

One Year Later

Mining Away Freedoms:

Testimonies from
Communities Fighting for their
Rights in the Philippines

Introduction

The Asian Forum for Human Rights and Development (FORUM-ASIA)—in collaboration with Balay Alternative Legal Advocates for Development in Mindanaw (BALAOD Mindanaw) and Purple Action for Indigenous Women's Rights (LILAK)—undertook field research from June to July 2022 in the Philippines to examine the interconnectedness of mining, human rights, environmental degradation, and sustainable development through a multistakeholder lens in Dinagat Islands and Didipio.

With a focus on community well-being—particularly that of women and indigenous peoples—the research investigated the role of mining companies, local and national governments, non-governmental organisations (NGOs), civil society organisations (CSOs), and communities in upholding and safeguarding the right to a clean, healthy, and safe environment for all.

The research report—entitled 'Mining Away Freedoms: Testimonies from Communities Fighting for their Rights in the Philippines'—was published in December 2022 in Manila.¹

Since the research, there have been developments within

¹ Cecile Gaa, Prarthana Rao, Dominique Calañas. 'Mining Away Freedoms: Testimonies from Communities Fighting for their Rights in the Philippines'. n.d. forum-asia.org Accessed November 28, 2023 <https://forum-asia.org/?p=37677>

the research sites as well as in the Philippines with regards to the issue of mining and human rights. To capture these developments, impacted community members, CSOs, and government officials were asked to participate in a survey, which intended to better understand the changes (if any) in their surrounding areas. Likewise, the survey was used to document efforts to increase the knowledge and capacity of communities to understand and advocate for their rights more effectively. This brief focuses on the ongoing challenges in Dinagat Islands and Didipio one year after the field research. It assesses the developments, both positive and negative, that have transpired during this timeframe. Survey questions focused on assessing whether there has been significant progress or setbacks regarding the state of human rights and environmental rights among local communities impacted by unchecked mining operations. The survey also sought feedback on whether the government has implemented measures to safeguard the well-being of the environment and surrounding communities. In addition, the survey attempted to see if there were any initiatives aimed at holding mining companies responsible for violating labour rights.

To collect these insights, the research team conducted interviews with two governmental officials from the Local Chief Executive (LCE) Office and the Public Employment Service Office (PESO), along with a representative from Tubajon's Peoples' Council (TuPeCo) in Dinagat Islands. Meanwhile, interviews with three CSO representatives were conducted in Didipio.

Context

The mining industry in the Philippines—which is among the world's most mineral-rich countries—remains controversial due to its association with a range of social

and environmental problems such as food insecurity, heightened susceptibility to the consequences of the climate crisis, community fragmentation, and the silencing of dissent.

March 2023 signalled the 28th anniversary of the enactment of the Mining Act of 1995 in the Philippines. To mark the occasion, Alyansa Tigil Mina (ATM)—a coalition comprising various organisations and groups united against the destructions brought by the intensive promotion of large-scale mining in the country—called on President Ferdinand 'Bongbong' Marcos Jr. to cease the operations of companies engaged in large-scale mining. This demand was particularly directed at companies that bypassed government permits in the conduct of their operations.²

In February 2023, PhilStar Global reported that the head of the Department of Environment and Natural Resources (DENR) was in discussions with various stakeholders—including the mining sector and local communities—to find a balance between the demand for minerals and the need to address environmental, social, and economic concerns. However, ATM criticised the approach, arguing that despite DENR's efforts to use a multistakeholder approach, its Mines and Geosciences Bureau failed to effectively enforce environmental laws since mining operations were clearly violating environmental and local autonomy laws.³

The existing political dynamics in Dinagat Islands continues to have a direct impact on how the local community and government in Tubajon interact. The victory of Nilo "Remedy" Demerey Jr. as Governor raised concerns regarding the recommendations made in the report.⁴ This is primarily due to the fact that both national and provincial governments still see mining as a sustainable means for economic recovery and growth; hence, their active support for mining investments and the establishment of industrial zones in Dinagat Islands.

While the provincial government persists in granting mining permits in Tubajon, the governmental official from the LCE Office remains steadfast in its battle for environmental conservation, describing the scenario as a 'tug of war' between governance levels.

In Didipio, the Nueva Vizcaya provincial government—under Governor Carlos Padilla—continued to oppose OceanaGold Philippines, Inc. (OGPI)'s presence in the province despite the national government's decision to approve the renewal of the mining contract.

