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Taming Investment Risk in the Philippines: Multilateral Mining
Regimes, National Coping Strategies & Local Tension

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Taming the Risks: The World Bank Group and New Mining Regimes in Asia

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Abstract: *Despite the stern admonishments of the prominent Extractive Industry Review in 2003, the World Bank Group (WBG) has continued to promote the expansion of mining activities in resource rich client-countries. While keeping in line with its traditional mantra on the economic benefits of the sector in cash-strapped countries, poverty reduction and environmental sustainability have become in recent years, the new porté-étandard to justify the need for the WBG to remain actively involved in the sector. Building on the cases of the Philippines, Papua New Guinea and Lao PDR, three of Asia's richest countries in term of mineral endowment, this paper analyses this new social and environmental narrative in conjunction with the highly political nature of the role played by the WBG in the mining sector of its country-clients over time. The cases suggest that the WBG has played a key role in influencing a wave of new mining regimes in the region. It is argued that these new regimes, which comprises multilateral social and environmental safeguards, circumscribes the risks faced by industry, rather than by local populations. While successful in stimulating foreign direct investments in the sector, these regimes might also prove to be ineffective in taming local and national resentment against mining activities. Crucially, the engineering of mining regimes and norm-settings in multilateral arenas brings forth concerns relating to the legitimacy of the transformations of the roles and responsibilities assigned to local mining stakeholders, as well as the possible subsequent contraction of local political spaces.*

Introduction

Under the leadership of public organisations, the drive to build new markets in Asia has been yielding new approaches, which have come to shape institutions and engage social actors. The core objective of these approaches has been to mitigate risk for mobilising capital in the interests of facilitating the expansion of the private sector. These initiatives have been twined with the drive to create a market society, which notably demands the adoption of regulatory consistency and the extension of market discipline well beyond the private sector. This has been particularly true in the case of the recent drive to expand large-scale mining activities in Asia, a drive which has been led by the World Bank Group (WBG).

As mining is considered to be a uniquely high-risk enterprise, the overall framework promoted by the World Bank in the sector has been specifically geared towards rewarding

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investors with tax breaks and other incentives. However, in recent years, such efforts have been met with severe criticism linked to the significant social and environmental costs of mining activities, notwithstanding the political instability, corruption and violent conflicts they have often brought forth. Of particular interest to this contribution, is the recent addition of a strong social-development narrative attached to the multilateral guidelines, one that emphasises transparency and governance, local communities involvement in participatory schemes and overall, a pro-poor economic growth.

Three specific countries have been selected to map the role played by the World Bank Group in fostering new mining regimes in Asia: the Philippines, Papua New Guinea (PNG) and the Lao People's Democratic Republic (Laos). Each of these resource-rich countries has in recent years, reformed its mining regime under the distinct leadership of the World Bank, twining pro-mining investment incentives with a pro-poor and environmentally sustainable narrative.

Building on a critical political-economy framework, it will be argued that such dual provisions embedded in the new regimes have been carrying a particular politic of mining, one that has been transforming the very functions, responsibilities and legitimacy of the stakeholders involved in the mining activities. It will be observed that not only does the model advocate for the technocratic management of political demands, but for the relocation of such management to be nestled within the local sphere rather than at the national level. Crucially, frame within an issue of legitimacy, such techno-management of political demands runs the risk of exacerbating existing tensions on the ground, and in turn, directly undermining the sector's hopes for stability.

This paper is divided into three parts. In the first section, the overarching role of the WBG in fostering new mining regimes in the Global South is analysed. Here the analysis specifically underlines the new regulatory provisions embedded in the regimes which are geared towards reducing economic and political risk faced by investors in the industry. In the second part of the paper Asia, the cases of the Philippines, PNG and Laos are analysed. Lastly, the paper investigates how the reforms have been transforming the roles of the stakeholders involved in mining activities. It will be argued that in addition to constricting the political arenas of civil society stakeholders, the new mining regime appears to be riddled with contradictory objectives and therefore runs the risk of further exacerbating tensions on the ground.

I. THE WORLD BANK & THE PROMOTION OF NEW MINING REGIMES: A FRAMEWORK

The World Bank's overarching influence over the liberalisation and deregulation of the mining sector of poor indebted countries throughout the 1980s and the 1990s has been sizeable. The Extractive Industries Review (EIR), which was established in 2001 to independently evaluate the WBG's involvement in extractive industries, estimated that under the distinct leadership of the Bank, no less than 100 countries reformed their laws, policies and institutions during the 1990s (2003b: 10). The EIR further stressed that 'in line with WBG advice', these new legislations, designed to ensure the protection of capital and to promote investment, successfully brought many developing countries to experience an investment boom in their mining, oil, and gas sectors (2003b: 13).

In her extensive analysis of the World Bank's influence over African mining regimes, Campbell (2004) catalogues three generations of mining codes, which followed the Bank's evolving guidelines over the better part of the last three decades. The first wave of reform, which was carried out under the umbrella of the structural adjustment programs in the 1980s, saw a dramatic retreat of the State from the sector. However, by the early 1990s, it became clear that the promises of the reforms of the mining sector were not materialising

as hoped. Oblivious to the decline in the demand for mineral resources in the 1980s, the Bank's re-assessment of the sector led to a new wave of liberalisation of the mining regimes, what Campbell (2004) coined as the 'second generation' of mining codes.

Mining in itself is considered to be a uniquely high-risk enterprise: it is particularly capital-intensive, the period between investment and returns is often extensive, and profits are subjected to the whims of commodity prices, notwithstanding the uncertainties of geological exploration and reserve depletion rates. In addition, the industry is considered to be subject of heightened risks in light of the 'obsolescing bargain' effect, whereby extractive industries become 'hostages' in host countries. This is characterised by the understanding that 'once the companies have paid for multi-million-dollar fixed assets, they cannot lightly withdraw from the host country' (Bray, 2003: 292). In light of such risks, the economic rationale promoted by the Bank stipulates that countries must offer highly competitive settings to draw the scarcely available capital in their own mining sector. Combined with the overall stability of the governance regime offered by host countries, the taxation regime is considered to be a particularly important determinant of returns to investors (World Bank, 2005: 117). As such, resource-rich countries have been encouraged to adopt fiscal regimes that were described as providing very generous incentives to investors. Consequently, the 1990s witnessed a new wave of liberalisation reforms that sought to ultimately deliver the mining sector to Foreign Direct Investments (FDI).

It is to be noted that the Bank's influence in fostering 'risk' investment has been multi-front. In addition to the Bank's² historical role in fostering new mining codes, the Multilateral Investment Guarantee Agency (MIGA) and the International Financial Corporation (IFC) have played important complementary roles in opening new markets, especially in mining. While IFC focuses on attracting private sector investment, particularly in countries where its projects are expected to catalyse new investments, MIGA specialises in providing political risk guarantees. However, MIGA and IFC's influence in the extractive industry extends far beyond the mere numbers of their respective portfolios. What is indeed crucial to note is that the extent of the Bank's affiliates influence over the mining industry is better defined by their respective ability to act as catalysts for private sector investments in countries and sectors that pose heightened 'risk'³ to investors. Foreign investors often hesitate to invest in countries with weak governance. As such, the Group's power to galvanise investments in risk countries is overwhelming, notably in the extractive industry which is specifically defined as a high-risk sector.

While the second generation of mining codes promoted by the Bank did acknowledge that a certain degree of regulation was necessary, notably in terms of environmental protection, it is within the last decade that the ultimate need for the State to play a regulatory role was acknowledged, thus a recent wave of 'third generation' of mining codes⁴ (Campbell, 2004). The recent drive to foster investments in mining has been coloured by the expansion of the concept of 'risk' to the socio-environmental and political realms. Such shift, which characterised the third generation of mining codes, was undoubtedly compelled by the increasing scrutiny the media and international Non-governmental Organisation (NGO) coalitions were exercising on the WBG's activities. Beyond the advisory work played by the World Bank, the institution's sisters, MIGA and the

² Hereafter, the International Bank for Reconstruction and Development (IBRD) and the International Development Association (IDA) are referred to as 'the World Bank' or 'the Bank'.

³ For example, since its inception MIGA has issued a total of \$11 billion in coverage while it further facilitated an estimated US\$47 billion of FDI (Bray, 2003: 324).

⁴ See Hatcher (2004) for an analysis of the Malian mining sector as an example of a third-generation mining code.

IFC, were throughout the 1990s the objects of reputational blows linked to their participation in contentious mining projects⁵.

Today, mining is understood to be one of the most environmentally disruptive activities that can be undertaken by business (Bebbington et al., 2009: 893) and the concept of the 'resource curse' is widely acknowledged by all stakeholders in the industry⁶. The WBG is no exception: 'resource-rich countries are indeed more likely to have problems achieving important development goals', stated the Bank in a recent evaluation of its experience in extractive industries (OEG, 2005: 120). In terms of environmental impacts, large-scale mining projects notably bring forth risks of: the destruction of natural habitats as a result of the dumping of tailings and discharges; soil degradation and acid mine drainage; riverbed pollution; chemical soil contamination; air emissions; the use of scarce water and energy resources; workers handling chemical products; and the different risks associated with exposure to toxic substances (Belem, 2008: 121). The mining industry is all the more problematic as its environmental implications extend well beyond the duration of the mine's activity, as illustrated by the Filipino legacy of 800 abandoned mines (Goodland and Wicks, 2009: 3). In addition to such environmental risks, it is further increasingly understood that communities living in the vicinity of a mining site often bear an overwhelming share of the negative impacts of the extractive industry. Belem further found that mining projects tend to exacerbate income disparities and directly affect the local community through: population displacement; increased migration of workers into the project zone; price inflation resulting from this migration; the abandonment of agricultural activities; expropriation of fertile land to satisfy the mine's requirements; and increased public health problems (2009: 122). Such inherent social problems brought forth by the mining industry are often exacerbated in countries where conflicts have already erupted and where corruption is rampant.

It is in light of the extent of the social and environmental problems linked to the extractive industry that James D. Wolfensohn, the President of the World Bank at the time, ordered two-year moratorium on the WBG's mining investments and a review of its involvement in the industry. While the EIR, which emerged from this process, did conclude that there was still a role for the WBG in the sector, it however underlined that such a role should be strictly limited to one of contributing to sustainable development (EIR, 2003b: 4).

In its official response to the EIR⁷ (in 2004), the Bank declared: 'Our future investments in extractive industries will be selective, with greater focus on the needs of poor people, and a stronger emphasis on good governance and on promoting environmentally and socially sustainable development' (2004: iii). While the Bank acknowledged that extractive industries may 'aggravate or cause serious environmental,

⁵ Amongst the better-known cases is the incident in 2000 at the Yanacocha mine in Peru. A truck from the mine, which is one of the most lucrative investments in the entire IFC portfolio (Bebbington et al., 2008: 8996), spilled 150 kilograms of mercury on a road. On another continent, in May 1998, the Kumtor gold mine in Kyrgyzstan, which is financed and insured by IFC and MIGA, released nearly two tons of sodium cyanide into the Barskoon River (EIR, 2003b: 26). The controversial Freeport company, the operator of a copper and gold mine in New Guinea which was insured by MIGA, dumped 120,000 tonnes of toxic mining waste into a local river (BIC et al., 2006: 4). On the specific roles of the IFC and MIGA in the industry notably see Hatcher (2010).

