		12
Dinapigue Mining	Isabela Nickel Mining Project	182	68	250
Benguet Corp. Nickel Mines, Inc.	Sta. Cruz Nickel Project	255	39	294
Eramen Minerals Inc.	Sta. Cruz Nickel Project	132	24	156
LNL Archipelago Minerals, Inc.	Guinabon Nickel Project	133	15	148
Zambales Diversified Metals Corporation	Sta. Cruz-Candelaria Mining Project	298	20	318
Berong Nickel Corporation	Berong Nickel Project	512	62	574
Cit nickel Mines & Development Corporation	Pulot & Toronto Nickel Project	266	12	278
Rio Tuba Nickel Mining Corporation	Rio Tuba Nickel Project	1,211	96	1,307
Coral Bay Nickel Corporation	CBNC HPAL Project	2,149	244	2,393
CTP Construction & Mining Corporation	Adlay Nickel Project	718	87	805
CTP Construction & Mining Corporation	Dahican Nickel Project	110	10	120

Carrascal Nickel Corporation	Carrascal Nickel Project	284	83	367
Marcventures Mining & Development Corporation	Cantilan Nickel Project	351	135	486
Hinatuan Mining Corporation	Tagana-an Nickel Project	488	117	605
Pacific Nickel Philippines, Inc.	Nonoc Nickel Project	62	13	75
Platinum Group Metals Corporation	Cagdianao Nickel Project	429	99	528
Taganito Mining Corporation	Claver Nickel Project	1,511	172	1,683
Taganito HPAL Corporation	Taganito HPAL Project	3,351	474	3,825
Adnama Mining Resources Inc.	Urbiztondo Nickel Laterite Project	89	26	115
SR Metals, Inc.	Tubay Nickel-Cobalt Project	310	16	326
Cagdianao Mining Corporation	Cagdianao Nickel Project	558	175	733
AAM-Phil Natural Resources Exploration & Development Corporation	Dinagat Nickel-Chromite Project	6		6
Minahang Bayan Ng Mga Mamamayan Ng Dinagat Island/Oriental Synergy Mining Corporation	Bel-at Ezperanza Nickel/Chromite Project	11	8	19
Sinosteel Phils. H.Y. Mining Corporation	HY Nickel-Chromite Project	136	10	146
Agata Mining Ventures Inc. (TVI Resources Development-MRL Joint Venture)	Agata North Lateritic Nickel Project	724	85	809
Oriental Vision Mining Philippines Corporation				
Libjo Mining Corporation		135	24	159
Westernshore Nickel Corporation		5	2	7
Century Peak Corporation	Casiguran Nickel Project	39	12	51
Century Peak Corporation	Esperanza Nickel Project	130	26	156
Chromiteking, Inc.-Techiron Resources, Inc.	Homonhon Chromite Project	328	65	393
Krominco, Inc.	Dinagat Chromite Project	19	11	30
TOTAL		30,584	3,791	34,375

Note: Figures include both direct and indirect employments

Source: Mineral Resources, Information and Publication Division, Mines and Geosciences Bureau

Table 2. Number of female employees per rank

Company	1	2	3	4	5	6	7	8	9	10	10A	11	12	13	14	15	16	17
Operations (total)	113 ¹	75 ³	45	0	70	42	46	31	1	16 ⁴	0	22 ⁵	20	26	0	97	1137 ⁶	18 ⁷
Rank and file	110 ¹	60	25	0	33	8	14	29	0	13	0	20	10	21	0	59	1100	6
Junior staff (supervisors)	2	13	20	0	16	31	32	1	0	3	0	2	8	5	0	34	31	12
Senior staff (managers)	1	2	0	0	21	3	0	1	1	0	0	0	2	0	0	4	6	0
Administrative (total)	20 ²	111 ³	95	2	77	67	135	28	1	5 ⁴	4	7 ⁵	17	6	6	195	418 ⁶	34 ⁷
Rank & file	16	85	38	1	38	8	85	24	1	4	2	6	13	2	3	154	379	6
Junior Staff (supervisors)	3	22	48	0	29	49	49	4	0	1	2	1	4	2	3	24	33	21
Senior staff (managers)	1	4	9	1	10	10	2	0	0	0	0	0	0	2	0	17	6	7

Observations:

¹ This number does not correspond to the total number of female employees (33) that the company (#1) reported in Table 1. In Table 1, the company reports a total of 110 *subcontracted* female workers, which means that this figure includes female subcontracted workers.

