



LOCAL GOVERNMENT POWERS IN EXTRACTIVE MINING AND OTHER ENVIRONMENTALLY CRITICAL PROJECTS

A PRIMER

Legal Rights and Natural Resources Center

**Local Government Powers in Extractive Mining and Other
Environmentally Critical Projects: A Primer**

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The Legal Rights and Natural Resources Center (LRC) is a legal, research and policy development, and advocacy institution. It works for the recognition and protection of the rights of indigenous peoples and upland rural poor communities to land and environment. LRC is the Philippine member of the Friends of the Earth International.

Table of contents

I. Background	
Mining and Local Autonomy of LGUs in the Philippines	1
II. Local Autonomy and the Local Government Unit's Ordinance-Making Power in Mining	3
What is local autonomy?	3
What are the implications of local autonomy?	5
Does this power include the power to legislate a mining moratorium and regulate mining activities in an LGU's territorial jurisdiction?	8
But isn't jurisprudence replete with cases voiding ordinances for being ultra vires, that is, enacted beyond the LGU's powers?	8
What is the wisdom in granting LGUs the power to legislate on extractive mining activities within their territorial jurisdiction?	10
May the DENR disregard a local mining ordinance on the ground that it has exclusive jurisdiction on mineral resources exploration, development and utilization?	11
Having established first, the duty to protect the right of the people to a balanced and healthful ecology, second, the LGU's authority to actually enact ordinances in connection with mining, and third, the shared authority to regulate mining between DENR and LGU's, what should LGUs bear in mind when enacting ordinances in connection with mining?	11
Can LGU's use the precautionary principle in enacting their ordinances in connection with mining?	13
Doesn't the Environmental Compliance Certificate (ECC) guarantee that a particular project will not cause significant negative impact on the environment?	13
What should local governments make out of EO 79, DILG Memorandum Circular 2012-181 dated 08 November 2012?	14
Are opinions of National Government officials declaring mining moratorium/regulation ordinances void, controlling on local government units?	17

Table of contents

III. Power to Veto Mining Projects under Section 26 and 27 of the Local Government Code	18
What other mechanisms confirm the inescapable conclusion that local government units may regulate/veto mining within their territorial jurisdiction?	18
When is compliance with Sections 26 and 27 of the Local Government Code mandatory?	20
Is a local government unit limited to a project's compliance with environmental concerns when approving or disapproving a project under Section 27 of the Local Government Code?	20
Which entity is ultimately responsible for ensuring compliance with Sections 26 and 27 of the Local Government Code?	20
Does this mean that local government units are not bound to issue an approval under Section 27 of the Local Government Code despite the DENR's issuance of an Environmental Compliance Certificate for a particular project?	21
Which entity determines whether a project is environmentally critical, may cause pollution, or bring about climactic change?	21
Which local government units must be consulted and prior approval secured?	22
What happens when there is a conflict between the approvals of the different sanggunians?	22
Briefly, what are the technicalities of Section 26 and 27 of the Local Government Code?	22
IV. Summary of an Local Government Unit's Powers	24
Endnotes	25



I. Background

Mining and Local Autonomy of LGUs in the Philippines

In March 1995, then President Fidel Ramos signed into law the Philippine Mining Act (Republic Act No. 7942), which was designed to revive the country's mining industry and attract more foreign investments; foreign and local mining investors lauded the enactment of the Philippine Mining Act of 1995,¹ which liberalized the extractive industry's investment climate. Among its statutory "come-ons" were the greater latitude granted to foreign investors in extracting mineral resources, and the assurance of an asymmetrical fiscal regime, which skewed in favor of mining companies. These tweaks were meant to advance mining's contribution to the economy as well as ensure the grassroots prosperity of the affected local communities² through a trickle-down effect.

The Mining Act of 1995's guarantee of broadening the base of economic growth lamentably remains a pipe dream. In particular, despite the gilded promise of wealth generation for mineral extraction, local government units (LGUs) only receive a miniscule proportion of the revenues from mining corporations while having to contend with the attendant and pernicious environmental risks, costs, and degradation caused by mining operations within their localities. Worse, the environmental, ecological, and development implications of large-scale mineral extraction extend far beyond the mining site itself; it has direct effects on air quality, water resources, agriculture, health, among others, of adjacent areas, and localities. Far from being a vehicle for uplifting the lives of local communities therefore, mining deprives communities by statutorily monopolizing and systematically dominating potential resources for local development and progress.³ It isn't surprising, therefore, that in 2009, mining had the highest poverty incidence among industry groups at 48.71%.⁴

These reasons, along with the growing awareness to judiciously conserve and equitably use natural resources, have impelled LGUs to be more circumspect in allowing mining operations within their territorial jurisdiction. The policy pushback usually took the form of local government

resolutions, which may be prompted by prior consultations with affected community members,⁵ and ordinances prohibiting certain forms of mining operations. The subsequent enactment of the Indigenous People's Rights Act (IPRA) of 1997 and **the insistence of the local government units to assert their constitutionally guaranteed local autonomy**, further diminished the inertia of resource exploitation and extractives in the country.⁶

This local government's assertion of local autonomy, however, has been, unsurprisingly, frowned upon by the mining industry for being "inconsistent" with government policies.⁷ Prof. Maglambayan, a Geology Professor and an officer of a mining company, even argued that this assertion runs "counter to the constitutional guarantees to develop natural resources."⁸

If only to address the emerging local government roadblocks to extractive mining operations, the late President Benigno Simeon Aquino III issued on July 2012, Executive Order (EO) 79. That issuance emphasized the national government's overbearing thrust to centralize the regulation of mining operations. Concealed under the pretext of 'guidelines,' EO 79 proclaimed that LGUs can only impose reasonable limitations that are consistent with national law and regulations, to wit:

Section 12 of EO 79. Consistency of Local Ordinances with the Constitution and National Laws/LGU Cooperation. The DILG and the LGUs are hereby directed to ensure that the exercise of the latter's powers and functions is consistent with and conform to 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, particularly RA 7942 and its implementing rules and regulations, while recognizing the need for social acceptance of proposed mining projects and activities. **LGUs shall confine themselves only to the imposition of reasonable limitations within their respective territorial jurisdictions that are consistent with national laws and regulations.** (emphasis supplied)

EO 79 was later followed by subsequent issuances, which predictably echoed the former's flawed reasoning. For instance, the Department of Justice (DOJ) on 2 February 2005 issued DOJ Opinion No. 8, s. 2005, saying that local governments can only issue Resolutions airing their views on a proposed mining project. But that, however, local government units cannot withhold consent and enact an Ordinance banning a mining operation because it will conflict with the Philippine Mining Act enacted by Congress.⁹

The Department of the Interior and Local Government (DILG) soon after issued Memorandum Circular 2012-181, dated 08 November 2012, to enjoin LGUs "stringently abide" with the EO 79 in the enactment of ordinances that "aim to regulate the utilization of mineral resources" in their areas. The DILG further instructed the local chief executives of the LGUs to take measures to amend existing ordinances regulating or prohibiting mining activities. As will be shown, however, these advisory opinions contravene the spirit and intent of the Constitution and existing statutes.



