



DEPARTMENT OF JUSTICE

*On the Occasion of the Third Forum of Women Leaders on Biodiversity
Conservation*

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SPEECH/PRESENTATION

by

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It is a pleasure and honor to be counted among Women Leaders who stand as vanguards on Biodiversity conservation.

Looking at the attendees of this Forum, all educated professionals, academics and leaders, I am quite sure that all of us take a certain pride in the level of learnings we've achieved, our career achievements, our respective status in society.

Who would think, looking at us, that we are all, in fact, getting dumber? To be more precise, we are dumber than our ancestors. That, if the evolutionary spectrum were to be plotted as bell curve, we are currently on a point on its downward slope.

Surprising? Probably. Offending? Perhaps. True? Well, according to an article published by Time magazine, yes.¹

The article cited a two-part paper published in the journal *Trends in Genetics*, written by Stanford University researcher Gerald Crabtree, which suggests that evolution is, in fact, making us dumber — and that

¹<http://newsfeed.time.com/2012/11/15/research-suggests-humans-are-evolving-to-be-dumber/> last accessed 21 July 2015.

human intelligence may have actually peaked before our hunter-gatherer predecessors left Africa.

For all the advances – technological, scientific, social and political or otherwise – that we boast about, we are apparently of a lesser level intelligence than our ancestors and, as the paper suggests, it would get worse before it gets better, if it ever does.

Crabtree theorizes that we have cutdown the diversity of the ecosystem we live in and, in so doing, we are slowly making ourselves worse for it and, ultimately, killing ourselves by it.

Not many agree with Crabtree, but is there any real doubt that human beings cannot survive if the world we live in does not?

That is why, I believe that it is but apt that women leaders are seen and actually are standing at the forefront of biodiversity conservation. Because, contrary to popular opinion that women are less intelligent because their passions tend to rule over their reason, I believe it is our capacity for passion *in conjunction with* our reason that gives us the edge, for it fuels our drive to identify issues that others might have missed. It is never all about the money, money, money. Our passion and our nature for nurturing and survival are the traits that make us ideal for the job of safeguarding mankind's continued existence through, among others, biodiversity conservation.

As Michelle Obama unabashedly and unapologetically once said, "Women are smarter than men" and we must use prominent positions in government, business and other endeavors to affect change.

With that said, I am here to share with you efforts being undertaken within the Executive Department to address some of the most critical environmental crimes, namely, illegal logging and illegal mining.

I. Background

Pursuant to the policy of the State to "protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature" (Section 16, Article II, 1987 Constitution)", and to various laws and issuances that seek to cement these policies in reality through concrete plans of action, we in the Department of Justice, along with Department of

Environment and Natural Resources (DENR) and the Department of the Interior and Local Government (DILG), issued Joint Department Orders creating two Fact-Finding Committees that were intended on pooling our respective mandates, resources and core competencies together in order to combat two of the most destructive, prevalent and persisting environmental crimes: Illegal Logging and Illegal Mining.

Both Joint Department Orders were drafted and nearly finalized during the term of the late Secretary of the Interior and Local Government Jesse M. Robredo. Knowing Sec. Jess's strong commitment to these advocacies, we could not allow such unexpected and unfortunate tragedy to stall the realization of the creation of these inter-agency Fact-Finding Committees. Hence, soon after then newly appointed SILG Mar Roxas settled into his new post, the drafts that would later become JDO Nos. 001-2012 and 002-2012 were brought to his attention, and we were gladdened by his keen interest and prompt action thereon. The fact that he paid that much attention to these problems that soon, considering all the pressing matters that must have demanded his attention, only serves to emphasize how critical we, in the Executive Department, deem these issues to be.

Such is not surprising because, if we trace the origins of these initiatives, it all came back to President Benigno S. Aquino III's pronouncements during the 25th Anniversary Celebration of the DENR on 19 June 2012, particularly when he noted reports of continuous illegal mining operations, and likewise expressly directed the DOJ, DENR and DILG "to meet and plan to intensify the implementation of the anti-illegal logging campaign, and ensure the conviction of those people who violated the log ban".

Hence, the drafting and joint issuance in October 2012 of JDO Nos. 001-2012 and 002-2012 on Illegal Logging and Illegal Mining, respectively.

These illegal activities have not only caused the deterioration of the environment, the depletion of valuable natural resources, but also the reign of terror and violence in affected localities. It is unsettlingly unsurprising that these highly lucrative crimes against the environment should spawn various other related crimes, including acts of intimidation and even, possibly, the outright murder of environmental, labor and indigenous peoples activists

who were brave enough to fight and serve as the voice of those who opposed these activities. With the amount of ill-gotten money generated by these ideas, it is perhaps but a small step to take for those responsible to go from slowly killing the environment to quickly and brutally killing those who threatened their revenue stream.

