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Contingent Settings – A Philippine Case Study**

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ENVIRONMENT AND SOCIAL JUSTICE: FAMILIAR NORMS AND CONTINGENT SETTINGS – A PHILIPPINE CASE STUDY¹

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INTRODUCTION

In this paper, I show the interplay between transnational mining companies, national and local governments, and grassroots groups in social movement campaigns to influence policymaking. I focus on the operation of ethical/moral norms in the framing of social problems – how social actors highlight aspects of problems, explain situations, and invoke norms to legitimate their stance or claims. The case I use is that of Mt. Diwalwal in the town of Monkayo in the province of Compostela Valley,² Philippines. On 29 November 2002, Presidential Proclamation No. 297 declared the Mt. Diwalwal 'gold rush' area a mineral reservation. This was to solve 20 years of environmental and social justice problems.

Under this new policy, the government utilizes the reservation directly – it issues service contracts to miners. Thus, the miners are not employees of mining companies. Their share of the revenues has increased dramatically: they used to get 40 percent and the mining companies got 60 percent; now they get 85 percent and the government gets 15 percent. Because of the pollution levels in the area, miners must obtain an Environmental Compliance Certificate (ECC) to qualify for a service contract. The Natural Resources Development Corporation (NDRC), a subsidiary of the Department of Environment and Natural Resources (DENR) oversees the construction of a common pond for mine tailings.

Underlying all these was the task of balancing the utilization of natural resources and sustainability. A developing country, the Philippines faces pressure to employ technologies that might jeopardize the achievement of goals construed broadly or viewed in the long run. This pressure can come from both transnational actors and domestic actors, who might be linked with the former. For at least a decade now, some advocates have disseminated the view that a 'new initiative by transnational corporations to recolonize Third World countries under the theme of globalization' (Corpuz, 1999) caused certain changes in Philippine mining. Thus, the country faces issues that are simultaneously local and global. Under the clause on financial or technical assistance agreements, the Philippine Mining Act of 1995 allows foreign-owned companies that can

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² A province created only in 1995.

provide relevant assistance to explore natural resources of the country. This is a criticism that the Catholic Bishops Conference of the Philippines (1998) has levelled against the Act – following a strong resolution issued by the National Council of Churches. Church involvement in social justice concern has been notable in the country. Moreover, community-level struggle on mining issues ‘has spread to many provinces of the country, giving it a nationwide character’ (Corpuz, 1999).

Thus, the Philippine policy of ‘responsible mining under globalization’ has nevertheless been characterized and criticized as ‘export-oriented and import-dependent’. No wonder, ‘50 of the largest mining companies in the world applied for licenses and concessions’ when the Mining Act of 1995 liberalized the industry (MT-a, 2 January 2002). In effect – so the criticism goes – foreigners can own mining rights wholly, enjoy ‘tax holidays’, and repatriate their earnings and capital. And nothing is left to the communities that the mining companies often ravage (Conde and Gonzales [b], 10 September 2002, MT). This is one nuance of the social justice frame as it applies to the Diwalwal problem.

Further, political dynamics fractured the government. Likewise, there was conflict between the mining corporations as well as between grassroots groups (e.g., farmers vs. miners) at certain times. Eventually, it was mainly a campaign by and between the grassroots groups. On one side, there were the miners identified with a foreign company, the farmers and the public complaining of health hazards from mercury pollution – plus some actors in the legislative and executive branches of government who opposed the DENR secretary-designate. On the other, there were the mostly indigenous, small-scale miners struggling to keep their source of livelihood – plus a flank in the DENR supported by some court rulings.

It is in this context that I look into the unfolding of the latest set of social movement campaigns to solve the Mt. Diwalwal problem.

THEORETICAL ISSUES

Populations that share a common environment – or areas that are somehow linked by activities and events in and around them – do not necessarily share common interests (Hawley 1986: 28-29; 39-40). Therefore, disagreements can arise when it comes to crafting ways that should guide actions in dealing with that environment or particular areas in it. And it is imperative for the different sectors of the population to reach some agreement. Otherwise, the legitimacy of the course of action intended to be mandatory (that is, public policy) is questionable (Habermas, 1996: 151-168; Raz, 1999: 159-175; Tyler, 1990: 19-30). And its observance or enforcement would be doubtful.

Social movements advance views and sentiments to influence individual behaviour (e.g., life style) or policymaking (enforceable by state power) (Eyerman and Jamison 1997: 249-257; Fischer 2000 – illustrative cases; Oliver

and Johnston 2000: 37-54; Zald 2000: 1-16). Social actors conduct campaigns to persuade other social actors or the public of the validity, desirability, or rightness of their stance on a given issue. Thus, they construct the problem and articulate their construct in frames. They highlight certain aspects of the situation at hand, offer explanations (or causal links) pertaining to it, and express their stance – along with the grounds on which they base it. (Snow et al. 1997: 211-228; Snow and Benford 1997: 456-472). This is a process of social construction. And it entails two major parts: framing of the issue (the evaluative judgment and the stance taken), and framing of the action(s) to carry out the issue frame. Following Habermas (1996: 151-168), Passy and Giugni (2000: 117-144), sources of these legitimating grounds include religious and cultural identities as well as educational preparation. When social actors appeal to certain descriptive, explanatory, or evaluative elements of the worldviews of the group(s) whose support/agreement the former want to enlist for a campaign, they appeal to these grounds.