II. Local Autonomy and the Local Government Unit's Ordinance-Making Power in Mining

What is local autonomy?

Local autonomy endows local government units with the power over mining projects within their respective jurisdictions. Under the Philippine Constitution, local government units are granted local autonomy, under the following provisions:¹⁰

- 1) Art. II, Sec. 25. The State shall ensure the autonomy of local governments.
- 2) Art. X, Sec. 2. The territorial and political subdivisions shall enjoy local autonomy.

In the case of *Limbona v. Mangelin*¹¹ the Supreme Court expounded on this concept of local autonomy. In particular, it stated that:

[A]utonomy is either decentralization of administration or decentralization of power. There is decentralization of administration [which applies to local government units in general] when the central government delegates administrative powers to political subdivisions in order to broaden the base of government power and in the process to make local governments 'more responsive and accountable,' and 'ensure their fullest development as self-reliant communities and make them more effective partners in the pursuit of national development and social progress.' At the same time, it relieves the central government of the burden of managing local affairs and enables it to concentrate on national concerns.¹²

The call for genuine local autonomy paved the way for the decentralization of governmental powers. The structure, according to eminent jurist Fr. Joaquin Bernas SJ, was meant to make local government units sensitive to the needs of the locality, and freed as much as possible from central government interference.¹³ In turn, economic, political and social development in the smaller political units are expected to propel social and economic growth and development.¹⁴ Moreover, decentralization will help address problems in each sector of society more efficiently by dispersing political units throughout the country to help them deliver the needs of their constituents better.

Decentralization and local autonomy give life to democracy. It brings governance within the reach of ordinary Filipinos. In the case of the Province of *Batangas vs. Romulo*,¹⁵ the Supreme Court explained the importance of local autonomy for LGUs as institutions of democracy, to quote:¹⁶

“Indeed, the value of local governments as institutions of democracy is measured by the degree of autonomy that they enjoy. x x x [l]ocal assemblies of citizens constitute the strength of free nations. Township meetings are to liberty what primary schools are to science; they bring it within the people's reach; they teach men how to use and enjoy it. A nation may establish a system of free governments but without the spirit of municipal institutions, it cannot have the spirit of liberty.” (emphasis supplied)

The Local Government Code of 1991 made more specific the broadened local government unit's powers and established a more responsive and accountable local government structure instituted through a system of decentralization of powers, authority, responsibilities, and resources to make them more effective partners in the attainment of national goals.¹⁷ The Local Government Code of 1991 aptly echoes the principle of local autonomy and decentralization, particularly in the following provisions:

“Sec. 3. Operative Principles of Decentralization. – The formulation and implementation of policies and measures on local autonomy shall be guided by the following operative principles:

xxx

(i) Local government units shall **share with the national government the responsibility in the management and maintenance of ecological balance** within their territorial jurisdiction, subject to the provisions of this Code and national policies;

xxx

(l) The participation of the private sector in local governance, particularly in the delivery of basic services, shall be encouraged to ensure the viability of local **autonomy as an alternative strategy for sustainable development.** (emphasis supplied)

What are the implications of local autonomy?

Local autonomy grants **powers, responsibilities, and duties** to local government units to protect the environment in the interest of establishing more accountable and responsive local governments. These powers and duties may be culled from the spirit of the constitution itself, the general welfare clause, and other provisions of the Local Government Code.

Remember that the spirit of local autonomy is to establish a more "responsive and accountable" local government units and "ensure their fullest development as self-reliant communities and make them more effective partners in the pursuit of national development and social progress."¹⁸ To concretize this intent, the legislature enacted the Local Government Code of 1991, which specified the broad powers granted to the local government units. Foremost and most expansive among these powers is the general welfare clause, which states:

SECTION 16. General Welfare. - Every local government unit shall exercise the powers expressly granted, those necessarily implied there from, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare.

Within their respective territorial jurisdictions, local government units shall **ensure and support**, among other things, the preservation and enrichment of culture, **promote health and safety**, **enhance the right of the people to a balanced ecology**, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants. (emphasis supplied)

The general welfare clause delegates in statutory form the police power to a municipality.¹⁹ This clause has been given wide application by municipal authorities and has been liberally construed by the courts.²⁰ The **first part** of the general welfare clause pertains to the **grant of police power**, and relates to the power to enact such ordinances, resolutions, and regulations as may be necessary to carry into effect and discharge the powers and duties conferred by law.²¹ It embodies the police power of local government units so they can effectively accomplish and carry out their objectives. Police power is "...the most pervasive, the least limitable, and the most demanding of the three fundamental powers of the State."²² It is the power to promote public welfare by restraining and regulating the use of liberty and property.²³ Within the territorial jurisdiction, too, the general welfare clause shall be *liberally* interpreted so that any doubt shall be interpreted in favor of the liberal exercise of that power.²⁴ Notably, the grant of police power, and the consequent authority to enact ordinances and resolutions, are likewise echoed in the Local Government Code's various provisions, to wit:

SECTION. 391. Powers, Duties, and Functions. - (a) The Sangguniang Barangay, as the legislative body of the Barangay, shall: (a) Enact ordinances as may be necessary to discharge the responsibilities conferred upon it by law or ordinance and to promote the general welfare of the inhabitants therein x x x

SECTION. 447. - Powers, Duties, Functions and Compensation. - (a) The Sangguniang Bayan, as the legislative body of the municipality, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the municipality and its inhabitants pursuant to section 16 of this Code x x x

SECTION 468. Powers, Duties, Functions and Compensation. – (a) The sangguniang panlalawigan, as the legislative body of the province, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the province x x x

The second branch of the general welfare clause, however, **imposes duties and responsibilities** to local government units. Among the notable obligations imposed is that local government units **shall ensure and support**, among other things, the preservation and enrichment of culture, **promote health and safety, enhance the right of the people to a balanced ecology**. The said duties and responsibilities are likewise repeated in other parts of the Local Government Code, to quote these provisions:

SECTION. 447. - Powers, Duties, Functions and Compensation. - (a) The Sangguniang Bayan, as the legislative body of the municipality, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the municipality and its inhabitants pursuant to section 16 of this Code and in the proper exercise of the corporate powers of the municipality as provided for under section 22 of this Code, and shall:

x x x

(iv) Adopt measures to protect the inhabitants of the municipality from the harmful effects of man-made or natural disasters and calamities and to provide relief services and assistance for victims during and in the aftermath of said disasters or calamities and their return to productive livelihood following said events;

x x x

vi) Protect the environment and impose appropriate penalties for acts which endanger the environment, such as dynamite fishing and other forms of destructive fishing, illegal logging and smuggling of logs, smuggling of natural resources products and of endangered species of flora and fauna, slash and burn farming, and such other activities which result in pollution, acceleration of eutrophication of rivers and lakes, or of ecological imbalance;

x x x

SECTION 468. Powers, Duties, Functions and Compensation. – (a) The sangguniang panlalawigan, as the legislative body of the province, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the province and its inhabitants pursuant to Section 16 of this Code in the proper exercise of the corporate powers of the province as provided for under Section 22 of this Code, and shall:

x xx

(iv) Adopt measures to protect the inhabitants of the province from harmful effects of man-made or natural disasters and calamities, and to provide relief services and assistance for victims during and in the aftermath of said disasters and calamities and in their return to productive livelihood following said events;

x xx

(vi) Protect the environment and impose appropriate penalties for acts which endanger the environment, such as dynamite fishing and other forms of destructive fishing, illegal logging and smuggling of logs, smuggling of natural resources products and of endangered species of flora and fauna, slash and burn farming, and such other activities which result in pollution, acceleration of eutrophication of rivers and lakes, or of ecological imbalance. (emphasis supplied)

The grant of police power, and the consequent imposition of duty and responsibilities to LGUs to protect the environment, adopt measures to protect the inhabitants of the province from harmful effects of human-made or natural disasters and calamities; and promote health and safety, enhance the right of the people to a balanced ecology, emphatically recognized the Sanggunian's power and authority to enact ordinances to protect the environment and ecological balance within its territorial jurisdiction. By expressly ordaining the local government unit with power to enact ordinances to protect against ecological imbalance and protection of the environment within its territorial jurisdiction, Congress erased any lingering doubts about the province's power and authority to legislate to protect the environment and ecological balance.

If only to emphasize the significance of an LGU's statutory duty in protecting the environment, preparing for natural calamities, and upholding the citizen's right to a balanced and healthful ecology, Congress, in July 2018, enacted Republic Act 11292, otherwise known as the Seal of Good Local Governance Act of 2019 (SGLG Law). The SGLG Law institutionalized an incentive program for LGUs and emphasized the commitment to continuously improve their performance in the aforesaid areas. The SGLG Law echoes, in clear and unequivocal terms, Congress's policy directive to continually protect the environment, and uphold the right to a balanced and healthful ecology.

Does this power include the power to legislate a mining moratorium and regulate mining activities in an LGU's territorial jurisdiction?

Undoubtedly! This power organically includes the power to prohibit mining within a local government's territorial jurisdiction. This interpretation is buttressed by the liberality of police power exercised within a local government's territorial jurisdiction, and the duty imposed on them to protect the environment and the right of the people to a balanced and healthful ecology.

The LGU's authority to legislate on mining activities is further justified by the principle of local autonomy enshrined in the 1987 Constitution in relation to the general welfare clause under Section 16 of the Local Government Code of 1991. The passage of a local mining ordinance is likewise consistent with Sections 446 and 468 of the Local Government Code, which empower sanggunians to approve ordinances, pass resolutions to protect the environment, and impose appropriate penalties for acts which endanger the environment, and such other activities which result in pollution, acceleration of eutrophication of rivers and lakes, or of ecological imbalance.

But isn't jurisprudence replete with cases voiding ordinances for being ultra vires, that is, enacted beyond the LGU's powers?

Yes, but those cases pertain to activities that, unlike mining operations, do not primarily involve the disposition, extraction, and exploration of natural or mineral resources, and do not pose a threat of such magnitude and scale as to degrade the environment and undermine the right of the people to a balanced and healthful ecology, and the authority of the LGU to determine their economic and social priorities and development.

For instance, the oft cited case of *Magtajas v. Pryce*²⁵ involved the the operation of a PAGCOR gambling casino; *Tan v. Perena*²⁶ pertained to the statutory limits on the number of cockpits. *Mosqueda v. City Government of Davao*²⁷ pertained to an overbroad ordinance banning aerial spraying as an agricultural practice for all agricultural entities in Davao City. In other words, the ordinance in *Mosqueda* sought to ban all forms of aerial spraying without showing basis that such conduct has a direct and causal connection to the right of the people to a balanced and healthful ecology. *Mosqueda* did not involve either the disposition, exploration and extraction of natural or mineral resources.

These are in contrast to the case of *Ruzol v. Sandiganbayan*,²⁸ which covered salvaged forest products—the conduct of which falls under the rubric of disposition and extraction of natural or mineral resources that may undermine the right of the people to a balanced and healthful ecology.

The case involved a national policy directive of the DENR requiring a permit to gather and dispose uprooted logs and other salvaged forest products, which was in apparent conflict with a local legislative measure requiring permits to transport salvaged forest products. The Court ruled that LGUs are “not necessarily precluded from promulgating, pursuant to its power under the general welfare clause, complementary orders, rules or ordinances to monitor and regulate the transportation of salvaged forest products.” **The Court emphasized the shared responsibility of LGUs and the national government in environmental protection.** The Court rejected DENR’s claim of exclusive mandate over the matter, stating that such claim is “negated by the use of the word “primary” under the DENR’s mandate.

In upholding the LGU’s complementary authority to regulate extraction, disposition, and exploration of natural and mineral resources within the LGU’s territorial jurisdiction, the Court in *Ruzol* first scrutinized the DENR’s mandate under E.O. No. 192. Specifically Section 4 of E.O. 192 states to wit:

SECTION 4. Mandate. The Department shall be the primary government agency responsible for the conservation, management, development, and proper use of the country’s environment and natural resources, specifically forest and grazing lands of the public domain, as well as the licensing and regulation of all natural resources as maybe provided for by law in order to ensure equitable sharing of the benefits derived therefrom for the welfare of the present and future generations of Filipinos.

The Court in *Ruzol* construed the word “primary” as negating exclusivity. It further went on to say that,

While the DENR is, indeed, the primary government instrumentality charged with the mandate of promulgating rules and regulations for the protection of the environment and conservation of natural resources, it is not the only government instrumentality clothed with such authority. While the law has designated DENR as the primary agency tasked to protect the environment, it was not the intention of the law to arrogate unto the DENR the exclusive prerogative of exercising this function. Whether in ordinary or in legal parlance, the word "primary" can never be taken to be synonymous with "sole" or "exclusive." In fact, neither the pertinent provisions of PD 705 nor EO 192 suggest that the DENR, or any of its bureaus, shall exercise such authority to the exclusion of all other government instrumentalities, i.e., LGUs.