² In relation to the observation in 1 above, this number could refer to all regular female employees or to both regular female employees and subcontracted female workers.

³ The total female employees from operations and administrative functions is 186. This figure does not correspond to the total number of employees reported by the company in Table 1, which is 238.

⁴ This does not correspond to the total number of female employees (only 1) reported by the company in Table 1; further, the company reported only 1 female project worker. However, the company reported a total of 20 seasonal workers.

⁵ This figure does not correspond to the total number of female regular and probationary employees (only 5) reported by the company (#11) in Table 1. Evidently, this figure includes the reported 28 *seasonal* female employees.

⁶ The total figures of female workers, 1137 and 418, are not supported by all the figures reported by the company (#16) in Table 1 even if all the *female* regular employees (30), probationary employees (5), seasonal workers (125), and subcontracted workers (260) are added up.

⁷ The total of these two figures (18 and 34) does not correspond to the total number of employees reported by this company in Table 1, which is 92.

Table 3. Number of female employees per nature of work

Rank	1	2	3	4	5	6	7	8	9	10	10A	11	12	13	14	15	16	17
Operations																		
Mining engineers	0	3	3	0	13	8	3	0	0	0	0	0	3	0	0	7	13	11
Geologists	0	3	3	0	7	0	5	0	0	0	0	0	0	2	0	12	9	1
Chemists/chemical engineers	0	0	2	0	2	8	4	2	1	12	0	1	3	0	0	15	3	2
Metallurgists	1	1	2	0	4	6	8	0	0	0	0	0	0	0	0	0	0	0
Electrical engineers	0	0	1	0	1	9	0	0	0	0	0	0	0	0	0	0	0	0
Assayists	0	0	31	0	0	0	2	0	0	3	0	1	2	0	0	0	0	0
Mill operators	0	28	3	0	2	4	0	0	0	0	0	0	0	0	0	8	0	0
Drillers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Muckers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Environmental rehabilitation/reforestation workers	0	16	0	0	6	0	0	3	0	0	0	19	5	0	0	13	197	2
Others	0	0	0	0	19 ³	7 ⁵	24 ⁸	26 ¹²	0	0	0	0	7	2 ¹⁶	0	41 ¹⁹	0	2
Administrative																		
Accounting & Finance (total)	4	3	16	2	8	17	22	10	0	4	2	3	3	6	5	19	8	11
Accountants	1	0	11	0	8	12	3	3	0	1	1	0	0	4	0	3	1	4
Bookkeepers	1	3	0	0	0	0	0	0	0	2	0	0	1	0	1	1	1	0
Office clerks/secretaries	2	0	0	1	0	1	19	4	0	1	1	2	0	2	4	11	6	5
Others	0	0	5 ¹	1 ²	0	4	10 ⁹	3 ¹³	0	0	0	1 ¹⁵	2	0	0	4 ²⁰	0	2
Legal (total)	0	2	9	0	5	1	4	5	0	0	3	0	6	2	0	3	2	0
Lawyers	0	0	2	0	3	0	2	3	0	0	1	0	0	1	0	1	1	0
Office clerks/secretaries	0	0	5	0	2	1	2	2	0	0	1	0	6	0	0	2	1	0
Others	0	2	2	0	0	0	0	0	0	0	1	0	0	1 ¹⁷	0	0	0	0
Community Relations	1	19	6	0	13	9	5	3	1	1	1	2	0	3	1	4	7	4
Safety, Health, and Environment	2	7	6	0	10	4	5	4	0	0	0	0	0	10	0	3	221	2
Warehouse and Inventory	2	3	5	0	2	2	4	2	0	0	0	0	0	1	0	11	5	1
Purchasing	0	3	0	0	2	1	5	2	0	0	0	0	1	0	0	8	3	0
Medical (total)		7	28	0	0	20	23	2	0	0	0	0	1	0	0	32	6	6
Physicians	0	1	1	0	0	4	0	0	0	0	0	0	0	0	0	4	1	0
Nurses	0	5	14	0	0	7	13	1	0	0	0	0	1	0	0	9	5	6
Others	0	1	13	0	0	10 ⁶	10 ¹⁰	1 ¹⁴	0	0	0	0	0	0	0	19 ²¹	0	0
Drivers	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	110	0
Security Guards	0	0	5	0	0	0	3	0	0	0	0	0	1	0	0	1	96	0
Site Maintenance (utility personnel)	4	0	0	0	0	0	1	4	0	0	0	0	1	0	0	0	9	0
Housekeeping/kitchen staff	2	88	3	0	0	2	22	11	0	0	1	2	3	5	0	59	4	1