Since, action frames come after issue frames, social actors develop 'readiness' to act in potential supporters or constituencies. In this study, persuading others of the validity of a given stance on an issue is the process that creates commitment. And the commitment is what is activated when, say, collective action is to be carried out. Commitment creation and its activation comprise social mobilization – that is, making the framings bear on the situation (Gamson, 1991: 15-16). Appealing to norms that are broadly shared operates on the activation of commitment more than on its creation – when norms are broadly shared there is no more to mobilize in the sense of creating commitment (Kriesi, 1996: 183). Mobilization works first on commitment creation when the level of consensus on the norms to be invoked is not high. Hence, social identities and networks matter in the framing of issues and action repertoires to the extent that worldviews are embedded in them.

The framing processes of alignment (what elements are relevant in evaluating the situation), bridging (connecting heretofore unrelated groups through elements they have in common), amplification and transformation all pertain to mobilization (Snow et al. 1997). How a frame is articulated is secondary to its contents. Therefore, choosing between institutionalized action (e.g. lobbying) on the one hand, and disruptive action (protest/demonstration) on the other, is a matter of strategy (Kollman 1998). Thus, it is subordinate or instrumental to the claim that the frame advances, (McAdam et al. 2001: 7).

In this paper, the view is that norms can be applied only after a situation has been understood – that is, after it has been described or explained. Evaluation based on what 'ought to be' depends on the understanding of 'what is'. A particular norm, say, fairness, might not apply in the same way carelessness could in a spill of toxic materials from a tailings pond. Hence, there is a need to verify what the situation is before one can invoke a particular norm for the evaluation of the situation.

THE PROBLEM FOCUS

The case analysis focuses on the interplay between the major framings constructed by the social actors in the campaign to resolve the Diwalwal problem. Framings come across in the media reports with a minimum of content analysis – if at all. The relevance of social identities and networks to the construction of issue and action frames is also explored. The study also looks for circumstances or events that can serve as opportunities for, or constraints to, certain types of collective action. This framework is based on McAdam and others (2001).

METHODS AND DATA USED

I obtained my data from archived newspaper materials available on the Internet. These include the *Manila Times (MT)*, *Manila Bulletin (MB)*, *Philippine Daily Inquirer (PDI)*. Some of the materials from these sources had been filed by other sources (e.g., *Bulatlat.com*, *MindaNews.com*) in one of the papers just mentioned, and they are accordingly cited here. The data cover the latter part of 2001 through the early part of 2003. I treat the actions or events that take place within this period as comprising a phase, the latest that culminates with the proclamation of Diwalwal as a mineral reservation area under direct utilization by the government. Given the nature of this method, data triangulation was possible only when there were several items/materials on a particular event/action. More importantly, charges/accusations and opinions in this study are narrated as they appear in the published sources, and therefore, are to be read with the qualification, 'allegedly'. Whether they are true or false is of secondary importance. What is of interest to this study is the significance of charges/accusations to the unfolding of the campaign in terms of social mobilization – as themselves constructions of social actors; as contributory to opportunities/constraints to other social actors; as indications of the sources/bases of the worldviews that might be invoked in the framings.

THE MT. DIWALWAL PROBLEM

Mt. Diwalwal is the nickname of Mt. Diwata in Monkayo, Compostela Valley in the Southeastern region of the Philippines. ('Diwata' means 'fairy' in Pilipino; 'Diwalwal' means 'panting with a dangling tongue' in Tagalog – experienced by those who climbed the mountain whose slope is 75°-80° (Flaviano [a], 6 March 2002, MB). 'Diwalwal' has since become more popular than 'Diwata'). In 1982, Datu Camilio Banad, a Lumad - i.e., of an indigenous ethnic minority group that is neither Christian nor Muslim (*Kalinaw Mindanaw*), and is traditionally a 'mountain people' - discovered gold on Dem Dar Hills (MT-c, 4 September 2002). The discovery triggered a 'gold rush' to an area of 729 hectares. People mostly from the neighbouring provinces of Surigao del Sur, Surigao del Norte, Agusan del Sur, Agusan del Norte, Davao, and Cotabato trooped to the area (Flaviano [a], 6 March 2002, MB). They set up houses, and started what became a mining community with a population of up to 100,000. Violence in the area and the government's stopping the transport of gold ore changed the

picture. The income of miners dropped from as much P1,000 a day to as low as P100 a day (Mellejor, 15 September 2002, PDI). Some people moved out of the area, but some have persisted despite 'repeated landslides and threats to their safety' - these comprise the current population estimated at 40,000 (Mellejor et al. [c], 25 April 2002, PDI).

