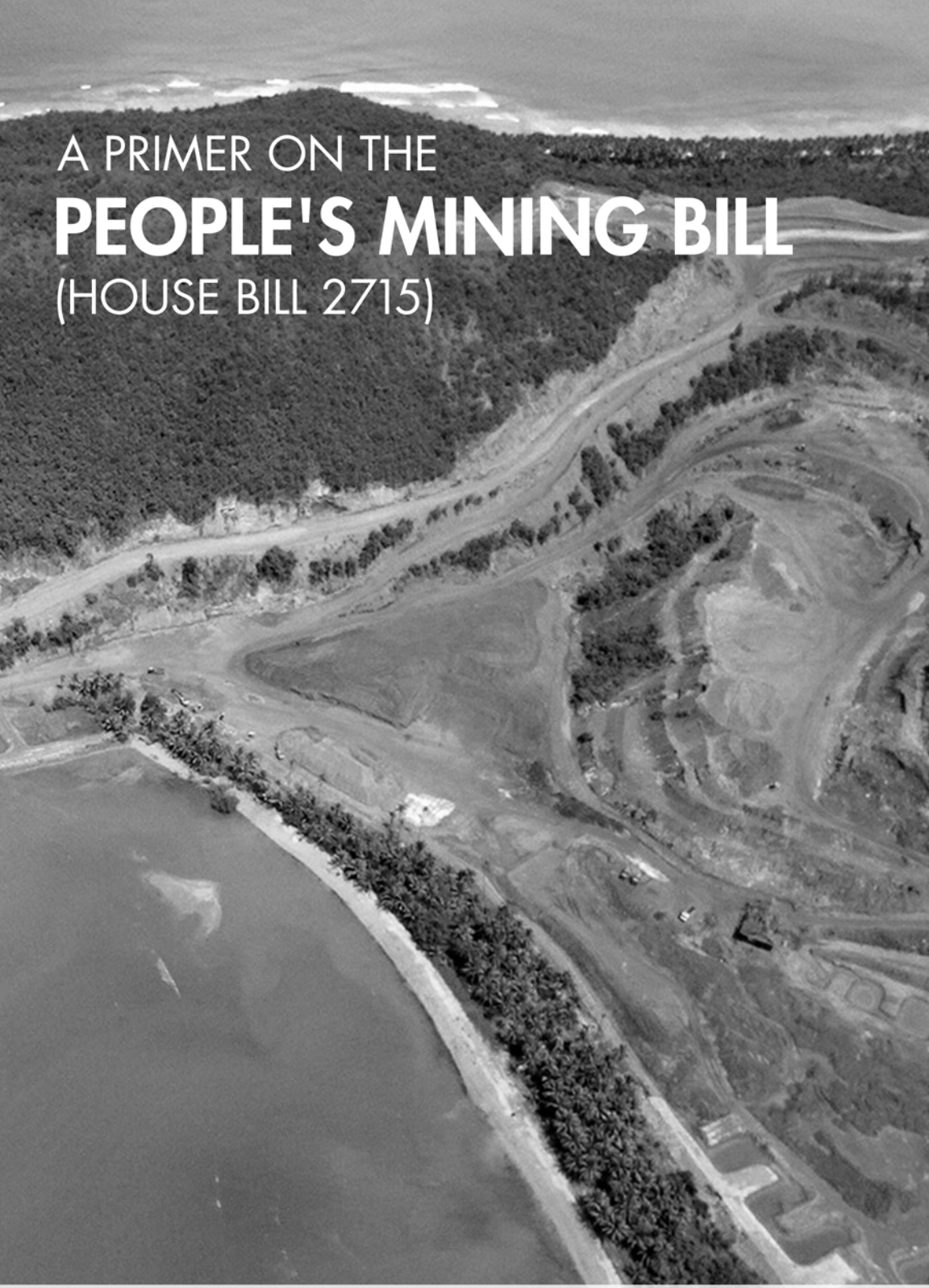

A PRIMER ON THE
PEOPLE'S MINING BILL
(HOUSE BILL 2715)

CENTER FOR ENVIRONMENTAL CONCERNS-PHILIPPINES

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INTRODUCTION

On March 6, 1995, the Philippine government enacted Republic Act (RA) 7942, or the Philippine Mining Act of 1995, which liberalized foreign control over the domestic mining industry. The RA 7942 was instituted along with other policies liberalizing existing country controls in other strategic economic sectors.[1]

The RA 7942 was opposed by many, including civil society organizations (CSOs), environmentalists and indigenous peoples (IPs). In 2004, the Supreme Court (SC) declared it unconstitutional in the case La Bugal B'laan Tribal Association vs. Ramos. But, controversially and suddenly, the SC reversed its own decision after lobbying from the executive branch and business groups.

The RA 7942 dragged on for twenty-three years with each administration creating policies that further liberalized the mining sector. Former President Gloria Macapagal-Arroyo harmonized other laws and shifted state policy from 'active tolerance' to 'promotion' of foreign and large-scale mining. She issued executive orders[2] (EOs) establishing mining revitalization as a top priority in the national policy agenda. This led to government agencies actively soliciting foreign investments in mining and at the same time streamlining government processes for approvals and permits. She also issued an EO deploying military units called "Investment Defense Force" to provide security to mining companies. This neoliberal track was continued by her successor Former President Benigno Aquino III. In 2012, he issued EO No. 79 that imposed a moratorium on new mining operations but still approved mining applications prior to its issuance. The policy also allows

1 These were among the structural adjustment programs promoted by development aid institutions such as the World Bank, International Monetary Fund, and the Asian Development Bank since the 1980s.

