

**Building Agency in a Landscape of Extraction: The Global Politics of  
Canadian Transnational Mining, Corporate Social Responsibility, and Local  
Communities in the Philippines**

by

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## **ABSTRACT**

### **BUILDING AGENCY IN A LANDSCAPE OF EXTRACTION: THE GLOBAL POLITICS OF CANADIAN TRANSNATIONAL MINING, CORPORATE SOCIAL RESPONSIBILITY, AND LOCAL COMMUNITIES IN THE PHILIPPINES**

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As the world's dominant actor, the Canadian mining industry has historically been scrutinized for its socio-environmentally egregious operations in the Global South, particularly in mineral-rich nations, such as the Philippines. Canadian multi-national corporations are known for causing extensive ecological devastation; contaminating critical watersheds; and exhausting areas of its culturally valuable resources. With over 60 percent of large-scale mines operating in ancestral territories in the Philippines, clashing worldviews on land ownership have driven violent confrontations between Indigenous and local communities, national governments, and corporations.

This exploratory study examines Canadian corporate mining behaviors in the Philippines. This study employs an action-oriented research approach applied to a single qualitative macro-level case study. Utilizing document review and semi-structured key informant interview methodologies, the research results indicate that international and domestic actors have used the legal system favoring corporate interests to suppress mining resistance and advance neoliberal modes of extraction.

## DEDICATION

This thesis is dedicated to those who wake up every day with a continued allegiance to dismantling structural oppression. Those who reimagine a world centered around restorative justice, courageously defending the rights of humans and ecosystems in the face of neo-fascist regimes and the political suppression of dissent. Those who continue to envision a world of love and hope amidst repression and violence, utilizing disparity as a catalyst for collective action.

This thesis is dedicated to the hundreds of land defenders and activists who were murdered in the Philippines for speaking out against injustice during the time this thesis was composed between September 2019 to September 2021; their names written in remembrance below (Ayroso, 2021; Front Line Defenders, 2020; Global Witness, 2020; Global Witness, 2021; Rappler, 2021). This dedication page does not provide an exhaustive list of the names of activists who, during this period, have been killed for taking a stand against environmental exploitation and political corruption. Yet, this dissertation remains dedicated in honor of their unwavering commitment to human rights, Indigenous sovereignty, and devotion to protecting the Land that gives Life. This thesis celebrates their activism, with a deep knowing that their legacies will reign eternally as they have paved the way for succeeding generations to continue the fight for liberation, transformative change, and equity for all.

Rest in Peace and Power.

|  |                                 |
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Jay-Ar Mercado

Jeffrey Bayot

Jennifer Tonag

Jessie Golondrina

Joash Peregrino

Jobert Bercasio

Joel Anino

Rogelio Recomono

Rolando Diaz

Rolando Egtob

Romy Candor

Ronaldo Corpuz

Ronnie Villamor

Roy Giganto

Salvador ‘Bador’ Romano

Sanito ‘Tating’ Delubio

Sergio Atay

Sonny Palagtiw

Steve Arapoc

Valentin Acabal

Zara Alvarez

Zenon Teofilo Granada

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## TABLE OF CONTENTS

|   |             |
|---|-------------|
| <b>Abstract.....</b>  | <b>i</b>    |
| <b>Dedication .....</b>   | <b>iii</b>  |
| <b>Acknowledgments .....</b>  | <b>vii</b>  |
| <b>List of Tables .....</b>   | <b>xiii</b> |
| <b>List of Figures.....</b>   | <b>xiv</b>  |
| <b>List of Abbreviations .....</b>  | <b>xv</b>   |
| <b>List of Appendices.....</b>  | <b>xvii</b> |
| <b>1. Introduction.....</b>   | <b>1</b>    |
| 1.1 <i>Rationale and Background .....</i>   | <i>1</i>    |
| 1.2 <i>Research Goals and Objectives .....</i>  | <i>4</i>    |
| 1.3 <i>Researcher Reflexivity and Positionality .....</i>   | <i>5</i>    |
| 1.4 <i>Thesis Outline and Organization .....</i>  | <i>10</i>   |
| 1.5 <i>References .....</i>   | <i>12</i>   |
| <b>2..Digging for Accountability in Canada: Structural Power Inequalities in the Global South Mining Industry .....</b> | <b>18</b>   |
| 2.1 <i>Introduction.....</i>  | <i>18</i>   |
| 2.2 <i>Host State Accountability: Corporate Social Responsibility and Neoliberal Governance .....</i>                   | <i>20</i>   |
| 2.3 <i>Host Versus Home State Accountability: Global Structural Racism, CSR &amp; Mandatory Due Diligence .....</i>     | <i>25</i>   |
| 2.4 <i>Canada as a Global Leader in the Extractive Industry .....</i>   | <i>29</i>   |
| 2.5 <i>Critical Review of Canadian Accountability Mechanisms, Policies &amp; Codes of Conduct .....</i>                 | <i>32</i>   |
| 2.6 <i>The Case of Canadian Mining Operations in the Philippines.....</i>   | <i>37</i>   |
| 2.6.1 <i>The Philippines’ Socio-Economic Context- “Host State Weak Governance” .....</i>                                | <i>37</i>   |
| 2.6.2 <i>Canada’s Involvement within the Philippines’ Mining Industry .....</i>   | <i>40</i>   |

|           |  |            |
|-----------|--|------------|
| 2.7       | <i>Conclusion</i> .....  | 46         |
| 2.8       | <i>Opportunities &amp; Limitations</i> .....   | 48         |
| 2.9       | <i>References</i> .....  | 50         |
| <b>3.</b> | <b>The Philippines Neoliberal Extractive Industry: Mining for Development, State Violence, and Inter-Institutional Gaps in Resource Governance</b> .....                   | <b>64</b>  |
| 3.1       | <i>Introduction</i> .....  | 64         |
| 3.2       | <i>The History of the Mining for Development Paradigm</i> .....  | 66         |
| 3.3       | <i>The History of Mining in the Philippines</i> .....  | 67         |
| 3.4       | <i>Brief Overview of Inter-Institutional Gap Framework</i> .....   | 74         |
| 3.5       | <i>Applying the IIG Framework to the Philippines</i> .....   | 77         |
| 3.5.1     | <i>Methods</i> .....   | 77         |
| 3.5.2     | <i>Identifying the Institutions Governing Mineral Resources in the Philippines</i> .....   | 78         |
| 3.5.3     | <i>Inter-Institutional Gaps – Identifying Institutional Concepts</i> .....   | 87         |
| 3.6       | <i>Conclusion</i> .....  | 97         |
| 3.7       | <i>Lessons, Limitations and Opportunities</i> .....  | 99         |
| 3.8       | <i>References</i> .....  | 102        |
| <b>4.</b> | <b>Challenging the binary of home vs. host state governance: Canadian transnational mining behavior and local communities in the Philippines extractive industry</b> ..... | <b>112</b> |
| 4.1       | <i>Introduction</i> .....  | 112        |
| 4.2       | <i>Methods</i> .....   | 114        |
| 4.2.1     | <i>Case Study: Canadian transnational mining in the Philippines</i> .....  | 115        |
| 4.2.2     | <i>Data collection</i> .....   | 119        |
| 4.2.3     | <i>Data analysis</i> .....   | 123        |
| 4.3       | <i>Results &amp; Discussion</i> .....  | 125        |
| 4.3.1     | <i>Description of participants</i> .....   | 125        |
| 4.3.2     | <i>The conceptual framework</i> .....  | 128        |
| 4.3.3     | <i>Corporate Social Responsibility in the Philippines Mining Industry</i> .....  | 131        |
| 4.3.4     | <i>CSR Implementation: Dependency &amp; The Fragmentation of Social Resistance</i> ...   | 132        |
| 4.3.5     | <i>War on Kindness: Red Tagging &amp; Vilification of Dissent</i> .....  | 136        |
| 4.3.6     | <i>The Tribal Dealer &amp; The Politics of Indigeneity</i> .....   | 146        |
| 4.4       | <i>Agents of Neocolonialism: The Government of Canada &amp; its Mining Corporations</i> . 151  |            |
| 4.4.1     | <i>Canada As a Neocolonial Agent within the Philippines Extractive Industry</i> .....  | 153        |

|                   |  |            |
|-------------------|--|------------|
| 4.5               | <i>Conclusion</i> .....                    | 162        |
| 4.6               | <i>Limitations and Opportunities</i> ..... | 163        |
| 4.7               | <i>References</i> .....                    | 165        |
| <b>5</b>          | <b>Conclusion</b> .....                    | <b>182</b> |
| <b>APPENDIX A</b> | .....                                      | <b>185</b> |
| <b>APPENDIX B</b> | .....                                      | <b>186</b> |
| <b>APPENDIX C</b> | .....                                      | <b>193</b> |
| <b>APPENDIX D</b> | .....                                      | <b>195</b> |

## LIST OF TABLES

|  |     |
|--|-----|
| Table 1. An outline of the key questions guiding the case’ document analysis .....   | 77  |
| Table 2. Summary of the individual governing rules and institutions involved within the case’ IIG framework analysis during the Duterte administration .....   | 80  |
| Table 3. Interview themes and prompts for local and Indigenous leaders and community members .....   | 121 |
| Table 4. Interview themes and prompts for corporate mining executives, CSOs, government officials and experts in the field.....  | 122 |
| Table 5. Description of sector, classification and associated number of participants, key informants and knowledge holders identified within each outlined institution.....  | 126 |
| Table 6. Examples of quotes and excerpts from key informant interviews which describe lived experiences of the implications of red tagging, institutionalized through the Anti-Terrorism Act, and the National Task Force to End Local Communist Armed Conflict..... | 139 |
| Table 7. Canada’s international assistance to the Philippines retrieved from Global Affairs Canada Statistical Report on International Assistance for the Fiscal Year 2018-2019 (Global Affairs Canada, 2020).....   | 161 |

## LIST OF FIGURES

|   |     |
|---|-----|
| Figure 1. Timeline of the Government of Canada’s Accountability Mechanisms, Policies & Codes of Conduct related to Canadian mining operations abroad.....   | 33  |
| Figure 2. The Philippines, an archipelago of 7,107 islands with the three major islands Luzon (Northern Philippines, highlighted in orange), Visayas (Central Philippines, highlighted in yellow) and Mindanao (Southern Philippines, highlighted in green) (The Philippine Embassy of Canberra, 2007).....   | 72  |
| Figure 3. Map of the 15 biggest mining operations in Mindanao, contrasting the Lumad presence (light orange areas), and the large-scale mines that are operating on or nearby Lumad ancestral lands (red areas) (IBON Foundation, 2015). ....   | 73  |
| Figure 4. IIG in the Philippines mining sector. This IIG framework highlights the interconnected gaps in governance between formal and informal institutions in the Philippine extractive industry. Gap (f) is a function of the four possible institutional gaps that can co-exist in this framework, with gap a as legal pluralism; gap b as cultural mismatch; gap c as structural hole; and gap d as institutional void. ....   | 88  |
| Figure 5. The Philippines, an archipelago of 7,107 islands with the three major islands Luzon (Northern Philippines, highlighted in orange), Visayas (Central Philippines, highlighted in yellow) and Mindanao (Southern Philippines, highlighted in green) (The Philippine Embassy of Canberra, 2007).....   | 116 |
| Figure 6. Conceptual framework using Saldaña (2014)’s “Streamlined codes-to-theory model for qualitative inquiry” as a guide to organizing collected data. Grey represents preliminary codes, yellow represents initial themes, green represents overarching category, and orange represents the generated theory that emerged throughout analysis.....   | 130 |
| Figure 7. Map by Holden et al. (2011) showcasing the overlap between mines and Indigenous Peoples in the Philippines. Research has shown over 60% of mining in the nation operates within ancestral domains (Simbulan, 2016).....   | 138 |
| Figure 8. Example of red-tagging upon human rights defender Cristina Palabay from Karapatan after testifying on the human rights situation at the May 4 <sup>th</sup> 2021 Canadian Subcommittee on International Human Rights of the House of Commons Standing Committee on Foreign Affairs and International Development (InvestigatePH, 2021). Translated into, “What are the rights that Karapatan Alliance Philippines and its Secretary-General Cristina Palabay fight for? The rights of communist terrorists to kill innocent lives.” Image publicly posted on Alex Monteagudo, Director General of the National Intelligence Coordinating Agency of the Philippines’ Facebook account on May 8 <sup>th</sup> 2021..... | 142 |

## **LIST OF ABBREVIATIONS**

AFP – Armed Forces of the Philippines

ASEAN – Association of Southeast Asian Nations

CADT – Certificate of Ancestral Domain Title

CFPOA – Corruption of Foreign Public Officials Act

CIDA – Canadian International Development Agency

CLUP – Comprehensive Land Use Plans

CORE – Office of the Canadian Ombudsperson for Responsible Enterprise

CPP/NDF/NPA – Communist Party of the Philippines, National Democratic Front, New Peoples' Army

CSO – Civil Society Organizations

CPPIB – Canadian Pension Plan Investment Board

CRDP – Community Royalty Development Program

CSR – Corporate Social Responsibility

DENR – Department of Environment and Natural Resources

EDC – Export Development Canada

EPEP – Environmental Protection and Enhancement Plan

ESTMA – Extractive Sector Transparency Measures Act

FPIC – Free, Prior, and Informed Consent

FTAA- Financial and Technical Assistance Agreement

HREDD – Human Rights and Environmental Due Dilligence

IIG – Inter-Institutional Gap Framework

IPRA – Indigenous Peoples Rights Act

M4D – Mining for Development

MAC – Mining Association of Canada

MGB – Mines and Geosciences Bureau

NCIP – National Commission on Indigenous Peoples

NGO – Non-Governmental Organization

NTF-ELCAC – National Task Force to End Local Communist Armed Conflict

OHCHR – Office of the High Commissioner for Human Rights

PDAC – Prospectors Developers Association of Canada

RBC – Responsible Business Conduct

SAP – Structural Adjustment Program

SAP – Structural Adjustment Programs

SCFAIT - Standing Committee on Foreign Affairs and International Trade Corruption of Foreign  
Public Officials Act (CFPOA)

SDG – Sustainable Development Goals

SDMP – Social Development Management Program

TSM – Towards Sustainable Mining

TSX – Toronto Stock Exchange

TVI – Toronto Ventures Inc.

TVIRD – TVI Resource Development Philippines

UNEA – United Nations Environment Assembly



## **LIST OF APPENDICES**

|            |   |
|------------|---|
| Appendix A | Ethics Approval Certificate   |
| Appendix B | Interview Guide for Local and Indigenous Community Members<br>(English & Tagalog) |
| Appendix C | Participant Information Letters (English Only)                                    |
| Appendix D | Confidentiality Agreement for Research Assistants                                 |

# **1 Introduction**

## **1.1 Rationale and Background**

From the electronic chips of cellphones and laptops to aluminum cans; mining provides the raw materials necessary to build the infrastructure and instruments used daily (Carvalho, 2017). As minerals become increasingly critical to global society and economic growth, relationships of dependency between the Global North and Global South have grown stronger through globalization (Butler, 2016; Evans et al., 2005). However, mineral resources are not transferrable; hence mining operations are vulnerable to market fluctuations, local and international politics, community decisions and technology development in the industry (Coumans, 2017; Oliviet et al., 2016; Szablowski, 2007).

Foreign interests and power relationships founded on extractive modes of accumulation have existed for centuries between the Global North and Global South (Camba, 2015). To this day, various aspects of neoliberalism remain foundational to the landscape and operationalization of contemporary extractivism and resource governance. Harvey (2005) defines neoliberalism as, “a theory of political economic practices that proposes that human well-being can best be advanced by liberating individual entrepreneurial freedoms and skills within an institutional framework characterized by strong private property rights, free markets, and free trade” (p. 2). During the global liberalization of the 1980s and 1990s, elite political actors and international lenders in the Global North drove harsh neoliberal economic transformations across the Global South through Structural Adjustment Programs (SAPs) (Camba, 2015). Authors such as Brisbois (2021) assert that SAPs were imposed to eliminate threats to transnational mining profits, with

powerful Global North actors utilizing neoliberal reform to counter the Global South's attempts at national industrialization and extinguish endeavours towards greater control of national resources.

Overwhelmingly similar experiences of power and wealth imbalances in the mining industry have led scholars to emphasize the violent nature of large-scale resource-led development (Gamu and Dauvergne, 2018; Gordon and Webber, 2016). The violent nature of extractive relationships has manifested through several forms, seen through acute inequalities in wealth creation in favour of powerful international and domestic actors such as corporate shareholders, national elites and government executives. Examples of violent extractive relationships include: illicit financial flows enabling tax evasion and money laundering; large-scale mining outstripping underserved communities of their land and water resources; the criminalization and legal oppression of mining resistance; and the relinquishment of underdeveloped nations' and Indigenous sovereignty through conditional loans and corruption (Brisbois, 2021; Butler, 2016; Deneault and Sacher, 2012), amongst other methods of domination and control.

The international mining industry is ridden with geopolitical and environmental conflict, transcending national borders across spaces, scales, and relations (Gamu and Dauvergne, 2018). Despite its necessity in global society, large-scale industrial mining remains highly contested for its operations' social, cultural, and environmentally calamitous impacts (Benson and Kirsch, 2010). This scrutiny lies in mining being intrinsic to the transformation of landscapes, with externalities running parallel to mass deforestation, erosion, depletion of surface and

groundwater, metal leaching within critical watersheds, and devastating effects on livelihoods, sacred customary practices, and senses of self (Imai et al., 2016; Arce and Miller, 2016).

Women, children, marginalized members of affected communities, and those who depend on the land for sustenance bear a disproportionate share of the social, health and violent externalities of mining conflict (Coumans, 2019; Simbulan, 2016). Increasing conflict in large-scale mining regions has also led to human rights violations, with evidence of widespread displacement, host-community militarization; extrajudicial killings of community members resisting mining and violent attacks upon environmental and Indigenous activists, amongst other forms of human rights abuses (Freslon and Cooney, 2018; Global Witness, 2020; Pearson et al., 2019).

As the world's dominant actor, Canada is home to approximately 75% of the world's mining corporations, with over 800 Canadian companies operating in 100 countries globally (Natural Resources Canada, 2021). The Canadian mining industry has been historically scrutinized for exploitative operations in the Global South, particularly in mineral-rich nations, such as the Philippines (Broad et al., 2018; Flores, 2012; Sanz, 2019). As water and land remain some of the most critical sustainability issues facing the mining industry, their essentiality to mining operations repeatedly collides with human rights in local communities (Brisbois, 2021; Coumans, 2019).

Despite growing public pressures against large-scale mining operations, governments and multinational corporations demonstrate resistance to binding regulatory reform in the mining sector (Ciupa and Zalik, 2020; Gagnon et al., 2003). Instead, voluntary accountability mechanisms under the umbrella of corporate social responsibility (CSR) have become the

primary instruments overseeing mining externalities (Frederiksen, 2018; Idemudia & Kwakyewah, 2018). Kotler and Lee (2005) define CSR as “a commitment to improve community well-being through discretionary business practices and contributions of corporate resources” (p.3). However, the effectiveness of CSR has been called into question as mining companies continue to pursue destructive practices while claiming to be corporately responsible citizens (Coumans, 2019; Jenkins and Yakovleva, 2006).

Today, there is a need for greater insight and understanding of the juxtaposition of positive advancements in mining accountability awareness and the negative socio-environmental and cultural impact the industry has developed. The challenge is to identify ways resource development can be undertaken in a manner that is both sustainable and upholds community and Indigenous self-determination.

## **1.2 Research Goals and Objectives**

This research aims to explore Canadian mining behaviours in the Philippines. In an effort to advance polarized debates arguing for or against mining, this thesis will examine the mechanisms that will uphold human and environmental rights, strengthen interinstitutional accountability, and enable community agency in the global mining industry. Community agency is defined as the collective capacity for communities to exercise autonomy, utilize and manage resources available, and act on local issues and problems (Lulloff and Bridger, 2003).

Utilizing an action-oriented approach influenced by intersectional eco-feminist ideologies, this exploratory research utilizes inductive methodologies to identify emerging themes and confirm existing understandings of Canadian mining operations in the Philippines.

The question guiding this research asks, how do Canadian government and corporate behaviors impact local and Indigenous communities hosting large-scale mining in the Philippines?