Hence, it bears mentioning that another related issuance is Administrative Order No. 35, issued a month later (or in November 2012) by His Excellency, President Benigno S. Aquino III, upon the DOJ's recommendation. It created a "superbody" or high-level inter-agency committee on extrajudicial to investigate old and new cases of extrajudicial killings, enforced disappearances, torture and other grave human rights violations. In relation to environmental crimes, it has the mandate to investigate those that may have been committed because of the victims' advocacies against illegal activities, such as illegal logging and illegal mining.

II. Particulars

A. Composition

Both JDOs primarily created Fact-Finding Committees or FFCs composed of members or representatives from the DENR, DILG, PNP and, for the part of the DOJ, the National Bureau of Investigation (NBI) and the National Prosecution Service (NPS). For the FFC on Illegal Mining, the Mines and Geosciences Bureau is also represented, and by no less than Director Leo L. Jasareno himself.

B. General mandate

The composition was intended to make sure that the core competencies of each agency are brought together in order to take charge of the investigation, collection of evidence, case build-up and filing of appropriate charges in cases involving illegal logging and illegal mining operations, including incidents of violence against those charged with enforcing and implementing anti-illegal logging and illegal mining laws, or otherwise involved in the fight against such illicit activities.

C. Specific functions

Specifically the FFCs are mandated to:

- a. Conduct a thorough and full investigation into suspected illegal logging and illegal mining activities, including acts of violence or killings connected with the campaign against such illicit activities, which investigation may involve:
 - i. The gathering and documenting of reports and intelligence information, and investigative leads from official as well as unofficial sources and informants;
 - ii. The conduct of interviews, recording of testimonies, and taking of affidavits of witnesses; and
 - iii. If necessary, the holding of public hearings or executive sessions with resource persons.

When necessary, the Joint Fact-Finding Committee is mandated to conduct the appropriate interview or documentation of informants' and witnesses' testimony in confidence for the protection of their identities and security of their persons.

- b. Identify the public and law enforcement officials who may be involved in aiding, abetting or conspiring with illegal loggers and illegal mining operators and their associates, and establish evidence thereof for the institution of criminal and/or administrative actions against them.
- c. Make monthly reports of the conduct of the investigation, updates and, where available, its findings and recommendations, to be submitted to the Secretaries of the DOJ, DILG and DENR, for onward transmission to the Office of the President.
- d. After the conduct of its own thorough fact-finding investigation, endorse to the DOJ Task Force on Extrajudicial Killings such cases of violence or killings, where the victims are private individuals who are advocates against illegal logging or illegal mining, and where circumstances appear to indicate that the same may constitute a case of extrajudicial or extralegal killings by state or non-state actors.

D. Powers

In order to accomplish such mandate, the FFCs are empowered to:

- a. Administer oaths, summon witnesses, take testimonies, and issue compulsory processes to produce documentary and other evidence, and otherwise exercise the powers of an investigative body under Section 37, Chapter 9, Book I of EO292.
- b. Enlist the assistance of any government agency as it may require in the discharge of its functions.
- c. Perform any and all acts as may be necessary to implement this Order.

E. Meetings and Reporting Requirements

Each FFC meets regularly to discuss developments and further actions to take in relation to ongoing investigations, as well as identify further areas for future probes.

The respective principals thereof, including myself, and Secretaries Roxas and Paje, likewise regularly meet several times a year, and reports are regularly submitted to the Office of the President, which thereafter schedules briefing with the President.

F. Major Advantages of the JDOs and creation of FFCs

- a. Better coordination and harnessing of resources resulting in stability and greater accountability

While each agency undoubtedly already had people working on curbing these activities, they were more or less performed on an ad hoc basis within each agency and, on an inter-agency level, on a fragmented and unstructured manner, that concrete results were difficult to come by.

An examination of the foregoing particulars, therefore, shows that the value of the issuances is to harness all the readily available resources – legal, manpower, logistics, etc. – and put them to use in such a manner that they are maximized and, most importantly, made more stable, standardized and accountable.

b. Expressly identifying related criminal activities

Another important “breakthrough” that these issuances, not so much as introduces as much as perhaps “formalizes”, is a recognition of the pernicious effect of these activities on peace and order, which I have already mentioned earlier, as well as in the integrity of our institutions and of our public officials.

For a long, long time, it has been an open secret that none of these activities could be sustained and, in certain areas, even *accelerated* in such grand scale or with such brazenness without the knowledge, acquiescence and complicity of public officials, including local executives. In fact, I admit that some of the reports I have received even expressed concern or suspicion, if not outright accusation, of complicity of even our local prosecutors.