⁶ The 'resource curse' suggests that an abundance of natural resources creates political and economic distortions, which increase the likelihood that countries will experience negative development outcomes (Rosser, 2006: 7). The EIR found that while extractive industries can yield benefits for countries, data suggests that developing countries with few natural resources grew two to three times faster than resource-rich countries from 1960 to 2000 (EIR, 2003b: 12). The Review further observed that the majority of the 45 countries that did not manage to sustain economic growth during that time also experienced violent conflict and civil strife in the 1990s (2003b: 12).

⁷ For a thorough analysis of the EIR and the World Bank response, see Campbell (2009).

health, and social problems, including conflict and war' (World Bank 2005: 1), it however remains adamant that such negative impacts are not inevitable. It repeatedly stated that it is precisely in light of these particular risks that it should remain involved in the sector. The WBG further argues that it brings safeguard policies and guidelines to the sector, which 'improves projects beyond compliance' (OEG, 2005: 118).

It is to be noted that this greater emphasis on the environmental and social consequences of mining activities is part of a greater shift within the Bank as a whole. While the specifics of the changes carried out within the Bank amidst the Wolfensohn presidency (1995-2005) are beyond the range of this contribution, it should be noted that the period marked an all-encompassing shift within the Bank's narrative. From its austere emphasis on the blind pursuit of economic growth, which characterised the 1980s and the better part of the 1990s, the Bank embraced in the last decade a more 'comprehensive' way of doing business⁸. 'Our dream is a world free of poverty', Wolfensohn declared, and in so doing, he committed the institution, at least discursively, to addressing the social aspects of poverty and to forging closer partnerships with other actors in development, including those within civil society⁹.

It is a fact that by the end of the 1990s, the Bank had substituted its conventional policy recommendation framework for one that promoted far stricter environmental and social standards. The birth of what is here referred to as the 'Social-Development Model' (SDM) echoed throughout the mining industry and within regulatory regimes across the Global South. This shift encompasses the unwavering emphasis on 'poverty reduction' as a central objective of all the Bank's actions within the sector, as well as a novel emphasis on social and environmental concerns. Of interest here is to note that the SDM has been calling for all stakeholders to assume new roles and responsibilities in the task of merging neoliberal objectives with environmental and social safeguards. As further discussed in this contribution, this has notably lead to approaches to engage local stakeholders into participatory schemes, new 'partnerships' initiatives between the private sector and civil society, as well as new monitoring responsibilities assigned to both the State and the private sector. However, and as argued in the following section, the cases of the Philippines, Laos and PNG demonstrate that there exists a deep contradictions within the particular provisions advocated by the Bank's SDM, one that assigns new roles and responsibilities to mining stakeholders. Crucially, in shifting the lines of accountability on the ground, the SDM raises questions linked to the very legitimacy of what appears to be a deeply political process descending from multilateral prescriptions.

II. THE WORLD BANK & THE MAKING OF NEW REGULATORY MINING REGIMES: ASIAN TRENDS

When transposed from Africa to Asia, Campbell's mapping exercise of mining codes does suggest that the trend has been imported to the region, albeit slightly later. Despite the riches of the region¹⁰, Asian countries were slower than the other continents to follow

⁸ See James D. Wolfensohn's 'A proposal for a Comprehensive Development Framework: a Discussion Draft' (1999). Such shift was notably influenced by the fact that as he took his position in 1995, Wolfensohn was inheriting an arrogant institution which was drawing fire from all sides of the spectrum. Amongst the numerous verbal critics, the international campaign *Fifty Years is Enough* did a lot to tarnish the institution's already unsteady reputation. The environmental impact of Bank financed mega-projects (see Goldman, 2005), the systematic failure to consult local stakeholders, and the overall lack of transparency of the institution, were some elements of the shaky legacy of Wolfensohn's predecessors –Preston and Conable.

⁹ For a critical historical review of the international and internal pressures that pushed the Bank under the Wolfensohn presidency to adopt a new aid framework, see Hatcher (2006).

¹⁰ According to the *U.S. Geological Survey* the Asia-Pacific region notably accounts for about 20 per cent of the world's production of aluminium metal, 19 per cent of mined copper, 30 per cent of gold, 43 per cent of mined lead,

the multilateral guidelines. Clinching to what was defined as restrictive regulations, most of the resource-rich countries in Asia remained at a competitive disadvantage until the mid-1990s.

It is to be noted that the resource-rich countries within the Asian region are at a great economic advantage. Notwithstanding China and India's formidable appetite for natural resources, the 'Tigers' of Asia—Hong Kong, Japan, the Republic of Korea, Singapore, and Taiwan—have also become important importers of minerals. As such demand has historically been filled by Africa, North America, and South America (US Geological Survey, 2008: 1.1), there has been great pressure exercised upon the mineral-rich countries of the region to further open their mining industry, especially the more cash-strapped economies. By the turn of the century, all the major nonfuel mineral producers in the region had passed new regulations aimed at attracting a greater share of foreign investments (Naito, Myoi, Otto and Kamitani, 1998: 92), notably China, India, Indonesia, Laos, Papua New Guinea and the Philippines.

Three distinct Asian cases have been selected to illustrate the argument of this paper: the Philippines, PNG and Laos. If the first two countries have a long history of large-scale mining activities, it should be noted that Lao's industry is still in its infancy, albeit expanding at a rapid pace. All three countries bare fantastic mineral reserves, which are advertised as these countries' economic growth engine. With mineral resources valued at almost \$US1 trillion, the Philippines ranks 5th most mineral resource-rich country in the world, 3rd in terms of gold reserves, 4th in copper, 5th in nickel, and 6th in chromite (Philippines Government, 2010). PNG's mineral industry has also been the cornerstone of the country's economy. In addition to its abundance of gold—the small country ranks 11th in the world in terms of gold production—PNG is rich in oil, gas, copper and silver, and is also the object of prospection for its lead, molybdenum, and zinc. Along-side the Philippines and PNG, Lao PDR is strikingly one of Asia's most resource-rich country, with more than 570 minerals deposits identified so far, including gold, copper, lead, tin, antimony, zinc, iron, gems, gypsum, aggregates coal and potash.

In this section the particular settings in which the three county opted to reform their mining regime is analysed in conjunction with the particular role played by the World Bank.

2.1 The case of the Philippines

If, under the leadership of the World Bank, all the mineral-endowed Asian countries have recently began to actively compete for the most deregulated and liberalised mining regime, it is to be noted that the Philippines¹¹ came in as one of the regional front-runners.

In addition to its direct involvement in the drafting of the 1995 Mining Act¹²—which remains the cornerstone of the Philippines' current mining regime—the particular historical influence of the Bank in the country has been sizeable. With an estimated external debt of US\$66.27 billion¹³, the multilateral pressures for the country to liberalise its economy and attract FDI have indeed been unrelenting since the 1980s. Of particular concern in the early 1990s was that the Philippines didn't have what was deemed to be a

59 per cent of mined manganese, 36 per cent of mined nickel, 41 per cent of steel, and 37 per cent of mined zinc (1998: 1.3).

¹¹ The section on the Filipino case is based on a more extensive Working Paper titled 'Investment-Risk in the Philippines: Multilateral Mining Regimes, National Strategies and Local Tensions' (*Faculty of International Relation's Working Paper Series*, January 2011).

¹² See Coupry (2007); Doyle, Wicks and Nally (2006); Loki (2009).

¹³ As of 2008 (CIA, 2010).

solid mining framework to attract FDI. Not only was the country considered unattractive in terms of its overall fiscal incentives, the minimum requirement for 60 per cent Filipino ownership in mining activities enshrined in the Constitution further contributed to seriously displease potential foreign investors. In fact, the lack of FDI incentives was considered to be the root cause of what was referred to as the ‘crisis’ that was plaguing the country’s mining industry at the time.

Much of this narrative over the urgent need to make the Filipino industry more attractive to FDI was—and remains—built on the sector’s former glory. If today the sector only accounts for 7 per cent of total exports, officials are quick to emphasise that during the early 1970s, and again in 1980, it accounted for 22 per cent of total exports¹⁴. While the drastic decline of the industry is indeed blatant, it is interesting to note that the causal effect of this decline and the provisions enshrined within the mining regime might not have been as straightforward as frequently argued. In addition to the fluctuation of world prices, the financial crisis, and specific environmental problems (both natural and corporate negligence), the constant reverence to the past glory of the Filipino mining sector often fails to account for the fact that the sector was strictly controlled by the Marcos regime throughout the period of the dictatorship. Notwithstanding the fact that Marcos had a direct interest in the mining industry¹⁵, wage control as well as union suppression were systematic under his administration, thus keeping costs artificially low (Nettleton, Whitmore and Glennie, 2004: 6). Bello et al. further note that an important feature of Marcos’ Mineral Resources Development Decree¹⁶, which was passed in 1974 in order to jumpstart the industry, was a complete disregard for the occupants of the lands to be exploited, notably the indigenous communities (Bello et al., 2004: 225).

Setting aside key factors such as the declining demands of the world markets, as well as vital elements of the country’s political-economy history, the Ramos Presidency opted to reform the Philippines’ mining framework in order to unequivocally attract foreign investors¹⁷. Passed into law in 1995, the Republic Act 7942 marked the country’s clear adherence to multilateral guidelines. Fifteen years later, it remains one of the most favourable laws to mining in the region.

In line with the World Bank’s recommendations, the Mining Law offers a very generous incentive package for investors. The Act guarantees repatriation of all earnings, capital and loan payments to foreign entities; mineral agreements have a term of 25 years, renewable for an additional 25 years. Furthermore, it offers a host of financial incentives to guarantee returned investments and profitability to mining contractors: it reduces royalties—notably to two per cent on gold—and provides multiple and generous tax incentives including a four-year income tax holiday; tax and duty-free capital equipment imports; value-added tax exemptions; income tax deductions where operations are posting losses; and accelerated depreciation (US Geological Survey, 1996: 1). Moreover, Chapter XVI of the Act offers investment guarantees such as repatriation of investments; remittance of earnings;

¹⁴ The country’s mineral exports (annual average) declined to 16.1 per cent between 1975-1985 (back to 21.3 per cent in 1980). Since 1986, the average value of mineral exports per year has been equal to only 7.3 per cent of the country’s total foreign exchange earnings (Rovillos, Ramo and Corpuz, 2005: 188). More recently, the Philippines dropped from the 7th place in world production of gold (in 1988) to the 17th place (in 1997), and copper production fell by 90 per cent (Nettleton, Whitmore and Glennie, 2004: 7)

¹⁵ For example, it is estimated that about half of the Marcopper mine, which was 39.99 per cent owned by Placer Development (later Placer Dome), was owned by Marcos himself through a number of cover companies (Nettleton, Whitmore and Glennie, 2004: 7).