**The research objectives are to:**

1. To understand inter-institutional interactions and power dynamics between host communities and diverse governing actors within the international Canadian extractive industry
2. To uncover the socio-political conditions and policies underlying resource governance in the Philippines mining industry
3. To collect, synthesize and explain government, corporate, and local perspectives on the social and environmental impacts of Canadian mining CSR operations

### **1.3 Researcher Reflexivity and Positionality**

As a researcher, I used an overarching action-oriented research approach guided by critical intersectional eco-feminist ideologies that informed the research process. Action oriented approaches are tied to international development and planning research as it is often characterized by its aim at producing knowledge to initiate positive change for society (Sato, 2004). Critical eco- feminist theory can be defined as supporting, “a methodology for research that is self-reflective and particularly attentive to the power of epistemology, to boundaries and marginalization of people and ideas, and to the situatedness of the researcher” (Ackerly and True, 2010 p. 467). In addition, Crenshaw (1989) coined the term “intersectionality” to describe lived experiences and social phenomena through analyses at the nexus of race, class, gender,

ethnicity, and other individual social identities.

It is important to note that although intersectional eco-feminist approaches influenced my standpoint throughout the research process, this approach was not explicitly applied within the methodologies of this study. Specifically, this research is guided by an intersectional feminist lens and Intersectionality Based Policy Approaches (IBPA) by remaining attentive to various forms of power and how it is constructed through discourse and positionality (Hankivsky, 2012; Tanyag, 2018). Following Hankivsky et al. (2014)'s description of IBPA, this study employs a careful consideration of the ways individuals and institutions become more vulnerable through structures of power.

Best described by Hankivsky (2012), "Intersectional Based Policy Approaches underscores how building on the lived experiences and knowledges of persons has transformative potential and is central to thinking about how policy actors use categories of "most-at-risk populations" in policy strategies" (p.11). Influenced by IBPA and critical eco-feminist approaches, this research examines the multiplicity of oppressions, layers of inequity, and the complex relationships between individuals possessing various social locations and structural disadvantages in time and place (Hankivsky, 2012). Although intersectional eco-feminist approaches informed the study, these approaches can be further explored in the future through explicit methodological application.

Western development discourse often reveals imbalanced power dynamics between the Global North and the Global South (Escobar, 1995). Historically, development research has "othered" the Global South through stereotypical images which reinforce a patriarchal and imperialist lens to field studies (Mikkelsen, 2005). To mitigate western-centric hegemonies of

knowledge in development research and academia, I operationalized an action oriented and intersectional eco-feminist approach to the research through iterative reflexivity of my positionality (Pacheco-Vega and Parizeau, 2018; Sultana, 2007). Researcher positionality is characterized by the power, social position, subjectivities, and personal experiences a researcher has collected over their lifetime. Researcher positionality can influence researcher-participant relations as well as the ways research is designed, analyzed and produced (Sato, 2004). In conjunction, researcher reflexivity is defined as the critical and iterative self-examination of the fluidity of ones' positionality from conceptualization to dissemination of research (Pacheco-Vega and Parizeau, 2018).

As this study is situated among the complexities of colonial legacies and the politics of identity in Canada and the Philippines, it is critical to discuss the positionality of the researcher and its possible impacts upon the study. This reflexivity statement will describe the nuances of the researchers' positionality which may have influenced the contexts of this cross-cultural research.

My positionalities have enabled me to reflect deeply on the insider-outsider role I possess in research. Born in Saudi Arabia, and raised in Canada, my positionality as a 24-year-old first generation non-Indigenous Filipinx- Canadian conducting research at "home" has been embedded in the politics of representation. My positionality as a Filipinx immigrant from an industrialized country, who speaks fluent English could have posed challenges to building meaningful relations with the participants. I am a receptive bilingual; I fluently understand Tagalog but it is difficult for me to converse in the language, which led me to hire a translator during fieldwork. My need for a translator during engagements with local research participants



may have had impacts on my positionality as it created barriers to communicate. Moreover, my inability to converse in Tagalog could have developed a perception of increased power amongst local participants. This perception of power is embedded in Eurocentric dominance in Filipino society and the associated socio-cultural supremacy that is commonly attributed to English speaking Filipinos.

Additionally, my educational background, nationality, gender, and age are amongst some of the positionalities that may create varying perceptions of a hierarchical power divide between the participants and I. For example, patriarchal societies are a norm in Filipino communities. My perceived gender, alongside my age, can have an impact on my positionality and decrease my perceived power amongst some participants. Therefore, it remained critical to the study to be mindful of the evolving sense of self and the fluidity of positionality. Throughout the research, I understood the importance of creating spaces for meaningful engagement with diverse actors through the negotiation of positionality (Sato, 2004). However, it remained difficult to create deep meaningful relationships with certain participants due to the limitations online data collection posed for the researchers.

The findings of this research examine the neocolonial nature of Canadian mining in the Global South. As a settler I recognize the vast livelihood benefits amassed and colonial entanglements that I, and the majority settler population of Canada, have contributed to as engaged actors within the Canadian mining economy (Butler, 2016). Colonial entanglement is defined by Cameroonian political theorist Achille Mbembe as, “the coercion to which people are subjected,... a whole cluster of re-orderings of society, culture, and identity, and a series of recent changes in the way power is exercised and rationalized” (Dennison, 2012 p. 7).

However, the utilization of an intersectional eco-feminist approach to this research enabled me to discern my socio-economic struggles and privileges as a Canadian immigrant from the Philippines as a product of globalized forces. This research became a catalyst and opportunity to learn about the history of the Philippines, how its domestic policies and current socio-economic status are intrinsically tied to neocolonialism and how such facets of Global North versus Global South power asymmetries have influenced my lived experiences as an immigrant.

As a Western educated researcher, de-linking from dominant Eurocentric epistemes and highlighting the validity of diverse world views have become imperative to my undertaking of ethical development work. My thesis bridges gaps of unequal power relations by honoring knowledge plurality; using an intersectional lens to data analysis; and being conscious to the positionality, privilege, and power I hold as a researcher throughout my work. I am conscious that knowledge constructed by researchers is shaped by larger cultural and institutional histories of colonialism and globalization. Undertaking iterative reflexivity throughout my masters has strengthened my capacity to engage in meaningful relationships with diverse actors; posing a greater ability to stand in solidarity with, and advocate for, underrepresented voices to be heard.

## 1.4 Thesis Outline and Organization

This thesis is written as a manuscript-style thesis, with chapters two and three intended as standalone chapters in the forthcoming books, *At the Nexus of Global Minerals and Local Communities: A Collection of Critical Reviews* and *Institutional Diversity & Environmental Sustainability*, respectively. Lastly, chapter four acts as a forthcoming standalone manuscript.

In the introductory chapter, I have introduced the thesis structure, research aim, goals and objectives. I have shared my researcher positionality and reflexivity statements, providing guidance to the overall research process. Over the following chapters, I will share the insights revealed during the literature review.

In chapter two, I provide a literature review on Canadian mining at the nexus of corporate social responsibility (CSR), global mining discourse, and also on the impacts Canadian mining accountability mechanisms have on host nations, such as the Philippines. After characterizing the issues of CSR policy at the international level, over the succeeding two chapters, I share the deeper insights of the impacts of transnational mining behavior upon local and Indigenous communities in the Philippines through document analysis and semi-structured interviews.

Chapter three is focused upon a case study of state and private violence within Indigenous communities resisting mining within ancestral domains in Mindanao, Philippines. This chapter uses the inter-institutional gap theoretical framework to systematically identify barriers in post-colonial governance between institutions that have led to the absence of political rights and civil liberties in Lumad territories. An exploration of transnational mining governance follows this section. Specifically, we examine the role the Canadian government and its associated corporations play within the Philippine mining industry.

In chapter four, I explore the nuances of Canadian mining behaviour in the Philippines. To that effect, I examine the inter-institutional interactions and power dynamics between host communities and diverse governing actors involved within the Philippines' extractive industry. I situate these findings within the broader literature on neocolonial mining and the utility of the national and international legal system to suppress and foster mining resistance.

In chapter five, I provide concluding reflections regarding the overall research process, key findings, and significance of this project.

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## ***Preface for Chapter 2***

Chapter 2 has been submitted for review at Routledge for the forthcoming book titled, *At the Nexus of Global Minerals and Local Communities: A Collection of Critical Reviews*. Alongside my role as lead researcher, this publication has been co-authored with Dr. Nicolas D. Brunet and Dr. Dominique Caouette. In this chapter, a review of the literature on global mining discourse related to corporate social responsibility, weak governance, host state accountability and home state accountability is presented. A critical review of Canada's emergence as an international leader in the extractive industry is outlined alongside the evolution of Canadian government and corporate mining accountability mechanisms, policies, and codes of conduct. Further, a case study on Canadian mining operations in the Philippines is explored to examine how Canadian corporate social responsibility policies manifest at the institutional level. Together, these analyses provide critical insights into alternative accountability mechanisms and the use of CSR discourse as an extension of power within the global mining sector.

## **2 Digging for Accountability in Canada: Structural Power**

### **Inequalities in the Global South Mining Industry**

#### **2.1 Introduction**

Canada is home to 75% of the world's mining corporations (Government of Canada, 2021), with Canadian companies operating in 96 foreign countries in 2019 (Natural Resources Canada, 2021). In recent decades, the Canadian mining industry has been scrutinized for being, directly and indirectly, involved in widespread environmental devastation (Broad et al., 2018), human rights violations (Butler, 2016), and extrajudicial killings (Imai et al., 2017; Karapatan, 2014), amongst other forms of egregious corporate abuse. Simultaneously, water and land have become the root of violent conflicts within local communities hosting transnational mining, with affected community members going to great lengths to defend their access and control to land, food security, identity, and agency (Gordon & Webber, 2008). Civil society organizations have spoken out against these abuses, often highlighting large-scale mining's externalities related to pollution and metal leaching within critical watersheds; increased food insecurity and poverty-related to nearby mining operations; and its devastating effects on livelihoods, sacred customary practices, and senses of self (Butler, 2016; Freslon & Cooney, 2018).

Despite ongoing corporate violations, society relies heavily on minerals to create the instruments and infrastructure we use daily. Pressure to act on Canadian corporate mining abuses overseas are often a result of conflicting perspectives between civil society, governments, and the public and private sector. Debates on redress for corporate litigation are marked by two opposing approaches: increased state regulation versus corporate self-regulation (Idemudia &

Kwakyewah, 2018). Despite ongoing egregious corporate abuses, there remains an absence of global regulatory treaties and binding legislation to litigate extractive operations (Seck, 2008). Rather than binding law and mechanisms, in recent years voluntary measures under the umbrella of corporate social responsibility (CSR) have prevailed in regulating the mining industry (Idemudia & Kwakyewah, 2018).

Fredriksen (2018) defines CSR as "an important way for the private sector to deliver development, linking economic and social goals to produce win-win outcomes" (p. 495). With substantial political influence and resources, powerful interests across governments and corporations have been able to successfully lobby for voluntary CSR measures to act as the solution for managing international conflict (Bodruzic, 2015; Kamphuis, 2012). Discourse and power have played fundamental roles in the centrality of CSR within the global mining industry.

However, an expanse of literature on extractive policy identifies the structural power inequalities in global mining discourse that have led to CSR's dominance (Ciupa & Zalik, 2020; Coumans, 2019). Critical CSR scholars argue that the lack of Canadian regulatory regimes, related to non-binding accountability legislation within the mining industry, have enabled exploitative operations abroad with impunity (Frederiksen, 2018; Imai et al., 2017).

This chapter presents a review of global mining discourse trends, institutional mechanisms, and their impacts on host nations, exploring the case of Canadian mining operations in the Philippines. This case is notable because of Canada's history of foreign ownership in the archipelago's mining sector, which we describe in the sections that follow. The goal of this chapter is to understand how Canadian governments and corporations use alternative accountability mechanisms under the umbrella of CSR within the Philippines' mining industry.

We also sought to examine ways by which international resource development can be undertaken in a manner that upholds corporate accountability and enables community agency.

## **2.2 Host State Accountability: Corporate Social Responsibility and Neoliberal Governance**

Neoliberal mining reforms implemented in the 1980s made foreign direct investment, free trade, and state-deregulation widespread across the Global South's extractive sectors (Camba, 2015).

By the early 2000s, growing public awareness emerged concerning the socio-environmental devastation caused by transnational mining in developing nations (Kamphuis, 2012).

Overwhelming public opposition became the impetus for high-profile multi-stakeholder standard setting processes in Canada, aiming to identify concerns and recommend solutions for corporate accountability in the Global South (Coumans, 2010). The term Global South is described by Dirlik (2007) as societies facing “difficulties in achieving the economic and political goals of either capitalist or socialist modernity”, which is inclusive of subjugated groups of individuals and economically poor regions within richer countries. As public scrutiny in the 2000s grew, the discourse surrounding host state weak governance and CSR proliferated, ultimately materializing as the norm to address corporate violations. To this day, CSR within the Global South mining industry remains highly contested as corporations, governments and civil societies hold conflicting perspectives on its effectiveness.

Anti-corruption and good governance discourse strengthen CSR's predominance over binding legal remedies (Coumans, 2019). Natural resource good governance discourse originates from the widely studied analyses of Global South resource abundance and its relevance to either

economic growth or stagnation (Adams et al., 2019; Sovacool & Andrews, 2015). Most studies argue that resource endowments in developing countries are a "curse," defined by the inability for resource richness to yield sustainable economic growth (Adams et al., 2019; Auty, 1993; Badeeb et al., 2017). The resource curse, also known as the "paradox of plenty," was coined by Auty (1993) and is characterized by the significant social, economic, environmental, and political challenges that arise within low-income mineral-rich countries.

Authors commonly attribute the resource curse phenomena to host state weak governance (Papyrakis & Gerlagh, 2006; Tsani, 2013), corruption (Kasekende et al., 2016; Öge, 2016), fragile institutions (Mehlum et al., 2006), and a lack of transparency and accountability among Global South government actors (Ciupa & Zalik, 2020; Sovacool et al., 2016; Sovacool & Andrews, 2015). Mehlum et al. (2006) argue that resource curse implications depend on the nation's institutional strength with weak governance resulting in failures to transform mineral endowments into national economic prosperity. Authors claim that low-income mineral-rich states commonly possess a lack of skills, technologies, and capacities which inhibit their ability to govern resources properly (Mehlum et al., 2006). Kolstad & Wiig (2009) highlight how strong institutions possess the power to prohibit rent-seeking, corruption, and political patronage. They conclude that transparency and accessibility to information through beneficial ownership registries could reduce corruption and enable socio-economic prosperity.

Alongside its use for socio-environmental disclosure and market legitimacy (Jenkins and Yakovleva, 2006), governments and the mining industry have utilized voluntary CSR initiatives as the primary means of addressing host state weak governance in the nations they operate within. CSR also aims to enforce socially responsible corporate behaviour and build trust

amongst diverse actors involved within the mining sector (Idemudia & Kwakyewah, 2018; Lee et al., 2019). Significant measures have been taken to construct discourses that aim to combat public scrutiny and publicly promote better industry standards.

Discourse centered around responsible mining has been widely operationalized through CSR-centric philosophies, initiatives, and programs. These concepts include social development license to operate, creating shared value, and responsible business conduct, amongst others (Billedeau, 2019; Bodruzic, 2015; Dashwood, 2007; Fraser, 2019; Pedro et al., 2017). Since its inception, CSR discourses have transformed into an industry of CSR consulting firms, working to elevate social reputation and status amongst corporations, non-corporate actors, and the public (Avakian, 2015). Accordingly, CSR awards highlighting superior socio-environmental initiatives have proliferated (Lewis & Carlos, 2019). CSR awards are now seen by corporations as an incentive to be more dedicated to CSR as it has become a key contributor to legitimacy within the sector, influencing large shareholders such as international banks to invest in responsible business conduct (Lee et al., 2019).

Nowadays, the mining industry strongly promotes adherence to global frameworks to promote responsible corporate behavior. These include, among others, the International Council on Mining and Metals Sustainable Development Framework; the Mining Metals and Sustainable Development Social License to Operate; the US-based Coalition for Environmentally Responsible Economies' Global Reporting Initiative; the Cyanide Code; the United Nations Global Compact; the Mining Association of Canada's (MAC) Towards Sustainable Mining Initiative; the World Business Council for Sustainable Development; the Extractive Industry Transparency Initiative; the United Nations Guiding Principles on Business and Human Rights

(Lindman et al., 2020; Pedro et al., 2017). Ironically, due to the lack of standardization for reporting, auditing, and accounting in global CSR practice, there is no benchmark that can truly measure CSR performance and improvements towards sustainability within the mining industry (Jenkins & Yakovleva, 2006).

Instead, through sustainability reporting, mining companies have utilized the Sustainable Development Goals (SDG) as a benchmark for assessing CSR implementation and performance. Many have touted the extractive industry's role in supporting growth and prosperity in the Global South in relation to the Sustainable Development Goals (SDGs) (Global Affairs Canada, 2021; MAC, 2021b; Pedro et al., 2017). SDGs are commonly used as a powerful discursive tool to frame CSR policies and support extractive operations (Pedro et al., 2017). Building upon the 8 Millennium Development Goals, the SDGs act as an internationally accepted framework which operationalizes action towards social inclusion, environmental sustainability, and economic development. A fundamental component of the 2030 Agenda is its promotion of SDGs within economic and industrial activities (Monteiro et al., 2019). Such promotion is facilitated through the SDG's acknowledgement that socio-economic development is reliant on sustainable resource management.

Authors commonly highlight the numerous benefits the mining industry brings to the Global South, such as increasing government revenues, employment creation, building infrastructure, and transferring technologies and knowledge (Pedro et al., 2017). Monteiro et al.'s study on the congruence between SDGs and mining conclude that, "mining industries can promote peace in all possible spheres, contributing to the achievement of each one of the SDGs" (2019, p. 518). This discourse regarding the role of mining in achieving sustainable development



in the Global South is further exemplified by Fraser (2019), where business strategies within mining, such as the "creating shared value" approach, are imperative to securing the SDGs globally. However, researchers such as Ivic et al. (2021) challenge the effectiveness of SDGs as a benchmark within mining CSR reporting, stating that disclosed information is ambiguously defined; lacks detailed explanations or objectives in correlation with the SDGs key performance indicators; are focused upon minimizing mining externalities rather than promote strong sustainability; and based on self-reported data.

Civil society organizations have challenged dominant mining discourses, such as weak governance, host state lack of accountability, and sustainable development, revealing that governments and corporations have used these discourses strategically to maintain their influence within global mining markets. Western hegemonic visions of development upon the Global South have led to the formation of mining discourses that shift focus on corporate to host states' "weak governance". This shift in focus has led to the implementation of band-aid approaches to corporate abuse abroad, with Global North actors using weak mechanisms, rather than binding legislation, to remedy mining negligence and externalities in host states. Analysis of critical institutional mining literature below reveals several gaps and shortcomings related to the good news narrative of mineral development and CSR in the Global South (Butler, 2016; Ciupa & Zalik, 2020; Idemudia & Kwakyewah, 2018).

## **2.3 Host Versus Home State Accountability: Global Structural Racism, CSR & Mandatory Due Diligence**

Host state accountability discourse is defined as the industry's need to provide solutions related to the "intrinsic weak governance" of host developing nations (Coumans, 2019). Narratives which aim to shift accountability from home state to host state lack critical analysis of systemic racism's fundamental position in upholding global capitalism. Since the inception of mining, the oppression of racialized peoples has been used for production and capital accumulation (Rodney, 1972). Host weak governance discourse discounts the significant role Global North development interventions have played in weakening institutions in the Global South. Researchers have challenged the power held in global mining discourse, characterizing its origins in modernization theory, paternalism, white supremacy, and racist representations of Global South governance (Butler, 2016; Ciupa & Zalik, 2020; Idemudia & Kwakyewah, 2018).

Instead of strengthening home state accountability, Canadian governments and its corporations lobby for weak regulatory regimes for mining operations abroad and increase financial aid to ostensibly strengthen institutions in the host countries they are operating within. Ciupa & Zalik (2020)'s research shows how weak governance and anti-corruption discourse have positioned host states in the Global South as sources of "social pathologies that facilitate corruption" (p. 826). They argue that anti-corruption discourse has advanced global structural racism; limited critical analysis of extractive firms in the Global North; and diminished criticism of elitist crimes such as wealth transfers to offshore havens, money laundering, and insider trading.