The doctrinal implication of *Ruzol* therefore is that it affirmed LGUs power to regulate extractive activities within its territorial jurisdiction by unequivocally refuting the DENR’s “exclusivity argument.” Notably, the *Ruzol* reasoning is consistent with the policy of shared responsibility of maintaining ecological balance under the Local Government Code. It also invigorates the principle of local autonomy.

Republic Act 7942, otherwise known as the Philippine Mining Act of 1995 did not, in anyway, curtail this power; in fact Section 8 retained the operative word “primary” originally found under Section 4 of E.O. 192:

Section 8. Authority of the Department. - The Department shall be the primary agency responsible for the conservation, management, development, and proper use of the State's mineral resources including those in reservations, watershed areas, and lands of the public domain.

This only indicates the legislative intention to retain the LGUs regulatory authority on extractive activities, such as mining, which harm the environment, and upend vital ecological balance.

What is the wisdom in granting LGUs the power to legislate on extractive mining activities within their territorial jurisdiction?

From a purely governance standpoint, the inescapable conclusion is that LGUs possess the power to regulate mining activities within their territorial jurisdiction. This is because the avowed purpose of the delegation is to spur economic, political and social development of smaller political units and thereby make governance more directly responsive and effective at the local levels.²⁹ All of these, however, will be negated unless LGUs have the power to regulate mining within their territories. Below are the reasons for such interpretation:

First, mining modifies the economic, ecological, and development destinies of an LGU at the expense of other development priorities. This is because mining leaves a huge footprint as it has extensive and long-lasting environmental impacts that alter development outcomes for generations. Specifically, mining operations alter the land or seabed to get the mineral deposits, and necessarily involves the use or degradation of non-mineral resources, such as freshwater, topsoil, timber, wildlife. Even when remediation such as reforestation is carried out, the biodiversity and web of life may take generations to heal and to return to their original state. The nature of mining, therefore, necessarily alters the LGU's current land, sea, and water resource use, allocation, and priorities;

Second, there are also the impact areas – such as agricultural lands and fishing grounds - from water run-offs or spillages, siltation or erosion, that affect livelihoods, local industries, and the feasibility of sustainable management of resources;

Third, mining carries with it wide-ranging social impacts that LGUs have to deal with beyond the period of the actual mining operations. These often involve the displacement of people because mining is oftentimes carried out in rural and/or mountainous areas and directly affect farmlands, rivers and shorelines where the poorest of the poor in our country reside and are engaged in their livelihoods, namely, the farmers, the indigenous peoples and the municipal fisherfolk.³⁰

Mining may also cause health problems, which the LGU also has to bear. The LGU likewise has to put up with the increased risk of natural disasters, such as flooding or landslides from the cutting of trees or the dislodging of rocks that anchor the trees or from accidents in mining structures;

Fourth, mining's impacts on the environment and on people may or may not be reversible, and generally last longer than the mining operations.³¹

May the DENR disregard a local mining ordinance on the ground that it has exclusive jurisdiction on mineral resources exploration, development and utilization?

No. *Firstly*, the DENR does not exercise control over LGUs; even the President does not exercise control over LGUs, how much more for their alter-ego. As aptly explained by the Court in *Pimentel v. Aguire*:³² “[t]he heads of political subdivisions are elected by the people. Their sovereign powers emanate from the electorate, to whom they are directly accountable. By constitutional fiat, they are subject to the President’s supervision only, not control, so long as their acts are exercised within the sphere of their legitimate powers. By the same token, the President may not withhold or alter any authority or power given them by the Constitution and the law.”

Secondly, a reading of the Mining Act shows that DENR’s jurisdiction pertains to and is exercised in conjunction with its highly technical mandate. This is completely different from the LGU’s own jurisdiction that is largely administrative, local, and comparatively less technical in character. In short, the functions of these two government instrumentalities are not inconsistent with the regulatory power exercised by the local sanggunian to, for instance, prohibit forms of mining within its territorial jurisdiction, or perhaps limit it to methods other than open-pit or surface mining. Echoing *Ruzol*, the DENR thus cannot claim that this power is exclusive to the national government. The LGUs are also entitled to the benefits from the utilization of natural resources found within their locality and, corollary, to protect the same. It gives them the inherent right to participate in the governance of resources in their area.

Having established first, the duty to protect the right of the people to a balanced and healthful ecology, second, the LGU’s authority to actually enact ordinances in connection with mining, and third, the shared authority to regulate mining between DENR and LGU’s, what should LGUs bear in mind when enacting ordinances in connection with mining?

LGU’s should bear in mind the importance of linking the mining ordinance with the right of the people to a balanced and healthful ecology, the need to protect the environment from threats, and the general welfare clause. Otherwise, the ordinance may be struck down for being oppressive,

unreasonable or discriminatory. This was precisely one of the doctrinal implications that may be culled from the case of *Mosqueda v. City Government of Davao*,³³ which emphasized the importance of a narrowly drawn ordinance that seeks to address the harm.

As applied to mining therefore, it may be challenging to justify the enactment of an ordinance that imposes a blanket prohibition on all forms of mining, unless the territorial jurisdiction of the LGU is in such precarious state or delicate condition³⁴ that any method or form of mining would destroy and undermine the environment and the right of the people to a balanced and healthful ecology for succeeding generations. In other words, if there are practical and more permissible alternatives other than a blanket prohibition of mining, then that should be the course taken, such as prohibiting only certain forms of mining methods.

Admittedly it is easier to justify the prohibition on, for instance, open-pit mining in light of its inherent environmental impacts and dangers. This method of mining is particularly pernicious because the minerals to be mined are only available in small concentrations, which increases the amount of ore needed to be mined.³⁵ The large quantities of rocks crushed, and ore excavated in open-pit mining, also produce radioactive elements, asbestos-like minerals, and metallic dust.³⁶ Huge quantities of water are required to process this ore, which produces residual rock slurries—mixtures of pulverized rock and liquid; tailings, toxic and radioactive elements from these liquids can leak into bedrock.³⁷ The tailings then react with air and water to form sulfuric acid. This acid then gets into ground and surface waters, where it can cause terrible damage to water quality.