Others	0	0	0	0	56 ⁴	11 ⁷	31 ¹¹	0	0	0	0	0	1	1 ¹⁸	0	56 ²²	0	0
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¹ Cashier, accounting assistant, accounting associate, and payroll assistant

² Manager/executive

³ Geotechnical engineers (2), civil engineers (6), mechanical engineer (1), HE operators (surface/UG) (10)

⁴ Human resources, information technology, administration work, etc.

⁵ Civil engineer (1), ECE (1), geodetic engineer (1), mechanical engineers (1), administrative assistant/staff (3)

⁶ Nutritionist/dietitian (2), pharmacist (1), medical technologist (2), midwife (1), medical clerk (3), TSF Coordinator (1)

⁷ House supervisor (1), IT programmer (4), HR (4), EQMED Coordinator (1), Geo-assistant (1)

⁸ Administrative officer/technical assistants/clerks (15), grade control specialist (1), laboratory analysts (4), technicians (4)

⁹ Finance, payroll, cost officers

¹⁰ Radiology technicians/medical technologists (5), pharmacists (3), laboratory analysts (2)

¹¹ HR personnel (17), IT personnel (2), corporate communications personnel (2), executive secretaries (2), secretaries/billing/logistics/records personnel (8)

¹² Production statistician (1), mine/geo samplers (6), assay lab assistants (14), processing plant quality protocol staff (5)

¹³ Admin/HR (1), administrative assistant (2)

¹⁴ Nursing aide

¹⁵ Accounting supervisor

¹⁶ Technical staff

¹⁷ Compliance officer

¹⁸ Administration officer

¹⁹ Bankswomen (5), shaft communication operator (2), office clerk/secretaries (16), administrative supervisors (3), mechanic (3), winder operator (12)

²⁰ Finance officer (1), cashier (2), management accounting supervisor (1)

²¹ Pharmacist/aide (3), med tech (2), kitchen and laundry staff (5), radiology assistant (1), midwife/staff (2), lab assistant (1), office staff (5)

²² Office staff (50), industrial engineer (1), manager/supervisor (4), junior civil engineer (1)

Table 4. Compensation and benefits for female employees
N= 17 companies¹

	Yes	No	Did not answer	Explanation for 'yes' answer	Explanation for 'no' answer
(1) Do female employees receive the same pay as their male counterparts of the same position or rank?	15	2	1	<ul style="list-style-type: none"> • 'Salary scale alignment; gender equality' • 'Pay is determined based on the salary structure' • 'We follow the standard salary scale of employees depending on position.' • 'Compensation is not based on gender.' • 'Yes, our Company has its own salary band where everyone has the same benefit regardless of gender. Our Company recognizes gender equality.' • 'Compensation and benefits plan [are] based on the defined stratum level of employee.' 	'Based on experience' (1) 'NA' (1)
(2) Do female employees receive the same pay as their male counterparts for work of the same nature?	14	3	1	<ul style="list-style-type: none"> • 'Salary scale alignment; gender equality' • 'Pay is determined based on the salary structure.' • 'Compensation is not based on gender.' • 'Yes, our Company has its own salary band where everyone has the same benefit regardless of gender. Our Company recognizes gender equality.' • 'Compensation and benefits plan [are] based on the defined stratum 	'Based on experience' (1) No explanation (2) 'NA' (1)