Corruption is understood by Doshi & Ranganathan (2019) as a subjective, evolving, and

ubiquitous buzzword, with the politics of the term posing a multitude of power implications. The authors argue that corruption discourse is used opportunistically and remains absent when referring to Global North actors' and their joint involvement in public exploitation and fraud (Doshi & Ranganathan, 2019). This sentiment is echoed by authors who assert that "corruption" is rarely attached to white-collar crimes in the Global North and is rather restricted for practices that occur in non-West, low-income developing nations (Gillies, 2020).

Catherine Coumans, the Asia-Pacific Program Coordinator for Mining Watch Canada and leading researcher within this field concludes that the dualism of “strong home state” vs. “weak host state” governance remains a logical fallacy, embedded within a reductionist one-size-fits-all ideology of good governance (Coumans, 2019). Canada, a so-called “strong” governance region and one of the wealthiest developed nations in the world, possesses many of the mining-related problems that “weak” low-income developing countries are characterized by (Coumans, 2019). Such examples include concerns of regulatory capture within government authorities and agencies (BC Auditor General, 2016 p. 44); mining assessments continuing in Northern Ontario despite Neskantaga First Nation resistance and possession of a 26-year- long boil water advisory (Scott et al., 2021); and claims of \$4.4 billion dollars in Canadian and corporate tax evasion scandals (Nardi, 2020), amongst other evidence of “weak governance”.

Non-binding legal mechanisms have been centered within government discussions of accountability to operationalize broad systemic violence and socio-environmental devastation in developing nations. For example, Roy Grégoire (2019) illustrates the lack of Canadian diplomatic pressure related to mining-associated violence in Guatemala as a product of harmful CSR discourse. The study concludes that Canada's vigorous promotion of CSR dialogue as a

conflict mechanism has legitimized repression, reinforced racist tropes of Indigenous communities, and inhibited collective action amongst human rights defenders. Coumans (2019) proposes a shift away from discussions of weak and strong governance to concentrating on "compromised" governance. The author explains that compromised governance focuses on the mining industry's historical role in weakening Global South institutions through practices such as dispossession, regulatory capture, tax avoidance, and investor state-arbitration.

Oftentimes, CSR mechanisms are used to drive economic globalization, capitalism, and neoliberal agendas (Frederiksen, 2018; Idemudia & Kwakyewah, 2018). Dentchev et al. (2017) conclude that governments are key actors using CSR strategically to advance the liberalization of economies and in doing so indirectly bolster market and civil society pressure for responsible corporate behavior. Kamphuis (2012) reinforces this sentiment stating Canadian CSR policies assume "that financial markets exist autonomously of state decisions, actions, and interventions" (p. 1476). The author deems this assumption false by emphasizing the states' role in the creation and promotion of capital markets, further providing the example of Canada being the most significant financier for Canadian mining companies abroad (Kamphuis, 2012). Of the 1, 290 mining companies listed under Canadian jurisdiction, 621 Canadian corporations operating abroad hold most of Canada's mining assets, valued at \$177.8 billion (Natural Resources Canada, 2021).

Alternatives to dominant mining discourse, such as home state accountability, center discussions around alleviating structural power inequalities between corporations, governments, civil societies, and local communities. Gagnon, Simons and Macklin (2003) were among the first to identify the governance gap related to corporate accountability to overseas human rights

abuses. The authors stated that a solution to the governance gap is to invoke more robust home state regulations for corporate negligence abroad (Gagnon et al., 2003). Seck (2008) reinforces sentiments for stronger home state regulation through their analysis of transboundary corporate harm within international sustainable development law. The author describes how human rights treaties affirm the state's duty in regulating transnational mining companies for human rights abuses through legislation, judicial remedies, and compensation (Seck, 2008). Under the United Nations Guiding Principles on Human Rights, researchers call for the adoption of mandatory human rights and environmental due diligence (HREDD) legislation.

HREDD aims to mitigate and regulate corporate negligence within home states (Bueno & Bright, 2020). Coumans (2017) study on the mining sector's response to human rights pressures, emphasizes the need for binding legal mechanisms within the Canadian extractive industry. Coumans (2017) states that companies recognize human rights as a voluntary exercise and that binding legal action needs to be taken to ensure corporate compliance to human rights in the Global South.

In addition, Coumans (2020) policy brief provides recommendations for the United Nations Environment Assembly (UNEA) 2019 resolution on mineral resource governance. The UNEA is the “world’s highest level decision-making body on the environment”, working collectively with 193 Member States to set guidelines for global environmental policies and establish international law (UNEA, para 1, 2021). The most pressing recommendations outlined in the brief include: increased home state regulation; implementation of HREDD and public tax avoidance mechanisms; empowerment of the Office of the Canadian Ombudsperson; and the right for local communities to decline mining.

## **2.4 Canada as a Global Leader in the Extractive Industry**

Canadian transnational mining corporations have gained international recognition for industry-leading corporate citizenry and socially responsible corporate behavior (Government of Canada, 2021). Canada has historically and continues to stand as a leader amongst the most powerful countries in the international mining industry, followed by Australia, the United Kingdom, the United States, and South Africa (Butler, 2016). China has also recently risen as a mining industry powerhouse, recognized as the second global leader in sourcing and receiving foreign direct investment (Woetzel et al., 2019). Although hegemonic power held in the mining industry seems to be evolving alongside China's growing influence in the sector, the dynamics that sustain global power asymmetries remains unequivocally present.

Canada is a leader within the global mining industry with 1,290 companies operating within the sector, and mining assets totaling \$263.2 billion in 2019 (Natural Resources Canada, 2021). Canada's success as a leading mining nation can be attributed to its socio-political power; its geographical position; its proficiency in geological exploration; competencies in enhancing venture and risk capital in the industry; and its strongly cultivated financial and legal services sectors (Denault and Sacher, 2012).

Canadian mining companies have a long history at home but began to expand rapidly across the globe by the late 1980s (Butler, 2016). This expansion was a response to the global socio-economic shift towards neoliberal policies, first seen in the World Bank's diffusion of structural adjustment programs in the Global South (Camba, 2015). Since 1985, neoliberal reforms implemented by the World Bank manifested over ninety states adopting new mining laws or revisions of existing ones favouring foreign investment (Butler, 2016).

Canada is heavily implicated in World Bank development agendas, for example, evidence shows Canadian lawyers being hired as expert consultants in World Bank-funded projects to help African governments "modernize" their mining laws (Butler, 2016). Since the 1980s, there has been a steep decline in the Canadian government informing its citizens about its international aid program (Masaeli and Munro, 2018). Rather than the Canadian state describing aid initiatives through humanitarian motives, Masaeli and Munro (2018) conclude that "recent governments have been increasingly explicit about using the aid program to advance national economic interests" (p.85).

The Canadian mining industry's global prominence is upheld by domestic investments and financial services (Deneault and Sacher, 2012). Export Development Canada (EDC), a federal Crown corporation owned wholly by the Government of Canada is exemplary of the states' critical role in advancing private interests within the mining industry. For example, in 2005, EDC provided \$2.54 billion in total commercial loans to Canadian corporations operating in the international energy sector (Canadian Network on Corporate Accountability (CNCA), 2007).

The Canadian Pension Plan (CPP) is also a Crown corporation, financially supported by workers' contributions to the Canadian retirement program. The CPP holds one of the nation's most significant funds, at over \$400 billion (Rowe et al., 2019). In 2009, the Canadian Pension Plan Investment Board (CPPIB) invested in 400 Canadian corporations operating in the extractive sector (University of Quebec in Montreal International Legal Clinic for the Defense of Human Rights (UQAM), 2012)). In conjunction, the Toronto Stock Exchange (TSX) is recognized as the global mining industry's dominating source of investment capital. TSX

comprises 47% of the world's publicly listed mining companies, accumulating \$7.5 billion of capital in 2020 (TSX, 2021). However, through EDC, CPPIB, and TSX, Canadian investments lack proper screening and due diligence monitoring for assets, ultimately leading to the provision of financial support to negligent business practices.

Through lobbying and mining policy co-creation involving government, industry associations have upheld the narrative that mining is a fundamental component of Canada's national and global identity (Global Affairs Canada, 2021). The Prospectors Developers Association of Canada (PDAC) and the Mining Association of Canada (MAC) are the nation's most important industry associations. PDAC and the MAC play an integral role in creating global mining policy norms and standards, utilizing lobbying to advance the globalization of the industry. PDAC is based in Toronto and concentrates on the mineral exploration and development sector. The organization is recognized for holding the world's largest annual convention for the international mining industry (Government of Canada, 2021).

The MAC is based in Ottawa, acting as the Canadian mining industry's lobby, with 75% of the nation's mineral and metals production under MAC membership (Haughton, 2021). It is governed by industry leaders who work to advance Canadian mining operations and responsible business conduct policy at the domestic and international levels (MAC, 2021a). The MAC pledges itself for its internationally acclaimed Towards Sustainable Mining (TSM) Initiative. The TSM initiative is a CSR instrument that operationalizes eight protocols and frameworks for responsible business conduct, environmental sustainability, and human rights worldwide.

Above all, Canada dominates the international mining industry because the nation remains a powerful judicial and financial haven for corporations (Saunders, 2014). The



Government of Canada protects the mining industry from corporate violations through permissive domestic regulatory structures and voluntary accountability mechanisms (Deneault and Sacher, 2012).

The following section provides a critical review of the effectiveness of Canadian mining accountability mechanisms in regulating their transnational corporations from human and environmental violations. We shift from a description of the various types of mining discourse involved across the global industry to an institutional perspective, which provides an overview of Canadian international mining institutional arrangements between 1999-2021.

## **2.5 Critical Review of Canadian Accountability Mechanisms, Policies & Codes of Conduct**

Canadian accountability mechanisms, policies & codes of conduct regarding foreign mining have evolved substantially since the late 1990's (See Fig. 1). As one of the only binding legislation related to corporate accountability in Canada, the Corruption of Foreign Public Officials Act (CFPOA) makes it a criminal offence to bribe foreign public officials to gain business advantages (Harrington, 2019). The legislative scheme is primarily criticized by researchers such as Mijares (2015) for being a weak, deficient and inadequately enforced legal mechanism. In conjunction with Canada's historically unresponsive judicial system to white-collar crime, only four convictions have been undertaken through CFPOA throughout the 23 years of this legislation's existence (Harrington, 2019).



**Figure 1. Timeline of the Government of Canada's Accountability Mechanisms, Policies & Codes of Conduct related to Canadian mining operations abroad**

The Canadian government's dialogue on international corporate accountability began in 2005 when Indigenous *Subanon* community members from the Philippines testified to the Canadian government on the alleged human and environmental rights abuses inflicted by Toronto Ventures Inc., a junior Canadian mining company (Coumans, 2010). This testimony marked the ground-breaking 2005 Standing Committee on Foreign Affairs and International Trade (SCFAIT) report, highlighting the lack of accountability mechanisms offered in Canada for Canadian corporations operating extraterritorially (SCFAIT, 2005). The report focused on

enhanced regulatory reforms in the extractive industry, calling on the Canadian government to "establish clear legal norms in Canada" and hold Canadian companies accountable to environmental and human rights violations associated with their operations.

The SCFAIT report led to the government's 2007 creation of the multi-stakeholder dialogue process known as the National Roundtables on Corporate Social Responsibility and the Canadian Extractive Industry in Developing Countries (CSR Roundtables) (Idemudia and Kwakyewah, 2018). In March 2009, the CSR Roundtables resulted in the first governmental CSR policy titled, *"Building the Canadian Advantage: A Corporate Social Responsibility Strategy for the Canadian International Extractive Sector"*. The initial CSR policy centers host state weak governance discourse, highlighting, "Many countries face considerable capacity challenges in implementing extractive sector strategies, legislation and regulations that ensure investments and operations are socially and environmentally responsible; support the protection of human rights; and produce sustainable benefits for communities and industry" (Global Affairs Canada, 2009, para. 13). According to Coumans (2010) the Canadian Chamber of Commerce played a fundamental role in persuading the Canadian government to remove all human rights and binding corporate accountability within this CSR policy and instead focus on host state accountability.

By April 2009, Bill C-300, *"An Act Respecting Corporate Accountability for the Activities of Mining, Oil or Gas in Developing Countries,"* almost came into effect but failed to pass in a vote of 140 to 134. Bill C-300 remains a historically critical legislative piece as it sought to establish home state accountability and complaints mechanisms in Canada (Idemudia & Kwakyewah, 2018). The same year, an Extractive Sector Counsellor position was created to

provide remedies to affected communities impacted by Canadian mining operations (Roy Grégoire, 2019). Known as an industry insider and a strong affiliate of Barrick Gold, Marketa Evans was appointed as Canada's first CSR Counsellor (Saunders, 2014). During her four years as Counsellor, her office received six complaints, with five out of the six closed without resolution (Saunders, 2014). In 2015, a former Rio Tinto corporate official, Jeffery Davidson, was appointed as the new CSR Counsellor. However, by 2018, the office closed permanently due to increasing scrutiny (Ciupa & Zalik, 2020).

In November 2014, the Government of Canada announced an enhanced version of its initial 2009 CSR Strategy titled, *"Doing Business the Canadian Way: A Strategy to Advance Corporate Social Responsibility in Canada's Extractive Sector Abroad"* (Global Affairs Canada, 2021). Mining Watch Canada examined the Canadian government's enhanced CSR strategy for lacking compliance mechanisms, transparency, accountability, sanction, and remedy (Mining Watch Canada, 2019). Furthermore, the CSO report stated that the enhanced CSR strategy was characterized by an absence in well-defined, measurable, or monitored reporting on the corporation's ability to achieve the outlined objectives related to upholding and respecting human rights abroad (Mining Watch Canada, 2019).

By December 2014, Canada's Extractive Sector Transparency Measures Act (ESTMA) was adopted (Global Affairs Canada, 2021). The ESTMA regulates corporations listed within the Canadian stock exchange to disclose financial information related to extractive exploration to governments in Canada and abroad (Mijares, 2015). Ciupa & Zalik (2020) claim that the lack of oversight, standardized reporting and excluded activities under the legislation showcases public relations management taking precedence over meaningful social regulations.

In January 2018, the Office of the Canadian Ombudsperson for Responsible Enterprise (CORE) was established to review and implement sanctions for alleged human and environmental rights abuses from Canadian corporations overseas (Global Affairs Canada, 2021). However, conflicting private interests were evident again as the appointed CORE, Sheri Meyerhoffer, has had a history of lobbying and consulting for the oil industry (Ciupa & Zalik, 2020). Key concerns of the CORE office are related to the lack of independence of the Office from the extractive industry; insufficient judicial powers to compel evidence from or to investigate corporations; and inadequate safeguards to protect those filing complaints (Ciupa and Zalik, 2020).

Most recently, Global Affairs Canada reviewed the Enhanced CSR strategy of 2014 to create a renewed CSR approach for the period of 2021-2026 known as "*Responsible Business Conduct Abroad (RBC)*." RBC is a renewed version of the 2014 CSR Strategy. Global Affairs Canada (2021) argues in supporting RBC, "through its actions, the Government facilitates the commercial success of Canadian companies active abroad while enhancing the contribution of their activities to the broad economic growth of Canada and its trading partners, including those with developing and emergent economies." Canada's renewed CSR strategy continues to put economic success of the mining industry over the protection of the socio-ecological systems within host states.

Canada's RBC approach champions the MAC's Towards Sustainable Mining initiative. MAC's TSM initiative has gained international recognition as a global best practice. Examples of MAC's TSM frameworks include protocols on Indigenous and Community Relationships, Climate Change, Tailings Management Protocol, and Safety and Health amongst several others

(MAC, 2021b). However, Mining Watch Canada's critical 2020 policy brief counters the corporate narrative by defining TSM as a "lagging standard," based on voluntary mechanisms where corporate members self-grade their performance within TSM's eight protocols (Coumans, 2020). Moreover, TSM lacks transparency, with only 22 out of 43 MAC members reporting their performance in 2019 and a lack of data on indicators used during grading processes (Coumans, 2020).

Each renewed version of Canadian CSR policy, since its inception in 2009, has been directly tied to government officials campaigning for voluntary mechanisms as the only viable option for accountability (Idemudia & Kwakyewah, 2018). In doing so the Canadian government has historically worked in tandem with corporations to implement weak accountability mechanisms in an effort to capitalize on the mining industry's exploitative practices.

## **2.6 The Case of Canadian Mining Operations in the Philippines**

This section reviews Canadian state and corporate presence within the Philippines' mining industry. To illustrate previous discussion on how CSR policies manifest at the institutional level, we examine how Canadian state and corporate forces use dominant mining discourses as an extension of power and influence within the host state's mineral governance and socio-economic institutions and policies.

### **2.6.1 The Philippines' Socio-Economic Context- "Host State Weak Governance"**

The Philippines is among the 18 mega-biodiverse countries, globally possessing two-thirds of the earth's biodiversity (Magno, 2015). Alongside the Philippine's rich biodiversity, the nation's

natural resource endowment is valued at approximately USD 1 trillion, ranking fifth in the world for mineral resources, including third in gold reserves, fourth in copper and fifth in nickel (Camba, 2016). Despite the archipelago's biodiversity and resource richness, the majority of its population remains economically poor (Magno, 2015). The Philippines' current socio-political context is characterized by authoritarian populism and high regulatory capture, with state powers serving political and economic elites at the expense of the rule of law (Rodan, 2021). With the nation's rich resource endowment, export-led economic growth, and decreasing democratic environment, the Philippines portrays a classic example of "host state weak governance."

The Philippines was subjugated to over 400 years of colonial ruling by Spain (1521-1898) and the United States (1899-1946) (Rodan, 2021). Since gaining sovereignty, the nation's political-economic structure has been characterized as a capitalist oligarchy, where "extreme concentrations of private wealth, power, and coercion have consolidated with capitalist development" (Rodan, 2021 p. 237). Throughout history, the nation has been ruled by kinship and elite family-based oligarchies found at all government leadership levels (Caouette, 2013). The country's political dynasties have skillfully consolidated acute concentrations of power and capital through bribery, political patronage, regulatory capture and rent-seeking, amongst other forms of illicit activities (Caouette, 2013).

Export-led industrialization and neoliberal reforms also led to intensified inequalities in wealth and income. Despite the government's efforts to mobilize the mining industry as a catalyst for development, the sector contributes a minuscule 0.89 percent to the gross domestic product (EITI, 2016). In relation, the Philippines' poverty incidence stands at 25-26 percent at the national level and 30-60 percent in large-scale mining provinces (Magno, 2015).

Alongside the rising economic inequalities, there remains long withstanding armed conflict characterized by rebel and extremist groups, primarily between the communist New People's Army, the Muslim-separatist Moro-Islamic Liberation Front and the Jihadist Abu Sayyaf Group (Croft and Felter, 2020; Holden, 2014). Human rights abuses heightened during the presidential election of Rodrigo Duterte in 2016, who implemented strong counter-campaigns against terrorism and illegal drugs (OHCHR, 2020). The state's implementation of a whole-of-the-nation approach to counterinsurgency resulted in a shrinking civic space, with the government using politicized armed forces to implement public order and national security. The government's efforts to silence dissent have led to a rise in violent attacks, deaths, arrests, and lawsuits against human rights and land defenders (OHCHR, 2020).

The Philippines, a low-income mineral wealthy nation, possesses many domestic vulnerabilities associated with the resource curse, exemplified in the aforementioned corruption, poverty, and conflict. Host-state weak governance discourse states that such impending issues lead to developing nations' inability to translate their resource richness into economic prosperity. However, this discourse remains paternalistic and occidental-centric in nature, failing to acknowledge the archipelago's weak state did not materialize solely from its domestic actors. The rationalization of the Philippines' "weak governance" is systemic, transcending beyond the archipelago's borders. It is a product of colonial legacies and neocolonial policies destabilizing the nation for its resources and restructuring its socio-political environment to the Global North's advantage in association with a patrimonial elite controlled state.



### **2.6.2 Canada's Involvement within the Philippines' Mining Industry**

As of 2021, Canada and the Philippines' bilateral relations have been upheld for 71 years (Embassy of Canada in the Philippines, 2020). Alongside a history of Canadian presence manifest across the country, the archipelago's land and vast resource endowments continue to be sought after by capital-driven nations. The Philippines' neocolonial development perseveres as over 60 percent of national and transnational mines operate in ancestral Indigenous territories (Simbulan, 2016). This section provides a critical historical perspective on the evolution and status of this relationship.