2 Executive Order No. 270: National Policy Agenda on Revitalizing Mining in the Philippines was issued on January 16, 2004 and Executive Order No. 270-A was issued on April 20, 2004

the national government to override the authority of local government units' (LGU) to pass local resolutions and ordinances protecting their local environment such as banning large-scale mining in their areas. Aquino also allowed the creation of Special Civilian Armed Auxiliary or paramilitary groups that complements the function of the Investment Defense Force. The current President Rodrigo Duterte is a vocal critic of the mining companies blaming them of the persistent poverty and environmental degradation in areas with mining operations. But his actions say otherwise. His former Department of Environment and Natural Resources (DENR) Secretary Regina Lopez audited all mining operations that resulted in the order to suspend 5 and close down 23 mining operations and to cancel of 75 mining permits. Instead of heeding the call of the people to support this landmark achievement in the history of the DENR, President Duterte allowed the rejection of the Lopez's confirmation and replaced her with a military man Roy Cimatu with a long record of human rights abuses and corruption. Shortly after, Duterte also ordered the Armed Forces of the Philippines to bomb lumad[3] community schools and to flatten the hills, accusing communities opposing mining operations of being rebels.

According to the Mines and Geosciences Bureau (MGB) of the DENR, as of September 30, 2017, there are 432 mining agreements, including 5 Financial and Technical Assistance Agreements (FTAAs), 314 Mineral Production and Sharing Agreements (MPSAs), 20 Exploration Permits (EPs), 32 Mineral Processing and Production Permits, 59 Industrial Sand and Gravel Permits, and 2 lease contracts. These cover 737,556.1836 hectares or around 2.5% of the country's total land area.

Impacts of the Mining Liberalization Policy

The Philippines has around 7.1 billion metric tons (BMT) of metallic mineral reserves (such as gold and nickel) and 51 BMT of non-metallic deposits. Their total value is estimated at around $840 billion to $1 trillion: ten times the country's gross domestic product and immensely larger than its entire external debt. If properly developed, these vast and rich reserves can sustain a strong, self-reliant and progressive domestic economy

3 The lumads are the biggest indigenous group in the Philippines

balancing agriculture and industrialization and breaking the existing cycle of underdevelopment.

However, this has not been the case with the country's current mining policy. The Philippine mining industry has historically been liberalized and laid open to foreign and private control. It has not contributed to the development of downstream industries and the modernization of agriculture. Until now, it is limited to extraction while ores are exported unprocessed. We also remain to be dependent on foreign capital, expertise and technology.

RA 7942 has deprived people of access to land and other natural resources, stunted the domestic economy, and destroyed the environment. It triggered some of the Philippine's worst ecological disasters, such as the Marcopper Mining Corporation (1996), Lafayette Philippines Incorporated (2005) and Philex Mining Corporation (2012) mine spills. Its losses loom in comparison to the industry's promised economic gains. Mining areas are still among the poorest communities nationwide. It is responsible for human rights violations; many were killed, sued, and harassed for their opposition. It separated IP communities—the last bastions of our pre-colonial heritage—from their ancestral lands through coercion, exigency, or collusion.

Towards a New Philippine Mining Policy

The RA 7942 is unsustainable from an economic, ecological, cultural, and human rights perspective. It must be repealed to protect our finite mineral resources from more plunder and depletion. CSOs, environmentalists, communities, and local governments want a new mining law that ensures this protection.

The First People's Conference on Mining on May 9, 2002 called for the repeal of the existing mining policy and develop the industry through national industrialization. In October 2002, the Dapitan Initiative also advocated for new legislation. In 2005, the People's Mining Policy (PMP), an alternative mining policy framework, was drafted and affirmed by *Defend*

Patrimony[4] though nationwide consultations with people's organizations (POs). Local officials have also set moratoriums on large-scale and/or open-pit mining.

These grassroots and local government initiatives are challenges the national government should face. House Bill (HB) 2715 is an amalgamation of these proposals that have collectively supported the wise and sustainable development of our mineral resources – a framework that upholds social justice, respect for people's rights and welfare, environmental conservation, and the defense of national sovereignty and patrimony.

4 The Defend Patrimony! Movement against Mining Transnational Corporations and Plunder of Resources (Defend Patrimony! Alliance) is a broad coalition of people's organizations, non-government organizations, civic institutions and federations that opposes the liberalization and plunder of the country's sovereign mineral resources.

FREQUENTLY ASKED QUESTIONS

1. What is the People's Mining Bill (PMB)?

House Bill 2715 (*An Act Re-Orienting the Philippine Mining Industry Towards National Industrialization and Ensuring the Highest Industry Development Standards, and for other Purposes known as the People's Mining Act of 2016*) seeks to re-orient the current policy on the ownership, management and governance of metallic and non-metallic minerals, quarry resources, and gemstones towards a rational manner for national industrialization and local development. It covers onshore and offshore, large-scale and small-scale mining operations and their conservation, exploration, development, utilization, processing and transportation (Sec. 2, 5).

