

# Mining Away Freedoms:

Testimonies from Communities Fighting  
for their Rights in the Philippines



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Didipio FFM Team - Lilak, FORUM-ASIA, Balaod, and members of BILEG

# FORUM-ASIA

The Asian Forum for Human Rights and Development (FORUM-ASIA) is a network of 85 member organisations across 23 countries, mainly in Asia. Founded in 1991, FORUM-ASIA works to strengthen movements for human rights and sustainable development through research, advocacy, capacity development and solidarity actions in Asia and beyond.

It has consultative status with the United Nations Economic and Social Council, and consultative relationship with the ASEAN Intergovernmental Commission on Human Rights. The FORUM-ASIA Secretariat is based in Bangkok, with offices in Jakarta, Geneva and Kathmandu.



**LILAK (Purple Action for Indigenous Women's Rights)** is a collective of women's rights advocates, activists, feminists, environmentalists, and indigenous women, who put their hearts, minds and energies together to support and to act in solidarity with the struggle of the indigenous women. She believes that indigenous women are among the least heard, but mostly affected by the increasing poverty, hunger and devastation of the environment and depletion of natural resources. LILAK is part of the struggles against all and different forms of discrimination, violence and marginalization of indigenous women. Its aspiration is for a nation of societies where women with their multiple identities are able to exercise their rights, and enjoy their freedoms from poverty, violence, powerlessness and injustices. She works for transformative changes in indigenous women's lives within social movements and peoples' struggles; and towards indigenous women's economic, political, social and cultural empowerment. Her energies are devoted to amplifying their voices, recognizing and profiling their leaderships, providing platforms for their actions and advocacies, and linking solidarity work among other women, among peoples, and among societies.



**Balay Alternative Legal Advocates for Development in Mindanaw, Inc., or BALAOD Mindanaw**, is a non-stock and non-profit legal resource institution that provides capacity building and legal services to its partner communities on resource tenure and other social justice initiatives, primarily in Mindanao. BALAOD believes in the legal empowerment of marginalised groups and communities to advance their access to justice in promoting human rights, defending the environment, and protecting women and children.

BALAOD engages and works with poor and marginalised groups, identities and local communities through paralegal formation and capacity building, alternative lawyering, policy formulation, and advocacy that is guided by active and non-violent participation as a vital standard.

# Foreword

The drastic changes of the topography of Barangay (Brgy.) Didipio, Kasibu, Nueva Vizcaya mirror the drastic changes in the lives of the Tawali women and men of the village. In the early 1990's when we, indigenous peoples' rights advocates, went to Didipio, Dinkidi hill, standing tall, would be there to greet us as we emerged from the six-hour walk through the primary forest. To quench our thirst from the long walk, we would drink from the natural spring of fresh water. That was all before the start of the ravaging of the resources by then Climax-Arimco, now OceanaGold Philippine, Inc. (OGPI).

Today, you can reach Brgy. Didipio in a vehicle through the road constructed by the Australian-Canadian Mining corporation. Trees were felled, rivers diverted, waterfalls dried up. Dinkidi Hill that once stood tall, is now turned upside down. A mere hour's ride from the main town of Bayombong, what will greet you is the bowel of the hill, a huge pit in what used to be agricultural lands.

These changes happened within 25 years – the destruction, and the wanton exploitation of resources. Within this quarter of a century, different generations of indigenous women and men were actively involved in various ways in opposing the mining project and challenging the government's actions that allow OGPI to take control of the resources within Didipio – land, water, forests and minerals. This brave, creative and determined fight led by DESAMA, then later joined by Bileg Dagiti Babbae (Power of Women), were met with different forms of attacks and human rights abuses by the State and OGPI. But the fight goes on – for their land, for their livelihood, for their survival as a community.

There has been research and documentation done by other groups on the struggle of the Tawali people against the mining operation, as well as the different environmental and human rights violations by the government and OGPI. But this particular documentation led by FORUM-ASIA, in partnership with BALAOD and LILAK, is timely and relevant today, as the government renewed the Financial and Technical Assistance Agreement (FTAA) of OGPI for another lifetime, that is 25 years. This, despite the unwavering opposition from the community, from the Provincial Government, environmentalists, and IP rights and human rights advocates at the national and international level. The renewal comes on the heels of the flooding and landslide from the series of typhoons in 2020 that put the lives of the communities in peril. The government and OGPI sing the same song that the gold-copper mining project is good for the economy, and has brought good things to the community. They both insist how the community needs the mining project for their development and growth.

And so the battle continues - for the land, for the remaining resources, but also for narratives. That is why this documentation is critical. To paint the real picture – that the changes in the landscape of Didipio, and the lives of the Tawali – have brought food insecurity; increased vulnerability from the impacts of climate crisis; a divided community; and fear for attacks against them as they speak out and stand up for their rights.

We need to battle lies peddled by OGPI and the government. We need to keep telling the truth – based on stories, on the voices of women and men, on the lived experiences of the communities, and the physical evidence of how lands have shifted, rivers turned, and waterfalls coming in mere trickles – how these have caused misery and danger to the communities of Brgy. Didipio, and the implications to our national governance, our fight for the climate crisis, and our collective valuation of nature, of rights, of lives.

After 25 years, the battle is still on. And we stand with the Tawali community in solidarity.

**Judy A. Pasimio**  
**Over-all Coordinator**  
**LILAK (Purple Action for Indigenous Women's Rights)**

# Foreword

To date, there are no less than 20 mining tenements in Dinagat Province, covering a total of 27,865 hectares. Mining companies with Mineral Sharing Production Agreements (MPSA) that operate in Dinagat Islands are 80 to 90% co-owned and funded by China. In Tubajon Municipality alone, there are four mining companies with current extractive operations — the Libjo Mining Corporation, Oriental Vision Mining Corporation, Wellex Mining Corporation and Werternshore Mining Corporation — which are all affiliated with China. Furthermore, nearly 95% of the municipality's land has mining claims.

Amnesty International's report 'Philippines: Undermining Workers' Rights' raises grave concerns about workers' rights in the nickel mining sector in Dinagat Islands. But the violations do not stop there. Local communities have limited to no genuine participation in deciding whether or not to allow mining operations in their areas. Similarly, they have no control over their impact on natural resources.

The report highlights these situations, alongside the struggles of local communities affected by mining operations in the Dinagat Islands. It also calls out to stakeholders and the general public to seriously weigh the consequences of mining, to come up with resolutions that ensure the promotion and protection of the rights of the communities affected.

**Ritz Lee B. Santos III**  
**Executive Director,**  
**BALAOD Mindanaw, Inc.**

# Foreword

The Asian Forum for Human Rights and Development (FORUM-ASIA) is committed to promoting a human rights-based approach to development that places people at the centre of policies and practices at the local, national, regional and international level. The research, capacity building and advocacy efforts we undertake aim to platform the voices of people often forgotten in the race towards economic growth and political power.

This study on the impact of mining in communities in Didipio and Malinao in the Philippines aims to highlight how a fundamental disconnect between policies and people can have devastating consequences on the rights of communities and the environment.

The Philippines' mineral wealth has often placed communities in vulnerable positions, without well-functioning protection and redressal mechanisms. Additionally, the country's intolerance of human rights and environmental defenders makes the expression of fundamental rights a difficult endeavour.

In such an oppressive and fearful climate, it is even more important to increase the visibility of communities fighting for their rights. I hope that the testimonies and stories in this report will inspire you to act, and join the fight for greater human rights for all.

**Omer Dawoodjee**  
**Interim Executive Director,**  
**FORUM-ASIA**

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**River in Barangay Malinao where mining wastes flow directly to the sea**



# Introduction

Mining has always been a deeply contentious issue in the Philippines. For decades, the government has prioritised the country's mineral wealth to boost economic growth, often at the cost of human rights and sustainable development. The impact of mining on the environment, lives and livelihoods of communities has largely been ignored. An alarming trend of disregarding the collective struggles of communities, while prioritising the economy over them, has only picked up in pace. More recently, the government has signalled an interest in putting mining at the centre of its economic recovery from the COVID-19 pandemic.<sup>1</sup>

This research aims to understand the nexus between mining, human rights, environmental degradation and sustainable development using a multistakeholder approach. By keeping the well-being of communities at its core, it aims to explore the role of mining companies, local and national government, NGOs, CSOs and the communities themselves in respecting and protecting everyone's right to a healthy and safe environment. More broadly, it seeks to find out whether responsible mining is indeed possible in the context of human rights and sustainable development.

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<sup>1</sup> Villanueva, Joann. 2021. "Mining Sector Recovery Seen on Resurgence of Demand." *Gov.Ph*. July 2021. <https://www.pna.gov.ph/articles/1148797>.



FGD with BILEG members in Didipio



# Methodology

This research was conducted in 2 barangays (villages): Barangay Malinao in the municipality of Tubajon in the Province of Dinagat Islands, and Barangay Didipio in the municipality of Kasibu in the Province of Nueva Vizcaya. Separate focus group discussions (FGDs) were conducted with Manila-based groups to validate findings. In both barangays, local communities rely heavily on natural resources for their livelihood. Mining activities, therefore, pose a significant threat to their means of subsistence. In particular, indigenous women often bear the brunt of the negative impacts of mining.

The data was collected in two main ways: through focus group discussions, and desk research. Interviewees in this study are local communities including farmers, fisherfolk, indigenous people, local civil society organisations and local government representatives. Staff from the Asian Forum for Human Rights and Development (FORUM-ASIA), Balay Alternative Legal Advocates for Development in Mindanaw (BALAOD Mindanaw) and Purple Action for Indigenous Women's Rights (LILAK) visited Dinagat Islands from 13 to 16 June, Nueva Vizcaya from 20 to 23 June, and Manila from 26 to 29 July 2022.

In Dinagat Islands, the FFM team visited Barangay Malinao located in Tubajon Municipality. A total of six FGDs were conducted with 12 female and 13 male participants. The FFM team interviewed seven community groups/people's organisations in Dinagat: Malinao Integrated Fisherfolks Organization (MISFO); Malinao Integrated Farmers Organization (MISFA); Malinao Entrepreneurship Women's Association (MEWA); Malinao Rural Water Sanitation Association (MARWASA); Tubajon's Peoples' Council (TuPeCo); Convergence of Livelihood Assistance for Agrarian Beneficiaries (CLAAB); and The United Environmental Groups of Advocates (TUGAS).

Four focus group discussions were conducted with 25 (11 male and 14 female) members of the Barangay Didipio local government unit, the Didipio Earth Savers Movement Association (DESAMA) Board of Directors, the Bileg Dagiti Babbae (Lakas ng Kababaihan - BILEG) Board of Directors, Samahang Pangkarapatan ng Katutubong Magsasaka at Manggagawa Inc. (SAPAKMMI), and solidarity groups. One bilateral interview was also conducted with Carlos M. Padilla, the Governor of Nueva Vizcaya, at the end of the fact-finding mission.



**According to the locals of Barangay, Didipio, the Dinkidi Hill which once stood tall and filled with flora and fauna is now the site of the open-pit mine of Australian-Canadian mining company OceanaGold Philippines**



# Background

The Philippines is an archipelago in Southeast Asia comprising 7,640<sup>2</sup> islands surrounded by the Philippine Sea to the east, the Celebes Sea to the south and the South China Sea to the west and north.<sup>3</sup> It neighbours Malaysia in the southwest, Indonesia in the south, Vietnam in the west and Taiwan and mainland China in the north.<sup>4</sup>

The country is divided into three main groups of islands from north to south: Luzon, Visayas and Mindanao, with coastlines surrounded by mountains mixed in with active and inactive volcanoes.<sup>5</sup> The Philippines has a total of 17 regions, 33 highly urbanised cities (HUCs) and 1,488 municipalities.<sup>6</sup> Barangay Malinao, one of the research sites, is a barangay (village) situated in the municipality of Tubajon in the province of Dinagat Islands in Caraga Region (Region 13) in Mindanao in the south. Didipio, the second research site, is a village located in the municipality of Kasibu in the province of Nueva Vizcaya (Region 2) in Luzon in the north.<sup>7</sup>

The population of the Philippines stands at 112 million<sup>8</sup> — 49.9 per cent<sup>9</sup> of whom are female — and it ranks 13<sup>th</sup> on the list of most populous

- 2 National Geographic. 2019. “Know before You Go: The Philippines,” June 4, 2019. <https://www.nationalgeographic.com/travel/article/partner-content-know-before-you-go-the-philippines>.
- 3 Hernandez, Carolina G., Gregorio C. Borlaza, and Michael Cullinane. 2022. “Philippines.” In Encyclopedia Britannica.
- 4 “Map of the Philippines.” n.d. [Nationsonline.org](https://www.nationsonline.org/oneworld/map/philippines-political-map.htm#:~:text=Nearby%20per%20cent20countries%20per%20cent20are%20percent20Malaysia%20per%20cent20in,(ROC)%20per%20cent2C%20per%20cent20and%20per%20cent20Vietnam). Accessed November 14, 2022. [https://www.nationsonline.org/oneworld/map/philippines-political-map.htm#:~:text=Nearby%20per%20cent20countries%20per%20cent20are%20percent20Malaysia%20per%20cent20in,\(ROC\)%20per%20cent2C%20per%20cent20and%20per%20cent20Vietnam](https://www.nationsonline.org/oneworld/map/philippines-political-map.htm#:~:text=Nearby%20per%20cent20countries%20per%20cent20are%20percent20Malaysia%20per%20cent20in,(ROC)%20per%20cent2C%20per%20cent20and%20per%20cent20Vietnam).
- 5 The Editors of Encyclopedia Britannica. 2021. “Philippines Summary.” In Encyclopedia Britannica. <https://www.britannica.com/summary/Philippines>
- 6 “Philippine Statistics Authority.” n.d. [Gov.Ph](https://gov.ph). Accessed November 14, 2022. <https://psa.gov.ph/population-and-housing/node/164857>.
- 7 “Didipio, Kasibu, Nueva Vizcaya Profile – PhilAtlas.” n.d. [PhilAtlas.com](https://www.philatlas.com). Accessed November 14, 2022. <https://www.philatlas.com/luzon/r02/nueva-vizcaya/kasibu/didipio.html>.
- 8 “Philippines Population 2022 (Live).” n.d. [Worldpopulationreview.com](https://worldpopulationreview.com). Accessed November 14, 2022. <https://worldpopulationreview.com/countries/philippines-population>
- 9 “Philippines Population (2022) Live — Countrymeters.” n.d. [Countrymeters.Info](https://countrymeters.info). Accessed November 14, 2022. <https://countrymeters.info/en/Philippines>.