After a drop in mineral production in the 1970s- 1980s, the World Bank and Asian Development Bank advised the Philippine state to reform the national mining act to better align with liberalization targets (Rovillos and Tauli-Corpuz, 2012). The United Nations Development Programme and World Bank-funded technical assistance research ultimately led to the creation of the 1995 Philippine Mining Act (Rovillos and Tauli-Corpuz, 2012). Today, the neoliberal policy prescriptions within the 1995 Philippine Mining Act enable 100% foreign ownership of mining operations, which include various tax breaks and incentives to attract mining exploration (Magno, 2015).

Over 60% of Canada's development assistance to international financial institutions is put towards World Bank Group projects and initiatives (World Bank Group, 2016), making Canada highly involved in the support and funding of mining reforms such as the 1995 Philippine Mining Act. Canada also sits on the Asian Development Bank's Board of Directors and since joining in 1966 it has provided US 7.7 billion of funding to the international financial institution (Global Affairs Canada, 2020). Through the Canadian government's creation of the Asia Pacific

Project Preparation Facility, the Canadian government has contributed \$20 million to Asian governments between 2015-2020 to “(1) providing financial, legal and technical assistance services to governments and their public sector agencies to better prepare, structure and tender infrastructure projects; (2) supporting legal and regulatory reforms that facilitate private sector investments in infrastructure projects.” (Global Affairs Canada, 2019 para. 2). Such legal and regulatory reforms include the funds to assist in reforming mining laws and tax regimes. By 1996, foreign direct investment within the Philippines' mining industry increased by 400%, compared to the previous years (Camba, 2015). It is not surprising that upon adopting the 1995 Philippine Mining Act, Canadian-owned Toronto Resource Development Inc. (TVIRD) became the first foreign-invested mining corporation in the Philippines (TVIRD, 2013).

A historically significant case of Canadian mining in the Philippines was seen in TVI Resource Development Inc., which is a subsidiary of Calgary-based Toronto Ventures Inc., which operated in a 508-hectare area within Indigenous lands in Siocon, Zamboanga del Norte, Mindanao (TVIRD, 2013). Between 2008-2014, TVIRD operated in an area characterized by decades-long violent civil insurgency. This case is significant because *Subanon* locals brought TVIRD's case of negligent mining operations to the Canadian parliament, which spearheaded the groundbreaking 2005 SCFAIT report. The recommendation to implement a moratorium on government advocacy for TVIRD operations was declined. Despite evidence of Canadian corporate negligence, project funding for TVI operations continued indirectly through CIDA's Canada Fund for Local Initiatives Program (CNCA, 2007).

Locally, the *Subanon* peoples hold a Certificate of Ancestral Domain Claim Title (CADT) within the area. A CADT is a formal legal recognition of Indigenous ownership over the

territories identified in the Philippines. The affected *Subanon* community claimed that TVIRD provided inadequate Free, Prior, and Informed Consent processes and filed complaints against TVIRD at the United Nations and Canadian parliamentary levels (CNCA, 2007). The victims of corporate negligence reported several violent conflicts between TVIRD personnel and security forces, widespread displacement, and human rights and environmental violations (Brown, 2012; Sanz & Hansen, 2018). Despite violent conflict occurring, Peter Sutherland, former Canadian Ambassador to the Philippines, held a strong relationship with the company and championed TVIRD for its success within the archipelago (Rovillos and Tauli-Corpuz, 2012). There is also evidence that the former Canadian International Development Agency (CIDA), now known as Global Affairs Canada, provided financial support to TVIRD while the corporation was part of the violent conflict with Indigenous *Subanon* peoples and local farmers resisting mining in the region (CNCA, 2007).

Another critical case of Canadian mining misconduct in the Philippines is related to OceanaGold, a copper-gold Australian Canadian company. OceanaGold began its operations in 1992 in Didipio, Nueva Vizcaya, Luzon and continues to operate to this day despite strong resistance at the local level. In 2019, OceanaGold's Didipio Mine won five prestigious international awards for sustainable mining, including the Platinum award for Best Environmental Excellence and the Silver Award for Best Workplace Practices at the Global CSR Summit Awards (OceanaGold, 2019). Likewise, the Mining Journal, the leading publication for global mining news by Aspermont Media Ltd., published a 2020 report entitled, "OceanaGold, leading social performance in gold mining," which recognized OceanaGold as one of the top five companies in the international gold industry for its Environmental, Social and Governance

impacts (Struss, 2020).

The OceanaGold (2019 p. 23) sustainability report states: "We do not intentionally incite or support any persecution, and we do not operate our business in a way that raises the risk of persecution for Indigenous (or non-Indigenous) environmental and human rights defenders." However, evidence revealed by Broad et al. (2018)'s research on OceanaGold's Didipio mine proves otherwise. The comprehensive report outlines ten socio-environmental violations that should prompt the removal of OceanaGold in the Philippines. Among the violations include the illegal and violent demolition of 187 houses with no compensation or resettlement options; the obstruction of significant roads and pathways for community members; polluted surface water; land loss; and extrajudicial killing and threats to community members resisting operations, amongst other forms of legal infractions (Broad et al., 2018). In April 2020, a VICE news report stated that Didipio community members created a barricade to block truck deliveries to the mine during the suspension of OceanaGold's operations in 2019 (Zoledziowski & Gutierrez, 2020). The authors report violent police force used upon 30 activists, with video evidence of police using riot shields to push and injure community members.

More broadly, the Philippines government employs widespread militarized violence against citizens exercising their rights to freedom of expression and assembly as a means of political suppression of dissent. The June 2020 United Nations High Commission Report on the Philippines' human rights situation disclosed 208 murders of human rights defenders, journalists and trade unionists between January 2015 to December 2019 (OHCHR, 2020). On March 5th, 2021, during an event held by the National Task Force to End Local Communist Armed Conflict, President Duterte announced, "kill, kill them all" (Bollo, 2021). Now marked as Bloody

Sunday, two days later, on March 7th, 2021, the police and military murdered nine activists and arrested six human rights workers (Bolledo, 2021). Global Witness (2020) recognized the Philippines as the second deadliest place in the world to be a human rights activist and land defender, with mining being the most dangerous sector globally. The Philippine government funds and trains state-sponsored militarization units to protect mining operations from resistance and opposition (Camba, 2015; Holden, 2014).

Canada states that upholding human rights remains crucial to foreign policy, yet the Canadian government has not yet released a public statement regarding the state of human rights and democracy in the Philippines. Moreover, in 2017, the Philippines adopted the Mining Association of Canada's Towards Sustainable Mining initiative (MAC, 2021b). Due to the initiative's lack of transparency, a significant knowledge gap persists regarding the effectiveness of TSM in strengthening company-community relations and eliminating human and environmental rights violations in local mining regions.

In many ways, Canada is at most complicit and insensitive to the Philippines' human rights abuses. For years researchers have been observing that Canadian transnational mining corporations played a role in amplifying the Philippine's decades-long conflict by funding armed private groups who fight those opposing operations. Yet, Crost and Felter (2020) suggest that due to increased competition within resource-rich areas, "a reform that increases investment in mining could have the direct effect of increasing extortion-related attacks on rebel positions. It could further have the indirect effect of increasing extortion revenue that rebels use to fund attacks on other targets" (p.2). Such hypotheses align with research undertaken by Holden and Jacobson (2007) who highlight evidence of Canadian mining firm Echo Bay Mines providing

over USD \$1.7 million of financial aid to armed groups such as the Moro-Islamic Liberation Front and Abu Sayyaf Group.

Canada and the Philippines have also held a strong military training partnership since 1997, with over 150 personnel across the Armed Forces of the Philippines trained in Canada (Global Affairs Canada, 2014). In 2014, Canada and the Philippines signed a Memorandum of Understanding formalizing their defense training cooperation program, which creates opportunities for Filipino military personnel to be trained by the Canadian Armed Forces (Global Affairs Canada, 2014). In 2018, President Duterte signed a transaction agreement with Prime Minister Justin Trudeau to sell 16 Bell 412EPI combat utility helicopters to the Philippines, valued at \$233.36 million (Reuters, 2018).

Since 2016, the Duterte administration increased aerial military bombings on Indigenous communities to target "communist rebels" (Sambalud, 2018). For example, there have been twenty-one aerial bombardment cases on unarmed Indigenous civilians and Indigenous schools in southern Mindanao since 2016 (Sambalud, 2018). Understanding that helicopters would be used for Duterte's national campaign against terrorism, human rights advocacy groups scrutinized the Canadian government for actively supporting human rights violations through the provision of military aid. In 2019, Prime Minister Trudeau asked the Duterte administration if the helicopters would be used by the military. This resulted in Duterte cancelling the Canadian army equipment deal as the administration was not interested in Canada interfering with domestic policies (Pugliese, 2018).

## 2.7 Conclusion

Canada's role as a global leader in the mining industry means that government legislation dealing with corporate abuse abroad plays a critical role in regulating the sector internationally. Despite growing public pressures related to Canadian corporate misbehavior, ineffective corporate social responsibility initiatives amongst governments and corporations dominate in the face of regulatory reform.

Our findings identify several Canadian home state governance gaps related to its utilization of CSR discourse:

- Driven by shared ideological and political commitments to liberalization, Canadian government agencies and corporations work in tandem to use CSR and host-state weak governance discourse to advance profit maximization and state de-regulation within the mining industries of developing states;
- Crown agencies such as Export Development Canada, the Canadian Pension Plan Investment Board and the Toronto Stock Exchange act as enabling instruments for Canadian public investments who oftentimes finance negligent mining enterprises;
- Canada, alongside other neo-imperial forces, have played an active role in reinforcing existing socio-economic structures in the Philippines, which have led to its characterization as a “weak governance state”;
- The Canadian government is complicit in the increasing human rights violations and deteriorating democracy in the Philippines, acting as an agent in fueling the human rights

crises. The Canadian state's complicity is evident in its lack of concrete commitment, actions, and laxity in monitoring the use of its technical, financial, and military aid.

In this chapter, we examine dominant mining discourses through a narrative and institutional review of state and industry forces that use CSR discourse as an extension of power within the global mining sector. The Philippine's characterization as a "weak governance" state by Global North actors are the remnants of over four centuries of plunder and looting, with mixed legacies of colonial influence prevailing within the nation's socio-economic and political realms. Moreover, Canada profits from and advances the Philippines' human rights crises through its transnational corporate negligence, lack of home state accountability, complicity, and provision of aid. This chapter also points to evidence of high regulatory capture within the Canadian state, resulting in the lack of accountability mechanisms and legal remedies available for community members affected by Canadian mining operations. To ensure human rights and community agency are upheld within host states, home-state accountability and binding compliance mechanisms must be enforced for Canadian transnational mining.

Examples of binding compliance mechanisms include implementing mandatory human rights and environmental due diligence legislation in Canada which holds its corporations accountable to international human rights standards across their operations and supply chains; empowering the Office of the Canadian Ombudsperson for Responsible Enterprise with judicial power to effectively undertake investigation of human rights abuses related to negligent Canadian business operations; and implement legislation related to a public beneficial ownership registry to expose and sanction tax avoidance practices, alongside other binding mechanisms which will ensure community agency and eliminate corporate impunity for mining abuses



(Coumans, 2019).

The cases of Canadian mining operations in the Philippines exemplified in this chapter are not exhaustive. Moreover, the information provided in this chapter is limited to what has been reported within peer-reviewed articles and grey literature. As affected citizens are silenced due to the shrinking civil space within the archipelago, there is a possibility that several cases of Canadian corporate harm within the Philippines' extractive sector have not been publicized. Future studies should collect primary data that amplify affected community voices and lived experiences related to Canadian mining operations in the Philippines. Enhanced documentation and rigorous research can lead to greater home state accountability by sensitizing Canadian governments and citizens on the human rights violations occurring through public investments.

## **2.8 Opportunities & Limitations**

As CSR policies remain one of the key modes for mining companies, future research could examine how Canadian CSR strategies may be serving profit maximization more than its intended purpose of protecting environments and livelihoods. The power of Canadian CSR policy lies in its ability to serve as an impression management tool for strengthening favorable investment climates while simultaneously obscuring the public's awareness of the corporate exploitation that occurs across borders. Future studies could also examine mandatory legal frameworks, (e.g., human and environmental due diligence legislation), for Canadian mining companies and public institutions such as EDC, CPPIB, and TSX that provide financial support to mining corporations. In line with strengthening binding legal mechanisms of accountability,

future research can also explore due diligence procedures which include accessible human rights impact assessments consistent with international human rights standards and be undertaken by individuals who do not hold private interests within the mining industry.

The cases of Canadian mining operations in the Philippines exemplified in this chapter are not exhaustive. The information provided in this chapter is limited to what has been reported within peer-reviewed articles and grey literature. As affected citizens are silenced due to the shrinking civil space within the archipelago, there is a possibility that several cases of Canadian corporate harm within the Philippines' extractive sector have not been publicized. Further studies would be needed to collect primary data that amplify affected community voices and lived experiences related to Canadian mining operations in the Philippines. Enhanced documentation and rigorous research can lead to greater home state accountability by sensitizing Canadian governments and citizens on the human rights violations occurring through public investments. Mounting concern over human rights violations, the integrity of responsibility reporting, and community mistrust have challenged the legitimacy of such CSR awards and recognitions.

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### **3 The Philippines Neoliberal Extractive Industry: Mining for Development, State Violence, and Inter-Institutional Gaps in Resource Governance**

#### **3.1 Introduction**

The mineral wealth of the Philippines is amongst the highest in the world, with an estimated value of approximately USD \$1 trillion (Camba, 2016). As a result, the country's vast mineral deposits have been and continue to be tremendously sought after by international actors and national governments with the means required to exploit these resources (Simbulan, 2016). To support this process, the Philippine government established strong commitments to large-scale mining policies in the mid-1990's, prioritizing foreign direct investments as the nation's principal catalyst for growth (Holden, 2014; Khee-Jin Tan, 2006). Since then, Philippine national policies have been firmly rooted in a mining for development (M4D) paradigm that prioritizes domestic wealth creation and financing development through foreign investment (Camba, 2015; Holden and Jacobson, 2007; Magno, 2015; Section 3.2 provides an overview of M4D scholarship).

However, rather than catalyzing development, some argue that the push for M4D has perpetuated abusive, corrupt behaviors, holding few benefits for the people of the Philippines (Graulau, 2008; Magno, 2015). In particular, foreign investments in their extractive industry have created relationships of dependency among neocolonial nations (Holden and Jacobson, 2013), with debt obligations and foreign ownership producing degrees of geo-political control

over the archipelago (Camba, 2015; Holden and Jacobson, 2013; Pedro et al., 2017). Power asymmetries, human and environmental rights abuses, rising poverty, and negligent mining operations from M4D policies have also led to resistance movements (Espiritu, 2017). Since the 1980s, Indigenous communities, marginalized religious groups and economically poor Filipinos have mobilized against neoliberal mining policies (Aytin, 2015; Holden and Jacobson, 2013). Oftentimes, to protect mining corporations, the government's response to resistance has been coercion and violence through state sponsored militarization (Kreuzer, 2009).

Issues of conflict, resistance and state militarization are common global themes found throughout post-colonial states hosting extractive industries (Meger and Sachseder, 2020). The Philippines poses a noteworthy case to further analyze these issues as the dispossession of Indigenous lands for resource extraction continues despite decades worth of resistance (Global Witness, 2020). This chapter explores gaps within natural resource governance at the nexus of governmental agencies and anti-mining Indigenous communities in the Philippines.

We aim to contribute to community agency and mining literature by focusing on a case study of state violence within Indigenous communities in Mindanao, particularly within Lumad communities resisting mining in ancestral domains. Specifically, we provide a nuanced perspective of resource governance through an analysis of the contemporary Philippine state during the current Duterte administration. We use Rahman et al. (2017)'s inter-institutional gaps (IIG) framework as a tool to systematically identify barriers in post-colonial governance between formal and informal institutions, which have led to the absence of political rights and civil liberties in Lumad territories. The chapter begins with a summary of the M4D paradigm at a global scale. We then introduce our case study by outlining the history and implications of

mining in the Philippines, followed by a review of the IIG framework. We end with a case study analysis of state violence within anti-mining Lumad communities in Mindanao, using the IIG framework to explore the latent gaps manifesting within the mining sector.

### **3.2 The History of the Mining for Development Paradigm**

The mining for development (M4D) paradigm is rooted in neoliberal ideologies of resource development (Graulau, 2008; Holden and Jacobson, 2013), and characterized by free trade policies, state de-regulation, and foreign direct investment (Holden and Jacobson, 2007). M4D is commonly applied in low-income mineral rich nations (Broad and Fischer-Mackey, 2016), where neoliberal policies are expected to generate capital to finance development (Magno, 2015).

Defined in the early 1980's, M4D began at the genesis of neoliberalism when the International Monetary Fund (IMF) introduced the Structural Adjustment Program (SAP) to alleviate debt crises in the Global South (Camba, 2015; Graulau, 2008). By 1990, the IMF, World Bank and U.S. Treasury created the Washington Consensus; a set of free market economic policies deepening neoliberal reform in developing countries through binding conditions on financial loans (Holden and Jacobson, 2013). The Washington Consensus aimed to restructure public expenditure priorities; deregulate and enhance free market trade; create competitive fiscal packages for foreign direct investment; and establish privatization and property rights (Graulau, 2008; Khee-Jin Tan, 2006).

Many of the elements of the discourse driving 21<sup>st</sup> century neoliberal mining and M4D paradigms are found in the Sustainable Development Goals (SDGs) adopted by United Nations

Member States in 2015 (Pedro et al., 2017). Specifically, mining corporations are globally recognized for their capacity to actualize the following SDGs: poverty eradication; decent work and economic growth; climate action; industry and infrastructure; and peace and justice (Magno, 2015; Pedro et al., 2017).

However, the SDGs risk contradiction as it simultaneously calls for safeguarding the environment from degradation, while advocating for global economic growth through resource use and extraction (Hickel, 2019). Furthermore, the positive effects associated with the application of M4D in these nations are impeded by a number of factors. For example, the mismanagement of foreign capital in large scale mining can result in corruption, ultimately preventing development objectives from being achieved (Broad and Fischer-Mackey, 2016; Lindon et al., 2014). The inability for mining policy instruments to capture market values of ecosystem services have also resulted in conflict between governments and local communities (Magno, 2015; Pedro et al., 2017). Further limitations to M4D policies stem from state deregulation in the extractive industry. This limitation has led to cases of corporate negligence and a lack of accountability in mining operations (Alejo, 2018).

### **3.3 The History of Mining in the Philippines**

Since Spain colonized the Philippines in 1521 and the United States succeeding colonization in 1898, the country has been subject to an unruly history of plunder undertaken by capitalistic ventures and imperialist powers (Holden et al., 2011). The nation's endowment in natural resources has been sought after by industrialized countries for centuries, with core periphery relationships between Global North actors and the Philippines upheld through economic

dependency (Escobar, 2012). For example, strong post-colonial relationships between the U.S. and the archipelago are embedded in expanding international markets, accessing foreign direct investment to periphery resources, and U.S. military intervention (Simbulan, 2016). The Philippines gained independence from the United States in 1945, yet neo-colonial powers allied with national elites, international markets, and transnational corporations continue to reign today.

Elite Filipino families have ruled the nation's political-economic system throughout history (McCoy, 1994). For the past several generations, family-based oligarchies have maintained government positions by using coercion and violence as weapons of power to influence electoral systems (Caouette, 2012; Kreuzer, 2009). After independence was granted by the United States in 1946, colonial legacies prevailed through national elitists and associated Eurocentric dominance in Filipino society, governments, and legal systems (McCoy, 1994). By 1950, Filipino oligarchs played a significant role in the government and began to nationalize and purchase mining companies (Holden and Jacobson, 2007; Holden and Jacobson, 2013).

International markets and foreign corporations have successively exercised neocolonial and imperialist powers over the archipelago (Camba, 2015). The implementation of the World Bank's SAPs in the late 1970s led to privatization in Philippine state industries and forced policy restructuring to ensure foreign direct investment (Holden et al., 2011). With debt servicing accounting for 8-10 percent of Philippine gross domestic product, SAPs resulted in massive unemployment and decreases in domestic social spending (Camba, 2015).