As it is, open pit mining operations shall inevitably result in erosion and sedimentation of the water system as mineral development disturbs the soil and rock in the course of constructing and maintaining roads, open pits, and waste impoundments; these excessive sediment will clog riverbeds and smother watershed vegetation, wildlife habitat, and aquatic life.³⁸ Coupled with the inevitable chemical and heavy metal pollution produced in the operations, however, the magnitude of environmental damage becomes unprecedented.

The ill effects on humans are also well founded: Bioaccumulation is inevitable in open-pit mining methods, which also undermines the right of the people to a balanced and healthful ecology. Bioaccumulation and biomagnification occur when the heavy metals produced as a result of the operations, are dispersed to, deposited in the soil, and accumulated in plants and animals, and can then be passed up the food chain to human beings as a final consumer. Among these heavy metals which bio-accumulate and bio-magnify are Arsenic (As), lead (Pb), and cadmium (Cd), which are believed to cause cancer, neural and metabolic disorders and other diseases.³⁹ Arsenic also causes cancer of the skin, lungs, urinary bladder and kidney, while lead is another metal of great concern as it can cause brain, liver and kidney damage in children and nerve damage in adults, while long term exposure to cadmium can cause kidney failure, liver, bone and blood damage.⁴⁰

Moreover, these heavy metals cause oxidative stress in plants.⁴¹ Metal stress was reported to affect photosynthesis; for instance; lead reduces chlorophyll production, while arsenic interferes with plant's metabolic processes,⁴² thereby impairing food production.

This does not mean, however, that only open-pit mining may be addressed by a proposed ordinance; rather, what LGUs need to bear in mind is to establish the link between the extractive conduct and the right of the people to a balanced and healthful ecology and the duty to protect the environment.

Can LGU's use the precautionary principle in enacting their ordinances in connection with mining?

Of course, but as it is, the precautionary principle cannot be the sole justification for enacting a mining ordinance; there must still exist a scientific or evidentiary basis that triggers the application of the precautionary principle.

In *Mosqueda*⁴³ the Court noted that that the precautionary principle shall only be relevant if there is concurrence of three elements, namely: uncertainty, threat of environmental damage and serious or irreversible harm. Although the precautionary principle allows lack of full scientific certainty in establishing a connection between the serious or irreversible harm and the human activity, its application is still premised on empirical studies.⁴⁴ Scientific analysis is still a necessary basis for effective policy choices under the precautionary principle.⁴⁵

Doesn't the Environmental Compliance Certificate (ECC) guarantee that a particular project will not cause significant negative impact on the environment?

The ECC signifies that the proposed project will not cause significant negative impact on the environment based on the proponent's representation.⁴⁶ It cannot, however, following the doctrinal implications of *Ruzol*, curtail the authority of an LGU to enact ordinances in connection with mining within their territorial jurisdiction. Moreover, one need not look too far back in history to realize the inadequacies of the ECC, and the need for LGU participation in mining regulation. For instance, the DENR in April 1990, actually granted Marcopper Mining Corporation an ECC a few years before the worst mining disaster in the country.⁴⁷ Three decades since, the small province of Marinduque continues to suffer the effect of that tragedy.

Lastly, the fact that the Local Government Code of 1991 requires the government agency authorizing the project to conduct local consultation and secure prior consent for ecologically impactful projects, only confirms that the ECC by itself is insufficient to guarantee that a project would not cause ecological and environmental harm.

What should local governments make out of EO 79, DILG Memorandum Circular 2012-181 dated 08 November 2012?

EO 79 series of 2012, and DILG Memorandum Circular 2012-181 series of 2012, should not be interpreted to curtail the (1) authority of LGUs to enact ordinances to prohibit or regulate mining, and withhold consent insofar as mining operations are concerned, and (2) statutory duty to protect the environment and uphold the right of the people to a balanced and healthful ecology.

By way of background, EO 79 was issued in order to streamline existing mining policies and program implementation. Under its whereas clauses, EO 79 recognized the duty and authority of LGUs to protect and co-manage the environment and enhance the right of the people to a balanced ecology; at the same time EO 79 recognized the power of the LGU to impose restrictions on mining consistent with existing laws, wit:

WHEREAS, Section 7, Article X of the Constitution provides that local government units (LGUs) are entitled to an equitable share in the proceeds of the utilization and development of the national wealth within their jurisdiction, and the Local Government Code of 1991 provides that LGUs have the duty and authority to protect and co-manage the environment and enhance the right of the people to a balanced ecology;

x x x

SECTION 12. Consistency of Local Ordinances with the Constitution and National Laws/LGU Cooperation. The Department of the Interior and Local Government (DILG) and the LGUs are hereby directed to ensure that the exercise of the latter's powers and functions is consistent with and conform to 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, particularly RA No. 7942 and its implementing rules and regulations, while recognizing the need for social acceptance of proposed mining projects and activities.

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

x x x

LGUs, DENR, and the MGB working together shall strictly implement RA No. 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. (emphasis supplied)

Pursuant to EO 79, the DILG issued Memorandum Circular 2012-181 series of 2012, which echoed the pronouncements under EO 79. At the same time, DILG Memorandum Circular 2012-181 s. 2012 too generously cited the cases of *Magtajas v. Pryce*⁴⁸ and *Lina v. Pano*⁴⁹ to remind the LGUs about the limitations of their powers, and to suggest that when it comes to mining, LGUs should defer to the national government. Moreover, said circular instructed the local legislative councils of LGUs to amend any existing local ordinances aiming to regulate the utilization of mining resources within their area because they are not consistent with national law, in particular RA 7942.

Firstly, insofar as the LGUs are concerned, this power to enact ordinances primarily emanates from the constitutional principle of local autonomy and the statutory grant of police power through the general welfare clause and the doctrinal implications of *Ruzol*. The DILG and EO 79's sole reliance on RA 7942, therefore, is misplaced because the Local Government Code too is a national law that must be considered in the regulation of mineral extraction, most especially since the latter also imposes a duty on LGUs to manage and maintain ecological balance within their territorial jurisdiction.⁵⁰ Notably, this power to enact complementary legislation has been upheld in 2013 by the Supreme Court in *Ruzol v. Sandiganbayan*⁵¹ where it emphasized that:

We disagree and refuse to subscribe to this postulate suggesting exclusivity. As shall be discussed shortly, the LGU also has, under the LGC of 1991, ample authority to promulgate rules, regulations and ordinances to monitor and regulate salvaged forest products, provided that the parameters set forth by law for their enactment have been faithfully complied with.