² <https://www.philstar.com/headlines/climate-and-environment/2023/03/06/2249718/group-urges-marcos-end-plunder-resources-large-scale-mining-firms>
³ <https://www.philstar.com/headlines/climate-and-environment/2023/02/02/2242074/denr-engaging-various-stakeholders-mining-concerns>
⁴ <https://lpp.gov.ph/profile-of-gov-nilo-p-demerey-jr-dinagat-islands/>

Advocating for the protection and promotion of environmental and human rights in Didipio, Padilla stated: *'My heart bleeds for our brave men and women of Didipio who had to suffer and be arrested for expressing their resistance against mining, a great menace to Mother Earth. I salute them for their bravery and for being steadfast for the protection of the environment to insure the survival of all living things and of our planet. Instead of providing protection to OGPI whose Financial or Technical Assistance Agreement (FTAA exploration permit) had expired nine months ago, the national government should tell OGPI to pack up and go home.'*⁵

On 5 May 2023, Padilla passed away, prompting a significant reorganisation among the individuals and organisations involved in addressing the Didipio issue.⁶

On 13 March 2023, PhilStar Global reported that OGPI invested up to USD 50 million (approximately PHP 2.8 billion) in capital for its Didipio mine in Nueva Vizcaya to sustain mining operations. On 1 March 2023, 77 global and national human rights and environmental groups from six countries jointly exposed OGPI as an 'irresponsible' mining company, for extensive violations of human rights and the environment, including jeopardising endangered species, damaging conservation areas and water sources, and posing threats to Indigenous communities. In their statement, the groups united against the abusive practices of OGPI, including purchasing fertile land to create a toxic tailings dump and for 'temporary' rock storage facilities burdening host communities for generations with the perpetual risk of dam collapse. The groups urgently appealed to the governments of the Philippines, Aotearoa New Zealand, El Salvador, the United States, Canada, and Australia to halt, ban, or shut down the operations of OGPI mines in their respective countries.⁷

Survey Findings: Dinagat Islands

Key Findings in Dinagat Islands

Since the research, there has been an ongoing decline in the economic, social, and cultural rights (ESCRs) of the local communities, including those of the indigenous population. The survey uncovered ongoing breaches of environmental and community rights, occurring concurrently with violations of labour rights.

Mining operations in Dinagat Islands have ramped up, particularly in Tubajon, with mining companies conducting active excavation despite only securing permits from the provincial government. Consequently, there are ongoing violations against the rights of the

⁵ <https://ips-dc.org/release-77-global-and-national-human-rights-and-environmental-groups-expose-oceanagold/>
⁶ <https://www.rappler.com/nation/nueva-vizcaya-governor-carlos-padilla-dies/>
⁷ <https://ips-dc.org/release-77-global-and-national-human-rights-and-environmental-groups-expose-oceanagold/>



local community. The survey revealed that the mining firms persist in irregular tax payments and exhibit non-compliance with various provisions outlined in Memorandums of Understanding (MoUs) and Social Development and Management Programmes (SDMP). Even in the face of violations, quite a number of people somehow have been supportive of the existence of the mining companies and their operations, neglecting the negative effects brought about by this destructive industry. This support persists because the national government continues to champion the mining industry as a significant contributor to the nation's wealth.

Following the research, there was a documented increase of new entrants into the mining sector in Dinagat, such as the Core Mining Corporation (CMC). On 8 June 2023, Resolution No. BBE3-3365 was transmitted with a favorable endorsement, supporting CMC's Declaration of Mining Project Feasibility and their application for a Mineral Production Sharing Agreement SMR-014-96-B. This pertains to a mining operation covering 2,187.5378 hectares in Barangays Diaz, Imelda, Mabini, Navarro, and Sta. Cruz in the municipality of Tubajon in Dinagat Islands.

The governmental official from the LCE Office expressed reservations about the process, indicating that the Local Government Code may not have been sufficiently considered in authorising mining operations in the area.

Despite facing challenges from national government agencies—such as the DENR—and the Provincial Government, which granted permission for a new mining company to initiate explorations in the islands, the governmental official from the LCE Office remains steadfast in their commitment to environmental protection. Their dedication to environmental preservation materialised through the implementation of two ordinances. Ordinance No. 117-2023 seeks to strengthen participatory governance in Tubajon by empowering CSOs through the establishment of the Tubajon People's Council. It outlines the powers and functions of the council, facilitates its participation in local legislative processes and special bodies, allocates funds for these purposes, and addresses other relevant concerns. Meanwhile, Ordinance No. 118-2023 declared the Municipality of Tubajon as a research hub in September 2023. It also established the research institute for biodiversity and restoration ecology under Mindanao State University-Iligan Institute of Technology.