¹⁶ Presidential Decree No. 463.

¹⁷ Of particular interest is that Gloria Macapagal-Arroyo, one of the main authors of the Act was soon to become the country’s President (2001-2010).

freedom from expropriation by the government; as well as a guarantee of confidentiality.

Crucially, in addition to the three modes of mineral agreement¹⁸ stated in the Mining Act, contractors may apply for a Financial or Technical Assistance Agreement (FTAA), which is a contract involving assistance for large-scale exploration, development, and use of mineral resources¹⁹. Not without any controversy, the FTAA allows for 100 per cent foreign ownership of mining properties. Of particular generosity, and therefore one of the most divisive provisions in the Act, is the extensiveness of the areas that are up for grabs. The legislation states that ‘all mineral resources in public or private lands [...] shall be open to mineral agreements or [FTAA] applications’ (Chapter III, Sec. 18). While the Act has provisions barring mining activities from zones with ‘ecological value’, activities can nonetheless proceed upon the consent of the government or other concerned parties. The government commits itself to ensuring the removal of all ‘obstacles’ to mining, including settlements and farms. In other words, as the law provides auxiliary rights ensuring that the mining rights are exercised unhampered, companies have priority access to water resources within their concession, the right to build necessary infrastructure on private lands as well as timber rights within the mining area as necessitated by the mining operations (Philippines International Review, 2009).

The 1995 Mining Act was hailed by the country’s Chamber of Mines as ‘a landmark legislation, a fruit of their years of persistent lobby in Congress and Senate’ (quoted in Rovillos, Ramo and Corpuz, 2003: 7). Tailored to attract international attention, the passage of the Act was met with a flock of foreign investors. From 1994 to 1996 alone, the number of foreign mining companies represented in the country increased by 400 per cent (US Geological Survey, 1996 in Holden and Jacobson, 2007: 481).

In 1997 however, triggered by the Marcopper spillage²⁰ (March 1996), a large number of NGOs and the Catholic Church filed a petition to the Supreme Court to challenge the new Law²¹. Seven years later, in its 2004 ruling, the Court held as unconstitutional parts of the Mining Act²². The ruling was however short-lived, as it reversed its decision by the end of the same year. Building on the momentum of a Mining Law now free of its legal hurdles and with the assistance of the World Bank, the Arroyo Government unleashed an aggressive pro-mining campaign, stating that it was shifting its mining policy ‘from mere tolerance to promotion for the revitalisation of the minerals industry’ (MGB, 2008). Of interest however, is that despite the fact that it was crippled by the heightened risk faced by the industry during the legal challenges, the sector had nonetheless seen an increase of more

¹⁸ These are the *Mineral Production Sharing Agreement* (MPSA), the *Co-Producing Agreement* and the *Joint Venture Agreement*. The MPSA is a production agreement which can last for up to 25 years. Approved by the DENR, it requires that a foreign corporation own no more than 40 per cent of the mineral project.

¹⁹ This Agreement requires an investment of at least US\$50 million and can last for up to 25 years—renewable for another period of 25 years.

²⁰ The environmental tragedy, which was to be known as the worst environmental incident ever sustained in the Philippines, further polarised public opinions against large-scale mining. Located on Marinduque Island, the disaster, which unleashed between 1.5 to 3 million cubic meters of toxic mining slurries and tailings into the Makulapnit and Boac rivers, was caused by the failing of a cement plug in the Tapan drainage tunnel. In essence, as observed by Bello et al., ‘the spillage inundated the whole length of the Boac River which goes through almost the entire island, thereby effectively killing the small island’s ecosystem and livelihood’ (2004: 224).

²¹ *La Bugal Tribal Association Inc., et al. v. Victor O. Ramos, Department of Environment and Natural Resources, et al.* (G.R. No. 127882).

²² The Court found that the Acts’ provision by which full ownership of mining operations were permitted through the FTAA were unconstitutional. The ruling stated that the provisions that could be given to foreign companies in large-scale exploration were indeed limited to technical and financial assistance by the 1987 Constitution and that the Mining Act provisions on the FTAA were therefore unconstitutional.

than 50 per cent in foreign investments between 1995 and 2001 (Nettleton, Whitmore and Glennie, 2004: 9).

Sponsored and promoted by the World Bank²³, this second burst to stimulate the sector took the form of the National Policy Agenda on Revitalizing Mining in the Philippines²⁴ (NMP). The key strategies and activities to implement a new 'paradigm on mining' were later detailed in the 2004 Mineral Action Plan²⁵ (MAP). The latter instigated changes in regulatory requirements for mining prospectors, simplifying the mining permit process to reduce the length of time needed for investors to receive the approvals for a mineral production agreement in this country²⁶. In sum, the Arroyo Presidency has been multiplying its efforts to transform the sector into a 'key driver' of the economy (Philippines Government, 2010), seeking to further increase foreign investments to US\$10 billion by 2011 (Loki, 2009). 'The Philippine mining industry has been rejuvenated', markets today the Government (Philippines Government, 2010).

It is to be noted that the IFC is also eager to participate to the expansion of the sector. Jesse Ang of IFC-Philippines observes that while the country is the Corporation's largest portfolio, it had been unable to invest in mining precisely because of the Mining Act's legal challenges: 'Now we're just catching up', concludes Ang (Interview, 2010). Today, the IFC is actively seeking to invest US\$900M in the country (Ordinario, 2009).

The Philippines and the social-development model

While the politics of such narrative are the subject of the following section, it is here crucial to note the omnipresence of the Social-Development Model (SDM) within these latest generation of mining regimes promoted under the leadership of the World Bank. If resolutely tailored to promote FDI, the Filipino mining regime was also hailed as 'one of the most modern' in the Asia-Pacific region in terms of environmental and social provisions (US Geological Survey, 2000: 21.1). Despite being more than 15 years old, the 1995 Filipino Act embraced quite an impressive array of environmental and social provisions, making the Act one of the earliest 'third-generation' of mining codes in the region.

In line with the SDM, a first analysis of the Philippines' mining regime does suggest that the country has succeeded in balancing the quest for investment with solid socio-environmental standards. In addition to provisions for companies to secure the Free and Prior Informed Consent (FPIC) of indigenous peoples, the Mining Act requires companies to clean up the exploited sites. Crucially, it further dedicates provisions for the redistribution of benefits among the local mining stakeholders, notably indigenous people. Additionally, the Indigenous Peoples Rights Act²⁷ (IPRA), which was enacted in October 1997, further entrenched strong social components in the overall Filipino mining regime. Although highly debated²⁸, the IPRA was recognised as 'a milestone in the long struggle for the recognition of indigenous peoples' rights' (Philippines International Review, 2009). Concretely, the IPRA aimed to implement the constitutional provisions regarding the rights of indigenous cultural communities²⁹. It spells out the right of indigenous peoples to their

²³ On the subject, see Doyle, Wicks and Nally (2006).

²⁴ Executive Order No. 270. Issued on January 16th, 2004 with amendments on April 20th.

²⁵ Memorandum Circular No. 67.

²⁶ While the average waiting period was three to five years, investors would now have to wait only six months (US Geological Survey, 2007: 21.1).

²⁷ Republic Act No 8371.

²⁸ A great deal of debate was spurred by section 56 of IPRA, which states that property rights within the ancestral domains already existing and/or vested, shall be recognised and respected, therefore allowing mining companies licensed by the Government under the 1995 Mining Act to continue their operations in these domains.

²⁹ Notably Article II (section 22); Article XII (section 5); and Article XIV (section 17) of the 1987 Constitution.

ancestral domains, their right to self-governance and empowerment, their social and human rights, and their right to cultural integrity (Philippines International Review, 2009). Subsequently created by the IPRA, the National Commission on Indigenous Peoples (NCIP) issued the Implementing Rules and Regulations³⁰, which notably recognised ‘ancestral domains’ of indigenous communities. As owner of the land, therefore, the communities are to give FPIC for a mining project to be instigated on their land.

Furthermore, the Arroyo Government’s renewed efforts to stimulate FDI have mirrored the multilateral stance on sustainable mining. ‘Our vision’, states the Filipino Government, is:

A mining and minerals industry that is not only prosperous but also socially, economically and environmentally sustainable, with broad community and political support, while positively and progressively assisting in the government’s program on poverty alleviation and contributing to the general economic well-being of the nation. (MGB, 2005)

The SDM’s focus on ‘participation’ and multi-stakeholder consensus was notably clearly embedded within the National Policy Agenda on Revitalizing Mining in the Philippines (NMP) and the Mineral Action Plan (MAP), which, as explained earlier, embodied the latest burst to stimulate the sector in the Philippines. It is to be further noted that the NMP was presented as the result of a participatory and inclusive nine months pan-national endeavour, a process that was incidentally financed by the World Bank. The language of NMP echoes the multilateral stance by which the social and environmental risks of mining activities can be mitigated with solid environmental and social protection standards (MGB, 2008). Corollary, the MAP was presented as the product of a consensus arising from a consultation process. The MAP states that it has ‘incorporated most of the comments of other government agencies, and the Minerals Industry and Civil Society/NGOs’ (Philippines Government, 2004). Interestingly however, the participatory nature of the MAP and NMP was energetically contested by civil society for being far less inclusive than advertised. In their analysis of the draft NMP, Nettleton, Whitmore and Glennie conclude that the idea of ‘dialogue’ entrenched within the initiative rather reflects the government’s belief ‘that civil society needs only to be educated to overcome its emotional resistance to mining’ (2004: 9), a point that stems from a framework which carries a particular politics of mining, as argued in the last section of this contribution.

2.2 The case of Papua New Guinea

Along the Philippines, Papua New Guinea (PNG) has a long and rich history of mining activities. The 1992 Mining and the Petroleum Acts still govern the country’s mining activities, which have resolutely been focused on the pursuit of foreign investors. According to the Act, all minerals are the property of the State and therefore, all land and any water lying over the land are deemed available for exploration and mining. As it is the case for the Philippines, the PNG government may grant exploration and mining licenses on reserve land areas, although it may also choose to exclude such land from mining activities if it is considered in the best interest of the State. Large-scale operations in the country are principally the subject of Special Mining Leases³¹ (SML), which may be granted for up to 40 years (may be extended for a period up to 20 years).

While throughout the 1970s and 1980s the country’s competitive fiscal regime was

³⁰ NCIP Administrative Order No. 98-1.