In 1995, the national government implemented the Philippine Mining Act, which was forcefully driven by the United Nations Development Programme and World Bank policies (Ciencia, 2011; Rovillos and Tauli-Corpuz, 2012). By 1996, the number of foreign mining

companies situated in the Philippines increased by 400 percent (Holden and Jacobson, 2013; Lindon et al., 2014). Today, this Act continues to allow 100 percent foreign ownership of mining operations, including various incentives to attract mining explorations (Aytin, 2015; Magno, 2015). The government remains strongly committed to neoliberal mining policies, which is evident in President Duterte's April 2021 amendment to Executive Order No. 79. This amendment has lifted the 9-year mining moratorium under the previous administration and enabled the government to enter new mineral agreements under the 1995 Mining Act (Ocampo et al., 2021).

The state's ongoing prioritization of foreign investment and rushed environmental assessments have led to disastrous socio-environmental consequences. In 1996, one of the nation's worst environmental disasters occurred under the oversight of the Canadian Marcopper Corporation, in which authoritarian President Marcos was a primary shareholder (Camba, 2015). Approximately 200 million tons of mine tailings spilled into Calancan Bay, resulting in devastating effects to the ecosystem and livelihoods in the region (Lindon et al., 2014).

Environmental externalities such as poisoned water systems continue to persist from this disaster, with little to no liability imposed for the corporations' misbehavior (Simbulan, 2016). Such environmental impacts include the devastation of nearby coral reefs and mangroves, posing increasingly negative impacts on local fisherfolk, with the volume of fish caught decreasing 48% between 1988 and 1996 (Lindon et al., 2014). The Marcopper case initiated public awareness to negligent mining operations and resistance against large scale mining in the country (Espiritu, 2017). Since then, protests and anti-mining campaigns have pressured the government to hold corporations accountable to the impacts of their operations (Alejo, 2018; Espiritu, 2017;

Karapatan, 2014).

The push for accountability in the mining sector has been particularly strong amongst poverty-stricken populations, where M4D policies have not delivered expected economic returns (Simbulan, 2016). From 1990 to 2005, the growth of gross domestic product per capita was at a mere 1.6 percent per year (Magno, 2015). Slow economic growth has led to heavy indebtedness, with the total value of the nation's external debt equal to 77 percent of all export revenue (Holden and Jacobson, 2013). External debt has greatly hindered the ability for poverty alleviation to be achieved. Poverty incidence in the Philippines continues to stand at 25-26 percent at the national level, and 30-60 percent in large-scale mining provinces (Magno, 2015).

Understandably, culturally marginalized and underserved communities have also been at the forefront of mining accountability campaigns, especially on the island of Mindanao (Fig 2). Lumad, translated from the Cebuano language, "born from the earth" refers to Indigenous peoples who are situated on the island of Mindanao, Philippines (Paredes, 1997). The Lumad peoples of Mindanao are made up of approximately 18 distinct tribes (Rodil, 2020). Lumad ethnic groups have traced the movements of generations in relation to the river systems they have occupied, with "social proximities to key bodies of water equated to civility, cultural purity, and political legitimacy" (Paredes, 2016 p.330).

Although each of the 18 tribes are discrete ethnolinguistic groups from one another, Paredes (2016) describes the collective significance of water for Lumad peoples. Beyond a vital resource, water plays a significant role in the identity, oral tradition, ritual practices, and connection of socio-economic networks and power between tribes. The resource use practices of these communities are embedded in forest-based subsistence such as hunting and gathering,

swidden farming, and the collection of non-timber forest products such as rattan and tree resin for lowland selling (Paredes, 2019).

With over 60 percent of mines operating in ancestral territories (Simbulan, 2016), Lumad communities have been severely impacted by the externalities of mining and continue to be victims of development aggression, forced displacement, and extrajudicial killings (Global Witness, 2020). A number of disasters and human rights abuses have led to strong Indigenous resistance movements (Espiritu, 2017; Hagen and Minter, 2019; Holden, 2014). Government responses to such resistance movements have been met with state-sponsored militarization and violence (Caouette, 2012; Iglesias, 2018; Karapatan, 2014). Public resistance to M4D policies has led to extrajudicial killings of Indigenous leaders and the classification of Indigenous organizations and activists as terrorists and communist rebels (Simbulan, 2016).





Figure 2. The Philippines, an archipelago of 7,107 islands with the three major islands Luzon (Northern Philippines, highlighted in orange), Visayas (Central Philippines, highlighted in yellow) and Mindanao (Southern Philippines, highlighted in green) (The Philippine Embassy of Canberra, 2007)

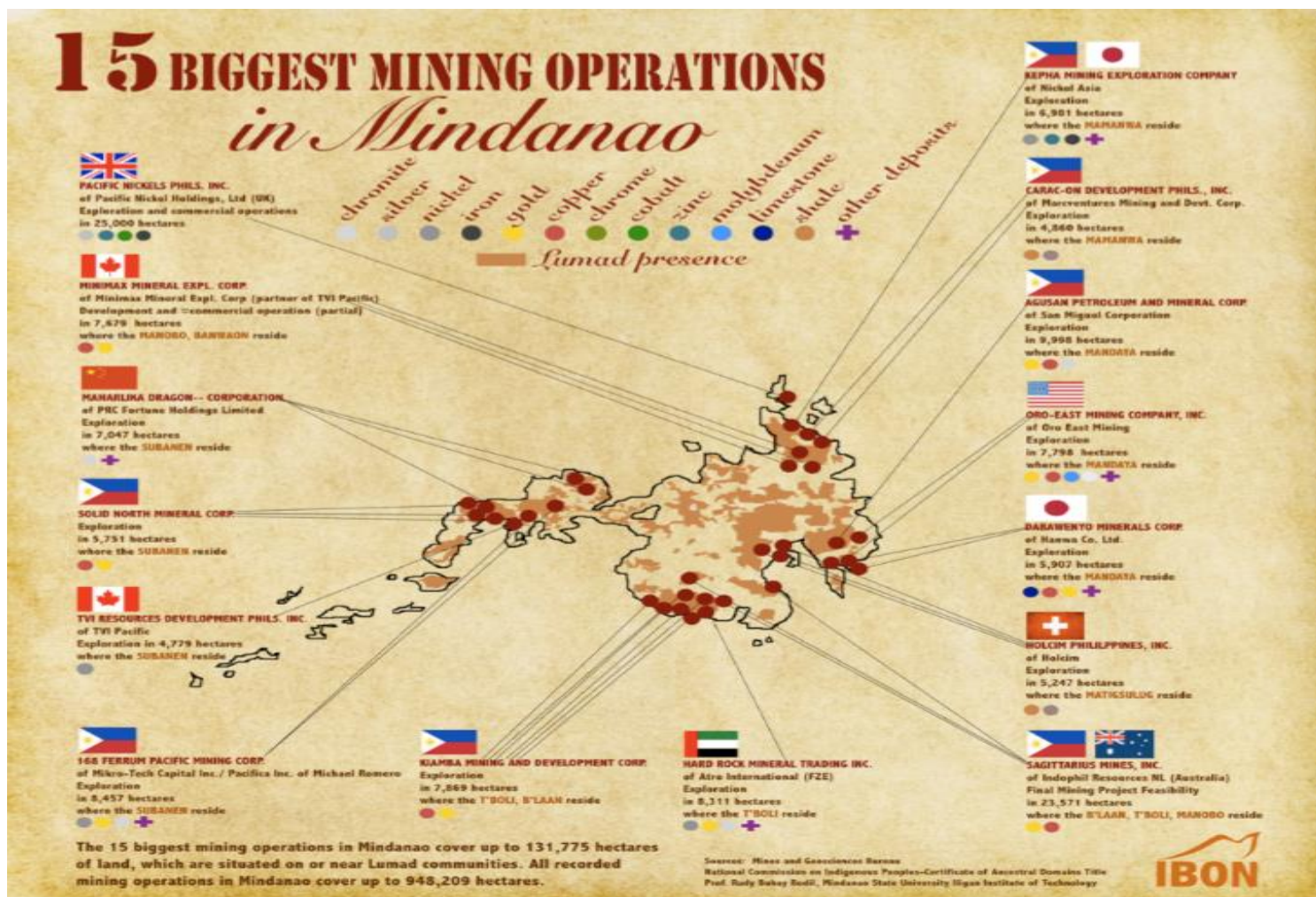


Figure 3. Map of the 15 biggest mining operations in Mindanao, contrasting the Lumad presence (light orange areas), and the large-scale mines that are operating on or nearby Lumad ancestral lands (red areas) (IBON Foundation, 2015).

A 2020 Global Witness report recognized the Philippines as the second deadliest place in the world to be a land defender, with the mining industry being the most dangerous sector. The report further indicated that 43 land-rights advocates in the Philippines were killed in 2019, with most murders located in Mindanao. During the same period, according to 2019 government records, three mining applications for silver, gold and copper projects were granted in the Mindanao region, which spans over 20,000 hectares (Global Witness, 2020). Mining corporations have taken advantage of government military units to safeguard extractive operations and protect private interests in the face of resistance. State-sponsored militaries have undertaken security guard roles for private enterprises, posing violent threats to activists and journalists alike (Kreuzer, 2009).

### **3.4 Brief Overview of Inter-Institutional Gap Framework**

This chapter uses the IIG framework to examine inter-institutional interactions between resource users and governing actors (Rahman et al., 2019). Rahman et al., (2017)'s inter-institutional gap (IIG) framework is an analytical tool used to identify a lack of harmonization in common pool resource management. The framework's strength lies in its ability to analyze cross cultural multi-level governance systems, which other frameworks have not yet been able to address (Rahman et al, 2017). Moreover, it emphasizes that long-term sustainable resource use can only be achieved through effective collaboration in multi-level governance systems.

The IIG framework distinguishes between formal and informal institution types. Formal institutions are characterized through the official codification of norms (Rahman et al., 2017), while informal institutions are defined as socially shared rules that are implemented and

communicated outside of officially sanctioned systems (Helmke and Levitsky, 2004). Moreover, the IIG framework draws from Ostrom et al. (1994)'s Institutional Analysis and Development (IAD) and Social Ecological Systems (SES) frameworks. The IAD and SES frameworks posit that institutions are organized into three hierarchical categories known as “rule levels” (Ostrom, 2011). These rule levels are known as operational choice, collective choice, and constitutional choice rules (McGinnis and Ostrom, 2014).

The IIG framework defines these rule levels under the heading “non-constitutional” and “constitutional” choice rules. Non-constitutional rules combine the increasing similarities between operational and collective choice rules. Specifically, non-constitutional choice rules engage in everyday decision-making and social habits, such as livelihood activities, e.g. fishing, farming (Rahman et al., 2019). Correspondingly, constitutional choice rules are defined through established norms and possess the power to decide who is able to partake in non-constitutional decision-making (Ostrom et al. 1994). Constitutional choice rules, such as the 1995 Philippine Mining Act and Indigenous sacred traditions outside of the Indigenous Peoples Rights Act, represent the highest rule level ranking and are less fluid than the rules mentioned previously (Ostrom, 2011).

The IIG framework's systematic matrix is used to analyze institutional gaps in resource governance. The framework identifies the institutional concepts (legal pluralism, institutional void, structural holes, and cultural mismatch) that explain the co-existing gaps in governance within socio-ecological systems. Drawing from Rahman et al. (2017) and Rahman et al. (2019), the four institutional concepts identified in the IIG framework include:

- a. Legal pluralism: Inter-institutional gap A emerges when formal constitutional rules, usually government-centric rules, do not acknowledge or value informal constitutional rules, actions, and/or traditions (e.g. a clash between national government legislation and Indigenous customary law).
- b. Cultural mismatch: Inter-institutional gap B emerges when formal non-constitutional rules are created without regard to cultural values, customs, and norms of informal constitutional rules (e.g. local politicians and bureaucrats make choices based strictly on government rules without recognizing local established customs).
- c. Institutional void: Inter-institutional gap C emerges when formal constitutional rules treat the actions undertaken by informal non-constitutional rules as unlawful and punishable (e.g. activism and free speech outside of formal institutions are deemed illegal by government legislation and policies).
- d. Structural hole: Inter-institutional gap D emerges when deviations occur within the actions implemented by formal non-constitutional rules and the actions advised by informal non-constitutional rules (e.g. a lack of public participation in formal non-constitutional decision-making).

### 3.5 Applying the IIG Framework to the Philippines

This section explores state violence and resource exploitation as indicators of latent inter-institutional gaps in the Philippine's mining industry.

#### 3.5.1 Methods

Peer reviewed articles, national government mining legislation, news sources, and grey literature were used to inform our analysis of the Philippines mining sector (referred to as *the case*).

Document analysis was undertaken to develop a broad understanding of the formal and informal institutions governing the nation's mining industry. Based upon Rahman et al. (2019)'s method of document analysis, Table 1 provides the key questions that were used within our case study.

**Table 1. An outline of the key questions guiding the case' document analysis**

| Key questions  | Analytical question   |
|--|---|
| What property right system is used for mining land management? | When were the rules enacted?<br>Who were the key actors for enacting the rules?<br>How did the rules change over time?<br>Who are the legally designated actors involved in regulating property right systems?        |
| What are the key formal and informal institutional rules?      | What are the key formal constitutional rules?<br>What are the motivations/intentions of enacting these constitutional rules?<br>Who are the main formal constitutional actors?  |
|  | What power do the key actors possess to implement the formal non-constitutional rules?<br>What power and authority has been endowed to formal non-constitutional actors for implementing formal constitutional rules? |

|   |  |
|---|--|
|   | What roles do they play during rule implementation and how do they make decisions for taking actions?  |
|   | <p>What are the key informal non-constitutional rules?</p> <p>Who are the key actors associated with maintaining, upholding, and changing these rules?</p> <p>To what extent do these rules differ from formal constitutional rules?</p>   |
|   | <p>Who are the community organizing leaders and what are their leadership features?</p> <p>How do they manage legitimacy for their actions?</p> <p>Are there any mechanisms available for the leaders and communities to communicate with government officials and national level legislators?</p> |
| What knowledge types contribute to rule making?                   | <p>How do these knowledge types differ across levels of formal and informal institutions?</p> <p>Are these knowledge types communicated and shared among formal and informal institutional actors?</p>   |
| Who are allowed to participate in extractive management and when? | <p>What activities do they do for maintaining extraction?</p> <p>Do they have direct communication with legislators?</p> <p>How do they maintain the communication?</p> <p>Do they have similar communication with Indigenous institutional actors?</p>  |

### 3.5.2 Identifying the Institutions Governing Mineral Resources in the Philippines

We acknowledge that there are numerous diverse actors involved within the Philippine's mining industry at the local, regional, national, and international levels. In an effort to effectively examine the complex governance occurring in the Philippines mining industry within this

chapter, we have focused our attention to exploring the interactions between only three groups of actors: the current Duterte government, anti-mining Lumad communities and the large-scale mining industry operating in Mindanao. The government and the community organize mining systems through formal and informal institutions that possess *de jure* and/or *de facto* authority and legitimacy to enact rules. The third actor, otherwise known as the peripheral actor, is the extractive industry; the user of mining resources operating under formal institutional regulations. The extractive industry has an influential role to play in mining system governance. Their mutual interaction with the government is driven by the various identities individuals such as political leaders holding positions as business partners and decision makers. Thus, the extractive industry has a direct representation in bureaucracies while the community members possess conflicting interactions with the government and mining industry's representation due to differences in historical resource use practices, worldviews, and resource ownership systems.

Moreover, the various identities and conflicting interactions between state and corporations gain momentum as local community members are limited in its representation in local decision making, despite the Philippines' decentralized form of government. Acheson (2006) describes this as the "concentration of the resource in the hands of local elites or corporations", an enabling feature common in post-colonial government policies. Government actors therefore possess a relative advantage over informal institutional actors to regulate the mining system. This is seen in the power and regulatory capacity the government has in enforcing the ownership of the mining system. The informal institutional actors may not support the outcomes generated by the coercive formal institution, yet they cannot make a substantial change in the formal institutional system due to their lack of capacity (Helmke and Levitsky,



2004).

It is also important to note the context of increasing criminalization of Indigenous peoples and activists in the Philippines, as it intersects with global trends of state incentivized protectional support of private interests. This type of regulatory capture has led to community concerns being delegitimized, alongside attacks and threats upon activists as the government targets “left-leaning” institutions as terrorists (Global Witness, 2020). This process is apparent in the implementation of the National Task Force to End Local Communist Armed Conflict by President Duterte in 2018, facilitating mass- coordination amongst various government agencies to implement counter-insurgency activities (Gotinga, 2020).

This section identifies the institutions and governing rules operating within the four spheres of the IIG framework, summarized in Table 2. This section also explores the tools system actors possess to operationalize their role within the Philippine’s mining industry.

**Table 2. Summary of the individual governing rules and institutions involved within the case’ IIG framework analysis during the Duterte administration**

| <b>Governing rules</b>             | <b>Institutions</b>                           | <b>Summary</b>   | <b>Main rule makers &amp; actors</b>   |
|------------------------------------|---|--|--|
| Formal constitutional choice rules | Government’s legislative and executive bodies | Philippine national governments are characterized by a centralized weak state made up of large elite family conglomerates and led by a strong anti-communist socio-political environment | The House of Representatives, Senate of the Philippines, the President, the Supreme Court, the Department of Energy and Natural Resources, the National Commission of Indigenous Peoples, local government units |

|  |                                |  |  |
|--|--------------------------------|--|--|
| Formal non-constitutional choice rules | State sponsored militarization | The Philippine government created state sponsored militarization units as defense mechanisms for those rebelling against the private interests of the ruling state   | The Armed Forces of the Philippines, the Special Civilian Armed Auxiliaries, The Philippine National Police, private operatives  |
| Informal constitutional rules          | Indigenous customary law       | The Lumad peoples of Mindanao have been amongst the most impacted by the mining sector due to the location of ancestral domains. Customary law is embedded in sacred relationships with the natural world, with laws transmitted generationally through oral practice and traditions | <p>Although there is no consensus on the complete list, authors such as (Rodil, 2020) note that the Lumad Peoples are made up of about 18 tribes including:</p> <ul style="list-style-type: none"> <li>- Ata</li> <li>- Bagobo</li> <li>- Blaan</li> <li>- Bukidnon o Talaandig</li> <li>- Dulangan</li> <li>- Isamal</li> <li>- Mandaya</li> <li>- Manobo</li> <li>- Banwaon</li> <li>- Mamanwa</li> <li>- Mandaya, Mansaka, Mangguangan, &amp; Dibabawon</li> <li>- Mansaka</li> <li>- Subanën</li> <li>- Tagakaolo</li> <li>- Tiboli</li> <li>- Tëduray</li> <li>- Higaunon</li> <li>- Ubo</li> </ul> |

|                                   |  |  |   |
|-----------------------------------|--|--|---|
| Informal non-constitutional rules | Indigenous livelihoods and cultural activities | Paredes (2016) states that identities, networks, and livelihoods of Lumad people are embedded in river systems and understandings that the spirit of creation is within all aspects of the natural world | Elders, Tribal Chieftain translated into <i>Datu (Male) Bae (Female)</i> , Indigenous community members (Important to note: Socio-political structure of Lumad communities varies between tribes) |
|-----------------------------------|--|--|---|

### ***Formal Constitutional Choice Rules- Government's Legislative Bodies***

Formal constitutional choice rules are found in government legislative bodies. In the Philippines, these policies are governed by a centralized weak state made up of large elite family conglomerates (Kreuzer, 2009; McCoy, 1994). The archipelago's hegemony is supported by approximately 250 elite Filipino families who dominate the nation's political and economic arenas (Kreuzer, 2009). In the early 2000s, out of 265 members of Congress, approximately 160 members represented part of one of the elite family clans (Vivoda, 2008). The main rule makers regulating the nation's foreign mining investments include: The House of Representatives, Senate of the Philippines, the President, the Supreme Court, the Department of Energy and Natural Resources (DENR), the National Commission of Indigenous Peoples (NCIP), and various local government units (Lindon et al., 2014). The M4D paradigm is championed by current President Rodrigo Duterte, majority of the Congress, the DENR, and NCIP which is identified through efforts associated with lobbying, campaigning, and legislation.