Since the research, a series of capacity building and advocacy initiatives were undertaken. Tubajon—along with four other municipalities in Dinagat Islands—actively participated in the efforts of Kaisahan and BALAOD Mindanaw, with the support of Rainforest Trust in the Dinagat 'Communities for Conservation Project.' The latter aspires for the sustainable conservation of biodiversity in Dinagat Islands. A series of awareness campaigns

on the importance of safeguarding watersheds were also conducted. These campaigns were prompted by the community's direct experience of water scarcity, particularly the lack of accessible potable water sources in Dinagat Islands.

The Municipal PESO maintained ongoing collaboration with the regional director of the Department of Labor and Employment (DOLE) to address workforce concerns within the mining sector. This included assistance for filing complaints with the DOLE. This initiative holds significance in light of the observations made by a Municipal PESO Officer—as captured in the survey—who has been actively engaging and communicating with the DOLE to ensure the protection of workers' rights. The PESO Officer drew attention to ongoing labour rights violations, emphasising how most employees are still engaged in temporary or contractual employment without formal contracts. This situation restricts their access to benefits and worker protections within the mining sector, with fewer than ten per cent attaining regular employee status. The PESO Officer also shared that companies tend to favour hiring external workers; hence, locals make up a smaller portion of the total workforce and are often assigned to more challenging tasks. The PESO Officer also assisted one complainant in lodging a case with DOLE, leading to the initiation of a dialogue. However, despite these efforts, mining companies continued to operate without significant hindrance since there has been a reluctance among workers to file formal complaints out of fear of losing their only source of income during the process.

In Dinagat Islands, the municipal government has implemented initiatives to support the livelihoods and employment opportunities of communities in order to reduce their dependence on mining companies. The launch of the 'Gagmayng Abag sa Panginabuhian' programme was designed to empower people's organisations in Tubajon to kickstart their own livelihood projects. The programme provided larger boats to enable fishing farther from the shoreline.

The representative from TuPeCo—who is also a farmer and a person with disability—who availed benefits from the programme noted the increased difficulty in catching fish and other marine resources in Malinao due to the presence of mud resulting from siltation. There was also a decline in the catch for fishermen in the reported year. However, as a result of assistance provided through the mentioned programme, the above-mentioned representative from TuPeCo could sustain their fishing activities. Meanwhile, other individuals received support in the form of farming materials and various livelihood assistance.





Key Interventions in Dinagat Islands

The research findings provided valuable support to partner organisations, offering enhanced guidance for designing more responsive interventions in Dinagat Islands, including organising capacity building activities for communities; holding dialogues with government representatives and relevant stakeholders; and advocacy at different forums along with other appropriate measures. BALAOD Mindanaw organised a business and human rights training as well as a paralegal and documentation training. A total of 122 community members participated in the capacity-building workshops, including 32 males, 78 females, and 12 gender diverse persons. Over the past year, there were dialogues conducted with relevant national government agencies and CSOs such as the Commission on Human Rights–Caraga, ATM and Kaisahan.

The research findings provided a nuanced understanding of the activities of mining companies and their impact on civil and political rights and ESCRs. Likewise, it presented a comprehensive overview of the community's situation, needs, and demands, proving itself to be instrumental in partner interactions with national government agencies and the local government units.

The research also prompted BALAOD Mindanaw and the municipal government unit to advocate for the formal establishment of the Tubajon People's Council, which aimed to empower its members to actively participate in local and national governance. The community viewed the council as a valuable platform wherein they could raise concerns regarding mining operations. The Council is also deemed instrumental in fostering learning and growth among its members. In addition, BALAOD Mindanaw conducted learning sessions, which served as a safe space where community members can freely discuss the impacts of mining operations on their access to water and livelihoods. Such activities are meant to help the community make informed decisions and actions.

The report findings have been actively employed by BALAOD Mindanaw to engage with individuals and groups advocating for environmental protection. For instance, the report was disseminated among advocacy groups working at the national level. At the international level, the findings were presented during the United Nations Responsible Business and Human Rights Forum-Asia and the Pacific in June 2023. This opportunity enabled BALAOD Mindanaw to share the story of Tubajon, Dinagat Islands as well as highlight the

strategies civil society and affected communities used to hold mining companies and government accountable.

