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COALITION AGAINST THE MINING PANDEMIC

ASIA PACIFIC Mining and Pandemic Regional Report





Collective research and advocacy on the intersection of mining and the COVID-19 pandemic.

About the coalition

The Coalition Against the Mining Pandemic works in global solidarity with communities, Indigenous Peoples, and workers to respond to mining abuses related to the COVID-19 pandemic. We work as a consensus-based coalition conducting collective research and advocacy on the intersection of mining and the COVID-19 pandemic.

About this report

This report discusses the nexus of the COVID-19 pandemic and the mining industry in India, Indonesia, the Philippines, and Papua New Guinea. It shows how the mining industry and governments in the region have reaped benefits from the pandemic. It also explores how mining-affected communities respond to the social and ecological crisis that they experience.

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Introduction

At the end of 2019, the world was caught unawares by COVID-19. In order to limit the movement of people and stop the virus from spreading, governments in various countries implemented lockdowns and imposed restrictions. Many workers, whether formal or informal, were fired (just one of the numerous consequences of COVID-19). Mine workers were no exception, although the industry was prioritized and given beneficial treatment by governments, using the pandemic as a pretext.

Mining is an extractive industry and is massively destructive. Mining operations entail sacrifice by residents and communities - especially those whose territories have been converted into mining concessions - as well as sacrificing the environment. Upstream to downstream, the mining industry evicts residents and communities from their land, pollutes water and air, destroys ecologies and demolishes crop areas. The lifecycle of mining leaves behind degraded territories and deadly pit sites, beginning prior to exploration and lasting long after the operation stops. The COVID-19 pandemic has further deepened the social and ecological crises shouldered by mining-affected communities.

This report will discuss the mining industry and the COVID-19 pandemic in the Asia-Pacific region, focusing on the Philippines, Indonesia, India, and Papua New Guinea. In this report, written by a coalition of researchers and mining-affected communities, we seek to draw out and expose connections between the social and ecological impacts linked to mining and the pandemic. In many areas the report's researchers went out into the field and interviewed members of mining-affected communities; in others they organized virtual interviews with communities due to COVID-19 restrictions.

This report is divided into four parts. Firstly we examine how mining companies in the region continue to reap benefits from the COVID-19 pandemic. Secondly we uncover how mining companies and states have sought to use the pandemic as an opportunity to circumvent or roll back regulations that safeguard ecological health and the rights of communities and workers. Thirdly we look at how mining companies, states, and associated actors are using the pandemic as an opportunity to stifle or repress the land, water and human rights defenders protesting their operations, in order to shrink civic space and criminalize protest. Finally we highlight how affected communities are responding to these threats.

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Photo: Indominco Mandiri's Coal Mining Concession in East Kalimantan

Mining companies profit while workers and communities shoulder the risks

While some economic activities had to be halted due to the COVID-19 pandemic, other industries were not stopped or were even prioritized by governments in many countries. In East Kalimantan, Indonesia, the Indominco Mandiri mining company has been operating in Santan Village since 1998. Banpu Minerals, a company based in Singapore, owns a majority of the company's shares. The company has a concession area of 25,121 hectares that reaches from Kutai Kartanegara Regency, to Bontang City and East Kutai Regency. In Kampung Santan (an area in Kutai Kartanegara Regency) residents have been affected by Indominco's mining for a long time. Kampung Santan consists of three villages: Santan Ulu Village, Santan Tengah Village, and Santan Ilir Village.

The company has kept their operation going despite Indonesia's exposure to the pandemic since March 2020. Wahyu (not their real name), a worker in Indominco Mandiri, testified that there were no changes to the working hours at the mining site. At the beginning of the pandemic, workers had to go through health checks every time they entered the mining site. By the start of 2021 the company had loosened their health protocols. Indominco Mandiri had a health clinic, but it was insufficient and only permanent workers could access it. They did not provide swab test services - workers had to go to Samarinda City or Bontang City and pay for them with their own money. Until June 2021 workers were not vaccinated, even though they had to work every day. A local healer in Kampung Santan told us how Indominco workers visited him to be treated in May-June 2020; these workers were infected with COVID-19.

In January 2021 several workers were infected with COVID-19. Wahyu's coordinator called to ask whether he had been in contact with other infected workers and he confirmed he had been. Despite not having been tested himself, he was then told to stay at home. Wahyu had symptoms and felt it was likely he had been infected, but he did not do a PCR test because the company didn't provide the money for it - in Indonesia these swab tests are expensive. For contract workers, it could cost almost half of their monthly wage. Wahyu then had to stay at home for almost three months, while the company did not provide him with vitamins, medicine, or allowances.

Indominco Mandiri only provided barrels for handwashing stations, without any water or soap. Each village was given three to four barrels, even though there are thousands of households in these three villages. If the residents wanted to use the handwashing stations, they had to fill them with water themselves. Indominco Mandiri provided nothing else to support the prevention of COVID-19 among their workers, or for residents who live in and near mining areas. At the same time Kampung Santan residents had to pay more for water during the pandemic because of health concerns and protocols, meaning their monthly bills went up.