Mineral resources are defined in the bill as all naturally-occurring inorganic substances in solid, gas, liquid, or any intermediate state, excluding energy materials such as petroleum, natural gas, radioactive materials, and geothermal energy.

2. When did the bill first appear in legislative policy and what is its status?

Table 1: Filing of the People's Mining Bill

Term of Congress	Date Filed	House Bill Number	Authors	Status
15th Congress	March 2, 2011	HB 4315	Teddy A. Casino, Neri J. Colmenares, Rafael V. Mariano, Luzviminda C. Ilagan, Raymond V. Palatino, Emerenciana A. De Jesus, and Antonio L. Tinio	Committee level
16th Congress	July 1, 2013	HB 0171	Neri J. Colmenares, Carlos Isagani C. Ilagan, Emerenciana A. De Jesus, Antonio L. Tinio, Fernando L. Hicap and Terry Ridon	Technical working group level
17th Congress	August 9, 2016	HB 2715	Carlos Isagani T. Zarate, Emerenciana A. De Jesus, Antonio L. Tinio, Arlene D. Brosas, France J. Castro, Ariel B. Casilao and Sarah Jane I. Elago	Technical working group level

3. How is the bill different from RA 7942 in terms of framework and principles?

It reverses the liberalization of the mining industry in RA 7942. It upholds the Filipino people's Constitutional right to appropriately use, manage, and enjoy the benefits of the country's mineral resources, considering these as national patrimony, irreplaceable and non-renewable wealth (Sec. 6). It gives the State the primary responsibility for the industry's management, conservation, utilization, and development and considers mining a shared responsibility among national and local governments, corporations, and communities (Sec. 7).

It aims to develop the Philippine mining industry within the framework of national industrialization and agrarian reform, in an economically-viable, ecologically-sound and democratic manner. Mining industry development shall be based on a National Industrialization Program (NIP) and Mining

Plan (MP), reoriented away from market forces and external investments and supporting a strategically and domestically-planned economy (Sec. 2-3).

Table 2. Comparison of Development Frameworks

RA 7942: Mining Act of 1995	HB 2715: People's Mining Bill
State responsible for promoting the rational exploration, development, utilization, and conservation of minerals through the combined efforts of government and the private sector.	State leads mining industry development according to a National Industrialization Program and Mining Plan that considers medium and long-term needs; technological advancement; the right to self-determination of IPs and Moros; and other accepted principles on human, labor, women's, and children's rights and environmental protection and preservation as embodied in existing international conventions the country is a signatory to (Sec. 2-3).
Mining is to be revitalized through fiscal reforms, additional benefits, and incentives for foreign investors. This has left the industry mostly limited to extraction and export of mineral ores; dependent on foreign capital, imported technology, and foreign expertise; and controlled by an elite few.	Mining is to be developed within the framework of 1.) nationalizing the industry towards self-sufficiency, and 2.) achieving genuine agrarian reform, the modernization of its agricultural base and rural development. It seeks optimum benefit for the national and local economy and public participation/ representation over projects (Sec. 2).

4. How should mining develop under national industrialization?

The State should strategically and systematically pursue the industry's development according to a NIP and MP, based on the following priorities (Sec. 2-4):

- Domestic needs-based development to create processing capacity for industrial metals (such as base metals, basic chemicals, and petrochemicals) and downstream industries to generate employment and our own basic, medium, and heavy industries for consumer, intermediate and capital goods

- Agrarian reform and agricultural modernization to integrate mineral development and agricultural production and prohibit mining in areas specified for food production

- Domestic capitalization of mining through participation of Filipino corporations and internal funding for capital requirements from re-channeling government budgets for foreign debt payments, military expenditures, and government shares from the Malampaya Natural Gas Project

- Respect for indigenous peoples and Moro communities rights to self-determination

- Support for workers' rights and occupational safety standards

- Support for small-scale miners and their integration into the national mining industry

- Demilitarization of mining operations by military, police, private security, and paramilitary groups

- Development of industrial knowledge, technology, and methods to be more appropriate, economically-efficient and less environmentally-destructive

- Promotion, development, enforcement, and monitoring of ecologically-sound mining practices and standards

- Rehabilitation of all mining-affected areas and abandoned mines

5. How can mining under national industrialization help modernize agriculture?

Mining outputs can be used produce technology for the production, post-harvest, and processing of raw materials and agricultural goods. Minerals can be used for the production of mechanized tools and technology needed to modernize the country's agricultural industry and meet industrial needs. These metals needed to produce such tools and technology shall

be prioritized and considered as strategic mineral resources. Mining will not be pursued in prime agricultural lands, prioritizing food security and production. The MP will be crafted based on these principles supported by the NIP and supported by the Multi-Sectoral Mining Councils (MSMC). (Sec. 4, 11, 30).

6. How is the decision-making process in HB 2715 different from RA 7942?

In RA 7942, decision-making for large-scale mining permits is almost exclusively in the hands of the President, the DENR, and the MGB. In HB 2715, the decision-making process is expanded to the affected community, stakeholders, local government units and non-government organizations (NGOs) through the creation of Multi-sectoral Mineral Councils (MSMCs) (Sec. 37).