While the DENR is, indeed, the primary government instrumentality charged with the mandate of promulgating rules and regulations for the protection of the environment and conservation of natural resources, it is not the only government instrumentality clothed with such authority. While the law has designated DENR as the primary agency tasked to protect the environment, **it was not the intention of the law to arrogate unto the DENR the exclusive prerogative of exercising this function. Whether in ordinary or in legal parlance, the word "primary" can never be taken to be synonymous with "sole" or "exclusive."** In fact, neither the pertinent provisions of PD 705 nor EO 192 suggest that the DENR, or any of its bureaus, shall exercise such authority to the exclusion of all other government instrumentalities, i.e., LGUs.

On the contrary, the claim of DENR's supposedly exclusive mandate is easily negated by the principle of local autonomy enshrined in the 1987 Constitution in relation to the general welfare clause under Sec. 16 of the LGC of 1991, which provides:

Section 16. General Welfare. - Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants. (emphasis ours)

Pursuant to the aforequoted provision, municipal governments are clothed with authority to enact such ordinances and issue such regulations as may be necessary to carry out and discharge the responsibilities conferred upon them by law, and such as shall be necessary and proper to provide for the health, safety, comfort and convenience, maintain peace and order, improve public morals, promote the prosperity and general welfare of the municipality and its inhabitants, and ensure the protection of property in the municipality.

As held in *Oposa v. Factoran, Jr.*, the right of the people "to a balanced and healthful ecology carries with it the correlative duty to refrain from impairing the environment." In ensuring that this duty is upheld and maintained, a local government unit may, if it deems necessary, promulgate ordinances aimed at enhancing the right of the people to a balanced ecology and, accordingly, provide adequate measures in the proper utility and conservation of natural resources within its territorial jurisdiction. As can be deduced from Ruzol's memoranda, as affirmed by the parties in their Joint Stipulation of Facts, it was in the pursuit of this objective that the subject permits to transport were issued by Ruzol—to regulate the salvaged forest products found within the municipality of General Nakar and, hence, prevent abuse and occurrence of any untoward illegal logging in the area.

Secondly, the national government may not compel local government units to amend their existing ordinances which are enacted pursuant to the Local Government Code. To do so would amount to the exercise of power of control over local government units. This specific directive from the DILG, therefore, violates the principle of general supervision of local governments under Section 4, Article 10 of the 1987 Constitution, which states that the President of the Philippines shall exercise general supervision over local governments.

General supervision excludes the power to control.⁵² Otherwise stated, the President has no power to alter, modify, nullify, or reverse the decisions of local government units. Hence the President of the Philippines or their alter-ego, such as the Secretary of DILG, has no authority to instruct local government units to amend ordinances that are within their power to enact. Any directive from the President or their alter-ego “seeking to alter the wisdom of a law-conforming judgment on local affairs of a local government unit is a patent nullity because it violates the principle of local autonomy.”⁵³

Are opinions of National Government officials declaring mining moratorium/regulation ordinances void, controlling on local government units?

No. Opinions issued by National Government officials, like Department of Justice Opinion No. 037, Series of 2012, declaring a mining ordinance banning open-pit mining void, are not controlling on local government units. At most, they only have persuasive effect.⁵⁴

Ordinances are products of "derivative legislative power"⁵⁵ in that legislative power is delegated by the national legislature to local government units. They are presumed constitutional and, until judicially declared invalid, retain their binding effect. Even then, to overthrow this presumption, there must be a clear and unequivocal breach of the Constitution, not merely a doubtful or argumentative contradiction.⁵⁶ In *City of Cagayan v. CEPALCO*,⁵⁷ the Court citing *US v. Salvatierra*,⁵⁸ articulated that “the presumption is all in favor of validity x x x [because] [t]he action of the elected representatives of the people cannot be lightly set aside. “The councilors must, in the very nature of things, be familiar with the necessities of their particular municipality and with all the facts and circumstances which surround the subject and necessitate action. The local legislative body, by enacting the ordinance, has in effect given notice that the regulations are essential to the well-being of the people x x x”.⁵⁹

Therefore, the executive department cannot insist on the illegality of these ordinances through a mere executive order, or even an agency opinion;⁶⁰ the constitutionality or legality of an ordinance may only be assailed before the courts.⁶¹ The authority of the LGUs to enact ordinances emanates from the constitutional mandate of local autonomy, the General Welfare Clause, and the local government principle that LGUs are considered stewards of the environment within their reach and control.



OceanaGold mine site, Didipio, Nueva Vizcaya, Google Earth, 02.16.19.

III. Power to Veto Mining Projects under Section 26 and 27 of the Local Government Code

What other mechanisms confirm the inescapable conclusion that local government units may regulate/veto mining within their territorial jurisdiction?

The state is required to conduct consultations and to seek prior approval with the LGUs for environmentally critical projects. Specifically, the Local Government Code requires the national government to conduct consultations with different stakeholders before the implementation of an environmentally-critical project. This consultation and prior approval requirement for environmentally critical projects are embodied in clear terms under Section 26 and 27 of the LGC, to wit:

SECTION 26. Duty of National Government Agencies in the Maintenance of Ecological Balance. - 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, non-governmental organizations, and other sectors concerned and explain the goals and objectives of 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.

SECTION 27. Prior Consultations Required. No project or program shall be implemented by government authorities unless the consultations mentioned in Sections 2 (c)⁶² and 26 hereof are complied with, and prior approval of the **Sanggunian concerned** is obtained: Provided, That occupants in areas where such projects are to be implemented shall not be evicted unless appropriate relocation sites have been provided, in accordance with the provisions of the Constitution.

The purpose of the consultations is to inform the people and the community of its impact on the environment and the measures that the government will undertake to lessen the adverse effects of the project.⁶³ Also, the consultation requirement under the Local Government Code empowers local communities by giving them a platform to express their shared aspirations for the community, in keeping with the spirit and intent of local autonomy; these include the right to withhold their consent to a proposed mining project in their community.

Section 26 of the Local Government Code imposes a duty on national government agencies to consult the local government unit concerned **regarding projects that may cause pollution, depletion of non-renewable resources, loss of cropland, rangeland, or forest cover, and extinction of animal or plant species.** So much deference is granted to the local government units with respect to projects that may cause pollution, depletion of natural resources, cropland, rangeland, or forest cover, which mining would definitely cause, that Section 27 of the Local Government Code requires the approval of the concerned before they are implemented. Of course, the prior approval should always be exercised in the context of the local government unit's statutory duty to protect the environment, and the right of the people to a balanced and healthful ecology, as embodied under the General Welfare Clause.

The requirements of prior consultations and approval illustrate the policy of shared responsibility and project coordination between national and local governments concerning environmentally critical projects. By expressly requiring the prior approval of the local government unit concerned with respect to projects which cause grave environmental and ecological harms of such magnitude, the Congress recognized that the local government unit has primacy over its territorial jurisdiction and is the expert in its administrative, social, ecological, and bureaucratic affairs.

