

SMALL SCALE MINING and LOCAL GOVERNANCE

The Role of LGUs

RA 7160: Local Government Code of 1991

BASIS OF LOCAL GOVERNANCE IN THE PHILS



It shall be the duty of **every national agency** or government-owned or controlled corporation authorizing or involved in the **planning and implementation** of any project or program that may cause **pollution**, climatic change, **depletion of non-renewable resources**, loss of crop land, rangeland, or forest cover, and extinction of animal or plant species, **to consult with the local government units**, nongovernmental organizations, and other sectors concerned and **explain** the goals and objectives of the project or program, its impact upon the people and the community in terms of environmental or ecological balance, and the measures that will be undertaken to prevent or minimize the adverse effects thereof.

LGC Section 26. Duty of National Government Agencies in the Maintenance of Ecological Balance



Based on LGC Section 26
entitled *Duty of National*
Government Agencies in
the Maintenance of
Ecological Balance

DILG's Role in SSM



- * **Co-plan and co-implementation** any related project or program
- * **to consult with the local government units,** nongovernmental organizations, and other sectors concerned and
- * **explain** the goals and objectives of the project or program, its impact upon the people and the community in terms of environmental or ecological balance, and the measures that will be undertaken to prevent or minimize the adverse effects thereof (IEC)

DILG's Role in SSM



*LGC Section 17 (b)(3)(iii) "Pursuant to national policies and subject to supervision, control and review of the **DENR**, enforcement of forestry laws limited to community-based forestry projects, pollution control law, **small-scale mining law**, and other laws on the protection of the environment; and mini-hydroelectric projects for local purposes."

Provision of Basic Services and Facilities by the Province



- *The Supreme Court has ruled that the Environment Secretary has the authority to cancel small-scale mining permits issued by a local government.

In a 20-page decision dated April 11, the SC sitting en banc denied for lack of merit a petition filed by the League of Provinces of the Philippines to declare as illegal Section 17 (b)(3)(iii) of the Local Government Code of 1991 and Section 24 of RA No. 7076, or the People's Small Scale Mining Act

Absence? Presence? Law on Small Scale Mining



RA 7076 aka PEOPLE'S SMALL- SCALE MINING ACT

Basis of SMALL-SCALE MINING
MANAGEMENT IN THE
PHILIPPINES



*RA 7076 Section 24. There is hereby created under the direct supervision and control of the Secretary a provincial/city mining regulatory board, herein called the Board which shall be the **implementing agency**, of the Department, xxx."

Provincial/City Mining Regulatory Board



LGC Section 3. *Operative Principles of Decentralization* (j) Effective mechanisms for ensuring the accountability of local government units to their respective constituents shall be strengthened in order to upgrade continually the quality of local leadership;

Decentralization



LGC Section 60. *Grounds for Disciplinary Actions*

An elective local official may be disciplined, suspended, or removed from office on any of the following grounds . . . and

(h) Such other grounds as may be provided in this Code and other laws.

Accountability



According to LGC CHAPTER II Section 289 Share of Local Government Units in the National Wealth:

Share in the Proceeds from the Development and Utilization of the National Wealth. - Local government units shall have an equitable share in the proceeds derived from the utilization and development of the national wealth within their respective areas, **including sharing the same with the inhabitants by way of direct benefits.**

Share from national wealth



According to LGC CHAPTER II Section 290 Share of Local Government Units in the National Wealth:

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**, . . . from national wealth within their territorial jurisdiction.

Share from national wealth



According to RA 7076 SECTION 19 Government Share and Allotment:

The revenue to be derived by the Government from the operation of the mining program herein established shall be subject to the **sharing provided** in the Local Government Code.

Share from national wealth



EO 79 Section 12. The DILG and LGUs are hereby directed to ensure that the exercise of latter's powers and functions is consistent with and conform with the regulations, decisions, and policies already promulgated and taken by the national government relating to the conservation, management, development, and proper utilization of the State's mineral resources xxx while recognizing the need for social acceptance of proposed mining projects and activities.

Consistency of Local Ordinances with the Constitution and National Laws/LGU Cooperation



EO 79 Section 12.

LGU shall confine themselves only to the imposition of reasonable limitations on mining activities conducted within their respective territorial jurisdiction that are consistent with national laws and regulations..

Consistency of Local
Ordinances with the
Constitution and National
Laws/LGU Cooperation



EO 79 Section 12.

LGUs, DENR and the MGB working together shall strictly implement RA 7076, to ensure the protection of the environment, address various issues in small-scale mining and ensure that violators thereof are subjected to appropriate administrative and criminal liability.

Consistency of Local
Ordinances with the
Constitution and National
Laws/LGU Cooperation



Magtajas vs Pryce Properties Corp. (G.R. No. 111097, 20 July 1994)

The tests of a valid ordinance are well established. A long line of decisions has held that to be valid, an ordinance must conform to the following substantive requirements:

- 1) IT MUST NOT CONTRAVENE THE CONSTITUTION OR ANY STATUTE.

Consistency of Local Ordinances with the Constitution and
National Laws/LGU Cooperation
(DILG MC 2012-181)



Magtajas vs Pryce Properties Corp. (G.R. No. 111097, 20 July 1994)

- 2) It must not be unfair or oppressive.
- 3) It must not be partial or discriminatory.
- 4) It must not prohibit but may regulate trade.
- 5) It must be general and consistent with public policy.
- 6) It must not be unreasonable

Consistency of Local Ordinances with the Constitution and
National Laws/LGU Cooperation
(DILG MC 2012-181)



Lina vs Paño (G.R. No. 129093, 30 August 2001)

- 1) The power of the local government to legislate and enact ordinances and resolutions is merely a DELEGATED POWER coming from Congress;
- 2) Ordinances should not contravene any existing statute enacted by Congress;
- 3) Municipal governments are only agents of the national government. The delegate cannot be superior to the principal or exercise power higher than those of the latter;
- 4) The principle of local autonomy under the 1987 Constitution simply means “decentralization”. It does not make local governments sovereign within the state or an “*imperium in imperio*”.

Consistency of Local Ordinances with the Constitution and
National Laws/LGU Cooperation
(DILG MC 2012-181)



RA 7076 Section 24.

- Declare and segregate existing gold-rush areas for small-scale mining
- Reserve for the future, mineralized areas/mineral lands for small-scale mining
- Award contracts to small-scale miners' cooperative

As Co-Chairpersons of the
P/C Mining Regulatory
Boards [DENR AO 2012-
07, Section 14 (d)]



EO 79 Section 24.

- Formulate and implement rules and regulations related to small-scale mining or RA 7076
- Settle disputes, conflicts or litigations over conflicting claims within 90 days upon filing of protests or complaints; Provided, That any aggrieved party may appeal within 5 days from the Board's decision to the Secretary for final resolution otherwise the same is considered final and executory
- Perform such other functions as may be necessary to achieve the goals and objectives of RA 7076.

**As Co-Chairpersons of the
P/C Mining Regulatory
Boards [DENR AO 2012-
07, Section 14 (d)]**



- *With the number of people associated with it, SSM can not be ignored
- *Government is and should keep doing improvements on the industry
- *SSM will only be helpful if it is founded on good partnership.

SUMMARY



I soon realized that what had happened on a small scale cannot necessarily be repeated on a larger scale. The stones were so big that the amount of heat required was prohibitively expensive and wasteful.

Andy Goldsworthy is a British sculptor, photographer and environmentalist producing site-specific sculpture and land art situated in natural and urban settings. He lives and works in Scotland.



Thank
You!