MSMCs will be created in all demarcated mineral areas. They shall be convened by the MGB and composed of one representative from the DENR, one representative from each of the affected LGUs, representatives equal to the number of those representing the LGUs from local community organizations affected by mining projects, and two representatives from NGOs (Sec. 39). MSMCs shall define a review period for mining proposals, call for public hearings, determine whether or not mining operations will be allowed, deliberate on proposal for mining agreements, monitor the conduct of mining operations, establish its internal rules of procedure, provide public comment on all public submissions and recommend the cancellation of a permit (Sec. 38).

The bill affirms the role of the MGB as a scientific research institution under the DENR. The MGB shall establish a national and regional filing and recording system and mineral resource and rights management database system, where mineral areas are to be demarcated (Sec. 19, 34). All the results of the exploration of mineral resources shall be submitted to the MGB (Sec. 21). It shall, therefore, maintain an inventory of watershed continuums and all available mineral resources; and identification of strategic mineral resources for local industries, agricultural modernization, and rural development (Sec. 32-33).

Table 3. Comparison of decision-making processes on mining

RA 7942: Mining Act of 1995	HB 2715: People's Mining Bill
Emphasis on Presidential prerogative. Decisions over mining permits highly concentrated in the hands of the President, upon the recommendation of the DENR Secretary.	**Based on strategic and local plans and consultations**. Industry development is based on a National Industrialization Program and Mining Plan; decision-making is centralized in Multi-Sectoral Mineral Councils composed of representatives from the government and affected community (Sec. 37-39).
All areas assumed open to mining unless declared "closed" by the Government	All areas are closed to mining unless declared "open" by the MSMCs, through a two-thirds vote (Sec. 41).
Role of government agencies. DENR has the authority to enter into mineral agreements. MGB in charge of the administration and disposition of mineral lands and resources, researches and exploration surveys. MGB Director recommends to the DENR Secretary the granting of mining agreements to qualified persons.	MGB is a scientific research institution under the DENR and a central repository of information on mining operations. It is responsible for resource database, inventory, and prioritization, mining exploration on behalf of the State, public information, and pre-screening of mining proposals (Sec. 19, 21, 32-33, 35).

Under HB 2715, the process for accepting a mining proposal is as follows:

a. **MSMC vote**. The MSMC will decide if an area will be opened to mining through a two-thirds vote (Sec. 41).[1]

b. **Call for proposals**. If the MSMC votes to open an area to mining, the MGB will prepare information sheets and issue a call for proposals based on the MP (Sec. 47-48).

c. **MGB pre-screening and endorsement**. The MGB will pre-screen all proposals based on the NIP, identify the top five proposals and recommend these to the MSMC for deliberation (Sec. 49).

1 The MSMC shall consider the MGB exploration report, existence of downstream industries, potential environmental, public health, and cultural resources and impacts, conflict and risk assessments, potential economic benefits, existing and alternative land uses and the area's carrying capacity (Sec. 37).

d. **MSMC deliberations with LGUs and IPs/ICCs**. LGUs shall conduct mandatory public hearings within affected communities and require the approval of the affected sanggunians and a majority vote of the affected LGUs (Sec. 47). Separate deliberations will be conducted for affected IPs/ICCs using their own systems and processes, free from any external manipulation, interference, coercion and the like Sec. 50).

e. **MSMC final deliberations**. The MSMC will choose among the top five proposals, considering which is most acceptable to its own socio-economic, environmental, and cultural program (Sec. 50).

f. **Public announcement**. The MSMC forwards its decision to the MGB, which will publish the accepted proposal and issue a permit after six weeks if it is not contested (Sec. 51).

For small-scale mining, HB 2715 recognizes the applicability of RA 7076 or the *People's Small-Scale Mining Act of 1991*. It, however, expands the composition of the Provincial/City Mining Regulatory Board (Sec. 25 of RA 7076) to include at least two more representatives from civil society. Only one NGO representative was previously allowed under RA 7076. All quarrying permits shall require the recommendation of the MSMC prior to the final approval of the provincial government unit (Sec. 84).

7. How does HB 2715 uphold and protect our national patrimony?

a. It allows only mining permits which Filipinos can derive the most benefit from and which will support the strategic and prudent extraction of minerals needed for industrialization.

In terms of large-scale mining, it scraps the controversial FTAAs and EPs. It retains other permits in RA 7942 but considerably reduces their scope and rights. It requires a stringent screening process to secure consent and approve environmental and social impact plans. The three large-scale mining permits allowed are the following (Sec. 44):

- **Mineral Production Sharing Agreement (MPSA)** – The contractor is granted the exclusive right to conduct mining and have shares in the gross output while providing financing, technology, and management.

- **Co-production Agreement (CA)** – An agreement between the government and the contractor where the government shall provide inputs to mining operations other than the mineral resource.

- **Joint Venture Agreement (JVA)** – A joint-venture company is organized by the government and the contractor with both parties having equity shares; government is entitled to a share in the gross output.

Large-scale mining permit areas shall not exceed 500 hectares. No one shall be awarded more than 750 hectares in any watershed area (Sec. 54). Terms shall not exceed 15 years and include rehabilitation. Permits cannot be extended without just cause (Sec. 55). They are non-transferable; any changes in corporate ownership or financing structure should be reported (Sec. 64).