Indo Muro Kencana is a gold mining company operating a concession area of 47,940 hectares in Murung Raya Regency, Central Kalimantan, since 1985. Batu Mirau and Olung Muro are two among several villages located within this concession. Many residents believe that COVID-19 was brought into the two villages by Indo Muro Kencana. They continued operating in the midst of the pandemic and their workers (some of whom live in the villages) went in and out of the company's area. Workers infected with COVID-19 were given two choices by the company: self-isolate at home or go to Palangka Raya (the capital city of the province, a trip which takes 9 hours by car). Either way, they had to take care of themselves while the company avoided any responsibility. Several of those infected chose to self-isolate at home in the village. The communities who live in

Many residents believe that COVID-19 was brought into the two villages by [the mining company] Indo Muro Kencana ... they had to take care of themselves while the company avoided any responsibility.

and around the Indo Muro Kencana concession saw these infected persons looking the same as before, only wearing masks, and therefore did not think that COVID-19 was infectious and deadly.

In April 2020 the Indo Muro Kencana mines became a COVID-19 case cluster. Mineworkers told by the company's health workers that they were infected had to go to a hospital in the capital city. When their test results were negative, they still had to self-isolate and lost their daily incentives. The head of Batu Mirau village Andi (not their real name) explained that, contrary to halting their operations, Indo Muro Kencana in fact intensified them.

The company gave out food packages (10 kg of rice, 1 liter of cooking oil, 1 kilogram of sugar, coffee, tea, 10 packs of instant noodles and canned sardines) one time as a part of their Corporate Social Responsibility program in August 2020. There were only packages for 80 households, and there were 200 households in the village. The government provided an unconditional cash transfer from village funds: at the beginning of the pandemic this was Rp 600.000 per household but recently the amount was cut to Rp 300.000 monthly. In Batu Mirau, 32 households received unconditional cash transfers from the local government. 20 Indo Muro Kencana workers who came from Batu Mirau village could no longer receive paid leave as previously, as reported by interviewees. A new scheme was introduced whereby they had to first work for 60 days before they could access paid leave; prior to the pandemic they could access paid leave after working for 40 days, and could take up to 10 days of leave.

While residents were left confused and frustrated due to COVID-19, companies have also tried to reap further benefits from the pandemic by using it as an opportunity to propose expansions to existing projects. In July 2020 a company called Vedanta-Hindustan Zinc Limited, in Zawar Panchayat of the Udaipur district in Rajasthan, India, submitted an Environmental Impact Assessment proposing the expansion of the mine's capacity from 4 MTPA (million tons per annum) to 4.8 MTPA.¹

Regulatory rollback: Exploiting COVID-19 to limit rights and safeguards

Governments in numerous countries have prioritized the mining industry during the pandemic, employing a variety of means to allow the industry to keep operating. This includes passing legislation favorable to mining companies, approving new permits, and allowing companies to circumvent regulations - all while ignoring public rejection of some projects and neglecting to account for mining's impacts on residents and environments.

¹ Dhaatri, *Report: COVID and Mining in India*, forthcoming June 2022

COVID-19 as an opportunity

to pass new legislation favoring mining companies

The Department of Environment and Natural Resources-Mines and Geosciences Bureau (DENR-MGB) of the Philippines has not been slowed down by COVID-19. In recent months it reviewed the following policies: (1) the banning of new mineral agreements and (2) the banning of open-pit methods of mineral extraction. The lifting of the ban on open-pit mining will benefit, among others, Sagittarius Mines Inc.'s gold and copper mine in Tampakan (South Cotabato) and St. Augustine Gold and Copper Limited's King copper-gold mine in Pantukan (Compostela Valley).

Other government agencies - including the DENR's Environmental Management Bureau, the National Commission on Indigenous Peoples, and the Palawan Council for Sustainable Development - have also delivered for the mining industry's agenda.

In July 2020 Omar Saikol, the Regional Director of the Environment Management Bureau of DENR (DENR-EMB), said in a press conference that the environmental compliance certificate (ECC) of Sagittarius Mines Inc. for the Tampakan gold-copper project in South Cotabato has been reacquired by the company. The same ECC had been canceled by the late DENR secretary Regina Lopez in February 2017 because of the company's failure to comply with its permit conditions. Saikol said the ECC had been reinstated by Duterte in May 2019.² Pretty quietly reinstated - it was only in early 2020 that the regional office was informed of the national government's pro-mining maneuver.

In Indonesia, in May 2020, the House of Representatives approved the revised Coal and Mining Law in spite of the controversies it had caused and its rejection by the public. The revised bill continues to let mining companies reap profits and gives them various new incentives. Some of the controversial elements of this new law include the way it centralizes permit processes (making it harder for mining-affected communities to criticize operations in their areas), and the fact it allows traditional mining zones to be up to 100 hectares, and for mining to be permitted in rivers.