				level of employee.'	
(3) Are female employees given the same work assignment and opportunities as their male counterparts of the same educational qualification or training?	16	1	1	<ul style="list-style-type: none"> • Qualification/work experience are the factors to determine work assignment and opportunities' • 'Salary scale alignment; gender equality' • 'The company promotes gender equality.' • 'Yes, our Company has its own salary band where everyone has the same benefit regardless of gender. Our Company recognizes gender equality.' • 'Compensation and benefits plan [are] based on the defined stratum level of employee.' 	'NA' (1)
(4) Do female employees have equal opportunity for promotion as their male colleagues who have the same/similar educational qualification and perform the same or similar work?	16	1	1	<ul style="list-style-type: none"> • 'Qualification/work experience are the factors to determine work assignment and opportunities' • 'Salary scale alignment; gender equality' • 'The company promotes gender equality.' • 'Yes, our Company has its own salary band where everyone has the same benefit regardless of gender. Our Company recognizes gender equality.' • 'Compensation and benefits plan [are] based on the defined stratum level of employee.' 	'NA'

¹As earlier stated, one company has two project sites, which answered the questionnaire separately (hence, a total of 18 answers). For question 2, one project site answered yes, but the other project site answered no.

Table 5. Other benefits

	Company																	
	1	2	3	4	5	6	7	8	9	10	10A	11	12	13	14	15	16	17
Maternity Leave ¹	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Paternity leave ¹	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Solo parents' leave ¹	✓	✓	✓	✓	✓	✓	✓	X	✓	✓	✓	✓	✓	✓	X	✓	X	X
VAWC leave ¹	✓	✓	✓	✓	✓	X	✓	X	✓	✓	✓	✓	✓	✓	X	✓	X	X
Day care services for employees' children	X	X	X	X	X	X	X	X	X	X	X	✓	X	X	X	X	✓	X
Health insurance	✓	✓	X	✓	✓	✓	✓	X	✓	✓	✓	X	X	✓	✓	X	✓	✓
Hospitalization benefits	✓	✓	✓	✓	✓	✓	✓	X	✓	✓	✓	X	X	✓	X	✓	✓	✓
Educational scholarships	✓	X	X	X	✓	✓	✓	✓	X	X	X	✓	✓	X	X	✓	✓	✓
Transportation to and from mining site	✓	✓	✓	✓	✓	✓	X	✓	✓	✓	✓	✓	✓	✓	X	✓	✓	✓
Housing benefits ²	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	X	X	✓	X	✓	✓	✓

¹ Benefits mandated by law

² Of the 14 companies that provide housing benefits for its women employees, 13 said that the housing benefits consists of free lodging within the company premises; only 1 said that it provides rent subsidy for housing outside the company premises. One said that its housing benefits are only for non-local employees.

Table 6. Health Facilities

Health facilities	Yes	No	Employees only	Employees and dependents	Also general public	Free for female employees	Free for dependents of female employees	Free for general public
On-site hospital	3/17							
Level 1	1							
Level 2								
Level 3								
On-site primary care facility		5/17						
On-site primary care facility (infirmary)	9/17							
On-site primary care facility-out patient	6/17							
On-site primary care family-dental clinic	4/17							
On-site pharmacy	7/17							
Ambulance available	15/17							