³¹ SML give tenure to carry out construction and operations for the mining of a large mineral deposit.

seen as a model to follow, the subsequent decade witnessed several amendments to the fiscal regime, which increased the taxation load on investors. Therefore, the end of the 1990s judged the fiscal regime judged uncompetitive by World Bank standards. What is key to note here is that despite a harsh report card delivered by the Bank over a regime, which was bringing down the confidence of potential investors, the sector was nonetheless contributing massively to the country's GDP at the time. In 2000, about 20 per cent of PNG's GDP was fed by the sector. As such, the 'failing grade' allocated to the county should rather be viewed as growing pressures to further liberalise the sector to become even more attractive to foreign investors, notably fiscally.

Amidst reforms across the Asia-Pacific region, PNG sat forth to tackle this decline in investors' confidence. Here the World Bank became significantly involved. As part of its institutional capacity building program, the multilateral organisation provided assistance in legal and policy advice for the sector (MRA, 2011: 11). Crucially, by 2007, the Bank had notably assisted the government with the Drafting of the Mineral Resources Authority Bill, the Corporate Plan, and a revision of the Mining Act. These reforms brought the government to notably reduce corporate tax to 30 per cent and withholding tax to 10 per cent; increase the loss carry forward from 7 to 20 years; offer a fiscal stability guarantees for 10-20 years for new projects; abolish additional profits tax; relax the 'ring-fence' provision to allow a tax deduction of up to 25 per cent of allowable exploration expenses³²; and double deductions of preproduction exploration costs³³. Furthermore, the Government initiated a review of its position on equity participation in mining projects—it had the option of taking a paid equity stake of up to 30 per cent in a project.

The reforms were quite successful as the sector's contribution to the country's GDP saw a steady increase for the last eighth consecutive years (US Geological Survey, 2010a: 22.1). Notwithstanding the high level of exploration activity in the sector, the value of exported minerals, excluding crude oil, was about \$2.8 billion in 2009—62 per cent of total goods exported (US Geological Survey, 2010a: 22.2).

In 2008, despite the multiplication of investments in the sector, the country opted, with the assistance of the World Bank, to further reform its mining regime. Building on an initial loan to the sector (2000-2006), the Bank issued an additional technical assistance loan (US\$ 17 million) to the country. The 2008 loan is notably dedicated to assist the government in its review of the country's existing mining policy and regulatory frameworks, as well as strengthening mining sector governance, regulation, and sustainable development outcomes (World Bank 2008 Project ID: P102396).

The World Bank's presence in the sector extends beyond the reform of fiscal incentives and legal provisions designed to attract foreign investors. The institution's reach is particularly felt in the promotion of socio-environmental safeguards within the country's regime, in line with the SDM. As such, by 2007, it had notably assisted the government with the revision of the mining safety act, as well as the country's mines closure policy. The multilateral organisation was further involved in the drafting of guidelines for review of feasibility studies and the guidelines for best practice in mining, milling and tailings management (MRA, 2011: 11), as well as in the review of the country's technical audit training; mineral tenements management; sustainable development policy; geological survey capacity building; geological information services development and support for the internal revenue commission for mining and petroleum company audits.

In addition to the PNG's 2008-2011 Country Assistance Strategy, which notably entails

³² Provided that the deduction does not reduce the tax payable by more than 25 per cent.

³³ The first 100 per cent deduction would be allowed as a deduction against assessable income, while the second deduction would arise only once commercial production begins.

greater cooperation with the Bank on the promotion of ‘a strong, accountable and sustainable performance of resource-based exports’, the SDM is further embedded in the Bank’s 2008 Technical Assistance loan to the country. It contracts the Bank to help PNG strengthen its mining sector governance, regulation, and sustainable development outcomes. Here the Bank states that the expected outputs of the project notably include the completion of several key policies and legislative Acts, including a Sustainable Mining Development Policy, with mine closure and resettlement guidelines, and an Offshore Mining Policy and associated legislation; a Small-Scale Mining Occupational Health and Safety Act; a new Mining Safety Act; and a review of and amendments to the Mining Act 1992 (World Bank 2008 Project ID: P102396). In line with the SDM the project further introduces a narrative strongly focussed on local communities’ participation and empowerment, as well as the need for a better governance of mining revenues in order to ensure local benefit. The Bank states that the project is to support communities ‘to be better able to monitor the delivery of community programs and services, empowering disadvantaged groups—including women and youth—in areas affected by extractive industries’ (World Bank, 2009). It further states that it aims to improve the benefits from the extractive industries—mining, oil and gas—to the national budget and to mining-affected communities³⁴.

2.3 The case of Lao PDR

The World Bank’s influence upon the mining regime of Laos is here again quite compelling. Of particular interest to this contribution is the direct involvement of the Bank in assisting the country in the development of its large-scale mining industry. Contrary to the Philippines and PNG, Laos is only starting to develop its large-scale sector and as such, the case allows for interesting insights in the Bank’s particular role in the very development of the sector. With most of its mineral endowment remaining geologically unmapped³⁵, the country was awarded the title of one of Asia’s ‘final frontiers for miners’ (CLC Asia, 2009). The drive to develop the mining sector undeniably reflects the Government’s need to tackle its gargantuan debt and its status as one of Asia’s poorest nations. With an external debt totalling 76.9 per cent of its GDP (World Bank, 2008), the Laotian Government is ‘continuing to face a high risk of debt distress’, observes the Bank (2010b: 9). The Organisation further estimates the country’s GDP per capita at \$US 940, slightly ahead of Cambodia’s \$US 667, yet well behind it’s other Least Developed Country’ neighbours³⁶ (World Bank, 2011).

Along-side the Asian Development Bank, the World Bank has helped draft the country’s 1997 Mining Law³⁷, the very law that instigated the recent wave of FDI in Laos’ large-scale sector. While mining activities were described in the early 1990s as ‘virtually negligible’ (US Geological Survey, 1994: 491), by the end of the same decade, the sector was identified as ‘one of the most promising long-term growth areas’ (US Geological Survey, 1999: 13.1). The US Geological Survey further states that the country’s foreign investment policies were ‘the most “investor-friendly” in the region’ (1997: 1).

Implemented by Decree in 2002, the 1997 Mining Law did trigger a substantial expansion of the sector. It is compelling to note that if the mining and quarrying sector only contributed to 1 per cent of the country’s GDP in 2001 (Boland, Kunanayagam and Walker,

³⁴ The project will also work to mitigate the mining sector’s health and safety risks for small-scale miners.

³⁵ As of 2009, only 50 per cent of the country area has been geologically mapped (1/200,000).

³⁶ Vietnam (\$US 1,032), the Philippines (\$US 1,752) and Indonesia (\$US 2,349) (World Bank, 2011).

³⁷ Law No 04/97/NA on Mining (12 April 1997).

2001: i), it now contributes to 18 per cent³⁸ (Bounnaphalom, 2010). In the last decade, the resource sectors (mining and power) have become a much-needed source of Government revenue and they now accounts for most of the country's FDI inflows (about 80 per cent in 2008) (World Bank, 2010b: 7). In fact, copper and gold account for more than half of the country's total exports (World Bank, 2008: 23). According to the Ministry of Energy and Mines, as of March 2010, there were 269 projects in the country, 186 of which were in foreign hands³⁹ (Bounnaphalom, 2010). Such presence of FDI, further states the U.S. Geological Survey, is 'largely owing to the Laotian Government's aggressive efforts to promote mining investment and to strengthen its management and regulation of the mining sector under the framework of the Mining Law of 1997 and the Investment Law' (2008: 16.1).

As it was the case for the Philippines and PNG, despite a notable increase in mining investments, the mining community, in partnership with the World Bank, quickly started lobbying for a revision of the Mining Law. Of concern in the Laotian case, was the failure to meet the clarity requirements expected from a 'modern' regime. In addition to a confusion over the terms such as the transfer of mining rights (Article 39) and the expiration of mining licences (Article 34), the provisions for the taxation and duties were seen as a cause for concern within the investor community⁴⁰. Furthermore, while in practice the country did permit 100 per cent FDI, Article 21 allowed the State to compel foreign investors to accept the State's participation in their mining venture. For the Bank, this 'introduces a conflict of interest given that it is the government which regulates the sector' (Thompson, 2010: 8).

As such, in a 2006 commissioned report, the Bank argued for a 'timely review' of the country's mining law and regulations, thus giving Laos the opportunity 'to become the leader in mining legislation reform in competitive agenda in line with international standards' (World Bank, 2006: 23-26). As it was the case for the Philippines, the Bank strongly encouraged the country to compete against its neighbours' regulations for enticing FDI in the sector. Here the Mining Law was seen as positioning Laos at 'a competitive disadvantage compared with its neighbours' (World Bank, 2006: 23).

While the Philippines modified its existing law in order to further enticed foreign investments in the sector, in December 2008, Laos adopted a new mining law altogether⁴¹. It is to be noted that much of the new law's significance remains uncertain due to the fact that its implementation documents are yet to be approved⁴². In fact, the thirst for legal clarity and enticing provisions for foreign investors is now the subject of a Bank Technical Assistance project⁴³. Approved in 2010, the project is to develop the country's capacity in the mining and hydropower sectors, with US\$2.31 million specifically allocated to the development of the mining sector. The Project is resolutely geared towards enticing FDI:

Clear laws and regulations for the mining sector, along with internationally competitive taxation, are key to developing the sector. While the Government has made considerable progress in these areas, including adoption of a new Minerals Law in December 2008, the legislative and regulatory framework needs to be completed

³⁸ As of 2009.

³⁹ There are now about 150 mining companies operating in Laos, including companies from China, Vietnam, Thailand, Australia, Korea, Canada, Germany, India, Japan, UK, Russia, etc.

⁴⁰ For example, the 1997 Mining Law allowed royalty rates to fluctuate between 2 to 5 per cent of sales depending on mineral commodities.

⁴¹ Law No 04/NA was made publically available only in late 2009.

⁴² For now, much of the new ventures' provisions must be negotiated with the Government.

⁴³ 'TA for Capacity Development in Hydropower and Mining Sector' (P109736).

(World Bank, TA Project P109736).

It is to be noted that while the Bank is providing a legal advisory support to complete the on-going legislation process towards a national mining policy, the IFC was involved in the drafting of the country's Enterprise Law, as well as in a technical assistance project to prepare the new unified investment law (World Bank, 2008: 38). The private-arm branch of the WBG was further financing the Lao Business Forum, which is, according to the Bank: 'an effective mechanism for enabling the private sector to raise their concerns to [the Government of Laos]' (World Bank, 2008: 38). The funding notably provided the Forum with a secretariat to support its operations and to revise the Mining Law.

In the Laotian case, the drive to pave the way for large-scale foreign mining investors has also been immersed in a strong social-development narrative. The World Bank's 2010 Technical Assistance project is: 'to promote models for corporate social responsibility, and risk mitigation and community benefit-sharing approaches' (World Bank, TA Project P109736). While embryonic for now, the fast pace by which the large-scale mining sector is developing has also been met by greater emphasis on environmental protection, notably in light of the fragile ecosystem, which characterises the country. In fact, not unlike the Philippines, Laos is viewed as having an outstanding biological importance, notably do to the fact that half of its forests remains untouched. Bounnaphalom, the country's Director of the Environment and Mining Inspection Division (Department of Mines, Ministry of Energy and Mines) notes that in order to assure the sustainable development of the sector, investors will have to comply with a framework which assures a balance between mining and socio-economic development activities, as well as natural resource conservation and environmental protection; remedy any negative impacts that occur during mining and after mine closure; and provide community development (Bounnaphalom, 2010).