Table 4. Comparison of Major Mining Permit Types with RA 7942

Permit Type	RA 7942: Mining Act of 1995	HB 2715: People's Mining Bill
Exploration Permit (EP)	**Duration of operations:** Two years, maximum of eight years **Maximum area:** 32,000 hectares onshore, 81,000 hectares offshore **Economic privileges:** 100% repatriation of capital and profits; exemption from income tax (6 years), export tax (10 years), and import tax; employment of foreign nationals allowed, right to transfer or sell mining permit, confidentiality rights **Political rights:** timber rights, water rights, easement rights, entry into private lands and concession areas	Explorations Permits (EPs) are deleted. Exploration activities by private entities shall only be allowed in a Joint Venture Agreement (JVA) (Sec. 24). The government has the primary responsibility for mining exploration (Sec. 23). The State shall invest in exploration and mining (Sec. 25). The exploration phase shall be regulated by the MGB (Sec. 22). All results of the exploration of mineral resources shall be submitted to the MGB (Sec. 21).

Table 4. Comparison of Major Mining Permit Types with RA 7942

Permit Type	RA 7942: Mining Act of 1995	HB 2715: People's Mining Bill
Financial and Technical Assistance Agreement (FTAA)	**Duration of operations:** 25 years, renewable up to 50 years **Maximum area:** 81,000 hectares onshore, 324,000 hectares offshore **Capitalization:** 100% foreign ($50 million minimum investment) **Economic privileges and political rights:** Same as EP	Financial and Technical Assistance Agreement (FTAA) is deleted
Mineral Processing Sharing Agreement (MPSA) / **Co-production Agreement (CA) /** **Joint Venture Agreement (JVA)**	**Duration of operations:** 25 years, renewable up to 50 years **Maximum area:** 16,200 hectares onshore, 40,500 hectares offshore **Capitalization:** 60% Filipino, 40% foreign **Economic privileges and political rights:** Same as EP	**Duration of operations:** Up to 15 years (Sec. 55) **Maximum area:** Up to 500 hectares (Sec. 54) **Capitalization:** 60% Filipino, 40% foreign (Sec. 45) **Economic privileges and political rights:** Mineral Processing Sharing Agreement (MPSA): The contractor is granted the exclusive right to conduct mining and have shares in the gross output while providing financing, technology, and management Co-production Agreement: The government shall provide inputs to mining operations other than the mineral resource. Joint Venture Agreement: A joint-venture company is organized by the government and the contractor with both parties having equity shares; government is entitled to a share in the gross output.

Small-scale mining permits (SSMPs) shall only be granted to individuals and cooperatives. The term for permits shall be three (3) years, extendable to a maximum of fifteen (15) years (Sec. 66).

Quarrying permits on private lands may be given to qualified Filipinos, except in ancestral domains and public lands for building and construction. A mineral agreement is required for the extraction of sand for its metallic contents (magnetite) from rivers/shorelines, and large-scale quarrying involving cement raw materials, marble, granite, sand, gravel and construction aggregates. Permits shall not be granted for areas covered by another mineral agreement. Permits shall be limited to five hectares and five years, renewable up to 20 years (Sec. 75).

Table 5. Quarrying Permit Types allowed (Sec. 78-83)

Quarry Permit Type	Coverage	Grantee	Authority	Maximum Area
Commercial Sand and Gravel Permit	Sand, gravel, or other loose or unconsolidated materials outside ancestral domains used in their natural state	Any qualified person	Provincial Governor	Not exceeding 5 hectares
Industrial Sand and Gravel Permit	Sand and gravel and other loose or unconsolidated materials outside ancestral domains needing mechanical processing		MGB	Not exceeding 5 hectares for 3 years up to 20 years
Exclusive Sand and Gravel Permit	Sand and gravel or other loose or unconsolidated materials from public lands for his own (not commercial) use		Provincial Governor	

Table 5. Quarrying Permit Types allowed (Sec. 78-83)

Quarry Permit Type	Coverage	Grantee	Authority	Maximum Area
State Gratuitous Permit	Sand, gravel, quarry or loose unconsolidated materials in the construction of public infrastructure	Any government entity	Provincial Governor	Not more than 2 hectares; same length with construction
Guano Permit	Loose unconsolidated guano and other organic fertilizer materials	Any qualified Filipino		Specific caves and/ or confined sites
Gemstone Permit	Loose stones useful as gemstones			Rivers, other sites

b. It sets stringent terms for foreign participation in the Philippine mining industry.

Only Filipino corporations shall be allowed to hold permits. It removes EPs, as the MGB is tasked to oversee and conduct all exploration activities. It also prohibits FTAAs or other similar agreements where the right to explore, develop and use mineral resources is awarded to foreign entities (Sec. 44).

Foreign firms are allowed to invest in exceptional cases identified by the government and based on the NIP and the country's capability and capacity. They will be required to undergo rigorous screening, regulations and a mandatory program for technology transfer and equity shares. Capital accumulation and reinvestment in the country is encouraged over profit repatriation. Foreign firms with a bad track record here are banned (Sec. 4).

c. It ensures that mining firms will pay taxes, fees, and shares to governments and communities.