The House of Representatives deliberated the new law in the midst of the pandemic, making it even harder than usual for the public to participate; even before COVID-19 mining-affected communities were not being involved or consulted on matters that heavily impacted their everyday lives. This Law allows mining pits to be used for irrigation and tourist sites; it eliminates companies' responsibility to rehabilitate toxic mining pits; and it allows mining companies to expand their concessions without limitations.

² News article dated July 11, 2020: *Environmental certificate for Tampakan project 'restored' by Office of the President by Bong Sarmiento/Mindanews* <https://www.mindanews.com/environment/2020/07/environmental-certificate-for-tampakan-project-restored-by-office-of-the-president/> (accessed 10 September 2021)

Responses from the public were varied but many of them opposed the Coal and Mining Bill and protested numerous times. The new law was not passed in consultation with the public (especially mining-affected communities) and it did not address mining's capacity for destruction nor the suffering caused to people and their livelihoods. After the revised version became official, some 25 civil society organizations and mining-affected communities co-ordinated virtual people's tribunals to respond to it. They created their own space to oppose the law, and to express and share their experiences with the mining industry and the damage it causes.

As well as the Coal and Mining Law, the House of Representatives also passed an Omnibus Law on Job Creation in October 2020. The Omnibus Law was heavily protested, and even in the midst of a pandemic the public mobilized to protest in many cities across Indonesia. Since the Law was first mentioned by President Jokowi in September 2019, the public had been questioning it; not long after the speech, the government formed an Omnibus Law task force and working committee. The task force mainly comprised business people involved in or with influence in many industries, including mining. Several people appointed to this task force were also part of the Indonesian Coal Mining Association (APBI), the Indonesian Chamber of Commerce (KADIN), or the Indonesian Entrepreneurship Association (APINDO). Since the initiation of the bill, the meetings and discussions have been closed to the public and it has been difficult even to access the most recent drafts of the law.

There is an energy and mineral resources cluster on Job Creation Law. It revised, added, and deleted some articles on mining law. An added article in Job Creation Law states that business actors who conduct downstreaming and expand the added value of coal (i.e., coal gasification and coal liquefaction) would be granted zero percent of royalties. This article nullified permit holders' obligation to contribute to state revenue. Also, there is an article 162, which added criminal charges for people who are against mining. This article says that anyone who hinders or disrupts mining business activities shall be sentenced to a maximum imprisonment of one year or a maximum fine of Rp 100,000,000 (7000 USD). The Omnibus Law aligned with the Coal and Mining Law in deepening extraction and expanding mining areas. It was crystal clear that there was a conflict of interest from mining industries in these two laws. The Omnibus Law aligned with the Coal and Mining Law in deepening extraction and expanding mining areas.

In India a national lockdown was imposed on March 24, 2020. On the same day, under the Disaster Management Act of 2005, the central government issued "Consolidated Guidelines on the measures to be taken by Ministries/ Departments of Government of India, State/Union Territory Governments and State/ Union Territory Authorities for containment of the COVID-19 Epidemic in the country" (Order No. 40-3/2020-DM-I(A)).³ Clause 5 of the order stated that all industrial establishments will remain closed with exceptions for "essential services". On March 25, 2020, an addendum was issued stating that certain industries were to be excluded from restrictions, such as "coal and

³ https://www.mha.gov.in/sites/default/files/PR_Consolidated%20Guideline%20of%20MHA_28032020%20%281%29_1_0.PDF

mineral production, transportation, supply of explosives and activities incidental to mining operations". Under the Essential Services Maintenance Act, 1981, coal and steel were also deemed "essential services". On March 30, 2020, the Directorate General of Mines Safety (DGMS) issued a circular which particularly stressed that "coal and mineral production is essential to ensure that the nation smoothly passes through the present crisis".⁴ Based on this, several state governments announced a similar relaxation of restrictions for 'mining operations like iron-ore, coal, coking coal, limestone, dolomite, manganese, chromite, etc.', as they were deemed to be "providing essential services".⁵ Most large scale mining companies continued to operate, either overtly or covertly, with no public access to information on protocols followed or the condition of workers inside their project sites.

COVID-19 as an opportunity

to issue new permits for controversial projects

At the same time, companies and states have taken advantage of the COVID-19 pandemic to seek and issue new permits for mining. This process has gone far beyond business as usual for the mining industry, and has included the fast-tracked reversal of suspension and closure orders and the erosion of policy safeguards. Even in cases where there were existing community quarantine measures imposed by local government units (and strong opposition from Indigenous and local communities), mining activities were still happening in many areas. These were either illegal or sanctioned by the government.

In the past 18 months the Philippines' Mining and Geosciences Bureau (MGB) granted various mining permits for operations in areas including Guiuan (Eastern Samar), Kasibu (Nueva Vizcaya), offshore areas of Cagayan, and Brooke's Point in Palawan. On March 31, 2020, MGB Region 8 granted a mineral ore export permit to Chromiteking Inc. for the transport of around 7,000 wet metric tons of chromite ore from Homonhon Island in Guiuan, Eastern Samar. This happened at a time when the entire Leyte province, where MGB Region 8 is located, was in lockdown and supposedly unable to report to the office.⁶ It is also questionable why the mining operations of Chromiteking and Techiron Resources, Inc. were tolerated when there was a standing suspension order against mining operations in the island ecosystem.