The mountain was 'full of gold' and was perhaps, in the opinion of the Department of Environment and Natural Resources (DENR), 'the largest gold deposit in the world' (MT-c, 4 September 2002). The miners did not bother to register their operations with the government. It turned out, however, that the gold rush area was within a 4,491-hectare exploration area owned by Marcopper Mining Corporation, 'a company partly owned by the Canadian Placer Dome' (MT-c, 4 September 2002). To complicate the situation further, this Marcopper area was within a 184,000-hectare area that had been awarded to Picop Resources, Inc., which was 'once Asia's largest paper mill' (MT-c, 4 September 2002). In 1986, Marcopper applied for a prospecting permit with the Bureau of Forest Development, and it was granted in 1988. Apex Mining Corporation questioned this Exploration Permit No. 133, but in 1992, the Supreme Court ruled in favour of Marcopper.

Marcopper then transferred its rights to Southeast Mindanao Gold Mining Corporation (SEM or SEMGMC) for P1.00 'in an attempt to remove any vestige of [its] claim to the area' (MT-c, 4 September 2002). But the small-scale miners claimed that Marcopper still owned SEM, whose president was also the treasurer of Marcopper. Now, on 26 September 1995 SEM entered into an agreement with JB Management and Mining Corporation (JBMMC, owned by the mayor of Monkayo). Thus, JBMMC-SEM and SEM-Marcopper carried the same identity in Diwalwal. It was that of a foreign company acting through local companies – or, of a local company acting for a foreign company.

Now, Picop wanted to convert its timber license agreement into an Integrated Forest Management Agreement (IFLA) to continue logging in the 184,000-hectare area – and, to mine the area as well (MT-c, 4 September 2002). Secretary Heherson Alvarez of the DENR denied Picop's application for an IFLA. Picop itself is also supposedly linked with Marcopper – the vice chairman of Picop is also Marcopper's chairman (*Manila Times* cites an NGO, Environmental Science for Social Change, based in Ateneo de Manila University, as its source).

The Immediate Problem

The immediate problem had been one of ownership between a corporation with a title to the area and small-scale miners without a title. The small-scale miners had accused the JBMMC of harassing them – of attempts to force them out of the mining area. There were 'numerous murders' and there were 'smoking' incidents – the latest of which was that of 25 July 2002, wherein miners in a lower tunnel burned rubber tires and 20 tanks of acetylene in order to force out the miners in a higher tunnel (*Bulatlat.com*, 5 September 2002, MT). For many,

this meant an exodus from Diwalwal; for others, it was a call to continue the struggle. On the latter, *Bulatlat.com* put it this way: ‘thousands of miners from all over the country had congregated in Diwalwal. With nothing to lose and everything to gain, the miners held their ground. The availability of guns proved to be advantageous to them.’ Another problem was the employment of children in the mines (Tacio, 27 September 2002).

The Major Issues and Concerns

The major issue was how Diwalwal should be utilized for economic growth and development, given concerns for the environment and social justice. It was a matter of choosing policy alternatives that would serve these concerns. Pollution was a by-product of the process of extracting gold from the ores. Pollution could be blamed on the small-scale miners as well as on the mining giant companies – on the ‘illegal’ and mostly indigenous Lumads as well as on the titled foreign-connected companies. Stopping the mining operations would deprive the miners of the source of their livelihood. More importantly, the peoples indigenous to the Diwalwal area could make a claim to the ‘riches of Diwalwal’ – a claim that frames the issue in terms of social justice (as distinct from that of environmental pollution as health hazard and from that of resource utilization for economic growth – with legal title or otherwise).

TRIGGERING THE CAMPAIGN

On 21 December 2001, the mayor of Monkayo, Joel Brillantes, issued a cease-and-desist order (Ordinance No. 96-05) to all miners in Diwalwal to take effect on 26 February 2002 (Flaviano (b), 1 April 2002, MB). The objective of stopping all mining operations was to stop the worsening environmental pollution caused by the use of mercury to extract gold. Those who were using polluting extraction methods were the so-called ‘small-scale miners’ – and these were also called ‘illegal miners’ because they had no title/permit for their operations. In all, 42 mining plants were ordered to close.

High Public Awareness

The level of public awareness of pollution was already high in the area – just as it has been nationwide. There had been information campaigns concerning mercury pollution. An op-ed item in September 2001, for example, mentioned a research finding saying, among others, that 86 percent of the miners in Diwalwal were contaminated with mercury, and so were the fish caught in the area (Cruz, 27 September 2001, PDI). A month later, a coalition against mercury pollution held a symposium held in Davao City (Balana, 7 October 2001, PDI). And there was the first Mindanao Summit for Environmental and Occupational Health on 27 November 2001. The public was quite aware of this also from advisories on the use of water from the Agusan River. The Barangay (smallest/lowest administrative division in the Philippines) Chairman of Babag, Monkayo was quoted as complaining because of people dying and getting sick ‘from the continued exposure to mercury and cyanide being used by the tons by

illegal miners' the past ten years – especially in barangays on the path of the Nabuk (also, Naboc) River (MB-a, 4 December 2001).