countries<sup>10</sup> in the world, with a population density of 368 people per square kilometre.<sup>11</sup> The country covers a total area of 300,000 square kilometres, of which 298,170 square kilometres is land and 1,830 square kilometres is water.<sup>12</sup> Within the Philippines, Dinagat Islands occupies 817.47 square kilometres, with a population of 128,11713, while Kasibu municipality covers 319.80 square kilometres with a population of 37,705.<sup>14</sup> 53 per cent of the population in the Philippines live in rural areas.<sup>15</sup>

The Philippines is the only country in Asia with a Christian majority population at 92.5 per cent. Islam follows at 5 per cent, and the remaining 2.5 per cent either subscribe to other religions or do not have any religious affiliations.<sup>16</sup> The country's diversity can be witnessed through its nearly 100 culturally distinct ethnic groups. The largest are the Tagalogs of Luzon and the Cebuanos of the Visayan Islands, each constituting approximately one-fifth of the total population.<sup>17</sup> Languages add to The Philippines' uniqueness, with between 120 and 180 languages currently spoken in the country. Filipino, the standardised form of Tagalog, is the national language, while Filipino and English are both official languages used by the government.<sup>18</sup> Cebuano is the dominant language spoken in the Dinagat Islands<sup>19</sup>, and Ilocano, Gaddang, Tuwali, Ilongot, and Tagalog are some of the languages mainly spoken in Didipio.<sup>20</sup>

- 10 "Total Population by Country 2022." n.d. [Worldpopulationreview.com](https://worldpopulationreview.com). Accessed November 14, 2022. <https://worldpopulationreview.com/countries>.
- 11 "Philippines Population (2022) - Worldometer." n.d. Worldometers.Info. Accessed November 14, 2022. <https://www.worldometers.info/world-population/philippines-population/>.
- 12 "Philippines." 2011. LandLinks. January 8, 2011. <https://landlinks.org/country-profile/philippines/>.
- 13 "Dinagat Islands." n.d. [Philatlas.com](https://www.philatlas.com). Accessed November 14, 2022. <https://www.philatlas.com/mindanao/caraga/dinagat-islands.html>.
- 14 "Oceana Gold (Phils) Incorporated." n.d. [http://www.mgb2.com/images/thumbnail\\_OGPI\\_revised.jpg](http://www.mgb2.com/images/thumbnail_OGPI_revised.jpg).
- 15 "Rural Population (% of Total Population) - Philippines." n.d. [Worldbank.org](https://data.worldbank.org). Accessed November 14, 2022. <https://data.worldbank.org/indicator/SP.RUR.TOTL.ZS?locations=PH>.
- 16 "Religion." n.d. [Stanford.edu](https://geriatrics.stanford.edu). Accessed November 14, 2022. <https://geriatrics.stanford.edu/ethnomed/filipino/introduction/religion.html>.
- 17 "Philippines - Plant and Animal Life." n.d. In Encyclopedia Britannica. <https://www.britannica.com/place/Philippines/Plant-and-animal-life#ref23729>
- 18 Ethnologue. February 20, 2015. <https://www.ethnologue.com/country/18-165>.
- 19 "About Dinagat Island Province, Philippines." n.d. [Islandsproperties.com](https://www.islandsproperties.com). Accessed November 14, 2022. <https://www.islandsproperties.com/places/dinagatisland.html>.
- 20 Lando, Roy. 2021. "Kasibu Tourist Spots, History, Festivals - PeoPlaid Profile." PeoPlaid. June 12, 2021. <https://peoplaid.com/2021/06/12/kasibu-nueva-vizcaya/>.

Due to its geography, the Philippines has a tropical climate characterised by high temperatures, high humidity and abundant rainfall, with floods and typhoons common in some parts of the country.<sup>21</sup> It has a rich heritage of more than 50,000 species of flora and fauna and is recognized as one of the world's 17 most mega-diverse countries.<sup>22</sup>

## Political Context

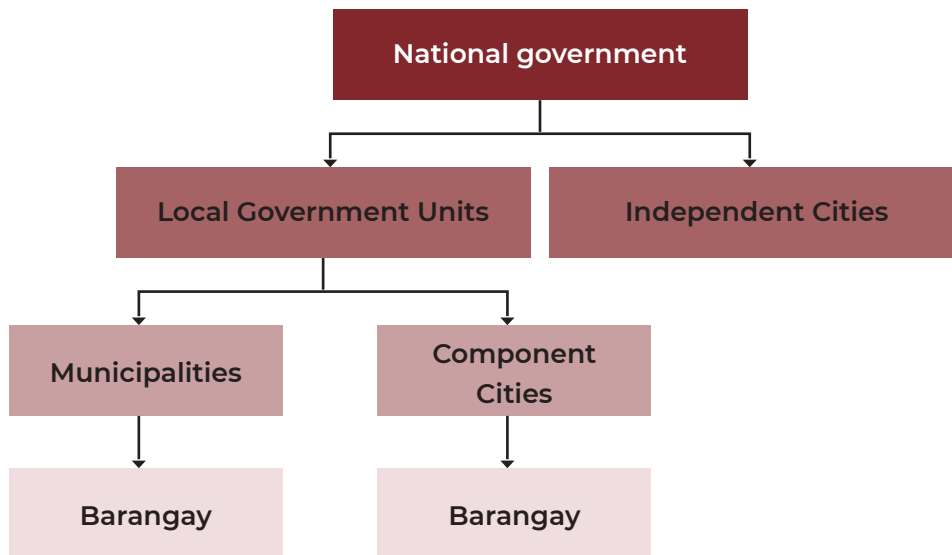
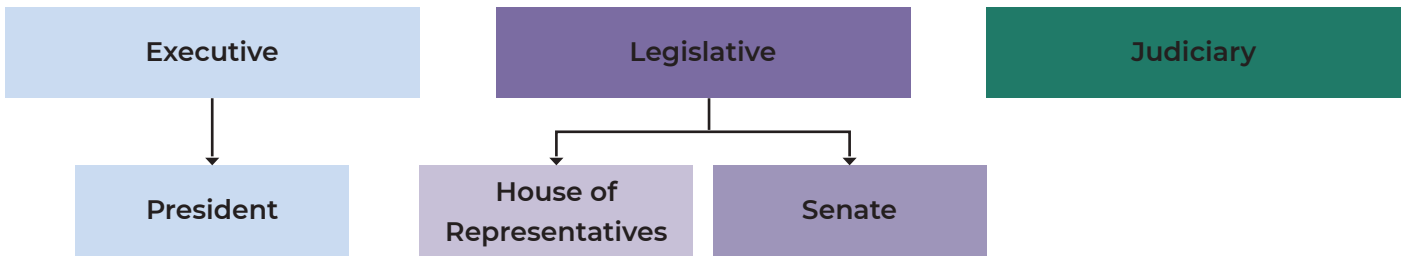
The history of the Philippines goes back to centuries of colonial rule, having first been colonised by Spain in 1521<sup>23</sup>, ceded to the United States of America in 1898<sup>24</sup> and then invaded by Japan in 1941<sup>25</sup>, before eventually gaining independence on 4 July 1946, to officially become the Republic of the Philippines.

The country has been governed by six constitutions so far, the current one being ratified in 1987.<sup>26</sup> The Philippines subscribes to a presidential form of government where power is divided equally between the Executive, the Legislative and the Judiciary<sup>27</sup>, with a bicameral legislature consisting of a House of Representatives and a Senate.<sup>28</sup>

While the President has general supervision over the whole country, it is divided into political subdivisions, namely Local Government Units (LGUs) and Independent Cities at the highest level of local governance, followed by municipalities and component cities at the second level, and barangays at the lowest level, which enjoy administrative autonomy over matters of local governance.<sup>29</sup> In addition to provinces and independent cities, the Philippines also has one autonomous local region — the newly created Bangsamoro Autonomous

- 21 Hernandez, Carolina G., Gregorio C. Borlaza, and Michael Cullinane. 2022. "Philippines." In Encyclopedia Britannica. <https://www.britannica.com/place/Philippines>
- 22 "Philippines." 2011. LandLinks. January 8, 2011. <https://landlinks.org/country-profile/philippines/>.
- 23 "Spanish Colonialism in The Philippines." n.d. [http://www.mcrg.ac.in/Chair\\_Professor/Articles/Spanish\\_colonialism\\_in\\_The\\_Philippines.pdf](http://www.mcrg.ac.in/Chair_Professor/Articles/Spanish_colonialism_in_The_Philippines.pdf)
- 24 "Milestones: 1899–1913 - Office of the Historian." n.d. [State.gov](https://history.state.gov/milestones/1899-1913/war). Accessed November 14, 2022. <https://history.state.gov/milestones/1899-1913/war>.
- 25 Knighton, Andrew. 2017. "The Empire of Japan & the Invasion of the Philippines in WW2." Warhistoryonline. War History Online. November 17, 2017. <https://www.warhistoryonline.com/world-war-ii/the-empire-of-japan-the-invasion-of-the-philippines-in-ww2.html?chrome=1>.
- 26 Wilson, Bradford P. 2007. "Constitution Day." Academic Questions 20 (1): 22–31. <https://doi.org/10.1007/bf03033396>.
- 27 Official Gazette of the Philippines. n.d. Accessed November 15, 2022. <https://www.officialgazette.gov.ph/about/gov/>
- 28 "Philippines - Resources and Power." n.d. In Encyclopedia Britannica <https://www.britannica.com/place/Philippines/Resources-and-power#ref23744>
- 29 OECD. n.d. "Philippines - Unitary Country." <https://www.oecd.org/regional/regional-policy/profile-Philippines.pdf>

## Philippines Governance Structure



Region in Muslim Mindanao (BARMM) — which has higher jurisdiction than LGUs.

The Constitution supports autonomy for local governments as a strategy for promoting community self-reliance, thereby making local governments a key component of the governance structure of the Philippines.<sup>30</sup>

Women’s participation in politics has seen some improvement over the past several decades, but their number is still lower than the 30 per cent threshold for representation required by a minority group to influence decision making in policy.<sup>31</sup> Two women have so far been President, and from 1998 to 2016 the percentage of women elected to public office rose from 16.1 per cent to 21.44 per cent, reaching its peak during the 2016 elections. In the 2019 elections, however, this number declined to 20.16 per cent.<sup>32</sup> Entrenched patriarchal norms,

30 Philippines Constitution 1987, [http://hrlibrary.umn.edu/research/Philippines/PHILIPPINE per cent20CONSTITUTION.pdf](http://hrlibrary.umn.edu/research/Philippines/PHILIPPINE%20CONSTITUTION.pdf)

31 Sarah Childs, Mona Lena Krook. n.d. “Critical Mass Theory and Women’s Political Representation.” *Political Studies* 56 (10): 725–36. <https://doi.org/10.1111/j.1467-9248.2007.00712.x>.

32 Aliliran, Ken. 2020. “Women’s Political Participation and Representation.” Philippine Commission on Women. March 18, 2020. [https://pcw.gov.ph/womens-political-](https://pcw.gov.ph/womens-political-participation-and-representation/)

gender stereotypes and barriers to entry are some reasons contributing to the slow progress of women’s participation in politics.<sup>33</sup>

In 2016, Rodrigo Roa Duterte, Chair of the PDP–Laban ruling party, became the 16th President of the Philippines following a landslide victory anchored on his promise to rid the country of drugs, corruption and crime. His hard-line stance and deeply problematic ‘war on drugs’ have resulted in between 12,000 and 30,000 civilian deaths — majority of them extrajudicial — between July 2016 and March 2019<sup>34</sup>, alongside various other human rights violations. This has led to the International Criminal Court (ICC) launching an official investigation for alleged crimes against humanity and murder.<sup>35</sup> The country’s ranking in numerous indicators of civil society freedoms reflect this rise

[participation-and-representation/](#)

33 Ibid

34 SITUATION IN THE REPUBLIC OF THE PHILIPPINES Public Decision on the Prosecutor’s request for authorisation of an investigation pursuant to Article 15(3) of the Statute. 2021. [https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2021\\_08044.PDF](https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2021_08044.PDF)

35 Regencia, Ted. 2021. “ICC to Open Full Investigation into Duterte’s ‘War on Drugs.’” *Al Jazeera*. September 15, 2021. <https://www.aljazeera.com/news/2021/9/15/philippines-icc-agrees-to-probe-dutertes-war-on-drugs>

in authoritarianism. The Democracy Index 2021 classified the Philippines as a ‘flawed democracy’<sup>36</sup> with a rank of 54 out of 167 countries.

In terms of corruption, According to Transparency International’s Corruption Perception Index which measures the level of corruption in the public sector, the country ranks at 115 out of 180 countries, indicating a high level of corruption in government agencies.<sup>37</sup> The CIVICUS Monitor categorises the Philippines as being ‘repressed’, representing a significantly constrained civic space, as critics of those in power risk ‘surveillance, harassment, intimidation, imprisonment, injury and death’.<sup>38</sup> The country’s stifling of free speech is witnessed in its curbs on media freedoms, with a ranking of 147 out of 180 in the 2022 World Press Freedom Index. The Philippines is one of the world’s deadliest countries for journalists.<sup>39</sup> The harassment and abuse of land and environmental human rights defenders (HRDs) is now commonplace. Since 2016, no fewer than 119 activists and farmers have been killed for fighting for their rights.<sup>40</sup> The national government has adopted a strategy of blacklisting or ‘red-tagging’ individuals and organisations critical of it, labelling them as rebel communists or terrorists<sup>41</sup>, and using the Anti-Terrorism Law of 2020 as a legal apparatus to suppress free speech.<sup>42</sup>

In May 2022, the Philippines held its 17<sup>th</sup> Presidential elections, resulting in Ferdinand Romualdez ‘Bongbong’ Marcos Jr — son of the former President Ferdinand Marcos Sr – from the Partido Federal ng Pilipinas (PFP) being elected as the new President by majority vote.<sup>43</sup> Many attribute his win to an effective social media machinery, one which rewrote history, spread disinformation and

36 Cupin, Bea. 2022. “PH Ranks 54th in 2021 Democracy Index; Asia Sees ‘Reversal of Fortunes.’” Rappler. February 11, 2022. <https://www.rappler.com/nation/national-news/philippines-rank-2021-democracy-index/>.