Table 7. Company policies, rules and regulations

	1	2	3	4	5	6	7	8	9	10	10A	11 ³	12	13	14	15	16	17
(1) Policy on equal opportunity for qualified women to be hired for available positions	✓	- ²	✓	✓	✓	✓	✓	✓	✓	✓	✓	-	✓	✓	✓	✓	X	✓
(2) Policy against sexual harassment (SH)	✓	✓	X	✓	✓	✓	✓	✓	✓	✓	✓	-	✓	✓	X	✓	✓	X
(3) Rules and regulations against SH	✓	✓	X	✓	✓	✓	✓	✓	✓	✓	✓	-	✓	✓	X	✓	✓	X
(4) Written procedure for the investigation of SH complaints	✓	✓	X	✓	✓	✓	✓	X	✓	✓	✓	-	✓	✓	X	✓	✓	X
(5) Established committee on decorum and investigation (in accordance with RA 7877)	✓	✓	X	✓	✓	X	✓	X	✓	X	X	-	✓	✓	X	✓	X	X
(6) Received any complaint of SH	X	X	✓	X	✓	X	✓	X	X	X	X	-	X	X	X	✓	X	X
(7) SH occurs in company	X	X	✓	X	X	X	✓	X	X	X	X	-	X	X	X	✓	✓	X
(8) Number of SH complaints received since RA 7877 was passed in 1995	0	0	0	0	1	0	3	0	0	0	0	-	0	0	0	3	0	0
(9) Has a GAD office or GAD officer	X	X	X	X	X	X	X	X	X	X	X	-	X	X	X	X	X	✓
(10) Gender issues discussed in the company	✓	X	X	X	✓	X	X	X	X	X	X	-	✓	X	X	X	X	X

¹ Issues discussed: women empowerment; violence against women, human rights and good governance; sexual harassment policy

² No answer

³ No answer given; company placed ‘-’ mark in all boxes

Table 9. The Kankana-ey Calendar

“Month”	Characteristic	Approximate Period
Lebteng	Cold	Jan 1-28
Atong	Warm	Jan 29-Feb 5
Opok	Hot and Dry	Feb 26-Mar 25
Kitkiti	The soil cracks	Mar 26-Apr 22
Kiang	Stepping on swidden farm to clear weeds	Apr 23-May 20
Adog	Seasonal bird comes	May 21-June 17
Manaba	“Big water” comes	June 18-July 15
Kamadoyong	Typhoon season	July 16-Aug 12
Tiway	Seasonal bird comes	Aug 13-Sept 9
Siyet	Seasonal bird comes	Sept 10-Oct 7
Tigwey	Seasonal bird comes	Oct 8-Nov 4
Kiling	Seasonal bird comes	Nov 5-Dec 2
Luya	It showers	Dec 3- Dec 31

“Month”	Activity
Lebteng	The men engage in gold and copper mining; the women clear up weeds in the swidden farm.
Atong	The men engage in gold and copper mining; the women burn the weeds from the farm.
Opok	The men engage in gold and copper mining; the women clear swidden farm, some starts to plant camote.
Kitkiti	The men engage in fold and copper mining; the women plant camote and gabi.
Kiang	Both men and women work in the gold and copper mines; women clear weeds in swidden farms.
Adog	Men and women engage in gold and copper mining.
Manaba	Both men and women work in the mines; aside from this the men fish.
Kamadoyong	Miners rest in this period; the men and/or women harvest and plant camote again.
Tiway	Both men and women work in the mines; the men gather fire wood, the women plant camote.
Siyet	Both men and women work in the mines; women clear weed in the farm.
Tigwey	Both men and women work in the mines.
Kiling	Both men and women work in the mines; crops begin to ripen.
Luya	Both men and women work in the mines; women harvest and plant camote.