Recent deaths were publicized and they could not be covered up. 'The warning of widespread mercury pollution ... was made not only by environmental NGOs but also by the toxicology department of the University of the Philippines and the Philippine General Hospital whose team actually went to the areas at risk and examined the people there for mercury poisoning.... The DENR better believe their findings: fully 36 percent of the residents of Diwalwal have dangerous levels of mercury in their bodies [sic]' (Cruz [b], 2 October 2002).

This high level of public awareness of mercury contamination was a favourable factor – that is, the 'environmental pollution' frame articulated in the cease-and-desist order could be expected to resonate easily with the public's fear of contamination. Health hazard and environmental risk were clear and unquestionable. Other materials appeared in the media in early January 2002. This time, not only the miners were contaminated with mercury, but other groups in the population as well (MT-a, 2 January 2002; Quiambao, 3 January 2002, MB). Decontamination of the Diwalwal area was imperative, and the joint project of the United Nations Industrial Development Organizations (UNIDO) and the Mines and Geosciences Bureau of the DENR was apropos of abating the pollution (Panesa [a], 18 January 2002, MB; Flaviano, 6 March 2002, MB). One question that was raised in the media was: why was there no action on the mercury and cyanide pollution? Clogged waterways, deforestation, erosion, landslides, flooding could also be attributed to the mining operations (MB-b).

Government – Poor and Fragmented Image

The environmental degradation and health risks in Diwalwal quickly became a point of attack on the Department of Environment and Natural Resources (DENR) – as well as point of leverage for the side supportive of the department's secretary-designate who needed to be confirmed by the Senate. When the Estrada presidency collapsed in early 2001 because of 'People Power 2' (also, 'EDSA 2'), the Arroyo administration took over. And Heherson Alvarez replaced Antonio Cerilles at the DENR. Some solons blamed Alvarez for his failure to stop or solve the pollution problem in Diwalwal (MB-c, 21 January 2002). Shortly afterwards, the characterization was not only that the secretary-designate had failed – the DENR as whole was framed as 'helpless' in dealing with the pollution problem (Ortega, 6 February 2002, MT). Against this backdrop and the urgency of the problem, the cease-and-desist order had the tide going its way. The drive against the miners snowballed (MB-d, 12 February 2002) – their mining operations had polluted rivers and waterways, destroyed irrigation systems, and posed health risks to the residents of downstream communities. Many sectors were reported to have supported the order:

almost all sectors, including barangay chairmen and residents [of] the four severely affected barangay[s] ... small-scale

miners, the Federation of Communal Irrigators, and the Monkayo Municipal Development Council have come out with resolutions declaring support to [sic] the closure order of the mayor (MB-e, 10 February 2002).

These four barangays were: Nabuk, Babag, Mamunga, and Tubo-tubo (MB-m, 26 July 2002). The mayor had asked the Committee on Natural Resources in the House of Representatives, the DENR, the Mines and Geosciences Bureau (MGB), the Department of Interior and Local Government (DILG), the Philippine National Police (PNP) and other government agencies to help implement the order. The task of solving environmental pollution had devolved to the local level in the Mindanao area (MB-m, 26 July 2002; Canuday, 26 February 2002, MT).

THE MINERS' TWO-PRONGED MOVE

The cease-and-desist order was addressed to 42 mining companies – medium-scale miners, small-scale miners, and three big mining companies (Blucor, Helica, and Bulbscor) (Canuday, 26 February 2002, MT). On 12 February 2002, the miners made their first move (MB-f, 12 February 2002). They petitioned the Regional Trial Court in Nabunturan (capital of Compostela Valley province) to issue a temporary restraining order on the cease-and-desist order. On 18 March 2002, Judge Eugenio Valles denied the miners' petition and upheld the cease-and-desist order. Having lost in the institutional sphere, the miners got to their disruptive move within a week (Mellejor and Allada [a], 27 March 2002, PDI; Escovilla and Mellejor, 26 March 2002, PDI). Some 4,000 small-scale miners, their wives, and their children staged a protest to articulate their position on the cease-and-desist order. For two days, they picketed - blocking the Bincungan Bridge, which is a span of the Pan-Philippine Highway (Flaviano [b], 1 April 2002, MB; Mellejor and Allada [a], 27 March 2002, PDI).

The miners charged that the real motive of the cease-and-desist order was to drive them away from the mining area. They rejected the environmental pollution as a mere ploy. The Monkayo mayor's public image was impugned, and the municipality of Monkayo filed a damage suit against the miners' Multi-sectoral Group Sower for P2-billion (MB-g, 15 March 2002).