RA 7942 has a lengthy list of tax exemptions, incentives, and investment guarantees for mining investors. These severely limited the shares of

government and local communities and allowed foreign mining investors to practically siphon most of their profits out of the country.

On the other hand, HB 2715 requires the payment of requisite taxes, fees, and shares of government and affected communities from mining revenues and the domestic investment of mining capitalization and finance. This ensures that the government and communities are properly and adequately compensated and that mining revenues are directed towards supporting the local economy (Sec. 93-102).

Table 6. Comparison of Taxes, Fees and Benefit Sharing

RA 7942: Mining Act of 1995	HB 2715: People's Mining Bill
Limited government share. Government share is limited to excise taxes of 2% required by law.	**Government and community shares increased:** a. National government share (Sec. 94): 10% of the gross revenues from the development and utilization of mineral resources that are owned by it b. LGU share (Sec. 98): to be set based on the classification of the LGU, vulnerability, and human development index c. Indigenous cultural communities' royalty (Sec. 95): at least 10% of the gross revenues d. Scientific Research and Development Fund (Sec. 96): new section e. Legal Services Fund (Sec. 97): new section f. Mine Wastes and Tailings Fee (Sec. 99)
Limited taxes and fees, including semi-annual mine wastes and occupation fees. Mining permits enjoy 6 years income tax exemption, 10 years export tax exemption, and import tax exemption.	**Taxes and fees are increased** to include, but are not limited to, the following: semi-annual Mine Wastes and Tailings fees, contractor's income tax, customs, duties and fees on imported capital equipment, value-added tax on imported goods and services, withholding tax on interest payments to foreign loans and on dividends to foreign stockholders, documentary stamps tax, capital gains tax, excise tax on minerals, local business tax, real property tax, community tax, occupation fees, registration, accreditation and permit fees, and water usage fees (Sec. 93).

Table 6. Comparison of Taxes, Fees and Benefit Sharing

RA 7942: Mining Act of 1995	HB 2715: People's Mining Bill
Generous fiscal and non-fiscal incentives. Through the Omnibus Investments Code of 1987, contractors enjoy incentives for Pollution Control Devices, Income Tax-Carry Forward of Losses, Income Tax-Accelerated Depreciation, and Investment Guarantees.	**Incentives** shall be given for the use of pollution control or mitigation devices (Sec. 100).
Investment guarantees. Includes (a) Repatriation of investments, (b) Remittance of earnings, (c) Foreign loans/ contracts,(d) Freedom from expropriation, (e) Requisition of investment and (f) Confidentiality	All large-scale mining contractors required to deposit their capital investment and profits in Philippine banks or financial institutions (Sec. 101). Those with foreign financial assistance are required to fully disclose all profits, and allowed to repatriate profits up to 50% of the total posted annually. Full repatriation of profits allowed one year after mining and rehabilitation ends (Sec. 102).

8. How does HB 2715 uphold respect for human rights and the welfare of the social sectors and stakeholders affected by mining projects?

a. Upholding workers' rights and occupational safety.

The bill respects workers rights to organize and form associations, to collective bargaining and to strike. It requires that job security, adequate wages, benefits, and safe working conditions for mine workers be ensured (Sec. 4). All projects shall strictly comply with rules and regulations on mines safety and provide safeguards for the health and well-being of workers. These include RA 7305 or the Magna Carta of Public Health Workers; prohibition of forced and child labor; and supervisor-worker ratios of a mining engineer and one foreman for every 50 workers employed. Government officials may conduct safety and labor conditions inspections. The MGB may issue orders to remedy erring practices and

suspend operations posing an imminent danger to life or property. Trade union representatives shall have visitorial rights (Sec. 103-109).

b. Requiring the consent of indigenous peoples at all stages of mining.

Free, Informed and Prior Consent (FPIC) from ICCs and IPs is required for all types and stages of mining projects in their ancestral lands and domains. Permit holders shall respect and comply with customary laws, practices, and processes of affected ICCs/IPs. FPIC for use of water resources within IP lands (including those within the same groundwater network and downstream users) is also be required prior to the granting of water permits by the National Water Resources Board (Sec. 66, 74, 123, 138).

c. Promoting livelihood and technology support for small-scale mining communities.

It seeks to strengthen small-scale mining communities by requiring FPIC, environmental/social impact plans, and research and livelihood support. This can reduce dependence on backward technologies, middlemen/financiers, and export of ores. It gives them livelihood support, including access to minerals markets and financing, facilitation of partnerships with mining companies, contractors (for processing and recycling) and SSM cooperatives (Sec. 72). The Bangko Sentral ng Pilipinas shall ensure that buying stations acquire gold from small-scale traders at prevailing gold market prices and exchange rates (Sec. 73).

d. Penalizing human rights violations committed in relation to mining.

Unlike RA 7942, the bill explicitly emphasizes the human rights obligations and strict liability of mining corporations (Sec. 133, 139). Learning from the lessons of the past, the bill recognizes as violations of human rights extrajudicial killings, torture, involuntary disappearance, forcible displacement of populations, setting up of checkpoints and imposition of toll fees which impede the freedom of movement in mineral areas, deprivation of food and water sources, vote-buying and bribery for the purpose of securing consent or endorsement for the mining project, and other similar acts. The employment of paramilitary groups for mining is prohibited (Sec 135).

e. Reducing the incidence of harassment suits and strengthening public litigation

The bill attempts to eliminate harassment suits, known as Strategic Legal Actions Against Public Participation[2] (SLAPPs), by giving courts thirty days to determine whether it is a SLAPP or not and move for its dismissal (Sec. 137).