On April 4, 2020, Eastern Samar Governor Ben Evardone called on the national government to stop the entry of a Chinese-manned vessel to pick up the chromite ore from the island. The Dept. of Environment and Natural Resources (DENR) intervened

⁴ <http://www.dgms.gov.in/writereaddata/UploadFile/DGCircularNew.pdf>

⁵ <https://health.odisha.gov.in/pdf/Modification-to-order-no-8980HFWdated-240320-includin-steel-plants-and-mines-as-essential-servicesHFW24032020.pdf>

⁶ News article dated April 6, 2020: Mining company secures mineral ore export permit despite lockdown by Jonathan L. Mayuga/Business Mirror <https://businessmirror.com.ph/2020/04/06/mining-company-secures-mineral-ore-export-permit-despite-lockdown/> (accessed 8 August 2021)

and temporarily suspended the mining operations, but eventually allowed them to proceed after a few days, declaring that the company had acquired all necessary quarantine permits.⁷

Elsewhere in the Philippines, OceanaGold's (OGPI) 25-year mining permit expired on June 20, 2019. This was a relief for mining-affected communities - the resistance against the Didipio mines in the province of Nueva Vizcaya owned by OGPI is well-documented.⁸ But they did not rest, putting in a request to President Duterte and

the DENR to no longer renew the expired permit because of its environmental and human rights violations. Yet the mining permit was processed in secret - again while the country was in the middle of a health and economic crisis during the pandemic. In July 2021, OceanaGold received its renewed contract for the next 25 years.⁹



Furthermore, in December 2020 the residents of the Philippines witnessed the approval of the country's first large-scale offshore mining operations. JDVC Resources Corporation announced that their black sand mining operations in the area around Cagayan, spanning 1,903 hectares, had complied with all government requirements and was ready to proceed.¹⁰ The company was permitted to go ahead with offshore mining despite local peoples' opposition - and the question remains as to how mining activities were allowed in their area without local consultations.

Photo: Tailing Dam Overflow Intensifies in the Didipio Mines

⁷ News article dated April 18, 2020: DENR: No violations found in mining ops on Eastern Samar island by CNN Philippines <https://cnnphilippines.com/news/2020/4/18/no-violation-on-homonhon-island-mining-denr-says.html> (accessed 8 August 2021)

⁸ *Oceanagold Ignores Lack of Regulatory and Social License to Operate* by Mining Watch Canada and Jubilee Australia (Aug. 2019); *Civil Society Opposition to Nonferrous Metal Mining in the Philippines* by William Holden (2005) ; *OceanaGold in the Philippines: Ten Violations That Should Prompt Its Removal*, by Institute of Policy Studies (IPS) and Mining Watch Canada (2018) - <https://ips-dc.org/wp-content/uploads/2018/10/OceanaGold-Report.pdf>

⁹ News article dated July 14, 2021: *OceanaGold wins Philippine mine contract renewal for 25 years* by Reuters <https://www.reuters.com/article/us-oceanagold-philippines-mining-idUSKBN2EK0YR> (accessed 8 August 2021)

¹⁰ News article dated December 7, 2020: *DENR greenlights first large-scale offshore mining in the country* by Karl Ocampo/*Inquirer* <https://business.inquirer.net/313468/denr-greenlights-first-large-scale-offshore-mining-in-the-country> (accessed on 8 September 2021)

COVID-19 as an opportunity

for governments to circumvent existing regulations in favor of the mining industry

As well as new legislation and new permits, the pandemic period has seen some governments circumventing existing regulations to favor the mining industry. On April 13, 2021, the Philippines government gave official approval to mining companies which had previously been suspended or closed by the previous environment secretary Regina Lopez in 2017. Through a Stay Order, some mining companies appealed their cases and were allowed to operate again.¹¹

The following day, April 14, Duterte issued Executive Order No. 130 (EO 130) - amending provisions of Section 4 of EO 79 and lifting the moratorium on new mineral agreements.¹² New mining projects in the pipeline, according to MGB Director Wilfredo Moncano, will generate an estimated 50 million PHP (1 million USD) in excise tax and 5 billion PHP (99-million USD) in royalties.¹³ This includes 36 metallic and non-metallic mines that are ready to start operations in 2021 and another 65 that can start development and construction in 2022.¹⁴ Mining activities, it is argued, will help in the recovery of both local and the national economies.¹⁵

Then more recently, in May 2021, the MGB announced plans to lift the ban on open-pit mining imminently.¹⁶ In an underhand act the MGB included, in the implementing rules and regulations (IRR) draft implementing rules and regulations of EO 130, a repealing clause on the use of open-pit mining methods of mineral extraction.¹⁷ Two days of consultation were allotted to discuss the draft, but environmental and human rights

¹¹ News article dated April 13, 2021: *Suspended mines allowed to resume operations* by Madelaine Miraflor/Manila Bulletin <https://mb.com.ph/2021/04/13/suspended-mines-allowed-to-resume-operations/> (accessed 8 August 2021)