37 “2020.” n.d. [Transparency.org](https://www.transparency.org/en/cpi/2020/index/phi). Accessed November 14, 2022. <https://www.transparency.org/en/cpi/2020/index/phi>.

38 n.d. “CIVICUS - Tracking Conditions for Citizen Action.” [Civicus.org](https://monitor.civicus.org/country/philippines/). Accessed November 14, 2022. <https://monitor.civicus.org/country/philippines/>

39 “Philippines.” n.d. [Rsf.org](https://rsf.org/en/country/philippines). Accessed November 14, 2022. <https://rsf.org/en/country/philippines>.

40 Al Jazeera. 2020. “‘More Dangerous Every Day’: Land Rights Defenders Killings Surge.” Al Jazeera. July 29, 2020. <https://www.aljazeera.com/news/2020/7/29/more-dangerous-every-day-land-rights-defenders-killings-surge>.

41 Conde, Carlos. 2022. “Philippines: End Deadly ‘Red-Tagging’ of Activists.” Human Rights Watch. January 17, 2022. <https://www.hrw.org/news/2022/01/17/philippines-end-deadly-red-tagging-activists>.

42 “Philippines.” 2020. ISHR. July 21, 2020. <https://ishr.ch/latest-updates/philippines-anti-terrorism-law-further-threatens-safety-human-rights-defenders/>.

43 Heydarian, Richard Javad. 2022. “Marcos Dynasty Back in Power: What’s next for the Philippines?” Al Jazeera. May 12, 2022. <https://www.aljazeera.com/opinions/2022/5/12/the-marcos-counterrevolution>.

inspired a false sense of nostalgia in the eyes of the Filipino people using alternative narratives of the Marcos folklore.<sup>44</sup>

At the local level, the Dinagat Islands is one of the newer provinces in the Philippines. Before it was declared a province by Republic Act (RA) No. 9355, Dinagat was part of the First District of Surigao del Norte Province.<sup>45</sup> In 2010, the Supreme Court struck down RA 9355 as unconstitutional on grounds of failure to meet land area and population requirements for the creation of LGUs.<sup>46</sup> A year later, the Supreme Court — amazingly — reversed its own ruling reinstated RA 9355 as having met the constitutional threshold after all.<sup>47</sup>

This political history contributes to the peoples’ identity in the province – their association is not necessarily with the Island itself, but with the people who inhabit it. The former Governor of Dinagat Islands is human rights lawyer Arlene ‘Kaka’ J. Bag-ao, who is known for her progressive work in community organising, supporting marginalised populations such as farmers, fisherfolk, workers, urban poor, women, and LGBTQ+ persons. She has previously served three terms in the House of Representatives.<sup>48</sup> Former Governor Bag-ao has been a vocal proponent for labour rights and environmental conservation in her region, highlighting the lack of capacity, will and resources from the Department of Labor and Employment (DOLE) to protect the rights of workers.<sup>49</sup> She specifies the need to implement ‘a renewed framework on the coexistence of mining, people’s participation and conservation’.<sup>50</sup>

The re-elected Governor of Nueva Vizcaya Province (where Didipio is located) is Carlos M. Padilla, a seasoned lawmaker with more than 30 years of experience, including in Congress as Deputy

44 Wagtendonk, Anya van. 2022. “How ‘Bongbong’ Marcos Rewrote His Brutal Family History and Won in the Philippines.” Grid News. May 11, 2022. <https://www.grid.news/story/misinformation/2022/05/11/how-bongbong-marcos-rewrote-his-brutal-family-history-and-won-in-the-philippines/>.

45 Wow Surigao Philippines. n.d. <http://www.wowsurigao.com/about-surigao/islands/dinagat>

46 “SC Says Dinagat Islands No Longer a Province.” n.d. [Abs-cbn.com](https://news.abs-cbn.com/nation/regions/02/11/10/sc-says-dinagat-islands-no-longer-province). Accessed November 14, 2022. <https://news.abs-cbn.com/nation/regions/02/11/10/sc-says-dinagat-islands-no-longer-province>.

47 “Dinagat Islands a Province Again as SC Reverses Itself.” GMA News Online. March 30, 2011. <https://www.gmanetwork.com/news/topstories/nation/216534/dinagat-islands-a-province-again-as-sc-reverses-itself/story/>.

48 Amnesty International. n.d. “PHILIPPINES: UNDERMINING WORKERS’ RIGHTS.” <https://www.amnesty.org/en/wp-content/uploads/2021/08/ASA3543892021ENGLISH.pdf>

49 Ibid

50 Various authors. n.d. “News Clippings.” [https://r7.denr.gov.ph/images/news\\_clippings/News\\_Clippings\\_09\\_29\\_2016.pdf](https://r7.denr.gov.ph/images/news_clippings/News_Clippings_09_29_2016.pdf)

Speaker and Minority Leader.<sup>51</sup> Governor Padilla has been involved in many attempts to halt mining operations in the region by OceanaGold<sup>52</sup>, and has accused them of 'destroying 975 acres of grasslands, forests and species habitats, inciting strife and theft, and causing respiratory problems in neighbouring communities'.<sup>53</sup>

## Socioeconomic and Cultural Context

Dubbed one of Asia's 'Tiger Cubs, (Tiger Cub economies refers collectively to the strongest five economies of Southeast Asia), the Philippines is among the fastest growing economies in the region, averaging around 6 per cent annual GDP growth.<sup>54</sup> Over the past decade, the economy has become increasingly reliant on the service sector for its growth, with a contribution of more than 61 per cent to GDP and employing 58 per cent of the country's workforce.<sup>55</sup> In 2020, agriculture's share of the GDP was 10 per cent, mining was 0.6 per cent<sup>56</sup> and industry contributed 28 per cent.<sup>57</sup> As the country slowly recovers from the COVID-19 pandemic, the unemployment rate has contracted significantly from 8.7 per cent in April 2021 to 5.7 per cent in April 2022.<sup>58</sup> In Dinagat Islands, agriculture, fishery and mining development are the main

sources of income<sup>59</sup>, while in Nueva Vizcaya, agriculture, livestock rearing, poultry farming, fishery and forestry are the primary sectors, while mining and quarrying are considered the secondary sectors.<sup>60</sup>

Internationally, the Philippines has ratified eight out of nine UN Core International Human Rights Treaties, with the exception of the International Convention for the Protection of All Persons from Enforced Disappearance adopted in December 2010.<sup>61</sup> Nationally, the Duterte administration's AmBisyon Natin 2040<sup>62</sup> is designed to provide a collective vision for the Philippines to achieve socio-economic development by 2040. The Philippine Development Plan 2017-2022 aims to actualise this vision by focusing on building a high trust society (malasakit), transforming towards equity and resilience (pagbabago) and increasing growth potential (patuloy na pag-unlad). Despite the Plan having entered its final year, 23.7 per cent of the population was still living below the national poverty line in 2021<sup>63</sup>, far short of the 14 per cent ambition for 2022.<sup>64</sup>

The Philippines has long been considered a front runner in championing women's rights in the region, having adopted the Philippine Plan for Gender-Responsive Development (PPGD) 1995-2025<sup>65</sup> and the Magna Carta of Women in 2009, which declared the government's commitment to providing a rights-based framework to eliminate discrimination and to promote women's rights in the country.<sup>66</sup> Impressive rankings notwithstanding – 17<sup>th</sup> in the Global Gender Gap

51 "Profile of GOV. CARLOS M. Padilla, Nueva Vizcaya." n.d. [Gov.Ph.](https://lpp.gov.ph/profile-of-gov-carlos-m-padilla-nueva-vizcaya/) Accessed November 14, 2022. <https://lpp.gov.ph/profile-of-gov-carlos-m-padilla-nueva-vizcaya/>

52 Domingo, Leander C. 2020. "NVizcaya Gov Files Appeal vs OceanaGold." *The Manila Times*. December 13, 2020. <https://www.manilatimes.net/2020/12/13/news/regions/nvizcaya-gov-files-appeal-vs-oceanagold/809344>.

53 "Nueva Vizcaya officials vow to block renewal of OceanaGold mining permit - Business & Human Rights Resource Centre." n.d. Business & Human Rights Resource Centre. Accessed November 14, 2022.

54 Mendoza, Ronald U. 2021. "The Philippine Economy under the Pandemic: From Asian Tiger to Sick Man Again?" *Brookings*. August 2, 2021. <https://www.brookings.edu/blog/order-from-chaos/2021/08/02/the-philippine-economy-under-the-pandemic-from-asian-tiger-to-sick-man-again/>.

55 "Philippines - Share of Economic Sectors in the Gross Domestic Product 2021." n.d. Statista. Accessed November 14, 2022. <https://www.statista.com/statistics/578787/share-of-economic-sectors-in-the-gdp-in-philippines/>.

56 "Mining Industry Contribution to 2020 GDP Estimated at P102B." *BusinessWorld Online*. BusinessWorld. June 29, 2021. <https://www.bworldonline.com/economy/2021/06/29/379075/mining-industry-contribution-to-2020-gdp-estimated-at-p102b/>

57 Ibid

58 "Labour Survey." n.d. [Gov.Ph.](https://psa.gov.ph/statistics/survey/labor-and-employment/labor-force-survey/title/Employment%20per%20cent20Rate%20per%20cent20in%20per%20cent20April%20per%20cent202022%20per%20cent20is%20per%20cent20Estimated%20per%20cent20at%20per%20cent2094.3%20per%20cent20Percent) Accessed November 14, 2022. <https://psa.gov.ph/statistics/survey/labor-and-employment/labor-force-survey/title/Employment%20per%20cent20Rate%20per%20cent20in%20per%20cent20April%20per%20cent202022%20per%20cent20is%20per%20cent20Estimated%20per%20cent20at%20per%20cent2094.3%20per%20cent20Percent>

59 "Foundation for the Philippine Environment." n.d. [Fpe.Ph.](https://fpe.ph/conservation-site/location_details/dinagat-island-surigao-del-norte) Accessed November 14, 2022. [https://fpe.ph/conservation-site/location\\_details/dinagat-island-surigao-del-norte](https://fpe.ph/conservation-site/location_details/dinagat-island-surigao-del-norte).

60 "Economic Development – Nueva Vizcaya, Philippines." n.d. [Gov.Ph.](https://nuevavizcaya.gov.ph/economic-development/) Accessed November 14, 2022. <https://nuevavizcaya.gov.ph/economic-development/>.

61 "Treaty Bodies Treaties." n.d. [Ohchr.org.](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=137&Lang=EN) Accessed November 14, 2022. [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=137&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=137&Lang=EN).

62 "About AmBisyon Natin 2040." n.d. [Gov.Ph.](https://2040.neda.gov.ph/about-ambisyon-natin-2040/) Accessed November 14, 2022. <https://2040.neda.gov.ph/about-ambisyon-natin-2040/>.

63 "Philippines: Poverty." 2022. *Asian Development Bank*. August 10, 2022. <https://www.adb.org/countries/philippines/poverty>.

64 "Updated Philippine Development Plan 2017-2022 - Philippine Development Plan." 2021. *Philippine Development Plan - The Philippine Development Plan (PDP) Is the Country's Comprehensive Blueprint for Integrated Development of the Country in the next Six Years*. June 25, 2021. <https://pdp.neda.gov.ph/updated-pdp-2017-2022/>.

65 "Plan Framework of the Philippines Plan for Gender Responsive Development 1995 -2025." n.d. <https://emb.gov.ph/wp-content/uploads/2021/06/Philippine-Plan-for-Gender-Responsive-Development-1995-2025.pdf>

66 "Q & A: Magna Carta of Women (Republic Act No. 9710)." n.d. [Gov.Ph.](https://psa.gov.ph/content/q-magna-carta-women-republic-act-no-9710) Accessed November 14, 2022. <https://psa.gov.ph/content/q-magna-carta-women-republic-act-no-9710>.

Index 2021 and second in the Asia and the Pacific region<sup>67</sup> – modelled ILO estimates for 2019 show that female labour force participation (ages 15 to 64) in the Philippines continues to be the lowest in Southeast Asia, at 49 per cent.<sup>68</sup> Multidimensional social and cultural perceptions of women contribute to this low number, including women's stereotypical caregiving responsibilities within the household, types of occupations compatible with women's supposed roles, lack of time to invest in self-development and skill-building, discriminatory employment practices, and undercounting of women's real contributions to the economy with respect to unpaid care and domestic work, just to name a few.<sup>69</sup>

The gender pay gap also contributes to this disparity, with men earning 50 per cent more than women for low skill positions and 20 per cent more for high skill jobs.<sup>70</sup> This statistic contradicts the literacy rate, which gives women a slightly higher advantage at 92.9 per cent over 90.2 per cent for men<sup>71</sup>, demonstrating that literacy does not necessarily translate into higher wages for women. Violence against women is another pervasive problem, with one in four Filipino women aged 15 to 49 having experienced some form of physical, emotional or sexual violence perpetrated by an intimate partner, as mentioned in the 2017 National Demographic and Health Survey.<sup>72</sup>

Overall, the Philippines has seen marked improvements in various socio-economic indicators such as multidimensional poverty and gender inequality<sup>73</sup> since 1990. The Human Development Index – which measures three

67 World Economic Forum. 2021. "Global Gender Gap Report 2021." [https://www3.weforum.org/docs/WEF\\_GGGR\\_2021.pdf](https://www3.weforum.org/docs/WEF_GGGR_2021.pdf)

68 "Labor Force Participation Rate, Female (% of Female Population Ages 15-64) (Modeled ILO Estimate) - Philippines, Brunei Darussalam, Cambodia, Indonesia, Malaysia, Myanmar, Singapore, Lao PDR, Timor-Leste, Vietnam, Thailand." n.d. [Worldbank.org](https://data.worldbank.org/indicator/SL.TLF.ACTI.FE.ZS?end=2019&locations=PH-BN-KH-ID-MY-MM-SG-LA-TL-VN-TH&name_desc=false&start=1990&view=chart). Accessed November 14, 2022.

69 National Economic and Development Authority. n.d. <https://neda.gov.ph/wp-content/uploads/2021/09/Determinants-of-Female-Labor-Force-Participation-in-the-Philippines.pdf>

70 World Bank. 2021. "Overcoming Barriers: To Women's Economic Empowerment in the Philippines." <https://documents1.worldbank.org/curated/en/099830103012227161/pdf/P173002056f08e0a909afd0d7c9f381c4d3.pdf>

71 Philippines Statistics Authority. 2020. <https://psa.gov.ph/content/functional-literacy-rate-estimated-916-percent-2019>

72 "Violence against Women." 2019. Philippine Commission on Women. February 13, 2019. <https://pcw.gov.ph/violence-against-women>.