The Supreme Court in fact has repeatedly sustained the power of local government units to resist national government projects under Sec. 26 and 27 of the Local Government Code. In *Boracay Foundation, Inc. v. The Province of Aklan*,⁶⁵ which involved a reclamation project initiated by the national government, the Court held that failure to satisfy either Section 26 or 27 the Local Government Code of 1991 would make the project's implementation illegal. In *Province of Rizal v. Executive Secretary*⁶⁶ the Court en banc unanimously held that the requirements of prior consultation and approval must be met before a national project that affects the environmental and ecological balance of local communities can be implemented. The same pronouncement was

made in *Hernandez v. NAPOCOR*⁶⁷ where the Court ruled that that non-compliance of either Sec. 26 or 27 can result in the granting of an injunction and declaration of the project as illegal.

Simply stated, projects and programs of the national government affecting the environment may not be implemented without prior consultations, with concerned local government units, nongovernmental organizations, and other concerned sectors; and the approval of the Sanggunian concerned.

When is compliance with Sections 26 and 27 of the Local Government Code mandatory?

In the 2001 case of *Lina v. Paño*,⁶⁸ the Supreme Court opined that the prior approval of an LGU is required in instances where the project or the program “(1) may cause pollution; (2) may bring about climatic change; (3) may cause the depletion of non-renewable resources; (4) may result in loss of cropland, range-land, or forest cover; (5) may eradicate certain animal or plant species from the face of the planet; and (6) other projects or programs that may call for the eviction of a particular group of people residing in the locality where these will be implemented.”

Is a local government unit limited to a project’s compliance with environmental concerns when approving or disapproving a project under Section 27 of the Local Government Code?

In the separate opinion of Associate Justice Leonen in *Paje v. Casino*,⁶⁹ he opined that results of the consultations under Sections 26 and 27 do not preclude the local government from taking into consideration concerns other than compliance with the environmental standards. Section 27 does not provide that the local government’s prior approval must be based only on environmental concerns. It may be issued in light of its political role and based on its determination of what is economically beneficial for the local government unit. In other words, although compliance with Sections 26 and 27 of the Local Government Code is mandatory for environmentally critical projects, the local government unit concerned is given wider latitude in its approving or disapproving a project. For instance, it may consider its right of preference in the development and utilization of the natural resources within its jurisdiction, among others.

Which entity is ultimately responsible for ensuring compliance with Sections 26 and 27 of the Local Government Code?

The duty to consult the concerned LGUs and the stakeholders belongs to the national government agency or GOCC authorizing or involved in the planning and implementation of the project. For mining projects, this refers to the DENR.

The Local Government Code of 1991, however, does not prohibit the agency from acting through a medium such as the project proponent.⁷⁰ This notwithstanding, the DENR is ultimately responsible for ensuring that: (1) the concerned LGUs and stakeholders have been thoroughly and truthfully informed of the objectives of the program and its ecological impact on the community; so that (2) the community, through their sanggunian, can intelligently give their approval to socially acceptable projects and reject the unacceptable ones.⁷¹

Does this mean that local government units are not bound to issue an approval under Section 27 of the Local Government Code despite the DENR's issuance of an Environmental Compliance Certificate for a particular project?

Yes. An Environmental Compliance Certificate (ECC) is issued by the DENR in accordance with Presidential Decree Nos. 1151 and 1586. An ECC is issued after a proposed project's projected environmental impact is sufficiently assessed and found to be in accordance with the applicable environmental standards. In other words, an ECC is issued solely for environmental considerations.

The issuance of the ECC, however, does not guarantee the sanggunian approval to the project will be granted. It does not bind the local government unit to give its consent for the project. This is because the requirement of approval under Section 27 of the Local Government Code is completely independent of and encompasses considerations beyond environmental concerns. Both, however, are necessary prior to a project's implementation. Any other interpretation that compels the sanggunian to give its consent because of the DENR's issuance of an ECC is tantamount to an exercise of power of control over a local government unit, which is frowned upon by the Constitution.

Which entity determines whether a project is environmentally critical, may cause pollution, or bring about climactic change?

Fundamentally this is a question of fact that must be decided by the courts in case of conflict between national government agencies and local government units concerned. What is important to remember is that pending the final determination by a court of competent jurisdiction, whether a project or whether there should be compliance with the prior-consultation and approval proviso under the Local Government Code, it is prudent to preserve the status quo.⁷²

Which local government units must be consulted and prior approval secured?

The Local Government Code uses the term **Sanggunian concerned** thereby implying that all local government units which will be directly affected by a particular mining project should be consulted and their prior approval secured. This includes the Sanggunian Barangay, Sanggunian Bayan, and Sanggunian Panlalawigan. As long as the local government unit can show that a particular project “(1) may cause pollution; (2) may bring about climatic change; (3) may cause the depletion of non-renewable resources; (4) may result in loss of cropland, range-land, or forest cover; (5) may eradicate certain animal or plant species from the face of the planet; and (6) other projects or programs that may call for the eviction of a particular group of people residing in the locality where these will be implemented.”

What happens when there is a conflict between the approvals of the different sanggunians?

The project cannot be implemented. Under the Local Government Code, two requisites must be met before a national project that affects the environmental and ecological balance of local communities can be implemented: prior consultation with the affected local communities, and prior approval of the project by the appropriate sanggunian. Absent either of these mandatory requirements, the project's implementation is illegal.⁷³

In *Boracay Foundation v. Province of Aklan*,⁷⁴ a reclamation project located in Caticlan, Malay, Aklan was authorized by the Sanggunian Panlalawigan of Aklan. The Sangguniang Bayan of the Municipality of Malay, and the Sanggunian Barangay of Caticlan opposed the said project through separate resolutions but the province still continued with the implementation of the reclamation project. In that case, the Court ruled that when province of Aklan commenced the implementation project, it violated Section 27 of the LGC, which clearly enunciates that “[no] project or program shall be implemented by government authorities unless the consultations mentioned in Sections 2(c) and 26 hereof are complied with, and prior approval of the sanggunian concerned is obtained.”

Briefly, what are the technicalities of Section 26 and 27 of the Local Government Code?