Protest Outcome: 60-day Reprieve

The disruptive action paid off where the institutional one had failed. It earned the miners a 60-day reprieve from the implementation of the cease-and-desist order (Santos, 2 April 2002, PDI). The secretary of the Interior and Local Government, the provincial governors of Compostela Valley and neighbouring Davao del Norte, an undersecretary of the DENR, the congressman of the area, and the Presidential Assistant for Mindanao met with the Monkayo mayor. The DILG secretary would also form a technical committee to draft a long-term solution to the problem. It was at this time that the focus on the environmental pollution problem started to give way to the social problem (social justice; social

conflict; peace and order). The mayor considered the miners' plight (e.g., miners might earn as much as P500 a day, but they bring home only as low as P100 a day) and agreed to suspend the implementation of his order. Nevertheless, he restated the validity of the order because of the need to save the Naboc River from further environmental degradation (Santos, PDI, 3 April 2002). For its part, the group headed by the popular barangay chairman Franco Tito promised to vacate the Bincungan Bridge. And the representative of Blucor (one of the three big mining companies), Arthur Uy, expressed his appreciation for the temporary suspension of the order. He also noted how difficult it would be to move his plant out of Diwalwal in just 60 days (Santos, PDI, 3 April 2002).

This outcome ensued from the court-to-protest repertoire of the miners in response to the broadly supported cease-and-desist order. The national government responded to the miners' protest in a way that highlighted the social dimension of the problem.

Not necessarily by design but still apropos of the developments, the Court of Appeals issued its decision on a case that was filed in 1991 against a departmental administrative order (DAO No. 66) issued by Fulgencio Factoran, then the DENR secretary. This order opened Mt. Diwalwal to small-scale mining (MB-g, 29 March 2002). The court declared the administrative order illegal. It also upheld the validity of the SEM's exploration permit (No. 133) – and the big mining companies like Blucor, Helica, and Bulbscor were not 'small-scale miners' but rather 'big time illegal corporate mining operators' (MB-g, 29 March 2002). Since, SEM had an agreement with the JB Management and Mining Company (JBMMC, owned by the Monkayo mayor before he transferred his interests to his brother), this ruling was favourable to the mayor and his cease-and-desist order. A pen-named writer to the editor of the *Philippine Daily Inquirer* (PDI) credited the conflict with the exposure of what was really happening: that 'the big-time financiers ... merely used genuine small-scale miners to continue with their environmentally disastrous mining practices for the past several decades' ('Kris-Crossing Mindanao', 31 March 2002).

Within a week, however, the Supreme Court issued its decision on the suit that was filed against the immediate predecessor of Alvarez at the DENR (Antonio Cerilles in the Estrada Cabinet). The case was filed on 16 July 1997, and the Court of Appeals ruled on it on 19 March 1998. Subsequently, it went to the Supreme Court. The Supreme Court stressed the all-encompassing authority of the State to intervene and take over any Filipino mine 'in accordance with demands of the general welfare' (quoted in Cabreza, 5 April 2002, PDI). This concept stems from the principle of eminent domain in the constitution, and restated in Section 2 of the Philippine Mining Act of 1995 (Republic Act 7942). The fine point, which this ruling brings to the Diwalwal campaign, is the sidestepping of the ownership/title disputes. Takeover effectively reframes the issue into one of general welfare and directs the focus on the government's capacity to respond to social problems.

At the very least, the court rulings provided the social actors engaged in the Diwalwal struggle with concepts they could use to legitimize their stance. The developments in this stage of the conflict appear to be purely contingent – there is no material that indicates that their release was timed with the unfolding social conflict in Diwalwal. For one thing, there are problems in other mining areas in the Philippines.

ESCALATION OF VIOLENCE

Since the discovery of gold in Diwalwal, violence erupted in various forms – murders, threats, etc. Some estimates have at least 4,000 miners killed in the last 20 years (Dancel and Brazas, 30 November 2002, MT). And violence was an integral element of the social problem: miners fighting to maintain their livelihood – even at the cost of inflicting environmental health hazards to other populations; and, other sectors fighting the pollution from the miners' operations to extract gold with mercury – as well as competing with a big foreign-linked mining company. Diwalwal's remaining population of 40,000 faced the choice between staying and moving out.

The alleged activities of the Moro Islamic Liberation Front (MILF) and of the New People's Army (NPA, of the Communist Party of the Philippines) in the Diwalwal area further complicated the situation – especially with regard to the violent incidents. MILF rebels were reported to have attacked mining personnel in Zamboanga del Norte, a relatively remote province to the west of the Compostela Valley before the cease-and-desist order was upheld by the regional trial court (de la Cruz, Micabalo, and Mellejor, PDI, 15 March 2002). The report described the victims as personnel of a 'foreign-owned mining company' (de la Cruz, Micabalo, and Mellejor, PDI, 15 March 2002). The identity or label is of significance in the Diwalwal area because in nearby Davao City (to the east), the 'New People's Army said it was waging war on *alleged conspiracy* between Marcopper Mining Corporation and Southeast Mindanao Gold Mining Corporation (JB-SEM) to control mining operations in Diwalwal...'. (de la Cruz and others, PDI, 15 March 2002). The NPA had expressed support for the small-scale miners in their struggle against the two big mining corporations. The military, however, framed the killings as consequences of the big mining corporations' refusal to pay 'revolutionary taxes' to the NPA.