III. THE STATE AT WORK: CONFLICTING INTERESTS & STRATEGIC CHOICES

The most recent generation of mining regimes promoted by the WBG, as illustrated by the cases of the Philippines, PNG and Laos, has been celebrated as a clear example of legislations which successfully balanced the need to attract foreign investors and to mitigate the socio-environmental impacts of these activities. As such, all three Governments have celebrated their new mining regimes as cornerstones of their countries' economic future. However, while the sector in these countries has seen a sizeable increase in foreign investments, the environmental, social and human rights dimensions embedded in this new generation of mining regimes promoted by the Bank, appear to have been in practice, relegated away from the State's scrutiny. If cynics have been quick to dismiss the poverty reduction narrative attached to the WBG's presence in the sector, it is here argued that such dimensions are far from a mere discursive exercise from cash-strapped States in desperate need of enticing investors.

While there does indeed exist a serious gap in the monitoring process of the socio-environmental clauses of the mining regime, as analysed further in this section, such failures should rather be viewed as the consequences of what Szablowski (2007) coined as a 'strategic choice' of the State. In practice, such processes take the form of a retreat of the State from its formal monitoring functions while simultaneously delegating its regulating, mediating and monitoring functions upon the shoulders of the private sector. In turn, and this is the argument brought forth by Campbell (2004; 2009) in her study of African mining regimes, these shifts in functions further impact the responsibilities and legitimacy of the stakeholders involved in mining activities. As argued in this final section, the particular case of the Philippines and PNG demonstrate that States are opting to be selectively absent

as a strategy to both contain and manage opposition to mining activities, therefore trying to reduce investment risk within the sector. However, far from serving its objective of fostering greater political stability at the local and national level, the SDM brings forth questions relating to the legitimacy of the new roles embraced by the private sector, and the correlated heightened tensions that it brings forth between the local stakeholders. Crucially, such process, it is further argued, has the potential to be repeated in the Laotian mining sector, which is now in full expansion.

a) A strategic absence

There exists a deep contradiction within the particular provisions advocated by the World Bank within post-EIR mining regimes, one that requires the State to both promote FDI and regulate socio-environmental standards. While most of the Bank and the industry's literature present both objectives as a delicate balancing act, these dual objectives are here rather understood within a set of 'strategic choices' (Szablowski, 2007), which they require from the State. A first indication of the nature of such choices is reflected by the limited and sporadic implementation of the socio-environmental provisions enshrined in the new generation of mining regimes, as indicated by the three case study.

The environmental legacy of mining activities in the Philippines is illustrative of such trends. While the Philippines' Chamber of Mine and the Government downplayed⁴⁴ the actual impact of the 2005 Rapu-Rapu tailings spill⁴⁵, the incident echoed the 1996 Marcopper spill. Beyond these two environmental episodes, the Filipino mining sector has been plagued by chronic environmental problems. The coastal dumping practices of Marcopper would have pumped 200 million tons of toxic waste rock over a period of 16 years (Farrell et al., 2004: 8). A Christian Aid and Philippine Indigenous Peoples Links' Report found that every day an estimated 160,000 tonnes of mine tailings would find their way into rivers, lakes and irrigation systems in the Philippines (Nettleton, Whitmore and Glennie, 2004: 17). The authors further report incidents of mine tailings spillage in Sipalay and Hinobaan, in Negros Occidental, in Itogon, Benguet, and mudflows in Sibutad, Zamboanga del Norte (2004: 3).

Goodland, a former senior environmental adviser to the World Bank, and Wicks observe that the country 'may appear to have excellent laws to protect the environment, human rights and indigenous peoples, yet their application is unacceptably poor' (Goodland and Wicks, 2009: 2). The case of the National Commission on Indigenous Peoples (NCIP), which is the primary government agency responsible notably for the implementation of the policy, plans and programmes promoting and protecting the rights of indigenous peoples, is revealing. Since its inception, NCIP has faced severe resource limitations to carry out the provisions of the Act, both in terms of budget and the expertise required to deal with complex matters of consent in indigenous communities (Nettleton, Whitmore and Glennie, 2004). Stavenhagen, the UN Special Rapporteur for the human rights of indigenous peoples, voiced his concern with 'the slow pace of implementation of the provisions of IPRA', and further observed 'a loss of confidence among indigenous organisations in the ability or willingness of government agencies to proceed actively with its effective implementation' (2003: 21).

Similarly, the Philippines' Mines and Geosciences Bureau (MGB) and the Department of

⁴⁴ 'It was really a minor incident, a drop in the ocean', commented Benjamin Philip Romualdez, president of the Philippines' Chamber of Mines (quoted in Llorito, 2006).

⁴⁵ The Rapu-Rapu mines saw two incidents within a few weeks. The failure of a pump caused the overflow of cyanide-laden tailings into nearby creeks, an incident that was followed three weeks later by heavy rains, which caused the tailings pond to overflow into the same creeks.

Environment and Natural Resources (DENR) appear to lack the political support, resources and expertise required to effectively enforce the overall social and environmental safeguards enshrined in the mining regime. The DENR, which is the main government body responsible for mining, is expected to strive to maintain a balance between proper economic objectives and protection of the environment within the mining industry through appropriate regulation (US Geological Survey, 1995: 685). While the chronic issue of the flight of experts to the private sector goes a long way to explain the shortage of qualified staff within the Government ranks, the Department appears to lack the very resources required to carry out its socio-environmental mandate. At issue here is notably the dual role assigned to the Department where it is expected to act both as a promoter and a regulator for the sector. Crucially therefore, it appears that the DENR—and the NCIP—is resolutely entrenched within the pro-mining camp⁴⁶ (Vivoda, 2008: 133). The Structural Adjustment Participatory Review International Network (SAPRIN) found that the DENR's regional offices and field personnel were 'actively and aggressively helping mining company personnel in convincing the people to accept the mining project' (quoted in Nettleton, Whitmore and Glennie, 2004: 12). In short, concludes Jesse Ang of IFC-Philippines, with such dual roles the DENR may be qualified as 'a schizophrenic organisation' (interview, 2010).

The issue further trickled down to the MGB, which 'has no effective power to sanction firms that violate regulations', observes Walden Bello, a Member of Congress in the Philippines' House of Representatives (Bello et al., 2004: 226). It is thus unsurprising that bureaucratic inefficiency is manifest and that the enforcement of regulations is 'slow, erratic and inefficient' (Vivoda, 2008: 136). Overall, further concludes Bello, the MGB: 'as with the entire government, is wracked by conflicting goals—that of promoting industry and that of protecting the lands' (Bello et al., 2004: 226).

Similar dislocations between regulatory capacity, implementation and enforcement have been observed within the other two countries studied, suggesting a greater trend by which in practice, states are selectively absenting themselves from their regulatory role. The case of PNG is quite telling of the difficulties for the State to merge a sustainable development narrative with increasing pressures to further develop its mining sector, notably when such pressures appear to descend from the multilateral arena. It is telling to note that article five of the 1992 Mining Act, which states that by law all the water in PNG belongs to the State, the mining industry has been permitted to dispose of mine tailing directly into rivers and oceans. As such, Ok Tedi would be discharging an estimated 80,000 tonnes per day into the rivers and the ocean and Tolukuma 300 to 400 tonnes (Koma, 2005: 168).

Such contradictions between practices and narrative in PNG further extend to the recent creation in 2005 of the Mineral Resources Authority (MRA), which was the product of a World Bank technical assistance loan. Its mandate notably includes the coordination with mining companies and national and sub-national government stakeholders, acting on behalf of the government in negotiating contracts for new mining developments, and inspection and control of the industry⁴⁷. However, according to James Wanjik, PNG's former secretary for mining, in practice, the MRA allows for the industry to regulate itself:

⁴⁶ Along the country's Presidency, the Majority of the Congress, the mining investors and the Chamber of Mines. On the subject, see Vivoda (2008).

⁴⁷ A 2010 World Bank project is further designed to support the development of MRA's capacity to become effective in the following three functional areas: i) Strengthen governance and accountability in the mining sector, ii) Promote, license, control, and monitor mining sector development, and iii) Improve sustainable development outcomes from the mining sector.

'Yielding to pressure from World Bank and European Union the Government gave away its regulatory responsibility and compromised policy making powers' (2007). The new MRA appears to be the source of multiple controversies, ranging from corruption to conflict of interests between the World Bank and the government (Wanjik, 2007; PNG Mine Watch, 2010). Beyond the disputes attached to the MRA, the group PNG Mine Watch (2010) observed that the MRA's pro-mining interests are unquestionable. The MRA would have hired one of the region's largest law firms, Allens Arthur Robinson, to defeat a case brought by a group of indigenous landowners worried by the potential environmental impacts of the new Ramu nickel mine (PNG Mine Watch, 2010).

Similarly in Laos, there are distinct signs which may indicate that, as it is the case in the Philippines and PNG, the capacity of the Laotian government to actually carry out the socio-environmental safeguards enshrined within its overall mining regime is seriously lacking. Laos' Ministry of Energy and Mines (MEM) does not understand the need to prevent environmental damage and to rehabilitate damaged areas, states the Bank (2006: 19). However, it further observes the institution: 'there are insufficient resources to implement preventative or remedial action' (World Bank, 2006: 19). The same report by the World Bank observes that the MEM management capacity has been inadequate for the demands on its services: 'Good managers are having to deal with environmental issues on an "ad hoc" basis' (2006: 19). In addition, MEM's noted lack of expertise and experience in environmental matters has been repeatedly emphasised. Such failure to adequately enforce environmental standards appears to echo within the Social Impact Assessment (SIA): 'specific work on SIA regulations and guidelines within the mining sector is at a very preliminary stage', notes a Report of the World Bank Group Fact-Finding Mission in the country (Boland, Kunanayagam and Walker, 2001: iii).

A recent assessment of the government policy and regulatory capacity concludes that while Laos 'has begun catching up with the fast expanding natural resources sector' [...], [t]his process is slow however, and means that there are still significant gaps in the application of the laws as they stand' (CLC Asia, 2009). The rapid expansion of the sector has further challenged the government in other ways. A World Bank commissioned report notes that since the country still remains geologically unmapped, there is a risk licences being allocated 'to operators who may be better qualified and equipped to understand their worth' (2006: 27)⁴⁸.