Source: <https://www.benguet.gov.ph/index.php/11-municipalities/417-municipality-of-mankayan-history-of-mankayan>

ANNEX

Annex 1

**Gender and the Extractives
Scoping Study**

QUESTIONNAIRE FOR LARGE-SCALE MINING COMPANIES

1. Name of Company:

2. Commodity extracted:

3. Site Office Address/es:

4. Host barangay/s:

5. Neighboring barangay/s:

6. Name of person answering for the Company:

Position in Company: _____

Gender Identity*: _____

Contact Information: _____

**Gender identity categories include cisgender male (born male and identifies as male), cisgender female (born female and identifies as female), transman (born female but identifies as male), transwoman (born male but identifies as female), gender queer/gender fluid (identifies with several gender identities or does not identify with any), and intersex. For this question, the person may choose to answer "prefer not to say".*

7. Total company employees**: _____

*(**employees are those selected and hired by the company, under the supervision and control of the company as to work results and means employed to achieve those results, and whose wages and benefits the company is obliged to pay)*

Total male:

Total female:

Total regular: _____

Total male: _____

Total female: _____

Total probationary: _____

Total male: _____

Total female: _____

8. How many of your total employees** are from the host barangays? _____

Total male: _____

Total female: _____

9. How many of your total employees** are from the neighboring barangays?

Total male: _____

Total female: _____

10. Total project workers _____

Total male: _____

Total female: _____

Nature of Project (please specify):

11. Total seasonal workers: _____

Total male: _____

Nature of work (please specify/enumerate):

Total Female: _____

Nature of work (please specify/enumerate):

12. Total subcontracted workers: _____

Total male: _____

Nature of work (please specify/enumerate):

Total Female: _____

Nature of work (please specify/enumerate):

13. Number of female employees** per rank

Operations _____

Rank & file _____

Junior staff (supervisors) _____

Senior staff (managers) _____

Administrative _____

Rank & file _____

Junior staff (supervisors) _____

Senior staff (managers) _____

14. Number of female employees** per nature of work

14.1. Operations

Mining engineers _____
Geologists _____
Chemists/chemical engineers _____
Metallurgists _____
Electrical engineers _____
Other engineers _____
Assayists _____
Mill operators _____
Drillers _____
Muckers _____
Environment rehabilitation/reforestation workers _____
Others (please specify): _____

14.2. Administrative

Accounting and Finance (total) _____
 Accountants _____
 Bookkeepers _____
 Office clerks/ secretaries _____
 Others (please specify) _____

Legal (total) _____
 Lawyers _____
 Office clerks/ secretaries _____
 Others (please specify) _____

Community Relations _____
Safety, Health, and Environment _____
Warehouse and Inventory _____
Purchasing _____
Medical (total) _____
 Physicians _____
 Nurses _____
 Others (please specify) _____

Drivers _____
Security guards _____
Site maintenance (utility personnel) _____
Housekeeping/Kitchen staff _____
Others (please specify) _____

15. Does your company have a union? ___ Yes _____ No

15.1. If yes, are there women employees who are members of the union? _____
Yes _____ No

15.2. How many women employees are members of the union? _____

16. Is there an all-women employees' organization/association in your company?
____ Yes ____ No

16.1. If your answer is yes, what is the general purpose of this all-women employees' organization/association?

16.2. Are all women employees, regardless of rank or position, members of this all-women employees' organization/association? ____ Yes ____ No

Please explain:

Compensation and benefits for female employees

17. Do female employees receive the same pay as their male counterparts of the same position or rank? ____ Yes ____ No

Please explain your answer.

18. Do female employees receive the same pay as their male counterparts for work of the same nature? ____ Yes ____ No.

Please explain your answer.

19. Are female employees given the same work assignment and opportunities as their male counterparts of the same educational qualification or training?
____ Yes ____ No

Please explain your answer.

20. Do female employees have equal opportunity for promotion as their male colleagues who have the same/similar educational qualification and perform the same or similar work? ____ Yes ____ No

Please explain your answer:

21. What is the gross basic salary range of female employees?

Senior staff	Gross basic salary range	(Please check)
	>100,000 and higher	
	>90,000-100,000	
	>80,000-90,000	
	>70,000-80,000	
	> 60,000-70,000	
	Below 60,000	
Junior staff		
	> 50,000-60,000	
	> 40,000-50,000	
	>30,000-40,000	
	Below 30,000	
Rank and file		
	> 20,000-30,000	
	> 15,000-20,000	
	> 10,000-15,000	
	10,000 and below	