The 'true picture' might not be available – at least, as far as this paper is concerned. Nevertheless, the bits and pieces at hand support the hypothesis that because of their grievances, the Diwalwal population was a likely target of recruiting by rebel groups. Thus, there was the likelihood that these broader movements also linked to the Diwalwal social problem and emboldened the collective actions of the grassroots groups. These groups were fragmented: the farmers and the miners took opposing stands – the farmers against environmental health hazard; the miners for the continuance of their livelihood. As regards the miners, the sharing system at this time in the campaign gives 40 percent to the miners; 60 percent to the mining companies, who act as employers of the former (Brazas, 1 September 2002, MT).

But the assassination of the regional trial judge who upheld the cease-and-desist order made the situation tenser (Andrade, 26 April 2002, MT; Mellejor et al. [b], 26 April 2002, PDI; MB-h, 30 April 2002). The same judge had issued a search warrant that the Monkayo chief of police could not serve to the miners because the miners holed themselves in the 'Australian tunnel' (Mellejor and Allada [b], 6 April 2002, PDI.) The chances of Alvarez being confirmed as secretary of the DENR became more uncertain than they were in early April. By now, there was an attempt by some legislators to block his confirmation. (Buniales, 28 June 2002; Cruz, I., 30 April 2002; Olivares-Cunanan, 26 May 2002; Pablo, 8 April 2002, PDI; Sicat, 11 May 2002).

On the side of Alvarez was the Mindanao Federation of Small Scale Miners' Association, Inc., which asked the Ethics Committee of the House of Representatives to investigate the alleged interference of a representative in the confirmation of Alvarez – something that did not affect the representative's congressional district (Buniales, 28 June 2002).

For and Against the Cease-and-Desist Order

President Arroyo attended a session with the conflicting sectors in Diwalwal in July 2002 (MB-i, 6 July 2002). The pollution levels in the communities nearby took the main focus of concern. So, she instructed Mayor Brillantes to implement the cease-and-desist order. The spokesman for the 10,000 farmers (MB-m, 26 July 2002), and irrigators hailed the president's action as setting a precedent – 'the first time in more than 17 years that the President of the Philippines took cognizance of the plight of the suffering farmers' (MB-i, 6 July 2002).

By this time, Alvarez had construed the problem as one of having *the small-scale miners get a fair share of the riches of Diwalwal*. And he defined the problem within the social justice program of the Arroyo administration. It was along this line that the DENR and the Mines and Geosciences Bureau (MGB) had tried to dissuade Brillantes from implementing the cease-and-desist order. He also refused to enforce the Court of Appeals ruling that allowed the closing of the polluting gold plants. These efforts of his identified him with the small-scale miners. With the environmental pollution being the main focus again, the president instructed Alvarez to 'implement the law and stop brokering deals with the illegal miners' (MB-i, 6 July 2002).

A month later, the president nuanced her position. She had Davao City mayor Rodrigo Duterte (who was also in charge of regional emergency matters) relay her directive to the Monkayo mayor: *moratorium* (MB-j, 17 July 2002). The moratorium stopped the implementation of cease-and-desist order – that is, it stopped the 'drive against the miners.' But, it also required the small-scale miners to stop their mining operations pending the resolution of the conflict (MB-j, 17 July 2002). The nuance was a case of framing par excellence – while it had required the same stoppage of mining operations as the cease-and-desist

order required but only temporarily, and the stoppage was not to be attributed to the cease-and-desist order but rather to the presidential directive. In other words, what the moratorium changed was the identity of the authority issuing the stoppage of the operations – that is, the president of the Philippines and not the Monkayo mayor. Nevertheless, in terms of substance, the moratorium had the double effect of stopping further pollution (at least, temporarily) and taking into account the legitimate concerns and grievances of the miners. After all, the solution was expected within a week.

THE PROPOSED SOLUTION: MINERAL RESERVATION AREA

The government floated the planned solution concept the next week – that of a mineral reservation area (MB-k, 23 July 2002). Under this concept, the government directly utilizes the minerals, and issues service contracts to miners. The umbrella organization of the allegedly illegal miners, the Monkayo Integrated Small Scale Miners' Association (MISSMA) – with the Balite Portal Mining Cooperative - expressed support for the proposed plan. At the same time, the chairman of its Crisis Management Committee expressed the need for the small-scale miners to be included in the discussion of the proposed plan (MT-b, 24 July 2002). This indicates that it was not enough that the proposal comported well with the small-scale miners' interests – the miners wanted to participate in the process of working out the details. Containing a provision that would change the sharing system to 85 percent-to-the-miners-15 percent-to-the-government, the proposal focused on the social justice dimension of the issue (i.e., to make the miners share the riches of Diwalwal).