When correlated to the dual role assigned to the mining-related ministries, the rampant corruption which particularly characterises the Philippines, PNG and Laos brings to light the degree by which the social and environmental provisions of the mining regimes are exposed to the whims of these countries' bureaucrats, notably at the local level. According to Ang, the Philippines' chief issue indeed remains the towering levels of corruption, albeit the World Bank tactfully refers to it as a problem of 'governance' (interview, 2010). It is telling to note that while the Philippines ranks 141 out of 180 countries on the Corruption Perceptions Index⁴⁹ of Transparency International (2009), both Laos and PNG rank 151.

If such widespread bureaucratic deficiencies have commonly been framed as mere corruption issues, it is here argued that they should rather be perceived as symptoms of a larger problem, one where multilateral standards are dictating a particular set of priorities to the State. The World Bank indeed came to acknowledge the importance of the State, albeit emphasising its role in the facilitation and regulation of the sector (World Bank,

⁴⁸ Surprisingly, the same Report thus proceeds to list this shortage of geological data as a factor which makes Laos attractive to large-scale investors (2006: 40).

⁴⁹ The Index is a measurement tool of perceptions of public sector corruption.

2007). Key to this paper is the work of Campbell (2004; 2009) who has shown that while the regulatory and legal reforms in the mining sector in Africa have indeed contributed to a more favourable environment for FDI, they have also entailed: 'a process of redefining the role of the State that is so profound that it has no historical precedent' (2004: 7). Because of this, further argued the author: 'these measures have the potential effect in the countries concerned of driving down norms and standards in areas of critical importance to social and economic development, as well as the protection of the environment' (Campbell, 2004: 7).

The case studies are here compelling. While the new regimes are quite solid in terms of socio-environmental standards, the very capacity of the State to carry out these provisions remains hampered by decades of neoliberal reforms where the State's functions were transformed in a way that accentuates its ability to mediate, regulate and mobilise in favour of the private sector rather than its citizens. Crucially, this is further telling of another—complementary—strategic choice compelled upon the State; one where it delegates to the industry its traditional monitoring and regulating tasks in addition to the social welfare of the local communities.

b) The social-development model & the management of local demands

Building on Campbell's (2004; 2009) conclusions, it is here argued that while the latest generation of mining regimes tend to frame all mining activities under the umbrella of poverty reduction, the socio-economic and environmental impacts of mining on local communities are in fact addressed within a particularly technical framework which constricts the political spaces of stakeholders inclined to oppose mining activities. The argument here is that the SDM represents an attempt to reduce investors' risks by offering a depoliticised avenue in an attempt to contain and manage opposition to mining activities. While the State chose to 'absent' itself from its formal regulatory and monitoring responsibilities, the SDM further suggests a parallel transposition of a greater set of environmental and social responsibilities to the industry. Such translation of course posits a problem whereby the issues linked to the legitimacy of the activities on the ground remain unresolved, thus ultimately running the risk to exacerbate investment risk.

In his analysis of the Peruvian case, Szablowski (2007) observed that while enticing legal and economic provisions were being offered to mining companies as compensation for investing in a risk country, the State was increasingly delegating its role as regulator upon the shoulders of the industry. The author concludes that these legal and practical conditions required to attract FDI have circumscribed the nation State's ability to respond to internal political pressures. As such, the State has developed coping strategies in order to reconcile competing internal and external pressures. This means that it has formally awarded rights to investors, while informally delegating local regulatory responsibilities: 'Accordingly, it appears that states themselves are involved in transferring legal authority to mineral enterprises to manage social mediation' (Szablowski, 2007: 27). The Bank does observe that:

[...] the 'shrinking state' has meant new responsibilities for private mining companies. Other private sector actors have also taken prominent positions; that is, the community members and representatives, including NGOs. In the area of environmental and social responsiveness, the industry has moved from a phase of awakening and acceptance to full integration of environmental considerations in project preparation and operations. (World Bank, 2007)

It is however to be noted that the delegation strategy rests on a logic by which it is in a company's own interest to ensure local stability. In turn, the latter suggest a tendency to frames socio-environmental concerns linked to mining activities in terms of 'externalities', rather than 'risks' confronting local communities. In their analysis of the conceptualisation of the notion of 'risk' in the mining sector, Emel and Huber make a compelling argument by questioning how capital has come to redefine the very idea of risk within such techno-managerial framework (2008: 1397):

Largely ignored in the financial risk lexicon are the environmental, economic, social and public health risks to the landowner whether it be the host state or the local community. These latter risks—recognised as significant by local community members, indigenous groups, and non-governmental organisations that resist mines—are viewed by investors, banks, and mining companies as engineering and social issues that can be mitigated. The host government is pressured with discouraging significant attention to these risks because they do heighten 'political risk' and thus their recognition will make the possibility of capital investment all the more precarious. (Emel and Huber, 2008: 1398)

Crucially, this is a process where socio-environmental principles are embraced only after being re-packaged within a depoliticised framework that serves to manage the risks facing investors above all else. MIGA, the insurance arm of the WBG, observes that:

[...] well-designed environmental and social programs can help manage potential reputational risks for project sponsors, reduce social conflicts within communities, protect the environment and help reduce political risks. For these reasons, MIGA aims to help its clients take a responsible approach to the environmental and social aspects of their projects. (Our emphasis. MIGA, 2009b: 1)

The shift to the SDM therefore allows for a contraction of local concerns within a depoliticised framework, one that suggests technical solutions to problems which used to be perceived as highly political. This echoes what Carroll (2010a) coined as 'political technologies' embedded within the larger context of a shift within neoliberalism⁵⁰:

Specifically, these new technologies included participatory approaches and consultation exercises designed to circumvent or dissolve implementation impediments. The core concern underpinning much of this was not to have input from newly empowered citizens in shaping the development and deployment of particular programmes and projects [...] Rather, the technologies were executed in a manner that sought to build constituencies for particular agendas and marginalise opposition, in tandem with technocratic efforts to avoid some of the problems attending past efforts—especially environmental and social problems associated with large-scale infrastructure projects. (Carroll 2010a: 9)

This provides great insights within the WBG's SDM which trickled down to mining regimes throughout the Global South, and in this case to the Philippines and PNG, where mining activities have historically been highly contentious politically. The political-economy and the environmental legacy of the sector have indeed repeatedly polarised public opinions, notably in light of these countries rich and unique biodiversity.

In such light, recent imperatives for the participation of local populations, as well as for new social and environmental provisions conveyed by the Bank, do not translate a novel interest in the political empowerment of local entities. They rather encompass a pressing

⁵⁰ There is a rich literature on the subject. See Carroll (2010b); Gamble (2006); Jayasuriya (2001); Robison (2006).

need to rally certain segments of civil society to manage local resistance and in so doing reduce the risks faced by the industry. Here participatory schemes and civil society engagement serve to mediate the negative impact of mining activities on the ground, while also offering a depoliticised path to vent local contestation.

c) Conflict, politics & insurgency

While the industry and the State have embraced the SDM descending from the multilateral arena, the imminent question remaining to be addressed is whether the latter will indeed foster the long-term local stability sought by the mining industry. In this last section, it is argued that the process might rather be prone to exacerbate existing tensions in the long-term. In fact, the techno-managerial settings used to frame local voices, coupled with the re-localisation process of the burden of implementation and monitoring onto the local arena, may be an explosive cocktail for countries such as the Philippines and PNG, where mining activities have already ignited entire regions.

As argued in the previous section of this contribution, the decentralisation process of the State's power in recent years has failed to be accompanied by greater financial and human resources to the local governmental sphere, thus leaving a great gap in the local monitoring capacities, a gap now partly filled by the industry. While the process is convenient for a government that seeks to please pro-mining interests without rattling its own political constituency, it however creates a clear power imbalance where the local communities are left negotiating with multinational industries. The 'strategic absence' of the State at the local level and the implied delegation of the enforcement of the socio-environmental standards to the companies have indeed left local communities in an awkward rapport de force. Without the central State as an overseer, a range of questionable tactics by some companies has been extensively reported, notably with the support of easily corruptible local authorities.

In the case of FPIC in the Philippines⁵¹, the deception, cooptation and even coercion of indigenous peoples has been repeatedly noted. According to Alano of a Mindanao based NGO: 'not only is FPIC the only place where the local communities are to have a say [in a mining project], they sometimes don't even have time to read the technical reports' (interview, 2010). Building on the case of the Midsalip community where tactics such as using presence sheets for a mere information meeting were used by the geotechnical company to 'prove' the consent of the community for the project, Coupry (2007) concludes that the FPIC must be seen as a 'democratic farce'⁵². Whitmore (2006) further lists a number of abuses of FPIC, including:

[...] Ignoring or misrepresenting 'joint meetings' (Rio Tinto in Pagadian), the creation of bogus community organisations (TVI in Canatuan), falsifying documents of community assent (Crew/Mindex in Mindoro), asking communities to sign agreements in languages they do not understand (WMC in Tampkan), the bribery of community leaders (Climax in Didipio), and finally, intimidation of community leaders (TVI in Canatuan again). (Whitmore, 2006)

The transfer of the monitoring and enforcement of the socio-environmental provisions to the local spheres further leaves affected communities with the overwhelming burden of having the knowledge of the law as well as collecting the data required for challenging mining projects. Accessing such mining information has however proven to be quite

⁵¹ On the subject, see notably Coupry (2007); Goodland and Wicks (2009); Nettleton, Whitmore and Glennie (2004); Raymundo, Ramo and Corpuz (2005); Whitmore (2006).

⁵² Author's translation.

difficult notably in the Philippines, since the DENR, MGB and the Environmental Management Bureau have been found to be 'averse to disclosing information to the public' (Aguilar, 2008, quoted in O'Callaghan and Vivoda, 2010: 11-12).

Additionally, it is compelling to note that the Environmental Impact Assessments, which are required in the countries studied for this contribution, overwhelmingly rely on the industry's voluntary compliance. This faith in the industry's self-regulation is deeply entrenched within the SDM. It is to be noted that the WBG's own standards overwhelmingly rely on industry-generated information⁵³.

However, beyond the reliance on an industry whose line of accountability is evidently directed to its shareholders, the EIA process in the Philippines has been found to be lacking in terms of enforcement. In the proposal for an Alternative Mining Bill (2009), the current EIA is referred to as 'outdated' and insufficient to 'adequately address the complexity of mine operations'⁵⁴. A fact-finding team led by Clare Short MP, the former UK Secretary of State for Overseas Development, which visited the Philippines in 2006, found that in practice, the 'participation rights, including the right to information, participation in decision making and access to justice' required by the EIA was lacking (Doyle, Wicks and Nally, 2006: 12). It further took note of local communities and NGOs complaints regarding 'the difficulty communities had in obtaining copies of EIAs, and of the lack of independent analysis or explanation of their contents and implications' (Doyle, Wicks and Nally, 2006: 12).

In PNG, while community consultation has been part of the EIA process since the 1980s, the EIR has observed a clear need to ensure that all aspects of society were represented in discussions: 'There needs to be transparency of information and more use of local resources and expertise in working on solving the problems. Most importantly, much more time is needed to review, research, discuss and decide upon the issues, making sure all stakeholders are adequately represented (EIR, 2003a: x).