¹² Executive Order No. 130, s. 2021: *Amending Section 4 of Executive Order No. 79, s. 2012, Institutionalizing and Implementing Reforms in the Philippine Mining Sector, Providing Policies and Guidelines to Ensure Environmental Protection and Responsible Mining in the Utilization of Mineral Resources* <https://www.officialgazette.gov.ph/2021/04/14/executive-order-no-130-s-2021/> (accessed on 20 July 2021) <https://www.officialgazette.gov.ph/downloads/2021/04apr/20210414-EO-130-RRD.pdf>

¹³ Article dated April 26, 2021: *MGB on the Lifting of Moratorium on Mineral Agreements* by Mineral Economics, Information and Publication Division <https://mgb.gov.ph/2015-05-13-02-02-11/mgb-news/965-mgb-on-the-lifting-of-moratorium-on-mineral-agreements> (accessed 8 August 2021)

¹⁴ News article dated April 19, 2021: *36 mines to start operations soon* by Madelaine Miraflor/Manila Bulletin <https://mb.com.ph/2021/04/19/36-mines-to-start-operations-soon/>

¹⁵ News article dated April 21, 2020: *Philippine mining outlook, part 1: Sector key to rebound from COVID-19* by Reicelene Joy Ignacio/S&P Global <https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/philippine-mining-outlook-part-1-sector-key-to-rebound-from-covid-19-58054381> (accessed 9 August 2021)

¹⁶ News article dated May 20, 2021: *UPDATE 1-Philippine mines bureau boss sees end to open-pit mining ban soon* by Enrico Dela Cruz/Reuters <https://www.reuters.com/article/philippines-mining-idUSL2N2N70P6> (accessed 8 August 2021)

¹⁷ News article June 8, 2021: *Lifting of ban on open-pit mining seen* by Karl Ocampo/Inquirer <https://business.inquirer.net/324392/lifting-of-ban-on-open-pit-mining-seen> (accessed 8 August 2021)

groups and advocates argued that this was inadequate time to air and address the concerns of Indigenous and local communities, which included concerns about lifting the ban.

On August 2, 2021, the IRR was signed and issued as DENR Administrative Order No. 2021-25 in re: Implementing Rules and Regulations of Executive Order 130 entitled "Amending Section 4 of E.O. No. 79, S. 2012, Institutionalizing and Implementing Reforms in the Philippine Mining Sector, Providing Policies and Guidelines to Ensure Environmental Protection and Responsible Mining in the Utilization of Mineral Resources".¹⁸ The provision lifting the ban on open-pit mining was eventually removed in the IRR.¹⁹

In Papua New Guinea (PNG), mining companies continue to impact communities. The country's first case of COVID-19 was imported from overseas in March 2020 by someone flying in to work on a mine site in Morobe Province.²⁰ As of September 13, 2021, there were 18,542 recorded COVID-19 cases in Papua New Guinea, of which 268 were recorded cases in East Sepik Province.²¹ As of early September 2021, 30 Delta variant cases had also been recorded. Based on the available data, it is believed that community transmission of COVID-19 has occurred across all provinces in PNG.²² Despite PNG appearing to have fared better than a lot of other countries, many experts believe the infection rate is much higher than reported.

Many fly-in, fly-out (FIFO) workers employed in mines in PNG travel to and from Australia. In March 2021, Australia Prime Minister Scott Morrison banned FIFO workers from traveling to and from Papua New Guinea.²³ The ban was only announced a fortnight after the controversial Ok Tedi Mine enforced a two-week ban on its international charter flights due to its personnel testing positive for COVID-19 during hotel quarantine in Cairns, Australia. The current restrictions as of September 2021 requirement is seven days quarantine for incoming persons who are fully vaccinated.²⁴

18 DENR Administrative Order 2021-25: Implementing Rules and Regulations of Executive Order 130 entitled: Amending Section 4 of E.O. No. 79, S. 2012 <https://apidb.denr.gov.ph/infores/uploads/DAO-2021-25.pdf>. (accessed 27 August 2021)

19 News article dated August 12, 2021: DENR to keep nationwide ban on open-pit mining by Madelaine Miraflor/Manila Bulletin <https://mb.com.ph/2021/08/12/denr-to-keep-nationwide-ban-on-open-pit-mining/> (accessed 27 August 2021)

20 'Risks ahead as COVID-19 cases surge in PNG', Michael Kabuni, DevPolicy, 11 March 2021 <https://devpolicy.org/risks-ahead-as-COVID-19-cases-surge-in-png-202111-2/>

21 Papua New Guinean Joint Agency Taskforce, National Control Center for COVID-19 website, <https://COVID19.info.gov.pg/>

22 Health Situation Report 89, a New Guinean Joint Agency Taskforce, National Control Centre for COVID-19, <https://COVID19.info.gov.pg/files/Situation%20Report/PNG%20COVID-19%20Health%20Situation%20Report%2089.pdf>