The manifestation of the corruption connected with these activities is either due to their passivity, including failure to issue cease and desist orders or otherwise implement related laws and issuances for the protection of the environment; or with active participation, including acts of intimidation that are, at times, alleged to be perpetrated, not just with the help of civilian authorities, but the armed forces as well.

These issuances, both signed by no less than the three alter egos of the President, brought to the forefront the issue of corruption and co-optation of lawful authorities by these illegal operators and, thus, by bringing these to light it drew back the curtain that contributed to their impunity. We consider this a major step forward.

III. DEVELOPMENTS

One category of illicit activities that have been the main focus of the DOJ, DENR and DILG and other concerned agencies are the so-called “Black Sand Mining” activities in various areas all over the Philippines, affecting areas from Luzon to Mindanao, and even so far as bringing a worrisome international complexion to the problem.

Black sand, a component in steel production, are discovered to mined illegally in the Philippines and exported, likewise illegally,

to smelters in foreign countries, particularly and foremost of which appears to be China.

Crackdown operations by concerned agencies have resulted in the dismantling and seizure of articles, implements, materials and equipment used in illegal mining operations within the period of 2013 until 2014 at eight target provinces, namely:

- Agusan del Norte,
- Cagayan Valley,
- Camarines Norte,
- Davao Oriental,
- Ilocos Sur,
- Nueva Vizcaya,
- Pampanga and
- Zambales.

A Secretariat for the FCC, headed by DOJ Assistant Secretary ZABEDIN M. AZIS undertook the taking of the inventory of those articles seized and submitted a Terminal Report thereon.

As a result of these inventory activities:

- a. It triggered investigations into the possible complicity of Local Chief Executives (LCEs), other government officials and their conduits in the private sector. These investigations shall be evaluated, assessed, analyzed and synthesized to give a full picture on why our mining laws are disrespected, the national wealth plundered. It will also tackle the issue of socio-economic impact on the national revenue and its possible effect on the lives of our people.
- b. Foreign nationals suspected of being behind illicit mining activities were arrested.
- c. Millions of Pesos worth of mining equipment were seized, along with the natural resources illegal mined.

Take, for instance, the Black Sand Mining operations in Ilocos Sur. The Report states that black sand in commercial quantity is present along the coastlines of Ilocos Sur, La Union

and Pangasinan. Illegal black sand mining operations in Ilocos Sur are rampant in San Vicente, Sta. Catalina and Caoayan.

Black sand mining is reported to have been carried-out through the implement of various mining vessels along the coast in Sta. Catalina and in the river delta that separates barangays Puro and Tamurong, Caoayan, Ilocos Sur.

Thus, three other bodies or groups became instrumental in the operations against these activities:

- a. The Philippine Coast Guard and Philippine Navy in patrolling the activities of, and seizing these mining vessels;
- b. The Bureau of Immigration – in order to handle the foreign nationals involved in illegal mining activities; and
- c. Non-Governmental Organizations (NGOs) and civic groups, who serve as complainants and witnesses in the various cases that the National Bureau of Investigation (NBI) filed against the owners and operators of the various mining companies.

Indeed, these crackdowns on these illicit activities would not have been possible, or at least as not as effective and immediate, without the assistance of these groups and individuals.

We have invaluable human capital (an organized group of persons in Ilocos Sur) who always support the FFC's fight against illegal mining in Ilocos Sur. They are now beleaguered. They cry for our help. We have the power to help

The Report also recommended the involvement of, among others:

- a. the Department of Public Works and Highway and the Department of National Defense or the Armed Forces of the Philippines in, among others, the matter of returning the seized stockpile to their; and

- b. the PCG, MARINA, Philippine Ports Authority and Bureau of Customs in effecting the pulling out of mining vessels of Philippine coasts.

IV. PROBLEMS ENCOUNTERED

For its part, the NBI Environmental Crimes Division also identified problems encountered, namely:

- a. Lack of skilled investigators due to attrition;
- b. Lack of sufficient funds to conduct continuous operational build-up (intelligence gathering & active operations).
- c. Constant political intervention from various interest groups
- d. Lack of proper equipment and field gear for certain operational requirements; and
- e. Case overload.

While these observed problems and challenges are, indeed, sobering, the solid results we have thus far obtained are nonetheless completely empowering.

We, in the DOJ, along with our allies in the DENR, DILG and other concerned agencies will power on to meet these challenges and bring to forefront the need to protect our environment.

In fact, even the fight that we are currently waging before the UN Arbitral Tribunal is about fighting for our ability to discharge our duty to protect the lives and resources within our Exclusive Economic Zones from reckless plundering.

With that, I want to end my presentation and thank you for the honor of being counted among Women Leaders on Biodiversity Conservation.

Thank you.