Conversely, it supports people's capacity to pursue litigation for violations of the law by 1.) allowing citizens to file appropriate civil, criminal and administrative suits against violators of the law and public officials failing to implement it and 2.) recognizing the validity of suits filed after the termination of contracts where the environmental, health and similar effects of mining can be felt (Sec. 130, 134-142). Indigents suits and pauper litigants are exempted from fee payments and provided legal support through the Public Attorney's Office (Sec. 138).

f. Requiring consultations and monitoring with all affected communities

Mandatory consultations with affected communities are to be conducted in all phases of all mining activities to ensure their knowledge and consent (Sec. 58). Written consent of private landowners and lawful occupants of the land shall be required (Sec. 60). The MSMC shall form a multi-partite monitoring team to monitor compliance with large and small-scale mining permits and environmental plans, conduct ocular inspections, inspect and audit books and financial records, and confiscate bonds through the MGB (Sec. 62, 67).

g. Supporting the development of communities, and domestic science, and technology

Contractors shall support community development projects while paying the required royalties and fees for communities and LGUs. Projects should be consistent with local development plans and will not be considered as royalty payment to IPs/ICCs (Sec. 89). Priority is given to the employment

2 SLAPP is any legal action, whether civil, criminal or administrative, filed to harass, vex, exert legal action or stifle legal recourses of citizens complaining against violations of this Act or enforcing the provisions of the Act, or exercising their freedom of assembly or right of public participation.

of Filipino labor, experts and training of members of the local community and the use of indigenous goods, services and technologies in all stages of mining employment. Communities shall be trained in all aspects of mining operations (Sec. 90-91).

9. How does HB 2715 ensure environmental protection?

HB 2715 identifies areas closed to mining and requires extensive environmental impact assessment and mitigation plans, precautionary measures, and fund allotments. It also requires permit holders to conduct progressive rehabilitation and pollution mitigation activities, prioritize the use of water and mitigate the incidence of acid mine drainage. In contrast, environmental protection provisions in RA 7942 are lenient, inadequate, and lacking in sufficient financial, technical, and procedural guidelines to ensure ecological conservation and rehabilitation. It requires only an environmental protection and enhancement program in the contractor's work plan and compliance with Environmental Impact Assessment.

The main environmental provisions of HB 2715 are as follows:

a. "No mining" areas

Mining is banned in environmentally-critical areas, including areas with potential for acid mine drainage; critical watersheds and habitats; key biodiversity areas, geohazard and climate disaster-prone areas; small island ecosystems; old growth, natural or primary forests, watershed forest reserves, wilderness areas, mangrove forests, mossy forests, national parks, protection forests, provincial/municipal forests, parks, greenbelts, game refuge, bird sanctuaries, buffer zones, and Palawan province pursuant to RA 7611.

It is banned in areas declared by the LGUs as No-Mining Zones, residential or agricultural production areas, such as densely-populated or prime agricultural/irrigable/irrigated lands as defined by Republic Act 9700; agrarian reform areas; traditional swidden farms, hunting grounds; archeological, historical, cultural sites and property under RA 10066; areas near public or private buildings, and infrastructure projects; military or government reservations[3]; high conflict areas (Sec. 40).

3 Except upon written consent of the government agency and/or private entity concerned

b. Environmental impact assessment and mitigation plans

In pre-screening proposals, the MGB shall require an environmental economic audit or resource valuation of the area, conducted with a multisectoral group of experts and stakeholders and made publicly available (Sec. 40, 43). HB 2715 also requires contractors to submit an Environmental and Social Impact Assessment and Mitigation Plan (ESIAMP) containing the means, methods, processes and schedule for operations and means to mitigate negative environmental and social impacts (Sec. 53). An approved Environmental and Social Impact Compliance Certificate (ESICC) is required for issuance of any large or small-scale permit (Sec. 53, 69).

c. Precautionary measures and rehabilitation funding

The bill upholds the precautionary principle and requires contractors to acquire an environmental clearance certificate, except during the exploration period of a mineral agreement or exploration permit, based on an environmental impact assessment and procedures under the Philippine Environmental Impact Assessment System under the Presidential Decree 1856, and sections 26 and 27 of the Local Government Code of 1991 which require national agencies to maintain ecological balance and prior consultation with the LGUs, NGOs and people's organizations and other concerned sectors of the community (Sec. 111).

In addition, an environmental and enhancement program covering a period of the mineral agreement permit will also be required. The environmental program shall include rehabilitation, regeneration, revegetation and reforestation of mineralized areas, slope stabilization of mined-out and tailings covered areas, aquaculture, watershed development and water conservation; and socio-economic development (Sec. 110). It should also build tailings impoundments and dams away from watershed drainage areas according to international standards; implement the Clean Water Act and Clean Air Act provisions on waste dumping, use chemicals or reagents to minimize environmental and social destruction, and preserve removed topsoil for other uses (Sec. 120).