73 "Philippines," 2022. Accessed 14 November 2022 <https://hdr.undp.org/data-center/specific-country-data#/countries/PHL>

dimensions of human development, including a long and healthy life, access to knowledge and a decent standard of living – places the country in the 'high' category, positioning it at 107 out of 189 countries and territories.

At the local level, Dinagat maintained low to zero COVID-19 cases in 2020 and 2021. Be that as it may, one study<sup>74</sup> indicates that small-scale fisherfolk in the Philippines experienced drastic declines in income at the height of the pandemic. Dinagat was also one of the areas worst-hit by Typhoon Odette (international name: Rai) that struck the Philippines on 16 December, 2021. Farmers and fisherfolk in the island-province are still reeling from its effects, including more than PHP 1.1 billion (USD 21.4 million) in agricultural damage. Farmers who depend on copra (dried coconut kernels) production lost their main source of income. Thousands were displaced, homes and livelihoods destroyed, and infrastructure such as access roads, electricity connections and essential amenities (hospitals, schools, docks) damaged. As of July 2022, a total of 37,515 families and 122,738 people in the province remain affected.

## Corporate Accountability and Human Rights

The mining sector only contributes less than 1 per cent to the GDP<sup>75</sup> although the Philippines is considered one of the most minerally dense countries in the world. Approximately 30 per cent of its total land area is classified as having 'high mineral potential'.<sup>76</sup> Currently, 2.55 per cent of this area is covered in mining tenements comprising 55 metallic mines, 56 non-metallic mines, 7 processing plants, 4,416 local government units issued permits, and 47 declared small scale mines (minahang bayan), primarily made up of copper, gold and nickel mines.<sup>77</sup> In 2021, the mining industry was directly employing 183,852 workers, with indirect employment estimated to be four times more, and exports (mostly to Japan, Australia, Canada and China<sup>78</sup>) contributing US\$ 6.14 billion – 7.8 per cent of total export earnings – to the economy.

74 Macusi Edison. 2022. "Impacts of COVID-19 on the Catch of Small-Scale Fishers and Their Families Due to Restriction Policies in Davao Gulf, Philippines", <https://www.frontiersin.org/articles/10.3389/fmars.2021.770543/full>

75 Toledo, Atty Mike. 2022. "The Philippine Mining Industry: Looking for a Stable Business Environment." The Philippine Star, April 19, 2022. <https://www.philstar.com/other-sections/newsmakers/2022/04/19/2175019/philippine-mining-industry-looking-stable-business-environment>.

76 minerresponsibility: Know Mine, Know Life. Minerals Industry at a Glance." n.d. [https://www.constituteproject.org/constitution/Philippines\\_1987?lang=en](https://www.constituteproject.org/constitution/Philippines_1987?lang=en)

77 Ibid

78 Ibid

The Constitution of the Philippines gives the state full control over ‘the exploration, development and utilisation of natural resources’ (Article XII, Section 2) while promising to ‘protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature’ (Article II, Section 16). This creates dissonance between the environment and the economy.<sup>79</sup>

Republic Act No. 7942 also known as the Philippine Mining Act of 1995 is the primary legislation that governs the use of mineral resources in the country. Various executive orders issued by the President as well as administrative rules and regulations by the Department of Environment and Natural Resources (DENR) help enforce the Act. The DENR – with its offices at the regional level – is the primary department responsible for the ‘conservation, management and development of the country’s environment and natural resources’.<sup>80</sup> It is further divided into six different bureaus with specific mandates and functions, including the Mines and Geosciences Bureau (MGB) and the Environmental Management Bureau (EMB).<sup>81</sup>

While the MGB is tasked with ensuring responsible management of the country’s natural resources<sup>82</sup>, the EMB is authorised to oversee and implement existing environmental protection laws.<sup>83</sup> Both agencies have regional offices that help coordinate, implement and monitor affairs at the local level.<sup>84</sup> The EMB and DENR regional offices are also responsible for conducting Environmental Impact Assessments (EIAs), including developing Environmental Protection and Enhancement Programmes (EPEPs). EPEPs refer to a comprehensive and strategic environmental management plan for the life of the mining project. The offices are also tasked with undertaking Initial Environmental Examinations (IEEs), and issuing Environmental Compliance Certificates (ECCs). ECCs are documents issued by the Secretary or the Regional Executive Director certifying that the proposed project will not cause significant negative environmental impact. They are also responsible for drafting Environmental

Impact Statements (EISs).<sup>85</sup> Mining companies functioning without an ECC or operating without establishing a Mine Rehabilitation Fund (MRF) and a Final Mine Rehabilitation and Decommissioning Fund (FMRDF) are liable to penalties as prescribed by law, including suspension or cancellation of mining contracts.<sup>86</sup>

Along with laws at the national level, the decentralised nature of local governance in the Philippines gives LGUs the additional responsibility of establishing regulations needed to maintain the health, safety, rights and culture of communities at the local level. The Mining Act and the Local Government Code of 1991 empower LGUs to approve applications for small-scale mining, coordinate with communities, monitor mining activities, and utilise revenues from mining operations for development projects.<sup>87</sup>

In addition to mining related laws at local and national levels, companies must adhere to various other supplementary laws to ensure protection of the rights of the communities and the environment, such as the Indigenous Peoples Rights Act of 1997, the Local Government Code of 1991, the Clean Air Act of 1999, the Clean Water Act of 2004, the Environmental Impact Statement (EIS) System of 1978, the Ecological Solid Waste Management Act of 2000, and the Toxic Substances, Hazardous and Nuclear Waste Control Act of 2000, to name a few.<sup>88</sup>

In a welcome move, in 2017 then Environment Secretary Gina Lopez cracked down on mining companies that did not comply with safety standards, resulting in the closure of 23 mines and suspension of five.<sup>89</sup> She also proposed converting mines into centres for eco-tourism in a bid to not only protect the environment, but also to encourage entrepreneurship in local communities.<sup>90</sup> However, after 10-months in her position, she was removed, and the mines began operating again.<sup>91</sup>

In 2018, the Philippines was ranked as the most dangerous country in the world for land and

79 Philippines Constitution, 1987 [https://www.constituteproject.org/constitution/Philippines\\_1987?lang=en](https://www.constituteproject.org/constitution/Philippines_1987?lang=en)

80 “Organizational Chart.” *Gov.Ph.* Accessed November 14, 2022. <https://www.denr.gov.ph/index.php/about-us/organizational-structure>.

81 Ibid

82 “Mandate and Functions- Mines and Geoscience Bureau” *Gov.Ph.* Accessed November 14, 2022. <https://mgb.gov.ph/about-us/mandate-and-functions>. <https://mgb.gov.ph/images/stories/CDAO-Final.pdf>

83 “Mandates.” n.d. *Gov.Ph.* Accessed November 14, 2022. <https://emb.gov.ph/mandates-functions/>

84 “Organizational Chart.” *Gov.Ph.* Accessed November 14, 2022. <https://www.denr.gov.ph/index.php/about-us/organizational-structure>. <https://www.denr.gov.ph/index.php/about-us/organizational-structure>

85 “Mandate and Functions- Mines and Geoscience Bureau” *Gov.Ph.* Accessed November 14, 2022. <https://mgb.gov.ph/about-us/mandate-and-functions>. <https://mgb.gov.ph/images/stories/CDAO-Final.pdf>

86 Ibid

87 ADMINISTRATIVE ORDER NO. 2010-21 <https://mgb.gov.ph/images/stories/CDAO-Final.pdf>

88 “Major Environmental Laws.” n.d. *Gov.Ph.* Accessed November 14, 2022. [https://ecac.emb.gov.ph/?page\\_id=43](https://ecac.emb.gov.ph/?page_id=43).

89 Merez Arianne. “Green industries better at creating jobs than mining: DENR’s Gina Lopez” N.d. *Abs-cbn.com*. Accessed November 14, 2022b. <https://news.abs-cbn.com/business/02/04/17/green-industries-better-at-creating-jobs-than-mining-denrs-gina-lopez>.

90 Ibid

91 BBC News. 2017. “Philippines: Regina Lopez, Mine-Closing Environment Minister, Sacked.” BBC, May 3, 2017. <https://www.bbc.com/news/world-asia-39797113>.

## Laws on protection of the rights of the communities and the environment

The Indigenous Peoples Rights Act of 1997

The Local Government Code of 1991

The Clean Air Act of 1999

The Clean Water Act of 2004

The Environmental Impact Statement (EIS) System of 1978

The Ecological Solid Waste Management Act of 2000

The Toxic Substances, Hazardous and Nuclear Waste Control Act of 2000

environment defenders.<sup>92</sup> That same year, anti-mining advocates took to the streets to push for a law to protect the 'rights of nature', emphasising that no such thing as 'responsible mining' exists.<sup>93</sup> In 2019, Global Witness produced a study which showed collusion between Filipino corporations and political parties in silencing human rights defenders through either imprisonment or murder.<sup>94</sup> Subsequently, in January 2022 the House of Representatives adopted the Human Rights Defenders Act which provides safeguards for human rights defenders and creates the Human Rights Defenders Protection Committee to prevent abuses against those critical of the government.<sup>95</sup> The Act now awaits the Senate to turn it into law.

Since the COVID-19 pandemic, there has been a renewed surge in the government's efforts to revive the mining sector. In April 2021, then President Duterte lifted the nine-year nationwide ban on new mining projects in an effort to jumpstart the post-COVID-19 economy.<sup>96</sup> The move has reinvigorated lawmakers and activists to move ahead with passing the Alternative Minerals

Management Bill (AMMB) that was envisioned to replace the Mining Act of 1995. The AMMB places environmental conservation at its core, using a rights-based, sustainable framework for utilising mineral resources in the country and prioritises economic growth through increasing taxes and banning of raw mineral ore exports.<sup>97</sup>

Another significant policy shift came in December 2021 when the government lifted a four-year ban on open-pit mining.<sup>98</sup> Despite the drawback, a local court issued a historic judgement in favour of mining-affected communities by holding Marcopper Mining Corporation liable for damages in respect to one of the deadliest mining and environmental catastrophes in the history of the Philippines. In the 1996 Marcopper mining disaster, a dam burst on the island of Marinduque, wreaking havoc in the lives and livelihoods of the community.<sup>99</sup>

92 Beech, Hannah. 2005. "Enemies of the State?" *Time* 166 (12): 58, 61. <https://www.globalwitness.org/en/campaigns/environmental-activists/enemies-state/>

93 Yang, Angelica Y. 2018. "Anti-Mining Advocates Push for 'Rights of Nature' Law." *Rappler*. June 9, 2018. <https://www.rappler.com/moveph/204432-salakyag-rights-nature-anti-mining/>.

94 "Defending the Philippines." n.d. Global Witness. Accessed November 14, 2022. <https://www.globalwitness.org/en/campaigns/environmental-activists/defending-philippines/>.

95 Philippines: Senate must adopt Human Rights Defenders Act." n.d. International Federation for Human Rights. Accessed November 14, 2022b. <https://www.fidh.org/en/region/asia/philippines/philippines-senate-must-adopt-human-rights-defenders-act>.

96 Reuters. 2021. "Philippines Lifts Nine-Year Ban on New Mines to Boost Revenues," April 15, 2021. <https://www.reuters.com/business/energy/philippines-lifts-nine-year-old-ban-new-mines-boost-revenues-2021-04-15/>.

97 Simeon, Louise Maureen. 2020. "Alternative Mining Bill Filed Anew." *The Philippine Star*, July 12, 2020. <https://www.philstar.com/business/2020/07/12/2027288/alternative-mining-bill-filed-anew>.

98 "Philippines Ends Open Pit Mining Ban to Reinvigorate Industry," December 28, 2021. <https://www.reuters.com/business/environment/philippines-lifts-four-year-old-ban-open-pit-mining-2021-12-28/>.

99 "Philippines: Court Makes Landmark Ruling against Marcopper Mining Corporation for One of the Worst Mining Disasters to Hit the Country - Business & Human Rights Resource Centre." n.d. Business & Human Rights Resource Centre. Accessed November 14, 2022. <https://www.business-humanrights.org/en/latest-news/philippines-court-rules-against-marcopper-mining-corporation-for-one-of-the-worst-mining-disasters-to-hit-the-country/>.



In June 2022, the MGB announced an 18-year plan to revitalise the mining industry in three phases:

- Enhancing investors' confidence in the mineral sector (2022-2024)
- Expanding domestic ore production and mineral asset (2023-2030)
- Strengthening the sector to level-up to the global mineral markets in the field of semi-processed and fully processed mineral products (2026-2040)<sup>100</sup>

As part of this strategy, the government intends to start selling off unused state-held mining assets beginning 2023 in an effort to restructure the sector — estimated to be worth USD 1 trillion in untapped mineral resources<sup>101</sup> — in order

<sup>100</sup> Talavera, Catherine. 2022. "Mine Output Rises 36% to P49 Billion in 3 Months." The Philippine Star, June 2, 2022. <https://www.philstar.com/business/2022/06/02/2185344/mine-output-rises-36-p49-billion-3-months>.

<sup>101</sup> Toledo, Atty Mike. 2022. "The Philippine Mining Industry:

increase its contribution to the economy<sup>102</sup>. In the same month, the Philippines took a big step backwards by withdrawing its membership to the Extractive Industries Transparency Initiative (EITI), a global standard on the responsible use of natural resources, citing a 'subjective, biased and unfair' assessment process.<sup>103</sup>

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Looking for a Stable Business Environment." The Philippine Star, April 19, 2022. <https://www.philstar.com/other-sections/newsmakers/2022/04/19/2175019/philippine-mining-industry-looking-stable-business-environment>.

<sup>102</sup> "Philippines to Sell Idle State Mines from 2023 as Part of Sector Shakeup," June 1, 2022. <https://www.reuters.com/article/philippines-mining-idINL4N2XO0WD>.

<sup>103</sup> Manuel, Pilar. n.d. "PH Withdraws from Global Transparency Initiative on Mining, Fuel." CNN Philippines. Accessed November 14, 2022. <https://www.cnnphilippines.com/news/2022/6/22/PH-withdrawal-Extractive-Industries-Transparency-Initiative.html>.





## Dinagat Islands

After Indonesia, the Philippines is the biggest nickel ore producer in the world<sup>104</sup>, fuelled mainly by sales to China which account for 90 per cent of all raw nickel exports.<sup>105</sup> Half of the nickel mines in the country are located in the Caraga region, where Dinagat Islands are located<sup>106 107</sup>.