'I will anchor my decisions in the people's voices. I hope that CSOs will be strengthened because they are our hope, our last frontier,' said the governmental official from LCE Office. 'I hope for genuine action from both the Government and the community in environmental protection.'

Meanwhile, the representative from TuPeCo expressed the hope for people to get more involved in decision-making processes that affect the community. For this to happen, there is a need for additional platforms where people can voice their concerns, engage in discussions, and collaboratively devise solutions. The representative also advocated for the expansion of designated sanctuaries in Dinagat in order to boost the population of marine resources, ultimately benefiting fishermen in the long term.

All interviewees unanimously called for the closure of all mining operations in Dinagat Islands.

Survey Findings: Didipio

Key Findings in Didipio

Similar to the observations in Dinagat Islands, the research team noted a decline in the ESCRs. According to the survey findings, the operations of OGPI undermine the community's livelihood, resulting in a heightened adverse effect on both their rights and the environment as it contaminates water systems in the area.

OGPI persisted in its operations. Residents reported experiencing the effects of blasting activities, which could be felt in the evenings and the early morning hours. Consequently, the community has been witnessing an increasingly alarming trend of water contamination affecting their local water systems and farmlands. Didipio Earth Savers Movement Association (DESAMA) asserted that the ongoing mining operations pose a significant threat to the community's farmlands, jeopardising their livelihoods and overall survival.

Local Government Units made some effort to address the issues surrounding OGPI as well as to protect the surrounding community and environment. However, these efforts were often silenced. The Barangay (village) Local Government Unit submitted resolutions—highlighting the community's environmental concerns and the violations they experienced—to both the

President and national government agencies such as the DENR. Despite ongoing dialogues, there has been a lack of concrete measures taken to address the community's concerns. During a community meeting in August 2023, a representative from Bileg Dagiti Babbae (Lakas ng Kababaihan-BILEG) revealed that the Barangay Council faced threats from a representative from OGPI, following the issuance of a resolution that required OGPI to stop conducting expansion and exploration. However, eventually, as a result of the harassment and threats, barangay officials felt compelled to revoke the resolution.

The interviewees affirmed that the local government took steps to enhance transparency, access to information, and accountability to indigenous communities affected by OGPI operations. Announcements regarding meetings and job opportunities are posted on the Barangay information board and shared during the Barangay Council Sessions. These efforts aimed to provide the community with more information about the activities and decisions related to OGPI. However, it is worth noting that certain information about OGPI—such as income and financial details—remains inaccessible to the community.

DESAMA and BILEG observed that OGPI has been offering livelihood grants specifically directed towards senior citizens, women, and farmers in the community. Over the last year, the situation on livelihood and employment opportunities remained the same as OGPI continues to prioritise employing non-local workers in its operations rather than local community members.

Key Interventions in Didipio

The research helped partner organisations to shape suitable training for the community as the findings affirm the experiences of both BILEG and DESAMA. The research findings have been discussed with the community itself. In December 2023, the research findings are to be formally presented during a community meeting.

In October 2023, the Legal Rights and Natural Resources Center conducted a Paralegal Training to enhance the community's knowledge on the rights of women and indigenous people. Likewise, the training intended to develop the community's skills conducting research and collecting evidence.

To advance the rights of community members, survey respondents emphasised the need for continuous training on conflict resolution. Survey respondents also suggested having capacity building activities to help prepare the community in filing cases, campaigning for

a mining audit, and holding dialogues with the DENR and the National Commission on Indigenous Peoples.

The interviewees echoed the community's hope for OGPI to finally meet its legal obligations, contribute to a more peaceful and progressive community, and to end its mining contract.

Conclusion and Recommendations

In the past year, Dinagat Islands and Didipio remained vulnerable to the detrimental impacts of mining operations.

Both the national and provincial governments maintain the view that mining activities are vital for economic growth. Such a view comes at the expense of wildlife, the environment, and the local community.

In Dinagat Islands, the mining companies and government continue to prioritise profit over the environment and human rights.

In Didipio, the OGPI persisted in its operations. In fact, the blasting in Didipio Mine resulted in heightened damage to water sources and farmlands.

In conclusion, no substantial actions have been taken by the government and mining companies in mitigating the damage inflicted on communities and the environment. This reiterates the need for mining companies to fully comply with local, national, and international standards and laws; for the government and mining companies to ensure regular and meaningful engagement with communities; for the government to provide sustainable alternative livelihoods, and for CSOs to continue capacitating and empowering community members to fight for their rights.