

Removing the Restrictions on Public Utilities and Exploration of Natural Resources

Perry L. Pe

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Present barriers to the exploitation of natural resources by public utilities are found throughout the legal landscape: the 1987 Constitution, the Foreign Investment Acts of 1991 (Republic Act (R.A.) No. 7042), the Omnibus Investments Code (Executive Order No. 226), the Public Service Law (Commonwealth Act No. 146), the Build-Operate-Transfer Law (R.A. No. 7718), the Philippine Mining Act of 1992 (R.A. No. 7942), the Indigenous Peoples' Rights Act (R.A. No. 8371), the Public Telecommunications Policy Act of 1995 (R.A. No. 7925), and general shipping law.

The historical background of these protectionist policies as regards natural resources can be traced back to the nationalization of public utilities and natural resources from the 1935 and the 1973 Constitutions. These policies are then carried over to the present Constitution. These policies have been generally followed by the Supreme Court.

Despite these protectionist policies, the Author believes that there is a need for lifting constitutional restrictions based on economic realities and the inadequacy of local capital.