In Laos, despite the early involvement of the IFC in the initial development of the Sepon Gold mine project⁵⁵ in 2002, similar trends to the ones observed in PNG and the Philippines are emerging. While Oxiana later found its own financing, it had initially requested the IFC involvement in the project. While there is no doubt that IFC's involvement brought greater attention onto environmental and social assessments needed for a project classified as 'Category A' (i.e. it is expected to have adverse impacts that may be sensitive, irreversible, and diverse)⁵⁶, the process was reported by the EIR as strongly criticised by NGOs. The organisation Aid Watch argued that the overall process had been very limited, if not somewhat superficial, with 'a serious number of anomalies and shortcomings' in the application of the ESIA (EIR, 2003a: 31): 'In many cases there has not been sufficient in-depth study and analysis, and mitigation planning often has been superficial, alluding to further studies and further elaboration of details later' (Aid Watch,

⁵³ The IFC's own Social and Environmental Assessment (SEA) is to be written by the client and as such, the client has a substantial influence on the range of issues that will later be assessed by the Institution. It is to be further noted that the SEA does not specifically require human rights issues to be addressed, nor guarantees the opportunity for local communities to review a project's Action Plan before it is finalised (Halifax Initiative Coalition, 2006).

⁵⁴ Filed in Congress in May 2009, House Bill No. 6342 proposes to scrap the Mining Act of 1995 and to introduce a new mining policy. See Alyansa Tigil Mina (2009).

⁵⁵ The Sepon mine, which was originally owned by the Australian company Oxiana Resources (with a 20 per cent interest from Rio Tinto), started gold production in January 2003. The Minerals and Metals Group (MMG) now own the Sepon Gold and Copper Mines.

⁵⁶ The non-profit group *Friends of the Earth* notes that the Oxiana copper mine, which relies on cyanide heap leaching, is expected to produce 36 million tons of waste with potentially catastrophic consequences, notably for the Nam Kok River, a tributary of the Mekong with high aquatic biodiversity (Friends of the Earth, n.a.).

quoted in EIR, 2003a: 31). The EIR concludes:

Involvement of the public and NGOs working in the area has been very weak, and even the government itself is not well informed regarding potential consequences of many social and environmental impacts. [...] The IFC should have exercised their influence to ensure that all details regarding economic, environmental and social conditions were fully addressed. (EIR, 2003a: 31)

In a way that strongly resonated with the other cases presented in this paper, the participatory process in this project in Laos, which was advertised as a direct positive contribution of the presence of IFC, appears to have been rather limited to an 'information' process. The EIR further concludes: 'One limitation of the ESIA was the consultation process of Oxiana, which mainly consisted of providing information and not having discussions (EIR, 2003a: 31).

Lastly, there further exists a particularly acute problem inherent to fostering mining activities in regions where heightened local tensions already exist. The EIR observed that 'extractive industries have been linked to human rights abuses and civil conflict' (2003b: 6), something that is particularly apparent in the Philippines and PNG. If the SDM attempts to channel voices of contestation, the depoliticised avenues offered might prove to be inadequate to address the rampant insecurity notably already plaguing several of the Philippines's mining regions. Here the expansion of large-scale mining has ventured on territories already the subject of armed resistance to the government, notably in the Mindanao region. This process has further led to an increased militarisation to bolster the security of mining projects. Crucially, the country has witnessed a rise in the presence of private military companies which have led to rampant human rights abuses. With more than 700 activists killed in less than five years—including civil rights and environmental advocates—the Philippines is currently facing what Doyle, Wicks and Nally refer to as 'a crisis of extra-judicial killings' (2006: iii).

In PNG, where the population is almost 100 per cent indigenous and divided in 800 different local tribes (Koma, 2005: 165), the EIR observed heightened local tensions linked to the fast development of mining activities: '[T]here have been a lot of disputes over mining, including a civil war at one point (EIR, 2003a: x). The copper mine in Bougainville was indeed closed in 1989 following an uprising by local communities and an ensuing civil war within the region. Today, one of the objectives of the Bank's Technical Assistance loan to the country (2008) is dedicated to assisting the newly recognised autonomous government in its attempt to re-open the region to mineral exploration and development (World Bank, 2009).

There ultimately exists some degree of concern as the fundamental role played by public organisations in not only investing directly in for-profit projects, as it is the case for the IFC, but in highly sensitive environment as well. In light of the clear conclusions of the EIR that the WBG should refrain from investing in mining projects in conflict-affected countries (EIR, 2003: 47), it is crucial to question the catalytic role of the WBG in fostering investments in specifically high-risk environment. As argued by the Group: Our presence in a potential investment can literally transform a 'no-go' into a 'go' (MIGA, 2009a).

Conclusion

This paper followed the World Bank Group in its attempt to foster mining investments in Asia's mining sector. While the catalysing role played by the public organisation in such a high-risk area has been framed under the umbrella of pro-poor growth and solid socio-environmental safeguards, it was argued in this paper that the

involvement of the Group in the sector should rather be read as intrinsically political.

Building on the cases of the Philippines, PNG and Laos, this paper looked at the fundamental role played by the WBG in assisting these countries to adopt/reform their mining regimes in order to entice foreign investments in their large-scale mining sector. While highly successful in stimulating foreign direct investments in the sector, these regimes are also proving to be problematic in terms of the legitimacy of the new roles and responsibilities it assigns to mining stakeholders. This is to say that the Social-Development Model rooted at the core of the regimes promoted by the Bank has been shifting the role of the state in a way that the latter is increasingly—and strategically—absenting itself from its monitoring and regulating functions, leaving the industry and local communities to negotiate the promises of the social-development narrative attached to such activities.

Crucially, the engineering of mining regimes and norm-settings in multilateral arenas brings forth concerns relating to the legitimacy of the transformations of such roles and responsibilities assigned to local mining stakeholders, as well as the possible subsequent contraction of local political spaces. However, in the long run, such contractions might prove to be seriously hindering the very objective of the WBG's presence in the sector, which is to tackle the newly acknowledge political risk attached to mining investments. The recent African wave of reversal of the very mining codes promoted by the WBG in the last decade on the continent may here serve as a warning to the Group's strategy in Asia.

REFERENCES

- Alano, M.L. (2010) Executive director of *Alternate Forum for Research in Mindanao* (AFRIM). Interviewed in Davao (Philippines), 16 February.
- Alyansa Tigil Mina (2009) 'Alternative Mining Bill: In brief', Alyansa Tigil Mina, Quezon City. [Online] <http://www.alyansatigilmina.net> (accessed March 2, 2010).
- Ang, J. (2010) International Financial Corporation - Philippines. Interviewed in the IFC's headquarters, Makati City (Philippines), 3 February.
- Bank Information Centre (BIC) et al. (2006) 'The World Bank Group's Gold Mining Operations Tarnished Gold: mining and the unmet promise of development', *Bank Information Centre, Bretton Woods Project, Earthworks, Oxfam International and Campagna per la Riforma della Banca Mondiale*, September. [Online] www.bicusa.org/proxy/Document.9518.aspx (accessed October 22, 2009).
- Bebbington, A., L. Hinojosa, D. Humphreys Bebbington, M.L. Burneo and X. Warnaars (2008) 'Contention and Ambiguity: Mining and the Possibilities of Development', *Focus, Development and Change*, 39(6): 887-914.
- Belem, G. (2009) 'Mining, Poverty Reduction, the Protection of the Environment and the Role of the World Bank Group in Mali', pp. 119-150, in B. Campbell (ed.) *Mining in Africa: Regulation and Development*, Groupe de recherche sur les activités minières en Afrique (GRAMA), New York: Pluto Press.
- Bello, W., H. Docena, M. de Guzman and M. Malig (2004) *The Anti-development State: The Political Economy of Permanent Crisis in the Philippines*. London: Zed Books.

- Boland, N., R. Kunanayagam and A. Walker (2001) 'Lao PDR mining sector: social and environmental sustainability', Report of the World Bank Group Fact-Finding Mission, *World Bank Group Mining Department*, August.
- Boungnaphalom, E. (2010) 'Mineral development in Lao PDR', International Conference on Mining *Staking a Claim for Cambodia*, May 26-27, Phnom Penh.
- Bray, J. (2003) 'Attracting Reputable Companies to Risky Environments: Petroleum and Mining Companies', pp. 287-352, in Bannon, I. and P. Collier (eds) *Natural Resources and Violent Conflict: options and actions*. Washington D.C.: World Bank.
- Campbell, B. (ed.) (2004) 'Regulating Mining in Africa: For Whose Benefit?', Discussion paper 26, Groupe de recherche sur les activités minières en Afrique (GRAMA). Uppsala: Nordiska Afrikainstitutet.
- _____ (ed.) (2009) *Mining in Africa: Regulation and Development*, Groupe de recherche sur les activités minières en Afrique (GRAMA), New York: Pluto Press.
- Carroll, T. (2010a) 'Pipelines, Participatory Development and the Reordering of Power in the Caucasus', Unpublished paper, *Centre on Asia and Globalisation*, Lee Kuan Yew School of Public Policy, National University of Singapore.
- _____ (2010b) *Delusions of Development: The World Bank and the post- Washington Consensus in Southeast Asia*. Basingstoke: Palgrave-MacMillan.
- Central Intelligence Agency (CIA) (2010) 'The World Factbook', CIA. [Online] <https://www.cia.gov/library/publications/the-world-factbook/fields/2079.html> (accessed August 14, 2010).
- CLC Asia (2009) 'Political risk and regulatory overview in Laos for natural resource companies', *CLC Asia*, 15 November. [Online] <http://www.clc-asia.com/analysis/political-risk-and-regulatory-overview-in-laos-for-natural-resource-companies/> (accessed January 2011).
- Coupry, P.M. (2007) 'La relance de l'industrie minière aux Philippines inquiète les ONG', *Who's Who des ONG* (WWO), 31 May. [Online] http://www.wwo.fr/article_fiche.php?id_article=161 (accessed December 4, 2009).
- Doyle, C., C. Wicks and F. Nally (2006) *Mining in the Philippines: Concerns and conflicts. Report of a Fact-Finding Trip to the Philippines*, Knowle, Solihull, Society of St. Columban, July-August.
- Emel, J. and M.T. Huber (2008) 'A risky business: Mining, rent and the neoliberalization of "risk"', *Geoforum*, 39: 1393-1407.
- Extractive Industries Review (EIR) (2003a) *Asia and Pacific Regional Workshop: Testimonials and Consultation Report*, Bali, Indonesia 26-30 April.