104 "Top Five Nickel Producing Countries (Thousand Tonnes, 2021)." n.d. [Globaldata.com](https://www.globaldata.com). Accessed November 15, 2022. <https://www.globaldata.com/data-insights/mining/the-top-five-nickel-producing-countries-thousand-tonnes-2021/>.

105 METAPIXEL Incorporated. 2021. "Nickel Output Drops in 2020." Philippine Nickel Industry Association. February 12, 2021. <http://www.philippinenickel.org/news-and-updates/pnia-in-the-news/nickel-output-drops-in-2020/>.

106 "#Mine Responsibility : Know Mine, Know Life Minerals Industry at a Glance." n.d. [https://mgb.gov.ph/images/Mineral\\_Statistics/MFF\\_MARCH\\_2022.pdf](https://mgb.gov.ph/images/Mineral_Statistics/MFF_MARCH_2022.pdf)

107 "Caraga Mineral Profile." 2021. <https://www.mgbr13.ph/wp-content/uploads/MGB-RO-XIII-Caraga-Mineral-Profile-2021-1.pdf>

As early as 1939, the national government declared Dinagat a mineral land reserve.<sup>108</sup> Dinagat Islands contributed US\$161.16 million in exports to the economy in 2021 and 9 per cent to the Gross Regional Domestic Product (GRDP) for mining and quarrying in the Caraga region.<sup>109</sup> In the same year, there were six nickel mines in Dinagat Islands operating as:

1. Cagdianao Mining Corporation
2. Century Peak Corporation (Parcel II Mining Project)
3. Century Peak Corporation (Casiguran Nickel Project)
4. Libjo Mining Corporation
5. Oriental Vision Mining Philippines Corporation
6. Sinosteel Philippines H.Y. Mining Corporation

While the first three are 100 per cent Filipino owned, the rest are partially owned by Chinese companies<sup>110</sup> in keeping with the Constitution<sup>111</sup> as well as the Mining Act of 1995 which stipulates a minimum of 60 per cent Filipino ownership for companies to acquire exclusive mining rights<sup>112</sup>. As mentioned during the FGD with Provincial Local Government Unit Region 13, more mining applications are reportedly pending, considering the stance of the new local government.

Dinagat Islands has struggled to strike a balance between ecological conservation and economic growth. Communities have repeatedly expressed discontentment with mining operations, citing water pollution, watershed destruction, droughts and deforestation as some of their concerns.<sup>113</sup>

108 Presidential Proclamation No. 391: [https://lawphil.net/executive/proc/proc1939/proc\\_391\\_1939.html](https://lawphil.net/executive/proc/proc1939/proc_391_1939.html)

109 "Province of Dinagat Islands: Quick Facts." n.d. <https://www.mgbr13.ph/wp-content/uploads/PDI-Quick-Facts.pdf>

110 "Quick Facts: CAGDIANAO MINING CORPORATION ." <https://www.mgbr13.ph/wp-content/uploads/CMC-2021.pdf>; "Quick Facts: CENTURY PEAK CORPORATION." n.d. <https://www.mgbr13.ph/wp-content/uploads/CPC-Parcel-II-Project-2021.pdf>; "Quick Facts: LIBJO MINING CORPORATION." n.d. <https://www.mgbr13.ph/wp-content/uploads/LMC-2021.pdf>; "Quick Facts: ORIENTAL VISION MINING PHILIPPINES CORPORATION." n.d. <https://www.mgbr13.ph/wp-content/uploads/OVMPC-2021.pdf>; "Sinosteel Corporation." n.d. [Sinosteel.com](http://en.sinosteel.com/). Accessed November 14, 2022. <http://en.sinosteel.com/>.

111 "Philippines 1987." n.d. [Constituteproject.org](https://www.constituteproject.org/constitution/Philippines_1987?lang=en). Accessed November 14, 2022. [https://www.constituteproject.org/constitution/Philippines\\_1987?lang=en](https://www.constituteproject.org/constitution/Philippines_1987?lang=en).

112 Republic Act No. 7942, 1995 <http://extwprlegs1.fao.org/docs/pdf/phi41014.pdf>

113 Bagayas, Samantha. 2020. "WATCH: Coronavirus Outbreak Slows down Dinagat Islands' Push for Conservation." Rappler. September 11, 2020. <https://www.rappler.com/>

In 2017, village chiefs went as far as threatening bloodshed should mining companies enter their territories.<sup>114</sup> There are numerous violations of the labour rights of workers in the mines, perpetrated by the companies themselves or through labour hire agencies that act as intermediaries between the companies and the labourers.

Amnesty International conducted a study that found that many mine workers were not provided timely compensation or overtime payment, one in four were not provided a written contract, and one in five did not receive employee benefits like the Social Security System (SSS), the Home Development Mutual Fund (PAG-IBIG), or the Philippines national health insurance programme (PhilHealth).<sup>115</sup> This is in direct breach of the Philippines Labour Code 1974<sup>116</sup> as well as international human rights standards such as the International Covenant on Economic, Social and Cultural Rights (ICESCR) — which the Philippines has ratified and is obligated to observe — that guarantees the ‘right of everyone to the enjoyment of just and favourable conditions of work.’<sup>117</sup> Additionally, the Philippines has ratified eight out of 10 fundamental conventions of the International Labour Organisation (ILO) that assure freedom of association, the right to collective bargaining and protection from forced labour, all in direct contrast to the conditions in the mines in Dinagat.<sup>118</sup> Lack of resources and political will, insufficient communication and coordination across government agencies and unclear division of responsibilities at various levels of governance all contribute to the lack of implementation of human rights standards in the communities and mines.<sup>119</sup>

## Didipio

In 2020, gold was the sixth most exported commodity in the Philippines, injecting \$1.67 billion to the economy.<sup>120</sup> Most of the gold is exported to Hong Kong, Switzerland, India, Australia and Japan.<sup>121</sup> The Didipio Gold-Copper Project is located in barangay Didipio and spans two provinces, namely Nueva Vizcaya and Quirino.<sup>122</sup> The project started in 1994 as a result of a Financial and Technical Assistance Agreement (FTAA) between the government of the Philippines and Climax-Arimco Mining Corporation, the first company to be licenced to carry out mineral exploration in Didipio.<sup>123</sup> In 2006, it merged with OceanaGold Corporation of Australia and is now held by its wholly owned subsidiary OceanaGold Philippines Incorporated (OGPI), covering around 37,000 hectares of operations.<sup>124</sup> In 2021, the Didipio Copper-Gold Project contributed \$25 million in sales, \$1.2 million in national taxes and fees, and \$1.8 million in local taxes and fees, and created direct employment for 1,142 people (870 men and 272 women).<sup>125</sup>

The Didipio mine has been a major bone of contention for both local communities and human rights defenders right from its inception. In 2008 and 2009, OGPI destroyed the homes of 180 families — including indigenous communities — and residents were beaten up and forced to sell their land, often by means of deception and

120 “Gold in Philippines.” n.d. OEC. Accessed 14 November 2022 <https://oec.world/en/profile/bilateral-product/gold/reporter/phi#:~:text=Exports per cent20In per cent202020 per cent2C per cent20Philippines per cent20exported,most per cent20exported per cent20product per cent20in per cent20Philippines>.

121 Ibid

122 “Oceana Gold (Phils) Incorporated.” n.d. [http://www.mgb2.com/images/thumbnail\\_OGPI\\_revised.jpg](http://www.mgb2.com/images/thumbnail_OGPI_revised.jpg)

123 “Mandates of the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises; the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment; the Special Rapporteur on the Implications for Human Rights of the Environmentally Sound Management and Disposal of Hazardous Substances and Wastes; the Special Rapporteur on the Right to Food; the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health; the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context; the Special Rapporteur on the Situation of Human Rights Defenders; the Special Rapporteur on the Rights of Indigenous Peoples; and the Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation.” 2019. [Ohchr.org](https://www.ohchr.org). Accessed November 14, 2022 <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24308>

124 “Oceana Gold (Phils) Incorporated.” n.d. [http://www.mgb2.com/images/thumbnail\\_OGPI\\_revised.jpg](http://www.mgb2.com/images/thumbnail_OGPI_revised.jpg)

125 Ibid

[moveph/coronavirus-outbreak-slows-down-dinagat-islands-push-conservation/](https://www.mindanews.com/top-stories/2017/02/village-chiefs-warn-of-bloodshed-if-mining-enters-their-place/)

114 Catoto, Roel. 2017. “Dinagat Village Chiefs Warn of Bloodshed If Mining Enters Their Place.” MindaNews. February 3, 2017. <https://www.mindanews.com/top-stories/2017/02/village-chiefs-warn-of-bloodshed-if-mining-enters-their-place/>.

115 Amnesty International. n.d. “PHILIPPINES: UNDERMINING WORKERS’ RIGHTS.” <https://www.amnesty.org/en/wp-content/uploads/2021/08/ASA3543892021ENGLISH.pdf>

116 Ibid

117 International Covenant on Economic, Social and Cultural Rights, 1966.

118 “Ratifications for Philippines.” n.d. [ilo.org](https://www.ilo.org). Accessed November 14, 2022. [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200\\_COUNTRY\\_ID:102970](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:102970).

119 Amnesty International. n.d. “PHILIPPINES: UNDERMINING WORKERS’ RIGHTS.” <https://www.amnesty.org/en/wp-content/uploads/2021/08/ASA3543892021ENGLISH.pdf>

exploitation.<sup>126</sup> In spite of the Commission on Human Rights (CHR) condemning the mining company's numerous human rights violations in a strongly worded statement in 2011, it began commercial exploration of the mine in 2013.<sup>127</sup> Civil society organisations have documented illegal deforestation, an increase in air pollution and respiratory illnesses, declined agricultural produce, and contamination of the Didipio river as some of the negative consequences of mining operations in the area.<sup>128</sup> In April 2020, the police — using COVID-19 restrictions as justification for state-sanctioned police brutality — forcibly removed 30 environmental activists who blocked fuel tankers from accessing the Didipio mine.<sup>129</sup> This episode was roundly condemned by the Special Rapporteur on the rights of indigenous peoples, the Special Rapporteur on the rights to peaceful assembly and of association, and the Special Rapporteur on human rights and the environment as a direct violation of the community's rights to peaceful assembly, all underscoring the importance of recognising the intersectional vulnerabilities of indigenous people arising from their disadvantaged positions in society.<sup>130</sup>

The FTAA for the Didipio mine expired in 2019, but that did not stop the company from continuing with operations unperturbed.<sup>131</sup> This led to a confrontation arising from the conflict between local (Nueva Vizcaya) government laws and national laws. The Governor of Nueva Vizcaya, Carlos Padilla, along with other local and provincial

leaders, called on OceanaGold to halt all operations as a result of the expiry of the FTAA based on the Local Government Code and Nueva Vizcaya's Environment Code.<sup>132</sup> OceanaGold, on their part, counter-cited Section 18 of the Administrative Code 1987 which states that 'the existing licence shall not expire until the application shall have been finally determined by the agency,' pointing out that since their request for renewal had not yet been rejected, they had all rights to continue mining operations until a final decision was reached.<sup>133</sup>

They added that they had already submitted all the necessary paperwork to the DENR, which had already approved their application, and therefore did not need the local government's approval after all.<sup>134</sup> All the while, the UN special rapporteurs, as well as environmental groups, were urging the government not to renew OceanaGold's licence, citing environmental degradation and deterioration in the quality of life and livelihoods of surrounding communities as aggravating factors.<sup>135</sup> <sup>136</sup> But — in an unexpected act that left many outraged and disillusioned — the government, completely turning a deaf ear to the voices on the ground, renewed its contract with OceanaGold in 2021 for a further 25 years, terming it 'a game changer' for the country's export market.<sup>137</sup>

126 "Mandates of the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises; the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment; the Special Rapporteur on the Implications for Human Rights of the Environmentally Sound Management and Disposal of Hazardous Substances and Wastes; the Special Rapporteur on the Right to Food; the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health; the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context; the Special Rapporteur on the Situation of Human Rights Defenders; the Special Rapporteur on the Rights of Indigenous Peoples; and the Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation." 2019. [Ohchr.org](https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24308). Accessed November 14, 2022. <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24308>.

127 Ibid

128 Ibid

129 "Philippines Mine Standoff: Indigenous and Environmental Rights Must Be Respected, Say UN Experts." n.d. OHCHR. Accessed November 14, 2022. <https://www.ohchr.org/en/press-releases/2020/04/philippines-mine-standoff-indigenous-and-environmental-rights-must-be>.

130 Ibid

131 [Rappler.com](https://www.rappler.com). 2019. "Environment Group Hits Oceanagold for Operating without Gov't Contract." Rappler. June 24, 2019. <https://www.rappler.com/nation/233771-oceanagold-license-denr-kalikasan-pne/>.

132 Ibid

133 Ibid

134 Ibid

135 Mogato, Anna. 2019. "Environmental Group Urges Gov't Not to Renew OceanaGold's Contract." Rappler. June 14, 2019. <https://www.rappler.com/nation/232994-environmental-group-calls-government-not-renew-oceanagold-contract/>.

136 "Mandates of the Working Group on the Issue of Human Rights and Transnational Corporations and Other Business Enterprises; the Special Rapporteur on the Issue of Human Rights Obligations Relating to the Enjoyment of a Safe, Clean, Healthy and Sustainable Environment; the Special Rapporteur on the Implications for Human Rights of the Environmentally Sound Management and Disposal of Hazardous Substances and Wastes; the Special Rapporteur on the Right to Food; the Special Rapporteur on the Right of Everyone to the Enjoyment of the Highest Attainable Standard of Physical and Mental Health; the Special Rapporteur on Adequate Housing as a Component of the Right to an Adequate Standard of Living, and on the Right to Non-Discrimination in This Context; the Special Rapporteur on the Situation of Human Rights Defenders; the Special Rapporteur on the Rights of Indigenous Peoples; and the Special Rapporteur on the Human Rights to Safe Drinking Water and Sanitation." 2019. [Ohchr.org](https://www.ohchr.org). Accessed November 14, 2022.

137 "OceanaGold Wins Philippine Mine Contract Renewal for 25 Years," July 14, 2021. Reuters. <https://www.reuters.com/article/us-oceanagold-philippines-mining-idUSKBN2EK0YR>.