Not surprisingly, when the Southeastern Mindanao Gold Mining Corporation (SEMGMC) expressed its opposition to the plan, its multinational image (recipient of the interests of Marcopper) and its ties to the JBMMC (once owned by the Monkayo mayor) were not lost sight of. SEMGMC wrote to President Arroyo urging her that 'caution and prudence be exercised and efforts be focused instead on stopping the illegal operations and massive pollution' (quoted from the position paper, MB-k, 23 July 2002; also, MB-l, 25 July 2002). The position paper referred to the Supreme Court decision of 16 July 1991 that confirmed the ruling by the Office of the President (Case No. 3728, 27 July 1989) and declared DENR Administrative Order No. 66 illegal – upholding the SEMGMC's right to the Diwalwal mining area. Farmers once again expressed their support of the cease-and-desist order (MB-m, 26 July 2002). And questions were raised regarding illegal mining – should it be perpetuated? Putting the focus back to the environmental pollution and the illegal operations by the small-scale miners would counterbalance the social justice thrust of the proposed plan.

Secretary Alvarez put the matter quite clearly: 'our action addresses the *claims of the small-scale miners and issues on pollution* among others' (Brazas [b], 19 August 2002). The plan already had provisions to deal with environmental pollution: miners would be required to obtain an Environmental Compliance Certificate (ECC) in order to qualify for a service contract – and the Certificate

would be issued only if the applicant miner foreswore polluting methods (e.g., use of explosives; 'middle-/large-scale mining' methods). A portion of the 15 percent of the revenues going to the government would be allocated to environmental programs (two percent); another, to indigenous/ancestral communities (one percent). The crafting of the plan manifests the effort to balance the environmental and social justice concerns.

Another Cycle of Disruptive Actions

Shortly after the government floated the mineral reservation plan, a group of miners burned tires and some 20 tanks of acetylene in a mining tunnel. The objective of this action of 27 July 2002 (Kaufman, 14 August 2002; MT-c, 4 September 2002) was to 'smoke out' the miners working in a higher tunnel – and employed by another mining company. Although the miners are of the grassroots, this violent incident was attributed to the mining company. One miner was killed in this incident; a few were wounded. Miners who would have already left the area would not be around to get service contracts if and when the plan took effect. The pollution their operations were causing would be abated also.

The manner in which the authorities investigated this 'smoking' incident was not satisfactory to the miners. So 2,500 miners staged another protest on 10 August 2002. This time they occupied Tagmanok Bridge – different from the one blocked in an earlier protest. Armoured vehicles were used to disperse the protesters – one of these vehicles ran over the coffin of the miner who was killed in the 'tunnel fumigation' incident (Kaufman, 14 August 2002). A footage of the armoured personnel carrier running over the coffin was later shown on national television (Sicat, 4 September 2002, MT). There were also reports that the Black Ninjas (a group from the JBMMC) joined the Philippine Army in dispersing the protesters (Crismundo, 5 September 2002) – something that allegedly occurs often. The level of violence along with its raw and graphic depiction preceded the government's declaration of an emergency situation in Diwalwal (Kaufman, 14 August 2002, MT; MB-n, 13 August 2002). The Armed Forces of the Philippines and the Philippine National Police were tasked to stop all mining operations. The government could not avoid addressing the environmental and social justice problems. By then, social justice was the major framing and had definitively encompassed the issue of legal ownership/title.

Government Takeover

Shortly after the declaration of the emergency situation, the government declared it was taking over the Diwalwal mining area (Brazas [a], 17 August 2002, MT). DENR Administrative Order 2002-18, all mining was to be stopped – with troops to enforce the stoppage; a technical working group was to be created to implement a mine management plan; and the 8,100 hectares that had been disputed was to be declared a mineral reservation area (Conde and Gonzales [a], 9 September 2002, MT). A common tailings pond would also be constructed in Mabatás (for 50 million pesos), and a central mineral processing

zone would be designated – where operations would be relocated (Dancel and Brazas, 30 November 2002, MT). One problem to face was the estimated number of loose firearms in the area – soldiers moonlighting as security guards for the mining companies have been fingered as a cause of this situation. The estimate was as high as 1,000 loose firearms (Concepcion, 18 August 2002, MT; Ner, 1 September 2002).

Large-scale Miners' Turn in Court

The announcement of the takeover – to take effect in September 2002 – prompted the large-scale miners to petition the courts to issue a temporary restraining order (MT, 19 August 2002). Unfortunately, under Presidential Decree No. 984 (signed by Marcos on 18 August 1976), judges were not authorized to issue such orders (Balana, 7 October 2001, PDI).

For some time, there was confusion on the 'total' stoppage of 'all' mining operations in Diwalwal as an effect of the government takeover. The 13-man Diwalwal technical working group posted the closure order to all mining tunnels – with military and police forces to guard the portals. However, DENR's Alvarez also said that the 2,500 small-scale miners were still allowed to work in the area – the Department of Social Welfare and Development and other government units had been providing food assistance to the miners. Another clarification that was made was that the number of miners to be given service contracts by the Natural Resources Development Corporation starting 4 September 2002 was 7,000 (MB-o, 21 August 2002).