23 'Australia cuts FIFO travel to Papua New Guinea', Australian Mining, 17 March 2021 <https://www.australianmining.com.au/news/australia-cuts-fifo-travel-to-papua-new-guinea/>

24 'New COVID measures for travel in PNG', Radio New Zealand, 16 September 2021 <https://www.rnz.co.nz/international/pacific-news/451612/new-COVID-measures-for-travel-in-png>

In June 2020 India's Ministry of Mines issued a new set of guidelines under the provision of "ease of doing business" in the mineral sector, to govern the auctioning of greenfield mine blocks with "pre-embedded clearances". A special purpose vehicle called a Production Management Unit (PMU) was to be set up by respective state governments. The PMUs were to be responsible for procuring all the mandatory clearances, including environmental and forest clearances, and getting approval of mine plans for successful bidders. The PMUs would only procure Stage I of forest clearances (FC), while FC Stage II clearances were to be obtained by the successful bidders. However the new guidelines suggest that mining operations will be commenced once the PMUs obtain all the clearances - meaning operations will commence without the requisite FC Stage II clearance. This is in clear violation of the Forest Conservation Act, 1980. Meanwhile each state with mineral resources was asked to identify five new mineral blocks for auction which have pre-embedded clearance. A similar provision has been extended to the brownfield mine blocks by the Ministry of Environment, Forests and Climate Change (MoEF&CC) - transferring all the clearances for a limited period of two years to the new lessees, without any review of whether these existing clearances are 20 or 50 years old.²⁵

On August 24, 2020, the Ministry of Mines released a notification proposing legislative amendments to the Mines and Minerals (Development and Regulation) Act, 1957 with the declared objective of increasing employment opportunities while taking into account environmental and social concerns. The notification was opened for comments and suggestions from the general public as well as States and Union Territories governments, the mining industry, industry associations and other stakeholders etc. - but only 10 days were given for the public consultation. The Mineral Inheritors Rights Association (MIRA), a civil society network, suggested in a statement that this was a violation of the Right to Information Act and Pre-Legislative Consultation Policy (2014).²⁶ The time given was not enough to seek information under the RTI Act in order to "evaluate the proposals meaningfully". It is also important to note that the state governments were not consulted until the notification was passed, which "undermines the federal spirit of this nation". Some of the states, such as Jharkhand, were opposed to these policy changes and refused to implement it.²⁷

²⁵ Ashok Shrimali, Ravi Rebbapragada and Sree Harica, "Extractivism Amidst the COVID Pandemic", *Seminar* 751 (March 2022), pp. 59-63

²⁶ Mineral Inheritors Rights Association (MIRA). (2020, August 27). Violation of Pre-Legislative Consultation Policy (2014) and Right to Information Act in the proposed mining reforms (Press Release). <http://enviroinicsindia.in/2021/01/04/mira-res/>

²⁷ Dhaatri, Report: COVID and Mining in India, forthcoming June 2022

Beyond the law: The growth in illegal mining operations and the repression of protest

In Indonesia and the Philippines, illegal mining has increased in the midst of the pandemic in several areas. Whether legal or illegal, mining activity is destructive to communities and the environment. The illegal mining of coal is growing due to rising coal prices, which went up from \$80 (USD) per tonne at the end of 2020 to \$171 (USD) per tonne in 2021.²⁸ COVID-19 restrictions allowed illegal mining to further exploit these rising prices, even while residents were prevented from doing much activity at all outside their houses.

In Indonesia illegal mining activities started spreading in Kutai Kartanegara regency and Samarinda City, East Kalimantan from April 2020. Mining was done at night, from 7 PM to 6 AM. Local residents never know for sure who owns and controls illegal mining operations in the Santan area. One resident told us he had seen many illegal coal mining trucks come and go in his area; he said one truck could be loaded with up to 11 tons of coal, which was brought to Muara Badak.

Up until June 2021, the Energy and Mineral Resources Agency of East Kalimantan had recorded and inspected 36 reports of illegal mining and notified the Energy and Mineral Resources Ministry of these. C. Benny, head of the Energy and Mineral Resources agency of East Kalimantan, explained that the East Kalimantan provincial government (as based on legislation UU 23/2014) was an extension of central government, and that the Energy and Mineral Resources agency was assistant to the governor.²⁹



Photo: A line of trucks transporting illegal coal from Santan Hulu to Marangkayu, East Kalimantan

Days before lockdowns were imposed in Palawan in the Philippines in March 2020, illegal mining operations were reported at Brooke's Point. Infrastructure was set up by Ipilan Nickel Corporation inside ancestral domains and primary forest areas, even though its contract had expired. Community groups composed of farmers, women, youth, and Indigenous leaders - joined by Brooke's Point

²⁸ News article dated September 21, 2021: *Siapa di Balik Aktivitas Tambang Ilegal yang Meningkat Selama Pandemi COVID-19* by Koran Tempo <https://koran.tempo.co/read/berita-utama/468110/siapa-di-balik-aktivitas-tambang-ilegal-yang-meningkat-selama-pandemi-COVID-19>