**A fisherfolk fishing in a silted water in Barangay Malinao**



# Key Findings: Dinagat Islands

Since the Dinagat Islands were declared a mineral reserve in 1939, it was given that the Islands would need to prioritise mining operations over the years. The government took this decision with no reference to the inhabitants, a people whose way of life far predates the Islands' value as a mineral reserve. When Dinagat was eventually declared a province, this only heightened tensions between its communities and the government because their priorities rarely aligned.

## Economic, Social and Cultural Rights

### THREATS TO ECONOMIC STABILITY

A majority of the mining operations and/or claims in Dinagat overlap with watersheds. As a result, testimonies collected point to mining as a concrete threat to agri-fishery, a vital driver of the local economy. Many respondents depend on farming and fishing as primary sources of income. They informed the FFM team that before the mining operation started, crabs and shrimp were in abundance. But now, siltation from the mines runs off into the sea, ensuring that there are no crabs left, making it hard to find crabs, and capture shrimp and fish. This has led to a decline in income levels.

**'The sea water is silted, there are lesser crabs, shells and fish. Mining affects our livelihood and ultimately our lives.'**

**– Tubajon's People's Council Representatives**

Members of the community also reported that estuaries that once hosted shells, crabs, and shrimps are now difficult to come by, especially since Typhoon Rai made landfall.

In cases where there is an increase in the prices of fish, crabs and shells, interviewees made it clear that the price increase is only enjoyed in Manila, but not in the Caraga region.

From the community members' observations, income from fishery sees a marked rise during the months when there is no mining activity, and declines during full operation months. Mining operations typically



**Interview with the members of the Tubajon Municipal office**

run from March until October, while April to July are loading season. The off season is from November to March. Income differences during the off season also have an apparent gender dimension: while men are able to engage in manual labour such as carpentry and farm work, women have precious little alternatives.

Moreover, opportunities for employment are few and far between in Dinagat Islands. Other than seeking employment with LGUs, mining companies or the few small business enterprises, local communities are hard-pressed to find substitute sources of income, particularly since farming and fishing are suffering under the weight of mining operations. There have been attempts in the past to maximise natural resources as a source of alternative livelihoods, with support from both the government and CSOs, but lack of capital and basic skills in managing resource-based alternative livelihood activities makes these kinds of interventions unsustainable.

**‘We plant kamote (sweet potatoes), bananas, and gabi (taro) in our fields. The coconuts have yet to recover from Typhoon Rai.’ - Community member**

**‘During off seasons, the women [in our community] stay home. It is difficult to find an alternative job [that isn’t mining].’ – Community member**



When asked what kind of work is most available in the absence of mining, respondents listed fishery, livestock husbandry, sewing and farming as their main sources of income.

**‘We survived in the past without mining. We can survive again without it.’ – Community member**

## DETRIMENTAL IMPACT ON THE COMMUNITY’S HEALTH AND WELLBEING

The decrease in income has immediate ramifications: inadequate standard of living; food insecurity; health complications; and children dropping out of school. All the women interviewed disclosed that they are unable to educate their children past high school. The few who managed to send theirs off to college, usually in Surigao or Manila, did so on the promise of crippling debt. Pursuing a college education is costly, hence there is a huge reliance on scholarships granted by either the government or the mining companies themselves. This lack of opportunities presents an irony in which communities become heavily reliant on the mining companies for their very survival, despite those same companies being the source of their troubles.

The seasonal income from mining also impacts women’s choices during pregnancy. The women in Barangay Malinao choose not to go to birthing centres located in Loreto because of expensive travel costs.. They are thereby exposed not only to sickness and pregnancy-related complications, but also to penalties imposed by the Department of Health for violating the No Home Birthing Policy, a stipulation ostensibly aimed at reducing maternal and new-born morbidity and mortality.<sup>138 139</sup>

BLGU representatives in Malinao also brought to light the effects of dust on the community. Many residents, young children in particular, experience a persistent hard cough as a result of dust from the mining operations.

## DESTRUCTION OF WATERSHEDS

In the FGD with CSOs in Tubajon, participants complained that mining operations are threatening their watershed, reducing water levels, endangering livelihoods and leaving them in constant anxiety of displacement. Mayor Pedrablanca echoed similar sentiments, adding that mining is leading to water scarcity in the area. In 1981, there was an abundance of water in the Islands, as confirmed by the Provincial Environment and Natural Resources Office Department (PENRO) of the LGU. People used to drink straight from the river.

During her tenure, Governor Bag-ao adopted innovative approaches to preserving watersheds. She required LGUs to declare community watersheds through local ordinances should they request for project budgets. More importantly,

<sup>138</sup> IBON Foundation. 2016. “‘No Home Birthing’ Policy: Burden to Filipino Mothers.” IBON Foundation. March 8, 2016. <https://www.ibon.org/no-home-birthing-policy-burden-to-filipino-mothers/>.

<sup>139</sup> Department of Health. n.d. <https://doh.gov.ph/book/export/html/1132>



## **Destruction of watersheds**

**‘Now, we are running out of time if the mining continues.’ – PENRO representative**

**‘It is ironic that if residents commit illegal logging, they are penalised. But when mining corporations kill almost all the trees on the mountain, no questions are asked.’ – Community member**

these ordinances were to stipulate that extraction activities are prohibited.<sup>140</sup> The CSOs interviewed pointed out that although local ordinances have limitations, this model is far better than the prevailing situation. Under the leadership of former

<sup>140</sup> Ibid.

Governor Bag-ao and current Mayor Pedrablanca, the importance of watershed conservation and engagement with people’s councils is an emerging best practice.

## **UNFAIR LABOUR PRACTICES IN THE MINES**

Because of sporadic income from farming and fishing, Dinagat community members turn to mining to supplement their livelihoods. However, the seasonal nature of mining means that this is a precarious venture at best. During the off-season, only desk jobs are available and many community members lack the skills to carry out such tasks. As a result, chances of being engaged during these periods are minimal for many. Trapped in a vicious irony, those who depend on seasonal work in the mines must again resort to farming and fishing or risk no income at all.





### **Destruction of watersheds**

BLGU representatives in Malinao hinted at there being no regularisation of contracts for mine workers. Several workers who have laboured in the mines from as early as 2014 are still on probation. This teetering status means that they are unable to fully enjoy the benefits of regular employment and security of tenure. There have also been reports that the mining companies are not fulfilling their obligation to provide meal allowances as specified in their contracts.

Respondents shared that the mining companies follow a strict 'No Work No Pay' policy where they get paid only when there is work. But even on the days the mines are operational, workers earn only 320 PHP (approximately 5 USD) per day, barely enough to sustain them and their families. Interviewees also mentioned that the majority of the 'seasonal' or contractual workers are hired from Dinagat, while those who have permanent contracts are hired from the main island of Surigao, resulting in unstable income for workers from Dinagat.

Mayor Fely drew attention to other unfavourable working conditions. Inasmuch as the workers are provided with protective gear, all too often they are of very poor quality. Additionally, because most workers are hired on a contract basis, they are unable to unionise and demand for better working conditions.

### **NON-PAYMENT OF TAXES BY THE MINING COMPANIES**

During the FGD with local government representatives, it was mentioned that the worst tax violators were the mining companies in Dinagat Islands. The Cagdianao Mining Corp (CMC) is one such example, with unpaid taxes amounting to PHP 531 million (USD 9 million).

**'Even if they paid just their regulatory fees, we will hit our target for the year.'**



Mining site in Barangay Malinao, Tubajon, Dinagat Islands

During the tenure of Governor Bag-ao, taxes collected from the mining companies reached an all-time high, thanks to her proactivity in compelling compliance with tax laws. When she took office in 2019, taxes surpassed the previous collection of PHP 15 million, jumping to more than PHP 20 million. As of 14 June 2022, despite having barely come out of the pandemic, PHP 43 million has already been collected from a target of PHP 32 million set in 2021.

## Civil and Political Rights

### PLANTING THE SEEDS OF KNOWLEDGE IN THE COMMUNITIES

Mobilising communities on issues attributable to the extractive industry – that has been promoted as a contributor to national wealth – is a challenging task. Within the communities, there is little awareness of the impact of mining on their lives and livelihoods. Fisherfolk and farmers in Dinagat must be informed about why the sea is silted and the reasons behind poor harvests. Former Governor

Bag-ao underlined the importance of availing transparent and easily relatable information to communities in order to increase their involvement in advocating for their rights. Instead of big words and abstract concepts, she added, it is imperative to relate everything back to the immediate impact on food, water and economic security of communities. This will help them take a more proactive approach in organising themselves.

In attempting to strike a balance between environmental concerns and the national government's pro-mining policies, community members have identified peoples' councils as a mechanism to voice grievances against mining operations. Dinagat Islands is one of a few provinces in the country that engages with peoples' councils as part of its governance processes. Peoples' councils in Dinagat, and more specifically in Tubajon Municipality, are actively involved in crafting and pushing for programmes tailor-made to their needs.<sup>141</sup> The Tubajon People's Council (TuPeCo) hosts member organisations that include representation from farmers, youth, women, fisherfolk and LGBTQIA+.

141 <https://www.facebook.com/watch/?v=591638529010213>



Interview with members of Tubajon People's Council (TuPeCo)

**'Tubajon People's Council (TuPeCo) should be present in all processes [at the Municipality], even at the inception, budgeting and implementation of projects.' – Mayor Simplicia Pedrablanca**

TuPeCo has the additional responsibility of raising directly with the Municipality sector-specific concerns and issues arising from consultations with different barangays. When asked whether the LGU coordinates regularly with TuPeCo, interviewees confirmed that coordination is frequent and consistent, and all meetings are attended by TuPeCo's President, Vice President, Secretary, Auditor and Treasurers. When interviewed, TuPeCo representatives emphasised that good local governance is a chief factor in ensuring that their organisation will continue to be heard.

**'It seems like mining companies and the Mines and Geosciences Bureau use their authority against us. Now that we are in position [inside peoples' organisations], we will not allow this to continue. It's too much abuse to ordinary people.' – Community member**

Former Governor Bag-ao explained that this type of community organising and raising awareness through accredited people's councils is vital; otherwise communities become resigned to the fact that mining is here to stay. For all its ambitious plans, TuPeCo is still in its nascent stage and trying to find a footing. It could benefit from targeted capacity building, particularly with regard to organisational management, advocacy and lobbying, and financial management.



**A close-up shot taken from afar of the open-pit mine of Australian-Canadian mining company OceanaGold Philippines Inc. The company is careful to surround the mining site with foliage and keep researcher**



# Key Findings: Didipio

For more than 25 years, a climate of violence, fear, discord and grief has dominated daily life in Didipio. Based on testimonies from DESAMA, BILEG and officials of the barangay local government unit, relentless protests and actions at both the provincial and national levels have largely gone unnoticed. OceanaGold's FTAA has been retroactively renewed for another 25 years despite inadequate implementation of the Memorandum of Agreement (moA) from the previous FTAA and complete disregard for issues repeatably raised by community members.

## Economic, Social and Cultural Rights

### THREATS TO WATER RESOURCES AND FARMLANDS

The Tuwali indigenous community has deep connections to their lands and culture. They cultivate their ancestral lands not purely for the purpose of subsistence, but nurture it for their children to inherit. BILEG members shared that the land they farm for food and livelihood provides sufficient resources for their children and subsequent generations to also inherit and benefit from.

By 2013, OGPI had completely demolished Dinkidi Hill, converting it into a vast open-pit mine. Ever since, surrounding communities have grappled with inadequate water supply for irrigating their farms, most of which have now dried up, leaving many residents with no option but to give up tracts of their land.

For a farming community like Didipio, clean and potable water is not only essential for sustaining agricultural activity, but is a necessity for everyday usage. Affected areas include parts of the headwaters of the Addalam River, a major tributary of the Cagayan River, the longest in the Philippines. While climate change is a clear and present threat to humankind, it has unfortunately been a convenient narrative to justify such human-made instances of water scarcity.



A stream in Barangay Didipio

**‘Water systems across Didipio started to recede significantly. At least a dozen water pumps and springs have dried up in the community immediately surrounding the mine, forcing residents to travel at least one mile just to fetch water for household use.’ – Community member**

The mere promise of development, particularly in areas where mining operations are licensed, is enough to entice communities into acceding to mining activities. Unfortunately, OGPI has yet to fulfil the infrastructure promised to community members as stipulated in the old FTAA, and has instead embarked on a new FTAA for the next 25 years. The roads in Didipio remain unpaved, rough and ridden with dust. These roads can be treacherous in the rainy season.

One BILEG member narrated how, during the pandemic, the police stopped them from attending to their farms. This was against the backdrop of OGPI’s permit having expired and most mine workers retrenched due to the fallout from the pandemic, so they resorted back to farming: ‘Despite everything that mining has promised to

our community,’ added the member, ‘farming and agriculture are more sustainable in putting food on our tables.’ When asked what kind of development they envision for Didipio, DESAMA members spoke of viable commercial agriculture, supported and promoted by the government through creation of farm-to-market roads, provisions for production machinery, and post-harvest equipment. They understand that development should neither be a destructive force, nor should it cause divisions in communities.

## HAZARDOUS EFFECTS OF MINING TO THE COMMUNITY

A member of DESAMA, who worked for four years at the mining company before joining DESAMA shared that it is a common knowledge that the mine tailings pond is located inside the community. Similarly, toxic water residue from mining operations is dumped directly into the river via a hidden hose. She also divulged that, for purposes of compliance, whenever MGB and DENR came for inspection, the company would order workers to bury biodegradables underground. All other waste was disposed of haphazardly. She was emotional when she narrated how she was rushed to the company clinic after losing consciousness due to the strong cocktail of chemicals she inhaled. She never felt safe working there.

The tailings pond emits a foul odour that permeates the entire community, particularly between 1 and 3 pm when the sun is at its peak. The sheer number



Children of mining-affected community in Barangay Didipio

of complaints lodged against the company finally prompted them to take action by reducing the use of chemicals, but not before strange skin diseases and allergies linked to the polluting effects of mining on water and air started popping up everywhere.

The mine's proximity to the communities is another distressing situation. The centre of the open pit is just one kilometre from the edge of the community. Cracks on walls and floors of homes are a common sight, including at the community school. Villagers attribute this to the blasting activities at the mine. 'Every time OGPI conducts underground rock blasting,' said one community member, 'the earth shakes and trembles as though an earthquake were happening.' The FFM team spent three nights at the DESAMA office, and the mining activities ran non-stop for 24 hours, with no

respite from the blaring racket of moving trucks, cement mixers and grinding of rocks, which lasted through the night and right into the next day.