Members of elite Filipino families can be found within leadership at all levels of

government stemming across national, regional, provincial, and local governmental unit levels, otherwise known as city/ municipal levels (Vivoda, 2008). The result has manifested conflicting interests, corrupt behavior, and a lack of transparency and accountability within government mining regulations (Simbulan, 2016). McCoy (1994) states that rent seeking, “the active pursuit of political influence to gain market advantage” has characterized Philippine political control throughout history (p. 13). The nation’s weak state is also defined by high regulatory capture, known as political entities serving corporations rather than governing the industry in the public interest (Iglesias, 2018; Holden and Jacobson, 2007).

As a result, the oligarchy takes advantage or even control large segments of the weak state by using corrupt strategies for transferring wealth to rent- seeking elites and foreign corporations (Kreuzer, 2009). This is evident within mutual interactions between industry and political leadership, such as the rapid political diffusion of M4D policies. Government officials with private interests have aggressively prioritized neoliberal policies and the deregulation of environmental assessments to attract foreign investments in the country (Lindon et al., 2014). As mentioned previously, these large-scale mining policies include the 1995 Philippine Mining Act, 2004 National Mineral Policy Agenda, and the Mineral Action Plan, amongst others (Magno, 2015; Simbulan, 2016). Further supporting this agenda, the Department of Energy and Natural Resources, the main government body responsible for mining, is known to be “one of the most graft-ridden and corrupt institutions in the Philippines” (Vivoda, 2008). Corruption and mutual interactions within the Filipino political arena pose significant implications to formal and informal mineral governance.

### ***Formal Non-Constitutional Choice Rules- State Sponsored Militarization***

Police and state-sponsored military institutions work in tandem under formal non-constitutional choice rules. The Philippine government created state and semi-private sponsored militarization units as defense mechanisms for those rebelling against the private interests of the ruling elite (Kreuzer, 2009). These actors are embedded in the established norms of formal constitutional laws (Rahman et al., 2017).

State sponsored militaries and paramilitaries are therefore largely influenced by M4D paradigms and discourse (Simbulan, 2016). Amongst these units are the Armed Forces of the Philippines (AFP), Special Civilian Armed Auxiliaries, and the Citizen Armed Forces Geographical Units (Iglesias, 2018). The Armed Forces of the Philippines are nationally recognized for their dedication in protecting foreign investors from rebels, counterinsurgencies, and terrorist threats (Wilson, 2019). The Special Civilian Armed Auxiliaries are trained and influenced by the Armed Forces of the Philippines, but usually paid by mining firms to protect projects (Holden and Jacobson, 2007). The Citizen Armed Forces Geographical Units (CAFGU) is defined by Zech and Eastin (2021) as a “type of pro-government militia that provides auxiliary support to the Armed Forces of the Philippines in waging counterinsurgency and providing community security in conflict zones” (p. 221). These privatized military and police forces serve state interests in providing peaceful climates for investment (Doyle, 2002; Kreuzer, 2009). Historically, privatized police forces and state-violence have served the oligarchy, acting as systems of oppression to defend elite positions rather than working as agents of law (Simbulan, 2016).

### ***Informal Constitutional Rules- Indigenous Customary Law***

The 12 million Indigenous peoples of the Philippines represent over a hundred diverse ethno-linguistic groups (IWGIA, 2012; PNFSP, 2014). In Southern Philippines, on the hinterlands and mountainous regions of Mindanao island, are where the approximately 18 diverse and heterogeneous Lumad tribes reside (Table 2). Although Filipino settlers often define Lumad peoples as *tagabukid*, or “mountain people”, the Lumad peoples often refer to themselves as “river people” due to the significance the river systems have on ancestral origins and its use as a differentiation tool between ethnic groups (Paredes, 2016). Linguistically, majority of Lumad ethnic groups belong to the Manobo languages (Paredes, 2016). However, the Lumad ethnic groups remain distinct from one another, possessing discrete genealogies and unique lived experiences and oral or *panud* traditions that have evolved across generations of migrations over a shared landscape (Paredes, 2019).

Nationally, but in particular in Mindanao, the Lumad peoples have been amongst the most impacted by the mining sector (Espiritu, 2017; Karapatan, 2014; Paredes, 2015; PNFSP, 2014), with vulnerabilities stemming from the situatedness of their ancestral domains located on the richest natural resources in the nation (Simbulan, 2016). Clashing worldviews on land ownership have driven contentious debates and confrontations between Indigenous communities, national governments and mining corporations over the last decades (Doyle, 2020; Hagen and Minter, 2019; Holden et al., 2011). As such, the case will focus on analyzing the impacts of state power upon anti-mining Lumad peoples and their ability to engage in customary laws as the informal constitutional rules governing mineral resources in the Philippines.

Customary law evolves from informal rules captured in the culture of the society and

regulated through internal socio-political and spiritual practices (Paredes, 1997; Paredes, 2015; PNFSP, 2014). Specifically, Paredes (2019) explains that customary laws are rarely written, but rather each Lumad group transmits inter-generational knowledge through oral practice and traditions, containing information, “on everything from myths, appeasing the supernatural world, genealogies, histories of migration and warfare, ethics, land tenure and other lands, to various instructions on more mundane matters such as the proper division of labor between men and women, protocols for entertaining visitors, and the best way to farm” (p.92).

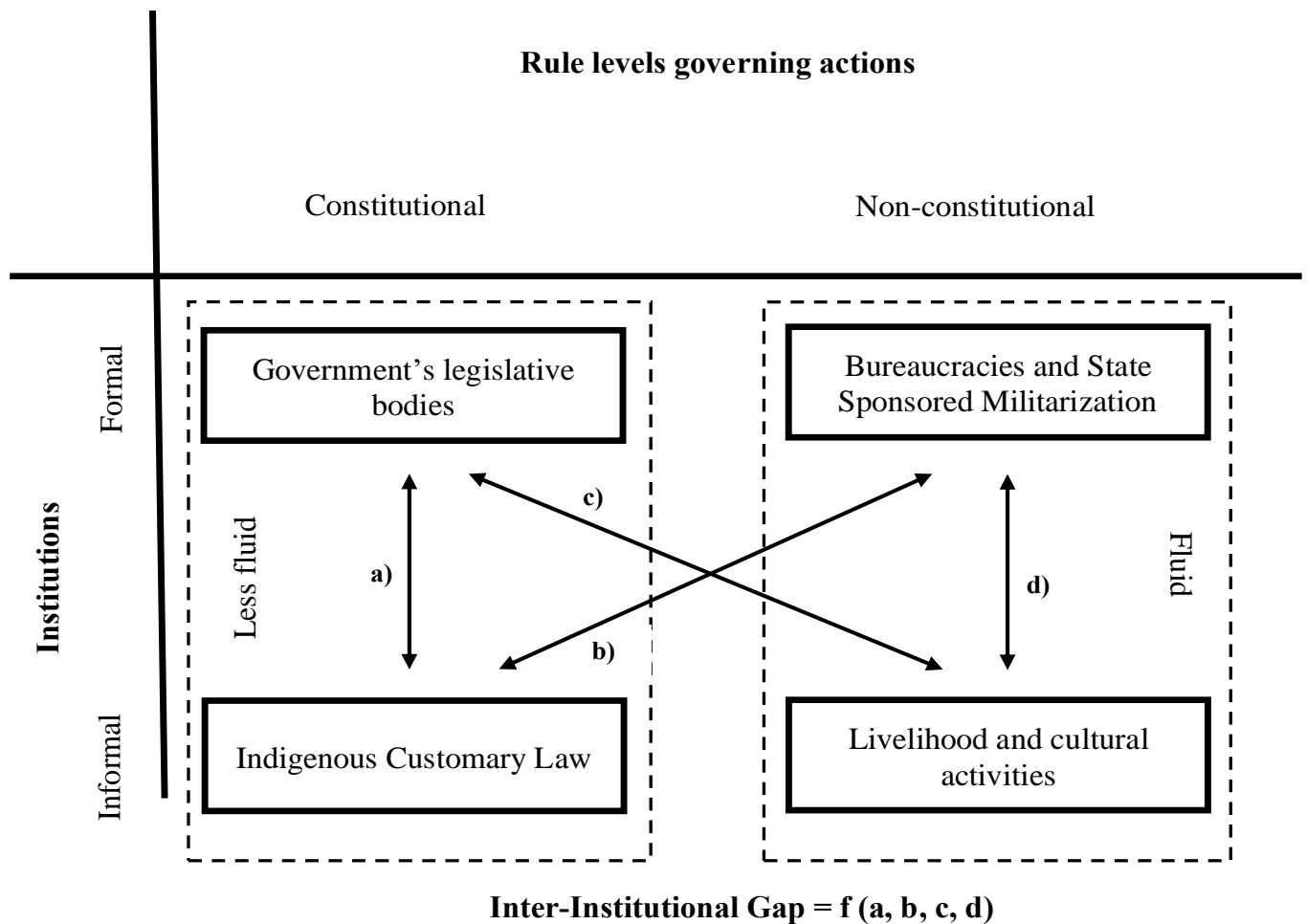
### ***Informal Non-Constitutional Rules- Livelihood and Cultural Activities***

Informal non-constitutional rules are the community responses to an immediate problem, which are developed based on present cost-benefits, observational knowledge and actions motivated by worldviews rather than embedded in tradition and cultures (Rahman et al., 2014). These responses are not ingrained in a society but developed within the premise of informal constitutional rules. For this case analysis, the informal non-constitutional rules will focus on Lumad livelihoods within natural resource governance in the archipelago.

Paredes (2016) states that the identities, networks and livelihoods of Lumad people are embedded in the river systems that they have resided in throughout history. Scholars characterize Lumad customary law and identities as being deeply embedded in an interconnected and sacred relationship with the natural world (Espiritu, 2017; Paredes, 2016; Simbulan, 2016). This holistic worldview is known to guide Lumad people’s livelihood and cultural activities (Alejo, 2018; PNFSP, 2014). Paredes (2019) describes the similarities in traditional livelihood and cultural activities amongst the different Lumad ethnic groups as seen through forest-based subsistence, hunting and gathering, and swidden farming of upland dry rice varieties.

### 3.5.3 Inter-Institutional Gaps – Identifying Institutional Concepts

By examining the relationships between the aforementioned institutions, this section aims to examine *why* governance gaps exist and *how* they have manifested in increasing state violence and infringements upon Lumad civil liberties in the Philippine’s extractive industry, using the IIG as an analytical framework (Fig. 4).





**Figure 4. IIG in the Philippines mining sector. This IIG framework highlights the interconnected gaps in governance between formal and informal institutions in the Philippine extractive industry. Gap (f) is a function of the four possible institutional gaps that can co-exist in this framework, with gap a as legal pluralism; gap b as cultural mismatch; gap c as structural hole; and gap d as institutional void.**

## **A. Legal pluralism: Gap between Government's Legislative Bodies & Indigenous**

### **Customary Law**

Legal pluralism in Gap A of the IIG framework emerges when formal constitutional rules do not value informal constitutional rules governing the same resource system. Rahman et al. (2017) states that legal pluralism is a result of a lack of understanding that law originates not only from formal governments, but from custom and culture as well. In the Filipino extractive industry, a gap exists at the intersection of government legal systems and Lumad customary laws.

The impact of legal pluralism is found in mutual interactions between the industry and political leadership. Specifically, political authority help develop rent-seeking rules by creating formal constitutional choice rules that enhance private interests in mining. In IIG A, centralized government policies have devalued the importance of Indigenous customary laws, ultimately infringing on Lumad people's inherent rights to ancestral domains. This is done through the process of accommodating informal institutions, defined by Helmke and Levitsky (2004) as "informal institutions create incentives to behave in ways that alter the substantive effects of formal rules, but without directly violating them; they contradict the spirit, but not the letter, of the formal rules" (p. 729). In this case, informal institutions have become very limited in processes of accommodation. This is seen in formal constitutional choice rules implemented by government legal systems such as the Indigenous Peoples Rights Act limiting the informal constitutional choice rules of Lumad peoples by creating

barriers to autonomy and self-determination over ancestral domains.

The accommodation of informal institutions is upheld through the legal pluralism and uncertainty of Philippine state policies. This can be seen in the Philippines 1997 Indigenous Peoples Rights Act (IPRA) and its conflict with other land-use legislation such as the 1995 Philippine Mining Act and Regalian Act, amongst others. IPRA is known as one of the world's leading progressive legislatures on Indigenous people's cultural and territorial rights. However, the effectiveness of the law's implementation remains ambiguous due to weak state institutions and political dynasties continuing to wield extensive power in how legislation is carried out at the national and local levels (Doyle, 2020).

Moreover, loopholes exist in the constitutional IPRA which contradict other constitutional precepts (IWGIA, 2012). For example, the IPRA's recognition of Indigenous ownership to ancestral lands contradicts the standing Regalian Doctrine, which claims all lands are owned by the state as "public domain" (Arellano Law Foundation, 2000; Simbulan, 2016). Due to the legacy of colonial legal systems, the wholesale incorporation of Indigenous land is common in most post-colonial countries (Rahman et al., 2014).

To challenge the colonial land rights system under the Regalian Doctrine, the Cariño Doctrine was simultaneously implemented to legally define ancestral domains as private property to Indigenous peoples (LRC-KSK, 2001). However, Lumad populations continue to face challenges regarding land ownership and customary rights even under the Cariño Doctrine and IPRA (Espiritu, 2017; IWGIA, 2012). The IPRA enforces limited ownership rights to Indigenous people (Doyle, 2020). The Act does not consider Indigenous peoples to be owners of natural resources, but rather managers, stewards, and beneficiaries thereof

(Arellano Law Foundation, 2000). Moreover, legal ownership is only recognized through the government's provision of a "Certificate of Ancestral Domain Title" (LRC-KSK, 2001). In this case, the government's formal codification of Indigenous ownership has infringed on Indigenous rights to self-determination and ancestral domains.

With legal uncertainty across formal constitutional rules, powerful state actors have used the Regalian Doctrine to reinforce land rights within the 1995 Philippine Mining Act (Arellano Law Foundation, 2000). Legal pluralism and uncertainty explain the formal institutional mechanisms which have enabled over 60 percent of mining corporations to be operating in ancestral domains (Simbulan, 2016). The encroachment of private enterprises onto ancestral territories emerges from heterogeneous and contradictory understandings of land rights and the neglect of Indigenous customary law (Hagen and Minter, 2019; IWGIA, 2012; Paredes, 2016). The legal uncertainties in formal constitutional rules allow large scale mining policies to assert state and private enterprise ownership of ancestral lands (Arellano Law Foundation, 2000). Legal pluralism has resulted in formal constitutional rules, such as the IPRA, systematically failing to protect and support Lumad self-determination.

## **B. Cultural mismatch: Gap between Indigenous Customary Law, State Militarization & Bureaucracies**

Gap B of the IIG framework describes cultural mismatch as a gap that emerges when formal non-constitutional actors (e.g., bureaucrats) develop operational rules without recognizing or understanding cultural norms of informal constitutional rules (Rahman et al., 2019). In this case, an inter-institutional gap is identified between bureaucrats separate of state agencies,

the Armed Forces of the Philippines and Indigenous customary laws.

A cultural mismatch emerges from the dominance of Eurocentric knowledge and power systems in the Philippines and the resulting subjugation of Indigenous worldviews. Paredes (2016) claims that the clash in worldviews between Indigenous and non-Indigenous peoples is reinforced by other religious beliefs where Christianized and Hispanicized Filipinos consider Indigenous peoples to be primitive and backward. Another cultural mismatch identified in the case is related to the passing of laws which have been copied by procedures used in developed countries. The passing of such laws, such as the Indigenous Peoples Rights Act, have been identified as a “success” despite weak enforcements leading to a failure in effective implementation (Andrews et al., 2017).

Moreover, the coercion used by the Armed Forces of the Philippines to protect private industries and the associated lack of respect for Lumad customary laws, have further strengthened this gap. Lumad customary law strongly adheres to the belief that land is life and that as such, is not theirs to give away, or to sell, but to protect and nurture (Alejo, 2018; Hagen and Minter, 2019; Paredes, 2015).

Contrary to Indigenous worldviews, bureaucrats and the Armed Forces of the Philippines view rights to land as defined strictly by national elites and political dynasties, with communities possessing little power or control in governance matters (Holden and Jacobson, 2013; Kreuzer, 2009). States view property as a factor of production, either disposable or as an investment to generate profit. The states relationship with the land has led to land use legislation such as the Philippine Mining Act overriding legislation which aim to safeguard Indigenous lands and rights. Therefore, the Armed Forces of the Philippines and the

Philippine National Police as an institution, view the land from the government's established norms in protecting M4D policies (Croston and Felter, 2020; Holden et al., 2011; Kreuzer, 2009; McCoy, 1994).

The reductionist underpinnings of government policies which have led to widespread displacement oppress Lumad worldviews and customary laws. Mining for development policies do not consider that the forcible removal of Lumad peoples from their ancestral domains has an incalculable impact on their ways of living – one that risks erasing their culture, livelihoods and existence. For example, According to B'laan belief, which is one of the 18 tribes of the Lumad peoples, deceased community members must be protected within resting places which are defined to the B'laan as sacred cultural sites (Hamm et al., 2013).

Research undertaken by Hamm et al. (2013) indicated that the Tampakan Copper-Gold Mine proposed by Sagittarius Mines Inc. (SMI) violated the integrity of sacred places by bulldozing burial grounds, which led to violent conflicts in the B'laan area. Further, state sponsored militarization of the communities within the Tampakan area have caused high psychological pressures and violations to human rights related to the life, liberty and security of the affected community members (Hamm et al., 2013).

IIG Gap B in Filipino mineral governance also exists as a result of competing informal institutions, a common characteristic of clientelism, patrimonialism and corrupt governance (McCoy, 1994). Helmke and Levitsky (2004) define competing informal institutions as, “Formal institutions that coexist with ineffective formal institutions. In such cases, formal rules and procedures are not systematically enforced, which enables actors to ignore or violate them” (p. 729). This has permitted state actors with strong ties to the Filipino mining

industry to violate state laws with impunity, allowing bureaucrats to serve personal interests rather than those of the public (Acheson, 2006; Helmke and Levitsky, 2004). As a result, bureaucrats feel low motivation to understand and communicate with informal non-constitutional rules.

### **C. Structural Hole: Gap between State Sponsored Militarization, Bureaucracies & Indigenous Livelihood Activities**

Inter-institutional gap C emerges when formal non-constitutional rules deem the actions undertaken by informal non-constitutional rules as illegal and punishable by law (Rahman et al., 2019). Structural holes emanate from this gap when formal and informal actors with no direct network, are influenced by a third actor (Rahman et al., 2017). In gap C, the formal and informal institutions include Philippine bureaucracies and Indigenous livelihood activities, respectively. The third actors in this structural hole are local government officials who are connected to powerful oligarchies and possess private interests in mining corporations.

Structural holes have led to the characterization of anti-mining Lumad communities as terrorists and rebels by anti-communist M4D policymakers (Holden, 2014; Kreuzer, 2009; McCoy, 1994). In IIG C, nationalist M4D discourse has demonized Indigenous activism, resulting in red tagging and state violence against land defenders (Tugade, 2020). This gap has further enabled rent seeking activities to be undertaken by elite government officials.

Political leadership, who are also well-networked with the extractive industry, use their power and capacity within government bureaucracy in their favour. Local government officials are commonly connected to the elite family oligarchies who dominate the nation's

political arena (McCoy, 1994). These third-party actors can be found at the regional, provincial, or city level (Lindon et al., 2014). To protect private interests, bureaucrats can influence state sponsored militaries to act violently towards Indigenous activists as a means of political suppression against dissent (Joaquin and Biana, 2020).

The recent passing of the Anti-Terrorism Act on June 3<sup>rd</sup>, 2020 is exemplary of potential structural holes in governance. This Act has created an Anti-Terrorism Council, made up of government officials who possess the power to define who terrorists are; allows the surveillance of suspected individuals for extended periods of time; and allows warrantless arrests and detentions for up to 30 days (Joaquin and Biana, 2020). Under government legislation, pro-mining politicians appointed to the Anti-Terrorism Council are capable of defining and imprisoning anti-mining activists as terrorists committing treason.

Lumad communities have shown increasing resistance to large scale mining policies through social movements (Espiritu, 2017; Karapatan, 2014). For example, the Lumad peoples' organization, KALUMARAN (*Katawhang Lumad sa Mindanao*), spearheads resistance to mining projects that threaten ancestral lands (Simbulan, 2016). Nonetheless, calls for justice and self-determination amongst Lumad communities have been faced with threats and human rights abuses from government militaries and paramilitaries.