- _____ (2003b) *Striking a Better Balance: the Final Report of the Extractive Industries Review*, vol. 1, Jakarta/Washington D.C.: World Bank Group and Extractive Industries, December.
- Friends of the Earth (n.d.) 'Toxic rivers, poisoned fish: Sepon gold mine in Laos', *Friends of the Earth International*. [Online]
<http://www.foei.org/en/resources/link/mining/12case.html/?searchterm=laos>
 (accessed February 6, 2011).
- Gamble, A. (2006) 'Two Faces of Neo-liberalism', in R. Robison (ed.) *The Neoliberal Revolution: Forging the Market State*, pp. 20-35. Hampshire: Palgrave.
- Goldman, M. (2005) *Imperial Nature: The World Bank and Struggles for Social Justice in the Age of Globalization*. New Haven, CT and London: Yale University Press.
- Goodland, R. and C. Wicks (2009) 'Stark choice facing the Philippines', *ECCR*, Bulletin No. 72, March. [Online]
http://www.eccr.org.uk/dcs/Stark_choice_facing_the_Philippines_Mar09.pdf (accessed January 10, 2009).
- Halifax Initiative Coalition (ed.) (2006) *One Step Forward, One Step Back: An Analysis of the International Finance Corporation's Sustainability Policy, Performance Standards and Disclosure Policy*, Ottawa, May. [Online] <http://www.halifaxinitiative.org> (accessed June 28, 2009).
- Hatcher, P. (2004) 'Mali: Rewriting the Mining Code or Redefining the Role of the State?', pp.39-52, in B. Campbell (ed.) *Regulating Mining in Africa: For Whose Benefit?*, No. 26, Nordiska Afrikainstitute: Sweden.
- _____ (2006) 'Partnership and the International Aid Reform: Challenging Citizenship and Political Representation', pp. 189-206, in D. Stone and C. Wright (eds) *The World Bank and Governance: A Decade of Reform and Reaction*, Routledge: New York.
- _____ (2010) 'The Politics of the Curse: The International Finance Corporation & the Multilateral Investment Guarantee Agency in Risk Countries', *Ritsumeikan International Affairs*, Vol. 10: 57-84.
- Holden, N.W. (2005) 'Civil Society Opposition to Nonferrous Metals Mining in the Philippines', *Voluntas: International Journal of Voluntary and Nonprofit Organizations*, 16(3): 223-249.
- Holden, N.W. and D. Jacobson (2007) 'Mining amid armed conflict: nonferrous metals mining in the Philippines', *The Canadian Geographer*, 51(4): 475-500.
- Jayasuriya, K. (2001) 'Governance, Post-Washington Consensus and the New Anti Politics', Working Paper Series, No. 2. Hong Kong: City University of Hong Kong.

- Koma, M. (2005) 'Papua New Guinea: A Guarantee for Poverty', in M. Colchester, and E. Caruso (eds) *Extracting Promises: Indigenous Peoples, Extractive Industries and the World Bank*. Second edition, Baguio City: Tebtebba Foundation: 164-184.
- Llorito, D. L. (2006) 'Philippines' mining down in the dumps', *Asia Times*, 26 May. [Online] http://www.atimes.com/atimes/Southeast_Asia/HE26Ae02.html (accessed January 7, 2010).
- Loki, R. (2009) 'Mining for Answers in the Philippines', *Mines and Quarries*, 13 June. [Online] <http://www.opednews.com/articles/Mining-for-Answers-in-the-by-Reynard-Loki-090610-261.html> (accessed February 4, 2010).
- Mines and Geosciences Bureau (MGB) (2005) 'An Overview of Minerals Potential and Opportunity in the Philippines', *Mining Philippines 2005*, Department of Environment and Natural Resources. [Online] <http://www.mgb.gov.ph> (accessed January 20, 2010).
- _____ (2008) 'Revitalization of the minerals industry: Mining and Minerals–The new drivers of growth', Department of Environment and Natural Resources. [Online] <http://www.mgb6.org/revitalization-of-the-minerals-industry/> (accessed March 6, 2010).
- Mineral Resources Authority (MRA) of Papua New Guinea (2011) 'EU, JSDF, AusAid & the World Bank...their story', *Mineral Tok*, Newsletter of the Mineral Resources Authority. [Online] <http://www.mra.gov.pg> (accessed January 20, 2010).
- Multilateral Investment Guarantee Agency (MIGA) (2009a) 'About MIGA'. [Online] http://www.miga.org/quickref/index_sv.cfm?stid=1588 (accesses 4 October 2009).
- _____ (2009b) 'MIGA: Supporting Mining Investments', *Mining Brief*, February.
- Naito, K. H. Myoi, J. Otto and M. Kamitani (1998) 'Mineral Projects in Asian Countries: Geology, regulation, fiscal regimes and the environment', *Resources Policy*, 24(2): 87-93.
- Nettleton, G., A. Whitmore and J. Glennie (2004) 'Breaking promises, making profits: Mining in the Philippines', *Christian Aid and Philippine Indigenous Peoples Links* (PIPLinks), December.
- O'Callaghan, T. and Vivoda, V. (2010) 'Regulatory Regimes, Mining Investment and Risk in the Asia-Pacific Region: Critical Evaluation and Policy Recommendations, Practical Theories for Business and Regulation', Paper presented at the annual meeting of the *51st ISA Annual Convention 'Theory vs. Policy? Connecting Scholars and Practitioners'*, New Orleans, 19 February.
- Operations Evaluation Group (OEG) (2005) 'IFC's Experience', Annex D, pp.113-171, in World Bank, *Extractive Industries and Sustainable Development: An Evaluation of World Bank Group Experience*, A. Liebenenthal, R. Michelitsch and E. Tarazona, Washington D.C.: World Bank.
- Ordinario, C.U. (2009). 'World Bank's IFC to invest \$900M in RP until FY 2012', *Business*

Mirror, 21 September.

Papua New Guinea Mine Watch (2010) 'PNG government employs top international law firm against its own people', *PNG Mine Watch*, April 27. [Online] <http://www.ramumine.wordpress.com> (accessed 12 December 2010).

Philippines Government (2004) 'Minerals Action Plan: A Roadmap for the Revitalization of the Minerals Industry', Memorandum Circular No. 67, September.

_____ (2010) 'A Wealth of Trade Opportunities in Mining', Philippines Consulate website. [Online] <http://www.philcongshanghai.org/mining.htm> (accessed March 6, 2010).

Philippines International Review (2009) 'The Regulatory Climate for Mining in the Philippines', *Philippines International Review*, 2(1), Autumn.

Robison, R. (2006) (ed.) *The Neoliberal Revolution: Forging the Market State*. Hampshire: Palgrave.

Rosser, A. (2006) 'The Political Economy of the Resource Curse: A Literature Survey', *Institute of Development Studies*, IDS Working Paper 268, April.

Rovillos, R.D., S.B. Ramo and C. Corpuz, Jr. (2003) 'When the 'Isles of Gold' turn into Isles of Dissent: A Case Study on the Philippine Mining Act of 1995', Presented to the *EIR's Eminent Person and participants at the meeting on Indigenous Peoples, Extractive Industries and the World Bank*, Oxford, England, Forest Peoples Programme Tebtebba Foundation, 15 April.

Stavenhagen, R. (2003) 'Report of the Special Rapporteur on the Situation of Human Rights and Fundamental Freedoms of Indigenous People', *United Nations Commission on Human Rights*, 59th Session (CN 4/2003/90/Add.3), New York, 5 March.

Szablowski, D. (2007) *Transnational Law and Local Struggles: Mining, Communities and the World Bank*. Oxford: Hart Publishing.

Thompson, R. (2010) 'Regional and International Country Experiences Lessons learned', Paper presented at the International Conference on Mining *Staking a Claim for Cambodia*, May 26-27, Phnom Penh.

Transparency International (2009) 'Corruption Perceptions Index 2008'. [Online] <http://www.transparency.org/> (accessed February 2, 2011).

United States Geological Survey (1994) 'The mineral industry of Laos', *U.S. Geological Survey - minerals information*.

_____ (1995) 'The Mineral Industry of the Philippines 1994', *Minerals Yearbook*, April: 685-690.

United States Geological Survey (1996) 'The Mineral Industry of the Philippines 1995',

Minerals Yearbook: 1-3.

- _____ (1997) 'The mineral industry of Laos', *U.S. Geological Survey - minerals information*.
- _____ (1998) 'The mineral industries of Asia and the Pacific', *U.S. Geological Survey - minerals information*.
- _____ (2000) 'The Mineral Industry of the Philippines 1999', *Minerals Yearbook: 21.1-21.4*.
- United States Geological Survey (2008) 'The mineral industries of Asia and the Pacific', *U.S. Geological Survey - minerals information*.
- _____ (2010a) '2009 Minerals Yearbook: Papua New Guinea', *U.S. Geological Survey - minerals information*, November.
- _____ (2010b) 'The mineral industry of Laos', *U.S. Geological Survey - minerals information*.
- Vivoda, V. (2008) 'Regime Governing Foreign Mining Investment in the Philippines', *Minerals & Energy*, 23(3): 127-143.
- Wanjik, J. (2007) 'The politics of mineral law', *Post Courier*, Focus-Weekend Edition, May 25-27. [Online] <http://www.postcourier.com.pg/20070525/focus.htm> (accessed 22 January 2011).
- Whitmore, A. (2006) 'The emperors new clothes: Sustainable mining?', *Viewpoint, Journal of Cleaner Production*, No. 14: 309-314.
- World Bank (2004) *Striking a Better Balance: the World Bank Group and Extractive Industries: the Final Report of the Extractive Industries Review World Bank Group Management Response*, World Bank, 17 September.
- _____ (2005) *Extractive Industries and Sustainable Development: An Evaluation of World Bank Group Experience*, A. Liebenthal, R. Michelitsch and E. Tarazona, Washington D.C.: World Bank.
- _____ (2006) *Final Report for International Competitiveness Element and Downstream Potential of mining industry: Sector plan for sustainable development of the mining sector in the Lao PDR*. R.T. Thompson, World Bank: Washington D.C., November.
- _____ (2007) 'World Bank Mining Activities in Africa: Policy Framework and Country Experience', Presentation by Gotthard Walser, Oil, Gas and Mining Policy Division at the *AfDB-WBG Experience-Sharing Meeting*, Tunis, February 12-13.
- _____ (2008) 'Lao PDR Economic Monitor', *Lao PDR Economic Monitor*, World Bank Office - Vientiane, November.
- _____ (2009) 'Papua New Guinea Second Mining Sector Institutional Strengthening Technical Assistance Project', *PNG Mining Project Brief*, World Bank. [Online] <http://www.worldbank.org/pg> (accessed 16 January 2010).
- _____ (2010a) 'Lao PDR', in *Emerging Stronger from the Crisis: World Bank East Asia and*

Pacific Economic Update, Vol. 1, Washington DC.: World Bank.

_____ (2010b) 'Lao PDR Recent Economic Developments: Mid-Year Update', *Lao PDR Economic Monitor*, World Bank Office - Vientiane, Issue No. 15, May.

_____ (2011) 'GDP per capita', World Bank Data Indicators. [Online]
<http://data.worldbank.org/indicator/NY.GDP.PCAP.CD> (accessed 20 January 2011).