**'It hurts me to see the environment getting destroyed. My parents and ancestors took care of it, but now we can all see that it is slowly being destroyed. Now that nature is ruined, how can we live in harmony?' – Community member**

## DISPROPORTIONALITY IN EMPLOYMENT OPPORTUNITIES

The non-renewal of contracts for employees from Barangay Didipio after the renewal of OGPI's FTAA came up during the interviews. Claims of alleged grievance and issues on employees' records were used as justification for the non-renewal of contracts. Councillor Lopez Dimalia, who has also worked as an OGPI dentist since 2004, was among the employees rehired after the renewal of the FTAA. As both a company employee and barangay leader in Didipio, he felt that the responsibility fell on his shoulders to raise this issue, since the company did not provide clear guidance on why it did not rehire employees from Didipio.

**'Departmental managers assigned to the hiring process are not aware of the prioritisation that the company must comply with when hiring employees from Didipio. If skill is the issue, I expect that employees will be trained in order to qualify for the jobs for which they are hired. At least that is what an OGPI expat told me when I enquired into matching employee skills to the company's needs.'**

The category of employees working as managers are usually those considered 'outsiders' – they are not natives of Didipio. Since they are not from Didipio, their preference to hire skilled employees from their own or nearby provinces increased the number of unemployed in Didipio. As of July 2022, only 30 per cent of all employees working for OGPI came from Didipio. 30% translates to approximately only 1,000 employees from Didipio. 60 per cent came from the entire Nueva Vizcaya province, and 5 to 10 per cent from other barangays.

OceanaGold employees are entitled to benefits as required by DOLE. Councillor Lopez contends that the number of annual leave and sick days they are eligible for exceeds even those required by DOLE. He went on:

**'Working in the mining company gives us benefits that allow us to afford basic needs, some could even set-up their own businesses contributing to the economy, not only of Didipio but the whole province of Nueva Vizcaya. However, I remain dissatisfied with the hiring processes, especially the preference to hire non-local workers instead of rehiring previous workers from Didipio.'**

Employment in the mining company has had little positive impact on the lives of most people in Didipio, particularly the low-income workers in low positions. Councillor Celia Bahag shared that it is rare for workers from Didipio to be employed in senior positions. Most workers live from paycheque to paycheque, affording only to provide for basic needs and necessities.

## INACCESSIBILITY OF OGPI'S ALTERNATIVE LIVELIHOOD PROGRAMME

Since the renewal of OceanaGold's FTAA on 19 June 2019, Didipio Barangay Officials have struggled to save what is left of their community, emphasising the need for full compliance with the ECC. While there is strong opposition to the operations of OceanaGold, accountability measures remain to be undertaken, especially for the areas affected by mining.

**'Water in most farmlands has already depleted. While not all community members can be employed by the company, we need to ask them of their alternative livelihood programme(s) for those who were directly affected by the mining operations so they can continue farming. OceanaGold has been denying that mining operations have caused water depletion in farmlands, but those**





**Angie Udan, Tawali indigenous woman leader and farmer laments the drying irrigation water caused by the large-scale, open-pit mining of OceanaGold Philippines Inc.**

**of us who have been living here know that mining operations heavily impacted the main source of Didipio's livelihood.' – Councilor Celia Bahag**

The Barangay local council has held several meetings with OceanaGold where the company assured them of allocating a significant budget towards livelihood programmes. However, these funds are available only to members of organisations or co-operatives. The failure to recognise farming communities that qualify for the programmes under co-operatives has also been raised at these meetings. Another observation shared was the influence of pro-mining communities' in approving organisations and cooperatives entitled to such livelihood benefits. In the MoA signed with OceanaGold, community

members are guaranteed to be prioritised for these programmes. However, this is not always complied with. BLGU members shared that this is one of the reasons that discourages small farmers to affiliate with cooperatives or any of the existing organisations.

As an alternative to providing livelihood support to community members, including those who are not members of organisations or co-operatives, the Barangay local council inquired into OGPI's commitment to the community through its corporate social responsibility (CSR) activities. Unlike Social Development and Management Programmes (SDMP) – where OGPI enters a legally binding agreement with the local government unit that outlines deliverables to augment the needs of impacted and adjacent communities – CSR is a compliance mechanism where the company declares priorities in the communities it operates in. Members of the barangay local council requested a copy of the CSR document that OceanaGold signed with the government.



House of a Tuwali indigenous family hangs a banner to oppose the renewal of the Financial and Technical Assistance Agreement (FTAA) or mining permit of Australian-Canadian mining company, OceanaGold Philippines

## DIVISION AND DISCORD AMONGST COMMUNITY MEMBERS

A member of DESAMA shared fond memories of working together with other farmers prior to OGPI's arrival on the scene. The spirit of 'bayanihan' (communal unity) was alive in the community back then, until OGPI began operating in Didipio. 'I still remember before DESAMA was formed,' he said, 'members of the community worked together in farms as a family.'

The impact of mining is not limited only to the physical health of the people in Didipio. During FGDs, emotional distress (due to discrimination, favouritism or job loss) stood out as one of many damaging effects on the community. BILEG and DESAMA members also shared apparent changes in Tuwali culture brought on by polarisations because of the presence of the mining company in their midst.

Animosity and hostility towards anti-mining groups and private individuals is manifested through bullying, both personally and on social media. Community decisions, for instance, caused a division among churchgoers when a faction approached the mining company to fund improvement of the church instead of utilising the church's own collections.

**'I was born and raised here in Didipio. For the future of my children and fellow community members, I don't want to see Didipio completely destroyed. Ever since OGPI started operating here, a climate of fear and violence has prevailed in the community. Where are we going to live if Didipio is completely destroyed because of mining? This is where my will to stand up and fight comes from. I hope we will all stand together in this fight!' – DESAMA member**

## Civil and Political Rights

### THE COMMUNITY'S RIGHT TO COLLECTIVE ACTION

A DESAMA member reported that drilling close to her home's source of water for daily use has contaminated it with 'an oily substance and



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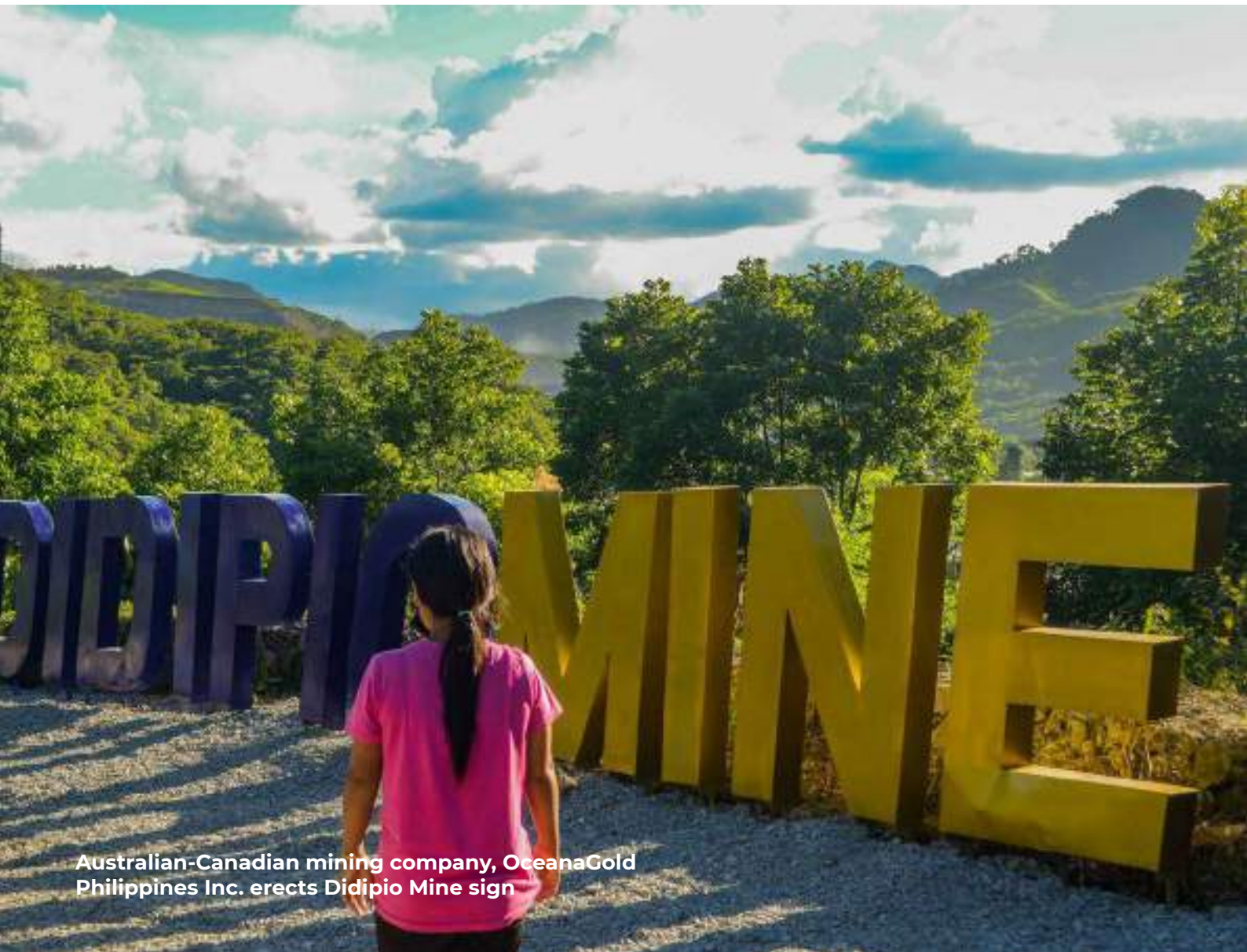
pebbles'. Her children are also suffering from unexplained skin conditions. The harmful effects of mining are now right at her doorstep, causing her worry and panic for the future of her children. In the past, NGOs that visited Didipio warned of possible water depletion and destruction of the environment if the mine was allowed to continue to operate in their barangay. The situation served as her wake-up call and gave her the courage to join the protests when OGPI's permit expired.

When the barricading of the mine started, women in the community were forced to leave their children and sacrifice their time for the cause in a bid to protect the environment and their community. Meanwhile, the police and the army monitored every movement. Interviewees insisted that they never once violated COVID-19 protocols during the barricade. But then on 6 April 2020, three diesel tankers, escorted by no less than 100 police officers from Quirino, forcibly and illegally entered Barangay Didipio. The barricades erected by the Didipio community – who had been protesting OGPI mining activities for decades – were blocking their access to the mine. Police dispersal was violent: the peaceful protesters were shoved aside with riot shields, tackled to the ground, and handcuffed. Indigenous women were injured; a young Tawali woman was stepped on her shoulder. A BILEG member found her foot bleeding after she was struck by a police shield. These were just a few of the reported injuries during the incident. A case filed against 13 DESAMA, SAPAKKMI, and

BILEG members for violating the Bayanihan Act is currently on-going.

**'I have no regrets about joining the barricade because we do not want polluted water or a destroyed environment, although the case filed against us worries me because I am a single parent and if I am sent to jail, there will be no one to look after my four daughters.'** – Community member

**'I am afraid of what will happen to us because of this case. During the hearing in Kasibu, only two of us were able to attend, and I was anxious because I had no idea what we were going to do. When we got there, we only answered the questions they asked us.'** – Community member



Australian-Canadian mining company, OceanaGold Philippines Inc. erects Didipio Mine sign

## THREATS TO GOOD LOCAL GOVERNANCE

Barangay local government units (BLGUs) have been playing an important role in executing the agreement between the OGPI project and the communities. In particular, members of the Didipio BLGU have been formidable in their stance against OGPI's operations, specifically since its FTAA with the Philippine government expired in 2018. Barangay Captain Frenio Bobolla shared that they immediately implemented the Executive Order from Governor Padilla and blocked the mining company from its operations. MGB responded by threatening the BLGU members, stating that they would stop funding the barangay police for their act of blocking MGB and diesel trucks from accessing the mine. Such acts of intimidation persist to this day.

On 22 August 2022, LILAK and the Legal Rights and Natural Resources Centre (LRC) issued a press statement condemning OGPI's 'act of intimidation' against Didipio Barangay Officials by threatening 'to remove funds from the SDMP if they do not sign a resolution revoking an earlier Barangay Resolution 38 opposing the extension of OGPI's mining permit for another 25 years.'<sup>142</sup> According to local groups DESAMA and BILEG, members of the Barangay Council later signed a revocation resolution due to fears that the funds would be removed from the SDMP.<sup>143</sup>

Members of the Barangay Council in Didipio have vowed to continue pushing for past agreements with the mining company to be fulfilled before proceeding with a new MoA under the new

<sup>142</sup> Mina, Alyansa Tigil. 2022. "Environmental Groups Condemn OceanaGold's 'Act of Intimidation' against Barangay Officials." Alyansa Tigil Mina. August 18, 2022. <https://www.alyansatigilmina.net/single-post/environmental-groups-condemn-oceanagold-s-act-of-intimidation-against-barangay-officials>.

<sup>143</sup> Ibid

FTAA. Until the barangay elections scheduled for 6 November – 20 December 2022, Didipio BLGU will keep their commitment to stand with the community in the mining discourse. Barangay Captain Frenio Bobolla summed it up succinctly: ‘Our position is not something we can automatically inherit, if we do not win in the upcoming elections we do not know what is going to happen.’

In Didipio, the mining company might influence election results, aided and facilitated by mine workers. But until then, the barangay captain will continue engaging the provincial government regarding the company’s non-compliance to the old MoA, and to push for mining operations to cease until OGPI fully complies with the previous agreement.

## IS RESPONSIBLE MINING POSSIBLE?

President Ferdinand Marcos Jr. and Vice President Sara Duterte have publicly stated that with better implementation, the Philippines Mining Act of 1995 has the potential to promote responsible mining and attain a balance between environmental protection and economic development.