²⁹ <https://nasional.kompas.com/read/2021/04/02/07594471/perjalanan-kasus-sjamsul-nursalim-jadi-buron-bersama-sang-istri-hingga?page=all>

Mayor Jean Feliciano - protested at the mine site on March 9, 2020.³⁰ The mining company's permit was eventually extended. Then, in June 2021, Mayor Feliciano was suspended by the Office of the Ombudsman for allegedly abusing her authority in stopping the operations of Ipilan Nickel Corporation and demolishing its property back in 2017.³¹

Early in 2021 mining and construction equipment was observed being brought into Candelaria in Zambales, also in the Philippines. The activities were associated by the local government to Chinese company Yinglong Steel Corporation, which also operates a nickel mine in the neighboring town of Santa Cruz. Allegedly without holding the necessary permits, they proceeded to cut down trees and build roads and bunkhouses in preparation for mining expansion, threatening the community's farmlands and water resources.³² Despite orders to stop, there was little concrete action or response from the Department of Environment and Natural Resources. The regional Mines and Geosciences Bureau (MGB) simply said that it held no regulatory power since activity was still in the "exploration stage".³³ By July, at the onset of the wet season, the community could see how the activities would affect them: mud from the excavations was washed downstream and ruined hectares of their farmlands.



Photo: Community protesting against OceanaGold renewal

³⁰ News article dated March 9, 2020: *Brooke's Point residents hold rally vs Ipilan mining operation* <https://palawan-news.com/brookes-point-residents-hold-rally-vs-ipilan-mining-operation/> by Marialen Galicia-Archie/ Palawan News (accessed 7 August 2021)

³¹ News article dated June 18, 2021: *Ipilan Nickel scores legal win over Palawan mining properties demolition* by Rappler <https://www.rappler.com/business/ipilan-nickel-fni-scores-legal-win-palawan-mining-properties-demolition>(accessed 4 September 2021)

³² News article dated June 27, 2021: *Causa Verde* by Henry Empeño/*Business Mirror* <https://businessmirror.com.ph/2021/06/27/causa-verde/> (accessed 8 August 2021)

³³ *Ibid.*

Elsewhere, on April 6, 2020, a community barricade led by the Tawali women's group Bileg Dagiti Babbae, along with Didipio Earthsavers' Multipurpose Association (DESAMA), Samahang Pangkarapatan ng Katutubong Manggagawa at Magsasaka Inc. (SAPAKKMI) and Alyansa ng Magsasaka para sa Kalikasan ng Kasibu (AMKKAS), was violently dispersed by around 100 police personnel.³⁴ The Financial or Technical Assistance Agreement of OceanaGold Philippines, Inc. (OGPI - a local subsidiary of Australia-Canadian mining company OceanaGold) had expired in June 2019, but the company continued operating illegally.

The community barricade was meant to stop the company from further operations. But they were met by a police force three times their number, which arrived to assist the entry of OGPI's fuel tanker. The police claimed they received instructions from the Office of the President in a letter signed by Executive Secretary Salvador Medialdea. 29 community members up against about 100 personnel in full riot gear ended with the illegal detention of the Indigenous leader and chairman of DESAMA, Rolando Pulido.³⁵ Pulido was stripped off his clothes, handcuffed and beaten by police, then brought to a police precinct in Kasibu. Indigenous women leaders and community members were left with physical injuries as well as psychological and emotional trauma.³⁶

COVID-19 as an opportunity

to repress residents protesting mining operations

Back in Indonesia the mining advocacy network JATAM has reported a coinciding rise in COVID-19 case numbers and problems related to mining - especially the escalation of intimidation. JATAM's survey of 39 mining-affected communities in mid-2020 found that 15 of them had experienced increased intimidation. Residents and communities of Bayuwangi, East Java and the Citizen Network for Kendeng Mountain Range (JMPPK), Central Java are at the sharp end of this spear.³⁷

Using COVID-19 as a pretext, the Indonesian government instructed the demolition of community posts that were taking a stand against gold mining in Tumpang Pitu Mountain and Salakan in March 2020. Residents and communities of those areas resisted the decision - the PT Bumi Suksesindo (BSI) mining operation was still ongoing and had even brought in new workers and heavy machinery. How come the community

³⁴ Statement of LILAK-Purple Action for Indigenous Women's Rights dated April 7, 2020: LOCKDOWN VIOLENCE: Mining company disperses people's barricade in Didipio, injure Indigenous women and arrest leader -LILAK<https://hronlineph.com/2020/04/07/statement-lockdown-violence-mining-company-disperses-peoples-barricade-in-didipio-injure-Indigenous-women-and-arrest-leader-lilak/> (accessed 7 August 2021)

³⁵ News article dated April 7, 2020: Riot police storms anti-OceanaGold barricade by Deo Montesclaros/Nordis <https://nordis.net/2020/04/06/article/news/cagval/riot-police-storms-anti-oceanagold-barricade/> (accessed 7 August 2021)

³⁶ Ibid., 16.