The bill upholds the "polluter pays principle," by requiring contractors to pay for environmental damage caused and to supply funding for environmental and disaster protection and technological support for rehabilitation activities. These include an environmental insurance contract,

Calamity and Human Rights Protection Fund, Performance Bond, and Mine Rehabilitation Fund (Sec.113-122).

d. Priority for people's access to clean water

Permit holders enjoyed water rights under RA 7942, often diverting precious freshwater supplies away from communities and food production. HB 2715 prioritizes the use of water for domestic, municipal, and agricultural purposes. The National Water Resources Board shall investigate existing uses of water in the affected area and require the consent of all water users in the same groundwater and downstream network (Sec. 123). A water user's fee will be imposed (Sec. 125). Mining contractors are responsible for recycling water used in their operations and treating them in accordance with national standards to approximate baseline water quality prior to their release (Sec. 124).

e. Mitigation measures for acid mine drainage (AMD)

AMD occurs when polluted and highly-acidic water flows or seeps out from old mining areas. Depending on the location, this drainage may be contaminated with toxic heavy metals which can affect the people's health and the surrounding ecology. The bill aims to mitigate AMD by banning the use of acid-generating waste rock for infrastructure; establishing a prediction and monitoring system for potential AMD sites; avoiding waterways in the planning of mining infrastructure; and re-mining to recover remaining minerals (Sec. 126-129).

f. Research and technology support for small-scale mining

Small-scale miners will be supported through research & development for appropriate, clean, efficient, culturally-sensitive and industrially-viable technologies. This aims to mitigate environmental and health effects of mercury and cyanide use and eventually replace the current hazardous practices in small-scale mining (Sec. 70).

g. Rehabilitation of mining areas

Unlike in RA 7942, permit holders are required to conduct progressive rehabilitation activities and to rehabilitate all mining-affected areas and abandoned mines. Five years of rehabilitation will be included in the terms

of mineral agreements (Sec. 55). No clearance for withdrawal shall be issued to the contractor unless measures for mine closure and rehabilitation are implemented. Contractors shall also to create a Mine Rehabilitation Fund and post a Performance Bond that may be forfeited if the mine is abandoned without rehabilitation (Sec. 115-116).

10. What are the grounds for canceling mineral agreements and other penal provisions?

Table 7. Grounds for cancellation of mining permits

RA 7942: Mining Act of 1995	HB 2715: People's Mining Bill
Grounds are only limited to administrative violations, such as late or non-filing of registration, violation of permit terms, and non-payment of taxes and fees. The law does recognize human rights violations of corporations as a ground for cancellation.	Grounds include 1.) violations of any provision of the Act, 2.) non-payment of taxes; 3.) bribery, use of force, intimidation, threat, coercion of public officials and communities; 4.) acts creating or contributing to conflicts; and the like, and 5.) failure to initiate mining operations within two years (Sec. 143). Grounds for immediate cancellation are 1.) human rights violations by the contractor or any of its agents; 2.) use of paramilitary forces to protect mining operations, and 3.) violations of environmental provisions, which shall also require compensation and rehabilitation (Sec. 134-135). Permit holders found guilty are perpetually banned from participating directly or indirectly in mining operations in the Philippines. Government officials guilty of administrative violations shall be removed from office and perpetually disqualified from holding any government post (Sec. 143, 155).

Table 8. Comparison of penal provisions and fines

	RA 7942: Mining Act of 1995	HB 2715: People's Mining Bill
False statements	Maximum fine of P10,000	Maximum fine of P100,000 (Sec. 144)
Illegal exploration	Maximum fine of P50,000	Maximum fine of P5,000,000 (Sec. 145)
Theft of minerals	Imprisonment (six months to six years) and/or fine of P10,000 to P20,000, damages	Imprisonment from six months to six years and/or fine ranging from P100,000 to P1,000,000 plus damages (except small-scale miners) (Sec. 146)
Violation of FPIC	**None**	For non-government entities: Imprisonment (six years, one day to ten years), minimum fine of two million pesos For government officials: Imprisonment from (8 years, one day to 12 years; minimum fine of four million pesos; prohibition from assuming public office; disqualification from other government benefits (Sec. 147)
Human rights violations		Imprisonment from 10-14 years; fine of at least five million pesos and indemnification for the victims (Sec. 148)
Abandonment		Perpetual ban or disqualification from direct/indirect involvement in mining operations (Sec. 149)
Violations of Anti-Dummy Law/ non-application of corporate veil		Fine of P5,000,000 and a perpetual ban in the mining industry (Sec. 151)
Violations of the Amendment to Sec. 27 of the Small-scale Mining Act		Imprisonment of 6 years and one day to 12 years; confiscation of equipment, tools and instruments; closure or suspension of mining activities; and permit revocation (Sec. 153)

11. What are the bill's transitory provisions?

The bill proposes a moratorium on all mining activities under all systems are in place for the Act's proper implementation and deems canceled all existing mining permits, licenses, and agreements. A review of the current mineral land classification will be pursued; current classifications and the President's power to declare mineral reservations rendered ineffective. The State shall be responsible for extending aid to mine workers and small-scale miners and their families who shall be temporarily displaced by the moratorium while the new policy and mechanisms are being put into place (Sec. 157-160).