22. Please check any of the following leaves that the company provides for its employees, whether male or female:

Leaves	Yes	No
Maternity Leave		
Paternity Leave		
Solo parent leave		
VAWC Leave		

23. Please check below the benefits and services that are available to employees in your company.

Services	Yes	No
Day care services for children of employees		
Health insurance		
Hospitalization		
Educational scholarships for children		
Transportation from mining site to residence		

24. Does your company have the following facilities?

Facility	Yes	No
On-site hospital		
Level 1		
Level 2		
Level 3		
On-site primary care facility		
Infirmery (with in-patient beds)		

Out-patient clinic (without beds)		
Dental clinic		
On-site pharmacy		

25. Who may avail of services in the on-site hospital or on-site primary care facility?

- employees only
- employees and their dependents
- employees and their dependents as well as non-employees/general public

26. Are the services in the on-site hospital or on-site primary care facility free for female employees? Yes No

27. Are the services in the on-site hospital or on-site primary care facility free for the dependents of female employees? Yes No

28. If the services in the on-site hospital or on-site primary care facility are available to the general public, are the services free? Yes No

29. Does the company provide ambulance or transport services to women employees who need emergency medical care outside company premises? Yes No

30. Do women employees have access to free medicines? Yes No

30.1. If the answer is yes, what types of medicines are provided for free? (e.g., medicines for common ailments such as fever and colds, maintenance medicines, prescription medicines, medicines for serious medical conditions)

31. Does the company provide women employees housing or housing benefits? Yes No

31.1. If the answer is yes, what is the nature of the housing/housing benefit?

- Free lodging within the company premises
- Rent subsidy for housing outside of company premises

31.2. If the answer is free lodging within the company premises, does the housing benefit include free electricity? Yes No

31.3. If the answer is free lodging within the company premises, do women employees have access to potable water in the housing provided? Yes No

32. Does your company provide skills training for women?

- Women employees Yes No
- Women from host barangay/s Yes No
- Women from neighboring barangay/s Yes No

32.1. If the answer to 32 is yes, please enumerate the skills training that is provided for women:

Women employees: _____

Women from host barangay/s: _____

Women from neighboring barangay/s _____

Company policies, rules, and regulations

33. Does your company have a policy on equal opportunity for qualified women to be hired for available positions? ____ Yes ____ No.

Please explain your answer

34. Does your company have a policy against sexual harassment? ____ Yes ____ No.

35. Does your company have rules and regulations against sexual harassment? ____ Yes ____ No.

36. Does your company have written procedure for the investigation of sexual harassment complaints? ____ Yes ____ No.

37. Does your company have an established committee on decorum and investigation constituted in accordance with Republic Act No. 7877 (Anti-Sexual Harassment Act of 1995)? ____ Yes ____ No

38. Has your company ever received any complaint of sexual harassment? ____ Yes ____ No

39. To the best of your knowledge, does sexual harassment occur in your company? ____ Yes ____ No

40. How many complaints of sexual harassment has your company received after the Anti-Sexual Harassment Act was passed in 1995? _____

41. Does your company have a GAD office or GAD officer? ____ Yes ____ No

42. Is 'gender' or are gender issues discussed in your company? ____ Yes ____ No.

43. If your answer to 42 is yes, what gender issues are discussed in your company? (Please specify.)

Problems and issues concerning or affecting women employees

44. Has your company or any of its executives/managers/supervisors received any complaint or has been informed, whether formally or informally, of any of the following problems, issues, or concerns affecting women employees? (Please check).

____ Unsafe working conditions for women

____ Inappropriate working conditions for women

____ Personal safety and security

____ Sexual harassment

____ Discrimination in:

____ salary/compensation/benefits

____ promotion

____ work opportunities or assignment

____ training for professional or skills development

____ treatment by supervisors/managers/male colleagues

____ Disrespect for women

____ Domestic violence

____ Other forms of abuse

____ Lack of services for women-specific needs

45. What health issues or problems do women employees suffer from? Please specify.

#

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