³⁷ JATAM, *The Destructive Power of the Mining Industry during the Pandemic - Monitoring and Survey Report: Aggravation of Pandemic Wounds by the Mining Industry, 2020.*

post was to be demolished to avoid a virus cluster, when the PT BSI mines - where workers gather and come and go from across the area - was still allowed to operate freely?

Residents and communities have been confronted with security apparatus since they blocked PT BSI's access on March 26, 2020, while pro-PT BSI mining groups provoked a direct conflict between them and the resisting communities. Communities in the Kendeng Mountain Range have also faced intimidation. During the pandemic a group of mothers, members of JMPPK, asked for a halt to the limestone mining operation in Dukuh Batu, Gadudero Village, Pati - but they were obstructed and intimidated by company henchmen.

How affected communities have responded

Mining-affected communities in different areas have responded to the threats brought about by mining - which have intensified during the pandemic - in various ways. At the start, in March 2020, people were still in the dark about COVID-19 and there was very limited information about the virus. In Indonesia it was believed that herbal drinks made from spices could prevent COVID-19 infection. Kampung Santan's women made infusions from ginger, turmeric, lemongrass, cinnamon, and other spices, and started taking care of neglected spice plants in their gardens. The village chief and a group of young farmers called Young Santan Farmers (Tani Muda Santan) initiated the community to start farming together; to encourage them, they started a competition called Dasa Wisma.

Dasa Wisma was a program of Pemberdayaan Kesejahteraan Keluarga/PKK (Family Welfare Empowerment). Women were divided into groups with women from other households; the program hosted a variety of activities such as gardening, livestock farming, and handicrafts. They started farming in order to bolster food security if there were any distribution issues as a result of COVID-19 - but they wanted to achieve food sovereignty as their long-term goal. As well as herbs and spices they also planted vegetables using the remaining land.

Kampung Santan residents have resisted and survived the damage caused by mining ever since the company arrived in their territory and proceeded to destroy their living space and the Santan River's



Photo: Santan River contaminated by coal waste.

ecosystem. A few years ago a group of young people in Santan decided to form an alliance called Young Santan Farmers (Tani Muda Santan), with the aim of restoring agriculture and maintaining the sustainability of land and water. In 2018 they set up a three-day festival called Sungai Santan Festival. The festival was held to encourage the community - especially young people - to go back to farming, as had been the case before mining arrived and overturned things in their area. They wanted to revive and celebrate lost memories of Kampung Santan; the festival has become an annual celebration for Santan residents.

In Papua New Guinea a total ban on mining was unanimously proclaimed in May 2020 by the Traditional Clan Leaders of 28 Haus Tambarans along more than 1,000 kilometers of the Sepik River - from Swagap in Upper Sepik near the Frieda River to Kopar at the mouth of the Sepik River. The Haus Tambarans issued the Supreme Sukundimi Declaration, representing approximately 78,000 people across 25 villages along this stretch. This powerful document is the first of its kind in PNG which would be admissible in a court of law. "We, the collective voice of the Haus Tambaran of Sepik River, under the powers of the Supreme Sukundimi, the River God, assert the following: We call for a total ban on the Frieda River mine. We have called on all spirits to dwell with us and take up arms to protect our Sepik Way of Life. We have not been consulted by the Government and the company with objective and truthful information about the mine."³⁸

The Peoples of the Sepik maintain a strong spiritual connection with the River, waterways, forests, and animals of the area: the River is their source of life and the River and its surroundings must be protected as a whole. The area is also the site of the Karawari caves, which host possibly the greatest example of rock art in the whole of Melanesia. The mine could devastate all this forever. The mining project endangers the spirits of all the plants and animals of the river, the lakes, the tributaries, and streams - and poses unacceptable risks to the Sepik peoples' ancestors, themselves, and their unborn children.

Despite the challenges faced by mining-affected communities during the pandemic, their resistance against destructive mining did not disappear. It should be recognized that they were severely affected by the pandemic and this reduced, in many ways, their ability to sustain or intensify their campaigns. For instance, their mobility and social interactions were reduced, their livelihoods were disrupted, and most advocacy and community-organizing activities were postponed or altogether cancelled.

However, we note that new platforms and strategies were explored. Some of these include:

1. Immediate relief operations were provided by support organizations, including financial assistance and temporary livelihood projects;

³⁸ *The Supreme Sukundimi Declaration, available at <https://savethesepik.org/the-supreme-sukundimi-declaration/>*

2. Distribution of medical supplies and medicines to affected communities;
3. Shift to digital and online platforms for communications, education and learning sessions, including community consultations and planning;
4. This shift to digital and online platforms required the procurement of gadgets (mobile phones, tablets and even laptops) and most of the financial resources for these were taken from travel and meetings budget lines that were not anymore feasible during the pandemic;
5. Increase in use of social media platforms to popularize the struggles and resistance of affected communities, including online petitions and online dialogues with government officials, as well as online court hearings;
6. Needless to say, massive efforts to build the capacities of local organizations to use gadgets and these digital platforms were undertaken by most civil society organizations providing direct support services to affected communities.