In face of growing mining opposition, structural holes and corruption have become critical to the Philippines' advancement of extractive operations. Since 2010, state-sponsored military groups have been the cause of over 60 deaths of Indigenous leaders in Mindanao (Espiritu, 2017). For example, on April 7th, 2019, Datu Kaylo Bontolan, a Manobo tribe leader, a protector of ancestral lands, and a strong advocate for Indigenous self-

determination, was killed during a military bombardment in Kitaotao, northern Mindanao and later framed as a political criminal by state and army forces (Global Witness, 2020).

#### **D. Institutional void: Gap between Indigenous Livelihood Activities & Government**

##### **Bureaucracy**

Inter-institutional gap D emerges as an institutional void. Institutional voids are known as conflicts derived from a lack of harmonization in agreed upon rules in resource governance (Rahman et al., 2019). In this case, an institutional void exists at the nexus of Lumad livelihood activities and national government legislation. In IIG D, institutional voids result from government bodies illegitimizing Indigenous livelihood activities due to clashing worldviews and differing relationships with the land (Alejo, 2018; Espiritu, 2017). This governance gap results in government legislation infringing on Lumad people's right to self-determination.

The informal non-constitutional rules of Lumad peoples are emphasized in livelihood activities embedded in a cultural, spiritual, and economic dependence to nature (Simbulan, 2016). For example, Paredes (1997) states that the Lumad tribe, Higaunons, "have a moral economy, wherein they respect each other and protect the forest" (p. 284). Indigenous livelihood activities seek to preserve legacies of ancestral domains maintained across generations (PNFSP, 2014). In Lumad worldviews, the land is communal private property and the source of livelihood for past, present and future generations. Customary law is taught to youth through Lumad schools which aim to strengthen inter-generational traditions and culture (Espiritu, 2017). Lumad schools, known as Alternative Learning Center for



Agricultural and Livelihood Development (ALCADEV), are volunteer-run and provide secondary education to Lumad youth related to numeracy, literacy, farming, cultural and heritage activities, and customary laws (Santos, 2017).

Alternatively, the government's relationship with the land is viewed from an extractive capitalist perspective, with reductionist definitions of land ownership (PNFSP, 2014). Specifically, the worldviews of government bureaucracies are embedded in protecting mining projects and private properties, which include diminishing dissent and sometimes directly eliminating those holding views in opposition to the state (Crost and Felter, 2020). Alejo (2018) states that the "simplification and standardization" of Philippine state laws have challenged Lumad people's rights to self-determination. The author highlights the reductionist underpinnings of government policies by suggesting that laws lack inclusivity with regard to Lumad worldviews and customary practices. This has resulted in infringements upon community agency and a reduced capacity for Lumad peoples to engage in local decision-making. Vivoda (2008) corroborates these findings by stating that regulatory agencies governing foreign mining investment in the Philippines "fail to serve the public interest".

Currently, fifty-six percent of the Armed Forces of the Philippines have been deployed to Mindanao island (Santos, 2017). The archipelago, but concentrated in the Mindanao region, is ridden with long-running armed conflicts involving the communist New People's Army, the Muslim separatist Moro-Islamic Liberation Front, and the Jihadist Abu Sayyaf Group (See Crost et al., 2016 for more details on each major rebel group). Although not all armed forces are targeting Lumad groups, Lumad peoples are oftentimes caught in between or are

divided by the various armed conflicts due to identity politics. For example, President Rodrigo Duterte has publicly threatened to bomb Lumad schools due to accusations that ALCADDEV is indoctrinating socialist ideologies within the students that are associated with New Peoples Army recruitment (Santos, 2017).

On August 27<sup>th</sup> 2018, the Armed Forces of the Philippines 10<sup>th</sup> Infantry Division deployed an aerial strike in Barangay Dagohoy in Talaingod, Davao del Norte, Mindanao nearby a Lumad school (Sambalud, 2018). In accordance with the Philippine's whole-of-the-nation counterinsurgency campaign, there have been 21 documented cases of aerial bombardments in Mindanao since 2018 which has resulted in mass displacement, threats and harassment upon unarmed civilians (Sambalud, 2018). National policies and government propaganda have defined Lumad self-governing actions as illegitimate due to identity politics, its associations with the various armed conflicts on the island and the drastic differences in socio-political social norms between formal and informal institutions.

### **3.6 Conclusion**

With the Duterte regime, the Philippine government champions mining for development and large-scale mining policy instruments for its ability to catalyze growth in the archipelago. However, oligarchies of political elitists and transnational actors are enabling corruption to ensue across the nation's extractive sector, limiting potential economic outcomes and exacerbating negative externalities. The IIG framework was used to explore co-existing gaps in resource governance that have resulted in Philippine state sponsored repression and militarization in Lumad ancestral domains. This chapter focused particularly on institutions governing mineral resources in the

Philippines, namely government bureaucracies, state militarization, Indigenous customary law, and Indigenous livelihood activities. The identified governance gaps that have led to legal pluralism, cultural mismatch, structural holes, and institutional voids are summarized below:

- Legal pluralism has resulted in government legislation systematically failing to protect and value Lumad peoples' inherent rights to their ancestral domains;
- Cultural mismatch in this case study is derived from the Eurocentric dominance of knowledge systems and subjugation of Indigenous worldviews in mineral governance. It has enabled large scale mining policies and political elites to use state violence to protect private industries, whilst abusing Lumad customary laws and human rights;
- As a means of political suppression of dissent, structural holes have led to the interpretation of Indigenous activism as terrorism;
- Lastly, institutional voids emerge from government legislation deeming Lumad self-governing activities as illegitimate.

This chapter provided a foundation for future research and policy perspectives to create avenues for peacebuilding between governments and anti-mining Lumad communities. Policy changes for mitigating conflicts, in particular, will require a restructuring of the legal framework within the Philippines which centers legal recognition and implementation of Indigenous governance practices into the management of protected areas and local land use plans. In support of this process, future action-oriented research could examine legal mechanisms that will uphold

inter-institutional accountability and eliminate corporate impunity for human rights violations in the Philippines extractive industry.

### **3.7 Lessons, Limitations and Opportunities**

The IIG framework was originally developed for addressing site-specific governance issues, therefore our application of the conceptual tool on national level case study posed methodological challenges. Important data deficits, including the role of peripheral agents influencing inter-institutional arrangements limited the depth and scope of the study.

Importantly, the case study was not informed by primary data collection. Our reliance on secondary data may have introduced inaccuracies with regard to our representations of Lumad institutions and their associated rules and social habits. This limitation may have resulted in a narrow and perhaps generalized account of anti-mining Lumad communities. We understand the approximately 18 tribes encompassing the Lumad peoples are diverse and heterogeneous, facing unique challenges and relationships to mining. Through the collection of disaggregated data between tribes, future studies should seek more profound understandings of the discrete realities Indigenous communities in Mindanao face when resisting large-scale mining operations.

This study may also be limited by our choice to ignore the diverse roles peripheral agents may play in natural resource governance. NGOs, business groups, political and environmental activists exert considerable pressure, both positively and negatively, upon these systems that is difficult to capture by our analytical approach. The peripheral agent in this case, the extractive industry, widens the gap between formal and informal constitutional rules. It can be summarized that the peripheral actors can be located anywhere in an institutional landscape, using their

political and economic capacity to significantly regulate the dynamics of the gaps. This further indicates that formal and informal institutional interactions are not only limited to community and government. A strong monitoring of conflicting interests of different rule developing agents is imperative for sustainable natural resource management.

Aside from the case study analysis, a limitation was identified within the IIG framework itself. We found that the IIG is limited by its inability to account for co-existing gaps between institutions that work in the same governance type and rule level. The framework also did not address the horizontal relationships between institutions working in the same governance type but at different rule levels. For example, the framework could not explain the gaps of legal uncertainty between formal constitutional rules determining state vs Indigenous ownership of land. The IIG framework could be strengthened by highlighting the latent gaps between institutions working within each individual sphere of the IIG framework. It could also be improved through the characterization of horizontal governance gaps between the same institution and different rule levels.

Future action-oriented research should examine avenues that eliminate corporate impunity for human rights violations in the Philippines. Studies could seek to strengthen legal mechanisms and rights-based approaches to support local capacity-building initiatives in conflict situations. Capacity building initiatives could empower local and Indigenous communities with knowledge related to the 1997 Indigenous Peoples Rights Act, the 1995 Philippine Mining Act, mining concessions, royalty and tax payments, etc. This initiative would mobilize knowledge related to mining and legal jargon to local communities, strengthening local participation in resource governance while facilitating dialogue between communities, governments and,

companies to promote transparency and accountability within the sector. These initiatives are currently being led by NGOs such as Bantay Kita, a national coalition advocating for community empowerment and meaningful local participation in resource governance within the Philippines (Bantay Kita, 2021).

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### *Preface to Chapter 4*

In chapter three, we presented an analysis of the gaps in natural resource governance between anti-mining Indigenous communities, governmental agencies and transnational mining in the Philippines. In chapter four, we explore the impacts of Canadian mining operations and corporate social responsibility initiatives across a diverse range of actors involved within the Philippines mining industry. Chapter 4 has been written to be a forthcoming standalone manuscript, currently in the editorial stage of publication. As I played the primary role as lead researcher, this piece was created in collaboration with John Edison Ubaldo, Dr. Nicolas D. Brunet and Dr. Dominique Caouette. In Chapter 4, we conducted primary research to explore the findings from the literature and document review presented in the aforementioned chapters. Specifically, we explored a critical analysis on Canadian government and corporate mining behavior in the Philippines, with the introduction presenting an overview of the literature reviewed and the mining conflicts embedded within the literature on transnational mining in the Philippines. After an introduction of the case study on Canadian transnational mining in the Philippines, the methods of analysis, document review and open-ended interviews are detailed. The results and discussion section begin with an overview of the codes, categories, and themes that emerged from data analysis. Afterwards, the key themes, specifically, CSR and dependency, red tagging, and the tribal dealer & the politics of indigeneity are explored. Together, these themes provide important insights into the neocolonial role periphery actors play within mineral governance and the role Canadian home state governance plays within mining conflict at the local level.



## **4 Challenging the binary of home vs. host state governance: Canadian transnational mining behavior and local communities in the Philippines extractive industry**

### **4.1 Introduction**

Global extractive industries have high socio-ecological costs on host states and the communities where they operate. Mineral-rich developing nations hosting transnational mining corporations frequently bear the brunt of large-scale mining impacts which include the pollution and depletion of water sources (Broad et al., 2018); biodiversity loss (Olivet et al., 2016); destruction of livelihood and food security (Butler, 2016); displacement and militarization of communities hosting mining (Imai et al., 2017), amongst other socio-ecological externalities.

In the international arena, public outcry against the mining industry's abuses has risen alongside society's accessibility to media concerning global issues (Idemudia & Kwakyewah, 2018). There have been growing public calls worldwide to implement robust binding regulatory mechanisms to hold transnational corporations accountable to the polluting and often violent industry (Ciupa & Zalik, 2020; Coumans, 2019). However, governments and industry associations have lobbied enduringly for permissive and lax regulatory regimes for large-scale mining corporations. Instead, voluntary and self-regulated mechanisms characterized by corporate social responsibility (CSR) initiatives have been the primary instrument holding corporations accountable for their operations abroad.

Alongside CSR, powerful actors within the global mining industry have centered

discussions of accountability around host state weak governance rather than on the legislative regimes of home states under which corporations are regulated. Host state weak governance is often described through the natural resource curse, commonly defined as the inability of developing nations to transform mineral wealth into economic prosperity due to corruption and their ostensibly inadequate skills and technologies that hinder proper resource governance (Mehlum et al., 2006; Öge, 2016). Thus, home states strongly advocate for the provision of technical and financial assistance to nations in the Global South hosting their mining corporations to build capacity and opportunities to strengthen fragile institutions in host states (Brown, 2020).

Several scholars assert however that accountability for the socio-ecological costs associated with transnational mining operations extend beyond the borders of the nation hosting mining operations (Gagnon et al., 2003; Imai et al., 2017; Kamphuis, 2012). It is argued that host state accountability discourse is intrinsically tied to western-centric worldviews and definitions of development which enable transnational actors to increase profit maximization and simultaneously inflict harm upon developing nations with impunity (Coumans, 2019). This phenomenon can be attuned to the hegemonic and upstream power dynamics between the Global North and Global South. Critical mining scholars challenge weak governance discourse, stating that such worldviews are often paternalistic and imposed upon resource-abundant local and Indigenous communities in the Global South as a tool for the expansion of neoliberal policies and the globalization of economic markets (Bodruzic, 2015; Frederiksen, 2018).

Here, we are interested in understanding the inter-institutional interactions and power dynamics between host communities and governing actors within the international mining

industry. Our study centered upon the Canadian government and Canadian corporate mining behaviours in the Philippines. The research question guiding this study asks, how do Canadian government and corporate behaviors impact local and Indigenous communities in the Philippines? The purpose of this research is to advance highly polarized debates characterizing the mining sector beyond the current for or against narrative. We seek instead to understand the mechanisms that can uphold human and environmental rights, strengthen inter-institutional accountability, and enable community self-determination in the mining industry.

## **4.2 Methods**

This study employs an inductive approach inspired by aspects of grounded theory applied to a single qualitative exploratory case study. Our case centered upon Canadian transnational mining operations in the Philippines (See Section 4.2.1 for further details). An inductive approach enables adaptability within the study, allowing flexibility to emerging themes and research directions while following a rigorous methodological framework (Charmaz, 1996). The research is action-oriented, seeking to uncover the critical foundations of corporate social responsibility (CSR) issues by obtaining a diversity of narratives on the topic.

Our study acknowledges the bias within the findings, specifically the unequal representation of participants across institutions, as we initially sought to amplify the voices of local and Indigenous peoples affected by mining operations. Future research should utilize the findings from this data to amplify local voices through community-led research in local regions hosting mining in the Philippines. Data collection occurred between October 2020 to February 2021. We used two main methods iteratively: document review and key informant interviews

(Described in Section 4.2.2). We begin with a detailed review of the case and rationale for its use to achieve our research goal.

#### **4.2.1 Case Study: Canadian transnational mining in the Philippines**

For our case study we focus on Canadian transnational mining in the archipelago of the Philippines. Exploring Canadian mining operations in the Philippines poses an emblematic case as Canada remains home to approximately 75% of the world's mining corporations (Natural Resources Canada, 2021), with a historical presence within the archipelago's extractive industry (Yin, 2018). The Philippines is made up of an estimated 7,100 islands situated within South-East Asia (Fig. 5). Richly endowed in natural resources, the Philippines mineral wealth is valued at approximately US \$1 trillion, with resource richness held in lead, zinc, ore, iron, copper, chromite, magnetite, and gold (Camba, 2016).



**Figure 5. The Philippines, an archipelago of 7,107 islands with the three major islands Luzon (Northern Philippines, highlighted in orange), Visayas (Central Philippines, highlighted in yellow) and Mindanao (Southern Philippines, highlighted in green) (The Philippine Embassy of Canberra, 2007).**

By the 1990s, international financial institutions, specifically the World Bank and Asian Development Bank called on the Philippines to liberalize its mining regime to increase foreign direct investment and economic stimulus into the national GDP (Rovillos and Tauli-Corpuz, 2012). In 1995, former President Fidel Ramos engaged with the multilateral agencies to create Republic Act 9742 also known as the Mining Act of 1995 (Camba, 2015). The liberalized mining regime has been highly scrutinized by civil society for accommodating large-scale

transnational mining corporations at the expense of local and Indigenous livelihoods and ecosystems (Global Witness, 2019; Simbulan, 2016).

The 1995 Philippine Mining Act was also challenged for its lax and permissive domestic mining regulations as well as increased fiscal incentivization to attract mining investment. The Act was operationalized through 100% foreign direct investment over mining operations; tax holidays; tax- and duty-free importation of capital equipment; easement rights also known as the removal of impediments to mining; freedom from expropriation; and exclusive rights to water and forest resources within lands possessing mineral endowments, amongst other fiscal packages (Ciencia, 2011; Holden et al., 2011). Foreign direct investment skyrocketed within its first year of implementation, increasing by 400% (Camba, 2015).

A historically significant case of Canadian mining operations in the Philippines is seen through junior resource company, TVI Resource Development Inc. (TVIRD)'s adverse extractive operations in Canatuan, Mindanao between 1994-2014 (Sanz, 2019). Canada-based TVI Resource Development Inc. became the first foreign invested mining corporation in the Philippines after the adoption of the 1995 Philippine Mining Act (TVIRD, 2013). Contention between companies and the local Indigenous *Siocon Subanos* were due to the destruction of sacred ancestral sites; the devastation of the socio-cultural fabric of the community; corruption in Free, Prior, Informed Consent processes; manipulation of Indigenous governance systems; widespread displacement and community militarization amongst other forms of corporate complicity (Gulang Gukom, 2011; Mateo, 2008; Sanz, 2019).

Moreover, in 1996, the Philippines' experienced one of the worst environmental catastrophes due to the negligent business operations of the Canadian-based Marcopper

Corporation. Local ecosystems and livelihoods were decimated as a mine tailings pond collapsed and discharged approximately 200 million tons of toxic chemical effluents into Calancan Bay (Lindon et al., 2014). Despite numerous externalities resulting from this event persisting to this day, such as health issues, displacement, water contamination and livelihood loss, there remains little to no liability imposed for the Canadian corporation's misconduct (Simbulan, 2016).

The case of OceanaGold, a copper-gold Australian Canadian company is also important to highlight. Since 1992, OceanaGold has operated in Didipio, Nueva Vizcaya, Luzon, where operations continue despite several calls for moratoriums and strong resistance against mining at the provincial and local levels. Various studies of OceanaGold's Didipio mine highlight the numerous socio-environmental violations by the company in the Philippines (Broad, 2014; Flores, 2012). These violations include the illegal demolition of 187 local homes; water contamination; land grabbing; and extrajudicial killings (Broad et al., 2018).

These cases provide evidence that policies supporting de-regulation and foreign direct investment as catalysts for economic growth and prosperity in the Global South have failed to achieve the desired outcomes (Reiter and Steensma, 2010; Vander Stichele and van Dijk, 2008; Gallagher and Chudnovsky, 2009). Authors such as Olivet et al., 2016 asserted that, "regulation of foreign investment in general, and the mining sector in particular, is crucial in order to restrict the industry's negative social and environmental impacts and to guarantee some positive contribution to economic development" (p. 7). The implications of permissive mining regulation for transnational corporations within home and host states, in this case Canada and the Philippines respectively, manifest at the local level through various forms of socio-economic and

ecological harm upon host regions. Through our research, we continue to explore the various contemporary ways Canadian mining behavior impacts local communities in the Philippines.

#### **4.2.2 Data collection**

We used two methods to explore the case study (1) document review and (2) key informant interviews, with the latter being the primary method used for analysis.

##### ***Document review***

Document review was utilized iteratively, helping to inform the interview process whilst simultaneously enabling access to documentation and statistical information necessary to reinforce findings within data analysis (Newenham-Kahindi, 2011). Through a structured literature review, relevant documents were accessed and analyzed to inform our research questions and helped within the design of our key informant interview guide. Document data included peer-reviewed articles on Canadian mining in the Philippines, transnational mining laws, and impacts of large-scale mining on Indigenous and local communities in the Philippines. We also used tertiary data (i.e., archival materials and news, CSO, and government reports), which provided relevant information for the analysis.

Document review provided the authors with greater awareness regarding transnational mining and local community relationships in the Global South (see Kemp, 2009; Kemp, 2010; Szablowski, 2007). Specifically, the document data provided background knowledge related to the accountability mechanisms and multi-stakeholder processes used by TNCs and governments to address conflict and socio-environmental disputes with affected local communities. Document data also included the Canadian government's responsible business conduct (RBC) policies,



Canadian corporate mission statements, company website information related to corporate social responsibility, and CSO reports on the impacts of mining in the Philippines. These data sources provided information about Canadian mining laws, company policies and the environmental and human rights situations in the Philippines mining industry (Charmaz, 2006; Eisenhardt, 1989).

Tertiary data was obtained through participants and Google web searches for updated information (Newenham-Kahindi, 2011). These data sources provided the researchers with additional socio-environmental information regarding Canadian transnational mining in the Philippines that either: (1) was not discovered during the interview process or (2) had reinforced research phenomena within the interviews. Tertiary data obtained through key informants were critical to the study as they included difficult to access statistical information, enhancing the robustness of the data analysis. Media sources included unpublished research, local news reports, policy briefs, and mining audit reports that were either confidential or had limited access via Google web searches.