Depending on how the mining operations in Didipio are directly affecting them, interviewees have varying reflections on this matter. For some, responsible mining means the company prioritises the welfare of the people and there are no other problems in their operations. Didipio’s water resources are drying up fast, and construction of roads and hospitals are yet to be approved. The mining company has not fully complied with the previous MoA. Barangay Captain Bobolla expressed disappointment:

**‘I grew up here and I observed that responsible mining is just hearsay. When Oceana was not yet here, the people had a good relationship. It is how a community should look like. When the mine company started operating, we started having a lot of problems and issues, families were divided, and so are most of the residents’ principles.’**



Given the renewal of the FTAA, Councillor Bahag’s views on agriculture and mining co-existing through new technologies warrant a closer look. DESAMA Chairman Eduardo Ananayo does not agree that mining and agriculture can co-exist. ‘We can break our backs cultivating our lands,’ he says. ‘But if mining operations continue, water will dry up fast.’ Councillor Julie Simongo observed that the majority of economic contribution comes from the agricultural sector anyway. Any contributions from the mining industry are only temporary. *‘Is the SDMP from the mining company in exchange for our resources of livelihood really worth it?’*

The cost of mining to the environment, biodiversity, communities and people far outweighs its 1 per cent contribution to the GDP. Communities that are frequently visited by super typhoons and earthquakes are more susceptible in areas with mining operations.<sup>144</sup>

**“There is nothing wrong with development if no one’s rights are violated” – Community member**

<sup>144</sup> “At Least 78 Dead in Itogon, Benguet, after Typhoon Ompong.” Rappler. September 25, 2018. <https://www.rappler.com/nation/212765-typhoon-ompong-death-toll-itogon-benguet-september-25-2018/>.



**Buildings within the mining site of OceanaGold Philippines Inc.**



# Conclusion

In both Didipio and Dinagat, testimonies collected point to a range of rights being repeatedly violated by mining operations. The main and apparent effect of these operations is unstable incomes for nearby communities who depend on farming and fishing as their main sources of livelihood. In Dinagat Islands, the local government is left on its own to craft creative ordinances to mitigate the negative effects of mining. In the case of Didipio, where indigenous WHRDs disapprove of mining operations, they face violence, judicial harassment and threats for protecting their lands and only source of livelihood. The data and testimonies collected ultimately reflect a clear image of a national government favouring mining and its accompanying violations without regard for the protection of the environment and its defenders.

**'It seems to be that CSOs are always on the defensive for our work, and we are forced to think about what the administration will think about us... Local communities are now scared to fight for their land, because they might be red-tagged if they do so.'** - Representative from Solidarity Towards Agrarian Reform and Rural Development (KAISAHAN)

## A RANGE OF RIGHTS AFFECTED BY MINING INSIDE COMMUNITIES

**'Livelihood problems are a big factor, especially when the pandemic started... The number of environmental defenders is becoming less because they have to focus on their survival instead.'** - ATM representative

Interviews indicate that communities' economic, social and cultural rights (ESCRs) in barangay Didipio and Malinao are repeatedly violated. The siltation affecting communities' livelihoods runs contrary to commitments in the ICESCR, in particular Articles 11 (adequate standard of living), 12 (physical and mental health) and 13 (education). Equally important is the glaring effect of mining operations in Malinao and Didipio's ecosystems and environment, which violates communities' right to a healthy environment.

In addition to ESCRs violations, civil and political rights' (CPRs) violations are also apparent, particularly in Didipio. The renewal of the FTAA falls short of complying with Article 10 (free, prior and informed consent), Article 23 (right to development) and Article 29 of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). At the national level, the situation in Didipio with regards to the Tawali indigenous community is a stark violation of the Indigenous Peoples Rights Act of 1997, in particular the right to safe and clean air and water (Section 7 (f)), and the right to determine and decide on priorities for development (Section 17). Interviewed CSOs point out that these compounded consequences are unfortunately common in other mining-affected communities in the Philippines as well. This inevitably leads to local communities agreeing to open mining sites even if such actions run contrary to their initial position.

**'[As an example], one IP leader has agreed on the opening of a mining site in their area because the survival of their tribe depended on it. The river is polluted, food is scarce, and farming is already impossible. Mining provided an alternative choice. We should be mindful as support groups; we need to redefine our relationship with them. [Local communities] do not want to give up, but circumstances give them so little option.' - ATM representative**

Moreover, social division and changing community dynamics are exacerbated by differences in opinion about mining. Testimonies indicate that aside from the effect on livelihoods and the environment, another contributing factor is community discord.

**'Another concern is the divisions created inside the community. Some became pro-mining and rifts among families became apparent. Families have different views on the presence of mining.' – ATM representative**

**'[In my] 40+ years living in Didipio, I remember how peaceful and happy our lives were. Now, because of mining operations, people are angry with each other, even with their own family members.' – BILEG representative**

Tawali people value unity in their community and working in their farmlands. Once a close-knit community, families are now polarised by the presence of a mining company in their midst, and individual needs now outweigh those of the community. Hostility, discrimination and bullying of anti-mining proponents is prevalent in different spaces, including on social media.

**'Most of the new generation of community members are pro-mining... while most of those who have lived here since time immemorial are strongly against the mining operations.' - Community member**

Respondents from the CHR stated that these violations of people's rights are difficult to investigate because of their limited capacity. Here, they stress the importance of collaborating with CSOs to review and report on mining and human right- related issues, as well as on elements of capacity building.



## ENABLING ENVIRONMENT FOR MINING AT THE NATIONAL LEVEL

**‘[Our] national policy is somehow a problem. The local government is not respected in the process. More often, [mining] permits are given without the local officials knowing.’ - Mayor Simplicia Pedrablanca**

**‘Local government units are in the middle of convoluted national policies and local communities’ welfare. Local officials can only do so much because we have to follow orders from the national government.’ - Governor Carlos Padilla**

**‘As early as 1939, Dinagat Islands was declared a national mineral reserve. How can you go against such national posturing at the local level?’ -Former Governor Arlene Bag-ao**

The Philippines points to mining as a key contributor to the national economy. This is reflected in Executive Order (EO) 270, where the Macapagal-Arroyo administration linked investment in the mining industry to poverty alleviation and national development.<sup>145</sup> This position was echoed by the Duterte administration’s EO 130, which lifted a nine-year moratorium on open-pit mining.<sup>146</sup> At the local level, authorities in many provinces are fighting against these national policies in an effort to protect impacted communities and the environment. This points to a clear disconnect between local and national policies, with a deep

145 “Executive Order No. 270, s. 2004.” n.d. Official Gazette of the Republic of the Philippines. Accessed November 14, 2022. <https://www.officialgazette.gov.ph/2004/01/16/executive-order-no-270-s-2004/>

146 Executive Order No. 130 <https://www.officialgazette.gov.ph/downloads/2021/04apr/20210414-EO-130-RRD.pdf>

misalignment in priorities between them. This sentiment was shared by former Governor Bag-ao and Governor Padilla, as well as interviewed CSOs.

These CSOs have been advocating for the AMMB. The AMMB has long been pending in Congress, and has only reached the first reading in the Senate.<sup>147</sup> The biggest challenge identified by interviewees is the vested corporate interest that has always hounded the Senate.

A main feature of the AMMB is its mining ban in ‘critical environment areas, including critical watersheds, heads of watersheds, key biodiversity areas, areas declared ‘no-go mining zones’ by local governments, and prime agricultural lands, among others.’<sup>148</sup> When asked about the prospects of passing AMMB, CSO interviewees felt that the outlook is bleak, considering the new president’s stance on mining.

**‘We remain hopeful that a new mining law will be eventually passed by the [new] congress. AMMB reflects a very high bar incorporating human rights, environmental protection, indigenous peoples’ rights, fiscal transparency, and accountability. And that captures the whole framework for social and environmental justice.’ - ATM Representative**

In addition to the AMMB, the National Land Use Act (NaLUA) – which was spearheaded by President Ferdinand Marcos Jr. to ensure a balanced use of the country’s land – was also mentioned as a ray of hope. Interviewees shared that since NaLUA was being pushed forward much faster than the AMMB, another option would be to integrate significant elements from the AMMB into NaLUA in order to maximise chances of improving legislation around mining.

147 “Alternative Mineral Management Bill —.” n.d. The Philippine Greenprint. Accessed November 14, 2022. <https://www.greenprint.ph/alternative-mineral-management-bill>.

148 Legal Rights Center. 2020. “Grace Poe Files Alternative Mining Bill.” Lrcksk. July 8, 2020. <https://www.lrcksk.org/post/grace-poe-files-alternative-mining-bill>.

## SHRINKING SPACES FOR ADVOCACY FOR THE ENVIRONMENT AND ITS DEFENDERS

**‘[The human rights situation] became worse because of red-tagging. Some ATM members and leaders became inactive due to security risks. Pressure from the government also weighed in. We were considered terrorists according to the Anti-Terror Law.’ – ATM representative**

**‘They do not need to jail CSOs anymore. [In addition to the Anti-Terror Law], the government only needs to tighten reportorial requirements to the Securities and Exchange Commission (SEC) and easily freeze our funds.’ – Representative from the Institute of Politics and Governance**

**‘Early on, I was red-tagged. When ATM conducted a training workshop in Nueva Vizcaya, my photo was distributed, and I was tagged as a recruiter for terrorist groups. I was still new, so I felt scared. But we (ATM) handled it and talked to the police and cleared up things.’ – Accused ATM staff**

defenders, as well as CSOs. The Anti-Terror Law, as well as the act of freezing bank accounts, were specifically pointed out by interviewees as contributing to the hazards of their work. Despite progressive policies for Indigenous Peoples (IPRA) and the Writ of Kalikasan being in place, testimonies indicate that a more robust mining Bill is needed in the form of the AMMB to mitigate the negative effects of extractive activities.

In 2020, FORUM-ASIA recorded 26 cases of vilification (including red-tagging) in the Philippines. The practice of red-tagging makes HRDs an easy target for a range of violations, from stigmatisation to killings, which often go unpunished.<sup>149</sup>

The Anti-Terror Law, with its problematic provisions, has been especially highlighted by interviewees as detrimental to an already restricted civic space. Red-tagging of HRDs, and especially environmental defenders, has clearly reached Didipio and Dinagat. In 2021, an ATM staff's name was called out in pamphlets accusing him of being affiliated with terrorist groups.

As a result, testimonies strongly indicate a shrinking space for human rights and environmental

<sup>149</sup> Loi, Valerio. <https://www.forum-asia.org/uploads/wp/2021/06/Defending-in-Numbers-A-Message-of-Strength-from-the-Ground-for-web.pdf>, p 23



A stream in Barangay Didipio



Didipio FFM team with Gov. Carlos Padilla



Dinagat FFM Team with Former Gov. Arlene Bag-Ao



# Recommendations

## To the President of the Philippines:

- Scrap the Mining Act of 1995 and certify the immediate passage of AMMB
- Reject the Financial and Technical Assistance Agreement (FTAA) renewal of Oceana Gold Philippines Incorporated (OGPI) and hold them accountable for the violation of their legal obligations
- Realign the government's focus and efforts towards building sustainable food and water sources for communities

## To the DENR-MGB:

- Monitor mining companies' compliance with Chapter 5, Section 27 of the Clean Water Act of 2004 (RA 9275), which prohibits 'discharging, injecting, or allowing to seep into the soil or sub-soil any substance in any form that would pollute groundwater'
- Enforce compliance with Section 290 of the Local Government Code of 1991 (RA 7160) which stipulates that LGUs shall 'have a share of forty per cent of the gross collection derived by the national government from the preceding fiscal year from mining taxes'
- Protect the rights of indigenous peoples (IPs), as stated in Section 7 of the Indigenous Peoples Rights Act of 1997 (RA 8371), which recognises their right to the ownership of 'land, bodies of water traditionally and actually occupied by IPs', as well as gives them the 'right to negotiate the terms and conditions for the exploration of natural resources in the areas'
- Ensure transparency in decision making and regular communication with communities and other relevant stakeholders by keeping them informed about ongoing developments of mining operations in their areas
- Proactively investigate potential violations by mining companies operating in the research areas

## To the Local Government Region 13:

- Continue supporting People's Councils and prioritise people's livelihoods
- Protect and conserve watersheds, inlets, and estuaries that host shells, crabs, and other aquatic animals to preserve and protect agri-fishery
- Require strict compliance from mining companies operating in Dinagat, including on workers' labour rights, and the communities' ESCRs, CPRs and environmental rights

## To the Local Government Region 2:

- Require strict compliance and implementation of agreed provisions in the MoA of previous FTAA
- Promote agriculture as the main source of livelihood through farm-to-market projects
- Continue providing support in strengthening people's organisations and local groups

## To the National and Regional offices of the Commission on Human Rights:

- Enhance data collection and analysis on the negative impacts of small-scale and large-scale mining operations at the barangay levels
- Harmonise engagements between the national and regional offices
- Proactively conduct investigations and/or national inquiries on the situation of mining-affected communities in the Philippines
- Seek out and collaborate with CSOs to conduct research and capacity building on the impact of mining with affected communities

## To mining companies in Dinagat Islands:

- Fully comply with the United Nations Guiding Principles (UNGPs) on Business and Human Rights (BHR), as well as relevant domestic laws
- Conduct human rights due diligence (HRDD) reports and share with affected stakeholders in a transparent, accessible, and effective manner
- Improve compliance with labour laws, and increase fair employment opportunities for local communities
- Pay due taxes as a small compensation for the damage done to the environment and communities' livelihoods

## To OceanaGold:

- Fully comply with the United Nations Guiding Principles (UNGPs) on Business and Human Rights (BHR), as well as relevant domestic laws
- Immediately comply and implement agreed provisions in the MoA of previous FTAA
- Hold meaningful consultations with the community to ensure their voices are taken into consideration for issues that impact them
- Halt operations in Barangay Didipio and immediately rehabilitate the lands and communities destroyed due to OGPIs operations

## To National Civil Society Organisations:

- Support and strengthen peoples' organisations' participation and involvement in local governance processes
- Educate the community through capacity building activities to become advocates for themselves and help them organise to demand their rights and entitlements
- Train and empower the youth both at the community and within their own organisations to maintain institutional memory and stability

- Deepen counternarratives against a profit-driven extractive economy through responsive and accessible human rights and environment campaigns
- Support calls of peoples' organisations against the extractive and exploitative framework of the government.

## **To the United Nations Human Rights Council and UN human rights mechanisms including special procedures and treaty bodies:**

- Hold the Philippine Government accountable for harassment, abuse and killings of HRDs working to expose corporate abuse, and for violations committed against communities' right to a safe, healthy, and clean environment
- Call on the Philippine Government to conduct a National Baseline Assessment for the creation of an adequate, responsive, and efficient National Action Plan on Business and Human Rights
- Call on Australian, Canadian, and Chinese governments to remind parent companies based in their territories to abide by the UNGPs, especially in mining operations overseas

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