But the plan appeared good in terms of addressing the major concerns – environmental pollution and social justice. Alvarez was confirmed as the full-fledged secretary of the DENR. And he considered Diwalwal his 'lucky charm' (MB-p, 24 August 2002). The epochal issuance of service contracts to miners started (Panesa (c), 29 August 2002; Brazas (c), 1 September 2002, MT). And the small-scale miners set out to resume their operations (Crisundo, 5 September 2002, MT). The government signed 17 contracts with the miners (another report says 20 contracts). And the expectations were that the mines would produce 18.72 million pesos between 16 September 2002 and 16 March 2003 (MT-d, 7 September 2002). Even then, public hearings were scheduled – the focus was on the increase in the share of the miners from 40 percent to 85 percent of the revenues (MB-q, 10 September 2002).

Another view of the plan was that it would bring in more mining giants to Diwalwal. This was a cause of some confusion because three-fourths of the mining area was given to 'big foreign firms' (Conde, 11 September 2002). There were no impediments for big mining corporations to enter the area. One view sees the appeal to 'national interest' as sufficient to let big mining corporations in. Hence, the miners and some advocates were optimistic of the plan - but guardedly so because things might change in the long run (Conde and Gonzales [a] and [b]). When the President signed Proclamation No. 297 on 29 November 2002, the 8,100 hectares of mining land was classified as

'environmentally critical'. And there were still apprehensions that the government's solution could deprive 20,000 miners of their job (Dancel and Brazas, 30 November 2002, MT).

New DENR Secretary

Diwalwal was the main problem Alvarez was to solve before he was replaced by Elisea Gozun as secretary of the DENR (Kabiling, 30 November 2002; Panesa [d]; MB-r, 10 December 2002). Since then, one observation is that the water quality of Naboc River has improved after the takeover of Diwalwal mining by the government. Siltation decreased to a third of the levels observed since 1996. However, cyanide levels had not decreased enough (Calumpita, 10 February 2003, MT). This is one of the early positive outcomes attributable to the mineral-reservation policy of the government that has been in force since September 2002. The environmental dimension gets reported ahead of the subtler dimension of social justice – at least, as far as the media reports are concerned.

CONCLUDING DISCUSSION

The transnational dimension of the Diwalwal problem operated down through the grassroots. The liberalization of the mining industry – by virtue of the Philippine Mining Act of 1995 – is an element of the globalization process. As the campaign to solve the social problem unfolded, the broadly shared norm of social justice (i.e., 'fairness to groups') prevailed to moderate the momentum of liberalization. The observance of social justice norms in the mineral-reservation solution also provided a point of leverage for the enforcement of environmental compliance. Incidentally, the requirement of Environmental Impact Assessment is not new in the Philippines – Marcos signed Presidential Decree No. 586 on 11 June 1978.

The environmental dimension – mercury and cyanide pollution, in particular – is two-sided as different social actors assessed it. Because of the available technology in Diwalwal, pollution ensued from the mining operations. Thus, the farmers and some flanks in the government wanted to stop the source of the pollution. But stopping the mining operations would have deprived thousands of miners of their means of livelihood – and the country of much needed revenue. Thus, economic growth and social justice counterbalanced the efforts to abate the health hazards attributable to environmental pollution.

The environmental frame was effective in the mobilization against the mining operations. But the availability of measures like the environmental-compliance requirement made it possible for the social justice frame to regain the focus in the social construction of the Diwalwal problem.

Loose enforcement of legal or administrative requirements in the past led to the emergence of the ownership problems and the rapid spread of environmental pollution. Strong government response to suppress disruptive actions and violence had a two-sided effect: widespread sympathy and weakening of its

enforcement capability (because some soldiers could moonlight for the mining companies). Thus, there was not a clear picture of the opportunities for, and constraints to, collective action. What is definite is that the social actors were aggrieved by the worsening situation in Diwalwal.

Framing the issue entailed framing the identity of the protagonists and constituencies. Health hazard to the community; livelihood and fairness to the miners; the country's economic growth – in the context of liberalization, and thereby, influenced by transnational forces. As these frames played out, the court rulings were mostly contingent factors. And the responses of the social actors to the actions of the government as well as to each other paint a set of generally contingent circumstances. In other words, the social actors navigated the norms of social justice and concern for the communities' health through emergent situations. The action repertoire employed (court actions in combination with pickets/demonstrations – the latter serving at times as 'corrective action' to the court rulings) was not new. And their use simply depended on the solidarity within the group-protagonists.

The key identity shift took place in the President – through the nuance of the moratorium on mining operations. The temporary stoppage assuaged the two opposing sides (farmers and miners), and prepared the way to the enforcement of both social justice measures and environmental compliance requirements.

Overall, the miners' collective actions were effective in shaping the policy that the government eventually crafted and implemented in Diwalwal. Their struggle framed in terms of social justice was integrated with environmental concerns in the policy. How the policy plays out in the next phase will show how the social actors will have moved towards the achievement of the major goals in this campaign.

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