First, the nature of the project determines the application of the prior consultation and approval requirement. Thus, the project must be environmentally critical before Sections 26 and 27 are made applicable to the project.⁷⁵ The court shall ultimately decide in case of conflict on whether a project is environmentally critical. This notwithstanding, those who claim that a project is environmentally critical, and thus subject to the mandatory requirements of Sections 26 and 27 of the Local Government Code, may pray for the preservation of the status quo.⁷⁶

Second, all affected communities, and all the sanggunians which will be directly be affected by the project, must be consulted, and the latter's prior approval to be secured.⁷⁷ The sanggunian, in deciding whether a project should be approved, may go beyond environmental considerations.⁷⁸

In other words, a local sanggunian may disapprove a project despite compliance with environmental laws if it determines that the project will deprive its constituents of their statutory right of preference in the development and utilization of the natural resources within its jurisdiction.⁷⁹



IV. Summary of an Local Government Unit's Powers

A local government unit possesses two primary powers in relation to mining projects. The first of these is police power, which gives the local government unit the power to legislate and enact ordinances to prohibit or regulate mining within its territorial jurisdiction. This power emanates primarily from the guarantee of local autonomy, the General Welfare Clause of the Local Government Code, and the statutory duty to protect the environment and uphold the right of the people to a balanced and healthful ecology.

This ordinance-making power enjoys the presumption of constitutionality, is liberally construed within the local government unit's territorial jurisdiction, and may be only impugned in the event of patent conflict with a statute or the Constitution.

The second power has a procedural character and requires the consultation and prior approval of local government units concerned under Sections 26 and 27 of the Local Government Code. Sections 26 and 27 are limited in their application to environmentally critical projects. Nonetheless, that does not mean that the veto power is less effective in thwarting large mining projects because non-compliance therewith makes the project illegal.

While the two powers may have similar effect, the ordinance-making power's application is limited within the territorial jurisdiction of the LGU. On the other hand, Sections 26 and 27 do not suffer from the same territorial limitation; what is important insofar as Sections 26 and 27 are concerned, is to satisfy the requirement of being "an affected community."



Endnotes

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- 2 La Bugal-B'laan v. Ramos, G.R. No. 127882, December 1, 2004.
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- 7 Id., at p. 79
- 8 Id.
- 9 DOJ Opinion No. 8 s 2005, Validity of ordinances and resolutions issued by a number of local government units (LGUs) imposing a moratorium on large-scale mining activities and the processing of application for mining within their respective areas of jurisdiction
- 10 Philippine Constitution, Article II, Section 25.
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- 12 Id.
- 13 Bernas, Joaquin, SJ, *The 1987 Constitution of the Republic of the Philippines; A Commentary*, (2003 ed.), at p. 1081.
- 14 Province of Camarines Sur v. Commission on Audit, G.R. No. 227926, March 10, 2020. See J. Leonen's concurring opinion.
- 15 G.R. No. 152774, May 27, 2004.
- 16 G.R. No. 152774, May 27, 2004
- 17 Local Government Code, Title I, Chapter I, Section 2.
- 18 Limbona v. Mangelin, G.R. No. 80391 (February 28, 1999), 170 SCRA 786, 794-795.
- 19 U.S. v. Salaveria, 39 Phil. 102, 109, G.R. No. L-13678, November 12, 1918.
- 20 Id.
- 21 Id.
- 22 Southern Luzon Drug Corporation v. The Department of Social Welfare and Development, G.R. No. 199669, April 25, 2017.
- 23 Gerochi v. Department of Energy, G.R. 159796, July 17, 2007.
- 24 PLDT v. City of Davao, G.R. No. L-23080, October 30, 1965.
- 25 G.R. No. 111097, July 20, 1994.
- 26 G.R. No. 149743, February 18, 2005
- 27 G.R. No. 189185, August 16, 2016.
- 28 Supra.
- 29 Supra note 13.
- 30 Based on readings from several sources, i.e. DENR website, Climate Change Congress of the Philippines, AID papers, Philippine Development Plan 2011-2016. Ateneo School of Government Study on Mining (2012), and others.
- 31 Ateneo School of Government (2012). Mining, the Philippines and the Future.
- 32 391 Phil. 84 (2000)
- 33 Supra.

- 34 Critical areas are, but not limited to: Head waters of watershed areas; Areas with potential for acid mine drainage; Critical watersheds; Critical habitats; Climate disaster-prone areas; Geohazard areas; Small island ecosystems; Cultural sites, which may include, but not limited to, sacred sites and burial grounds; Traditional swidden farms and hunting grounds; Cultural property enumerated under the National Cultural Heritage Act of 2009 or Republic act No. 10066; Community sites; Key biodiversity areas; Old growth, natural or primary and secondary forests, watershed forest reserves, wilderness areas, mangrove forests, mossy forests, national parks, protection forests, provincial/municipal forests, parks, greenbelts, game refuges and bird sanctuaries and their respective buffer zones prohibited under the National Integrated Protected Area System (NIPAS) under Republic Act No. 7586, Department Administrative Order No. 25, series of 1992 and other laws and ordinances and those expressly prohibited by other laws.
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- 49 G.R. No. 129093, August 30, 2001.
- 50 Section 3(i), Local Government Code of 1991.
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- 52 Pimentel v. Aguirre, G.R.No.132988, July19,2000.
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- 54 Associated Communications & Wireless Services v. NTC, G.R. No. 144109, February 17, 2003.
- 55 City of Manila v. Hon. Iguio, 495 Phil. 289, 308 (2005)
- 56 Id.
- 57 G.R. No. 224825, October 17, 2018.
- 58 39 Phil. 102 (1918), cited in Ermita-Malate Hotel and Motel Operators Association, Inc. v. City Mayor of Manila, 127 Phil. 306, 314-315 (1967).
- 59 Id.
- 60 Gatmaytan, D.B. (2016). Mining and local autonomy: Collected policy notes. Quezon City, Philippines: Bantay Kita.
- 61 1987 Philippine Constitution. Section4. Article VIII.
- 62 The Local Government Code of 1991, Section 2 (c) It is likewise the policy of the State to require all national agencies and offices to conduct periodic consultations with appropriate local government units, nongovernmental and people's organizations, and other concerned sectors of the community before any project or program is implemented in their respective jurisdictions.1awphil.net
- 63 Local Government Code, Section 27.
- 64 Local Government Code, Section26.
- 65 G.R. No. 196870, June 26, 2012.
- 66 Province of Rizal v. Executive Secretary, GR No. 129546, December 13, 2005.
- 67 Hernandez v. NAPOCOR, March 23, 2006.
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- 69 G.R. No. 207257, February 3, 2015.
- 70 Braga v. Abaya, G.R. Nos. 186739-960, April 17, 2013.
- 71 Id.
- 72 Hernandez v. National Power Corporation, G.R. No. 145328, March 23, 2006.
- 73 Boracay Foundation v. Province of Aklan, G.R. No. 196870, June 26, 2012
- 74 Id.
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- 76 Hernandez v. National Power Corporation, G.R. No. 145328, March 23, 2006.
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