### ***Key informant interviews***

We conducted open-ended and semi-structured key informant interviews to collect primary data within the case study. Interviews were conducted primarily by lead author AA. Two Filipino research assistants based in Manila and Mindanao, Philippines, were hired to assist in this phase of the research. These team members were critical in ensuring the credibility of the knowledge gained within the study. Locally-based research partners from the Philippines were integral to the research as they added richness, internal validity and ensured cultural competency throughout the research process. In particular, the research partners based in the Philippines contributed to the translation and interpretation of results and provided complimentary insights, which added

richness to the data and confidence in the findings (Eisenhardt, 1989; Wasser and Bresler, 1996).

Interviews were conducted in English, and those that were conducted in Tagalog or Illongo (local dialects used in the Philippines) were translated into English. Interviews were undertaken through the Zoom platform, Google Meets, Facebook Messenger, email, or over the telephone, depending on which platform was most accessible for the participant, and lasted between 20- 100 minutes. We recorded the interview details either through the zoom platform, audio-recording devices or in the form of observation notes to be transcribed and reviewed for analyses.

We fostered conversation like interviews where a small number of formal questions and prompts allowed us to explore the questions under study while not impeding the storytelling process (See Tables 3 and 4 for the main questions used). The data recorded included relevant materials to the participants' relationship with the land and perspectives on mining, community engagements, CSR and land use issues, and topics of concern. Probing also included follow-up questions to gain a deeper understanding of the respondent's described phenomena (Charmaz, 2006).

**Table 3. Interview themes and prompts for local and Indigenous leaders and community members**

| Section A | Background, Lived Experiences & Perspectives on Mining Company-Community Relationships          |
|-----------|---|
|           | Description of work, livelihood activities and/or role in community                             |
|           | How would you describe your experiences and/or perspectives of large-scale mining corporations? |
|           | How has the entry of the mine impacted your community?  |

|           |  |
|-----------|--|
| Section B | Effectiveness of CSR & Associated Mining-Related Development Programs  |
|           | Would you be able to expand on what the local community and Indigenous demands and priorities have been when it comes to mining?                                       |
|           | How have mining companies addressed community priorities?  |
|           | How effective has the company's corporate social responsibility initiatives been in dealing with community demands and/or conflicts?                                   |
| Section D | Suggestions for Strengthening Human Rights, Empowerment & Capacity Building in Host Communities  |
|           | What are ways you believe Indigenous and local host communities can become more engaged and empowered within local decision making regarding nearby mining operations? |

**Table 4. Interview themes and prompts for corporate mining executives, CSOs, government officials and experts in the field**

|           |  |
|-----------|--|
| Section A | Background & Research Topic  |
|           | Description of related work experiences and current position   |
|           | How would you describe your experiences and/or perspectives of large-scale mining corporations?  |
| Section B | Effectiveness of CSR & Associated Mining-Related Development Programs  |
|           | What role do you believe the strength of institutions and governance play in the ability to manage mineral resources in the global south?                              |
|           | What is your perspective on the effectiveness of the Canadian state and its alternative accountability mechanisms such as CSR, in regulating mining operations abroad? |
| Section D | Suggestions for Strengthening Human Rights, Empowerment & Capacity Building in Host Communities  |

|  |  |
|--|--|
|  | What are ways you believe Indigenous and local host communities can become more engaged and empowered within local decision making regarding nearby mining operations? |
|--|--|

### ***Sampling***

Using a purposive sampling process, an initial list of potential key informants was developed using suggestions from the local research assistants. To identify future participants, we used a snowball sampling approach whereby at the end of each interview we inquired if participants had recommendations and contact details for future respondents within their network (Penrod et al., 2003). We used this approach to obtain a sample of 51 individuals across institutions holding diverse lived experiences, perspectives and knowledge related to Canadian transnational mining in the Philippines, which is described further in section 4.3.1. Interviews ended once we achieved theoretical saturation, which took considerable effort given the diversity of actors in this case. This study was granted ethical certification from the University of Guelph Research Ethics Board REB # 20-02-008.

#### **4.2.3 Data analysis**

Our analytical strategy focuses on the data derived from the key informant interviews, with the document review used primarily to inform the interview process and achieve data source triangulation. After each interview, we analyzed the transcriptions and notes using NVivo QSR 12 software to organize the process (Zamawe, 2015). We used an eclectic and emergent iterative coding and content process adopting aspects of grounded theory (Mikkelsen, 2005). Grounded theory uses iterative data analysis to understand the studied phenomenon, acknowledge

subjectivity in hypotheses, and conclusively construct theory from the data itself (Charmaz, 2006). We sought to construct a social reality grounded within the participants' lived experiences and develop recommendations for future policy implications that stay true to their voices.

Our initial coding identified nodes and patterns in the data based on the research questions and was general in nature (Saldaña, 2014). We used a theoretical coding process (Glaser, 1992) to organize these initial codes into more conceptual analytical categories, while exploring relationships between them. These conceptual categories were compared against each other, revealing concepts related to potential theories using a constant comparative method (Mikkelsen, 2005). Saturation occurred when consistent connections between codes were created (Laws et al., 2003), which reinforced emerging themes and aided in identifying the social processes related to power within resource governance.

Additionally, analytic memos were used to capture research thoughts throughout data collection and analysis contributing to the constant comparison of emergent codes (Charmaz, 2006; Laws et al., 2003). To strengthen the rigour of the research approach, we undertook member-checking, known as the verification of results with participants to ensure that the findings accurately represent the reality of local lived experiences (Krefting, 1991). Research assistants were integral to data analysis and validating the findings. The member-checking process was done with our research assistant based in Mindanao who is an expert in the field of transnational mining in the Philippines and aided in verifying the accuracy and resonance of the interpreted findings.

## 4.3 Results & Discussion

### 4.3.1 Description of participants

We interviewed 51 participants, which included 47 individual sessions and one group interview of 4 participants. Interview participants were based in Canada (n=10), Europe (n=1), and the Philippines (n=40) and ranged across the following institutions (Table 5). Local civil society organizations and the classifications affiliated with certain participants have not been listed to ensure participant anonymity. Participants based in the Philippines, specifically Indigenous and local community members and CSOs were spread across the islands of Mindanao and Luzon. The Indigenous community members and leaders who participated in the study identified themselves across the following Indigenous tribes: *Igorot, T'boli, Mangyan, Tuwali, B'laan, Mamanwa, Manobo, and Subanon*.

We sent email correspondence invitations to several corporate mining executives across OceanaGold, Toronto Ventures Inc., B2Gold, Toronto Stock Exchange, Prospectors and Developers Association of Canada and Export Development Canada. However, the selected Canadian corporations did not respond despite multiple requests for interviews. Moreover, government officials from Canada, specifically individuals across the division of Responsible Business Practice and the Canadian Trade Commissioner Service at Global Affairs Canada, either did not respond to our email invitation or declined our interview request and instead provided website resource links on Canadian mining operations and responsible business conduct abroad.

**Table 5. Description of sector, classification and associated number of participants, key informants and knowledge holders identified within each outlined institution.**

| <b>Institution/ Sector</b>             | <b>Location of Participant</b> | <b>Classification</b>  | <b>Total Number of Participants</b> |
|--|--------------------------------|--|-------------------------------------|
| Local and Indigenous community members | Luzon                          | <ul style="list-style-type: none"> <li>• Local community member from the Cordillera region</li> <li>• Indigenous leader from Oriental Mindoro</li> <li>• Indigenous leader from Nueva Vizcaya</li> </ul>   | 3                                   |
|  | Mindanao                       | <ul style="list-style-type: none"> <li>• Local community member from Dinagat</li> <li>• Local community member from Surigao del Sur</li> <li>• Indigenous leader(s) from Agusan del Norte</li> <li>• Indigenous leader(s) from Davao</li> <li>• Indigenous leader(s) from South Cotabato</li> <li>• Indigenous leader(s) from Zamboanga del Sur</li> </ul> | 11                                  |
| Civil society organizations            | Canada                         | <ul style="list-style-type: none"> <li>• Above Ground</li> <li>• The Canadian Environmental Law Association</li> <li>• The International Coalition for Human Rights in the Philippines- Canada Chapter</li> <li>• The Mining Injustice Solidarity Network</li> <li>• Mining Watch Canada</li> </ul>  | 9                                   |

|  |          |   |   |
|--|----------|---|---|
|  |          | <ul style="list-style-type: none"> <li>• United Church of Canada</li> <li>• KAIROS Canada</li> </ul>  |   |
|  | Luzon    | <ul style="list-style-type: none"> <li>• Marinduque Council for Environmental Concerns</li> </ul>   | 1 |
|  | Manila   | <ul style="list-style-type: none"> <li>• Alyansa Tigil Mina [The Alliance to Stop Mining]</li> <li>• Bantay Kita- Publish What You Pay Philippines</li> <li>• Extractive Industries Transparency Initiative - International</li> <li>• The Legal Rights and Natural Resources Center- Friends of the Earth Philippines</li> <li>• Kalikasan Peoples Network for the Environment</li> <li>• International ALERT</li> </ul> | 9 |
|  | Mindanao | <ul style="list-style-type: none"> <li>• Convergence of Initiative for Environmental Justice</li> <li>• German Society for International Co-operation– Conflict Sensitive Resource and Asset Management in Mindanao (GIZ- COSERAM)</li> <li>• Local CSO from Agusan del Norte</li> <li>• Local CSO from Agusan del Sur</li> <li>• Local CSO from Surigao del Sur</li> </ul>   | 6 |



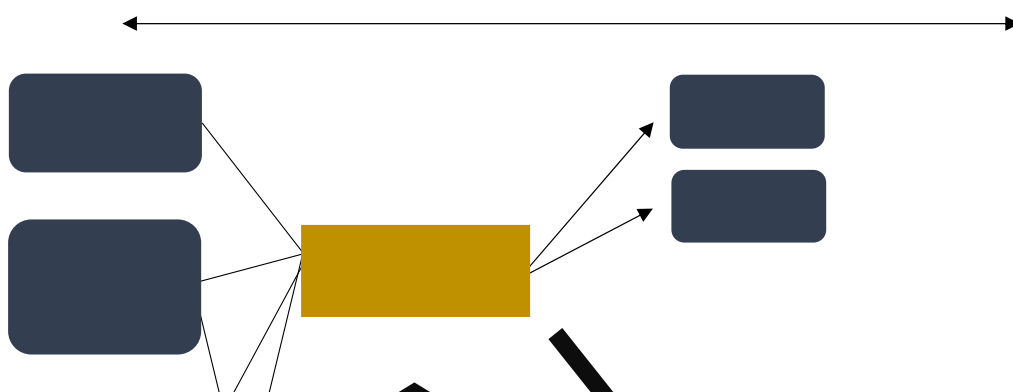
|  |          |   |           |
|--|----------|---|-----------|
| Government officials   | Mindanao | <ul style="list-style-type: none"> <li>• National Commission on Indigenous Peoples</li> <li>• Mines and Geosciences Bureau</li> </ul>   | 6         |
| Corporate executives<br>(Industry associations<br>and mining companies)  | Canada   | <ul style="list-style-type: none"> <li>• The Mining Association of Canada</li> </ul>  | 1         |
|  | Manila   | <ul style="list-style-type: none"> <li>• The Chamber of Mines</li> </ul>  | 1         |
|  | Mindanao | <ul style="list-style-type: none"> <li>• Agatha Mining Ventures Inc</li> </ul>  | 1         |
| Experts in the field of<br>Canadian transnational<br>mining law and/or<br>transnational mining in<br>the Philippines |          | <ul style="list-style-type: none"> <li>• Mindanao anthropologist</li> <li>• Mindanao historian</li> <li>• Senior researcher with expertise on transnational and Philippine mineral resource governance</li> </ul> | 3         |
| <b>Total participants</b>  |          |   | <b>51</b> |

#### 4.3.2 The conceptual framework

The conceptual framework outlines the coding process utilized for this study, which follows Saldana (2014)'s "streamlined codes- to- theory model for qualitative inquiry" to organizing the data collected. Figure 7 highlights the conceptual process undertaken to generate theory from the initial codes. Specifically, the framework highlights the specific or tangible

concepts that were identified during the beginning of data analysis. The emergent codes that appeared during data analysis include the politics of despair, dependency and fragmentation of social resistance, advancement in political and private interests, co-optation of Indigenous leaders, politics of indigeneity, corruption of Free Prior and Informed Consent processes, war on kindness, political suppression of dissent and militarized state aggression.

As a result of our analysis, we identified three core themes that provide an overarching framework for our results and discussion; (1) Corporate Social Responsibility; (2) Criminalization of Dissent and Red-tagging” and (3) Tribal Dealer, which we use as the main headings in this section (Fig. 7). An analysis of the three aforementioned core themes led to the generation of theory related to neocolonial extractivism (Escobar, 1995; Escobar, 2004; Fanon 1963/2005; Sarte, 2005). Thus, this study sought to explain the utility of the legal system to legitimize neocolonial violence in the extractive industry.



**Figure 6. Conceptual framework using Saldaña (2014)’s “Streamlined codes-to-theory model for qualitative inquiry” as a guide to organizing collected data. Grey represents preliminary codes, yellow represents initial themes, green represents overarching category, and orange represents the generated theory that emerged throughout analysis.**

### **4.3.3 Corporate Social Responsibility in the Philippines Mining Industry**

It is important to note that in the context of the Philippines mining industry, there is significant institutional complexity that occurs during the implementation of CSR programs within local communities. The results indicated several governance gaps that led to the overlapping of policies with CSR initiatives, including the Social Development Management Program (SDMP) (1995 Philippine Mining Act, Section 134-136 enacted in 2000), the Environmental Protection and Enhancement Program (EPEP) (1995 Philippine Mining Act, 1995 Section 69 enacted in 1996), Community Royalty Development Program (CRDP) (See NCIP Administrative Order No. 3 Section 61 enacted in 2012), and the Comprehensive Land Use Plans (CLUPs) of Local Government Units (See Executive Order No. 72 enacted in 1993), amongst several other institutionalized land-use and development programs (Asuncion et al., forthcoming). Moreover, when referring to the impacts of CSR, respondents frequently interchange between describing the effects of SDMP and CSR programs as there is ambiguity in implementation between the two policies at the local level. Thus, our analyses highlighted CSR initiatives, but the aforementioned programs may be simultaneously referring to the company's associated SDMP.

In the Philippines, the Department of Environment and Natural Resources (DENR) Administrative Order No. 2000-99 outlines the regulatory framework for implementing the Social Development Management Program for mining projects. SDMP is described as “the comprehensive five-year plan of contractors authorized to conduct actual mining and milling operations. The goal is “sustained improvement in the living standards of the host and neighboring communities by creating responsible, self-reliant and resource-based communities” (Cuartero and Leva, 2014 p.1078). The SDMP is a highly regulated policy in the Philippines,

based on the notion that 1% of the direct mining and milling costs shall be apportioned to implement the SDMP (Retrieved from Section 134 C of the 1995 Philippine Mining Act). The SDMP refers to the contractor's plans, projects, and activities towards developing the host communities under a binding regulatory framework. In contrast, CSR programs have similar objectives but remain voluntary and self-regulated by the corporation.

Several respondents highlighted the ambiguity of responsibilities between formal institutions associated with governing the mining industry. These institutional limitations have resulted in clashing mandates between governing actors and inefficient allocations of funds between programs, with CSR initiatives operationalizing local government unit responsibilities. The lack of collaboration and absence in local engagement has further widened governance gaps, manifested improper management of community funds, and increased corruption.

#### **4.3.4 CSR Implementation: Dependency & The Fragmentation of Social Resistance**

As poverty incidence continue to range from 30 to 60 percent in large-scale mining provinces in the Philippines (Magno, 2015), it remains impossible to divorce the socio-economic realities of mining communities with the politics of CSR implementation. Our results highlight how Canadian corporate CSR initiatives have created relationships of dependency between local communities and corporate actors, enabling foreign socio-political control over the mining region and contributing to the fragmentation of social resistance. Specifically, our findings identify how Canadian CSR programs have been used strategically to advance political interests and implement division amongst the community.

At the interface of corporate-community relationships, resistance movements against

mining have been significantly impacted by local government actors and their ability to politicize CSR implementation to serve private interests. Although local development plans are promised for all affected members of the region during community consultation, our results indicate that CSR is used as an instrument to advance political and private interests in mining. For example, when asked about the impacts of CSR initiatives on the livelihoods in the local region, a community member affected by the Australian-Canadian OceanaGold's Masbate Mine describes the acute power asymmetries within the distribution of CSR benefits.

*"The barangay captains engage in businesses with the mining companies. And then they also use the SDMP for their benefit. They will build the roads that will benefit the business of those barangay officials. They will fix the roads leading to the mining area to enhance transportation of mineral ores for the company. It will be beneficial to them and not for all. They will build a multi-purpose hall, but it is not for everybody to use as there are limitations. If the people use it for meetings against the mining company, they cannot do that. But the pro-mining individuals from the barangay captain's initiative can use it. In the case of the enhanced community quarantine during the beginning of the pandemic, the company used CSR funding to distribute relief in the community in coordination with the barangay captains. But those barangay captains selected the persons to be given the relief. Those persons with the anti-mining sentiment do not get any relief. So, we see the SDMP allocation, but the ways it is distributed are unequal." (Interview 10, local community member affected by OceanaGold operations in Masbate)*

This local respondent highlighted the self-serving aspects of development fund allocations, describing how CSR initiatives only benefit a select few, as development capital is not distributed to community members who resist mining operations in the area. Similarly, a respondent from Mining Watch Canada defines CSR implementation in the Philippines as the "politics of despair" (Interview 27). Due to the gatekeeping of CSR funds and benefits, community members living in poverty-stricken areas are placed in vulnerable standings, coerced into an ultimatum where they must choose between land rights or the corporation's promise of basic social infrastructure necessary for survival.

Regulatory capture and corruption are common themes in the Philippine mining industry and associated governmental units (O'Callaghan and Vivoda, 2015). For example, a 2005 European Commission study reported that the Philippines' Department of Environment and Natural Resources had deterred from implementing internal controls to combat corruption (European Commission, 2005). In this study, we see that livelihood and basic social infrastructure provided through CSR programs are captured by national elites and local bureaucrats and officials who finance public policies and investments (Achterhuis et al. 2010; Hidalgo et al., 2017; Vos and Boelens, 2014).

Local dependency on CSR programs threatens the agency of community members, creating barriers to challenging and resisting company operations as these actions may impede the undertaking of company-funded projects (Newell, 2005) and the company's facilitation of sustainable services after the closure of the mine (Kemp, 2009). Gamu and Dauvergne (2018) reinforce this phenomenon stating, "In terms of counter-mobilization, CSR discourses and organizational forms have the effect of fragmenting transnational social resistance by drawing

some opponents into the corporate sphere." (p. 960). For example, when asked about how the company addresses community concerns, Interviewee 35, representing Kalikasan, a national Philippines environmental NGO, describes the tactics mining corporations use to cause division amongst local mining opposition movements.

*"The tactics the mining corporations use are organized under division, violence and bribery. They sometimes corrupt Indigenous leaders. Our experience with Toronto Ventures Inc., some leaders within the resistance movement against mining were corrupted and joined alliances with the company when the company gave the tribal leaders payments and promised them different materials.... And if they were not able to weaken the opposition of the local communities, even if they were able to get some of the Indigenous leaders, the communities remain strong in their opposition-- they will use violence. They will threaten the anti-mining activists. They will harass like we are experiencing now. They will put up a military detachment in the communities, not only to sow fear but to arrest or kill those who are leading the opposition in the community." (Organizer for Kalikasan Peoples Network for the Environment)*

The respondent identifies the various methods mining companies have used to dismantle local mining resistance movements, from corruption to militarized violence. This result, which is corroborated alongside several local respondent answers also coincide with critical CSR literature, which highlight cases of CSR programs escalating tension and conflict in communities hosting mining (e.g., Li, 2015; Pozas et al., 2015; Velásquez, 2012; Warnars, 2012). When



community members continue to resist mining, several tactics under the umbrella of "red-tagging" are used by concurrent forces representing corporations, governments, and militaries to silence dissent and opposition.

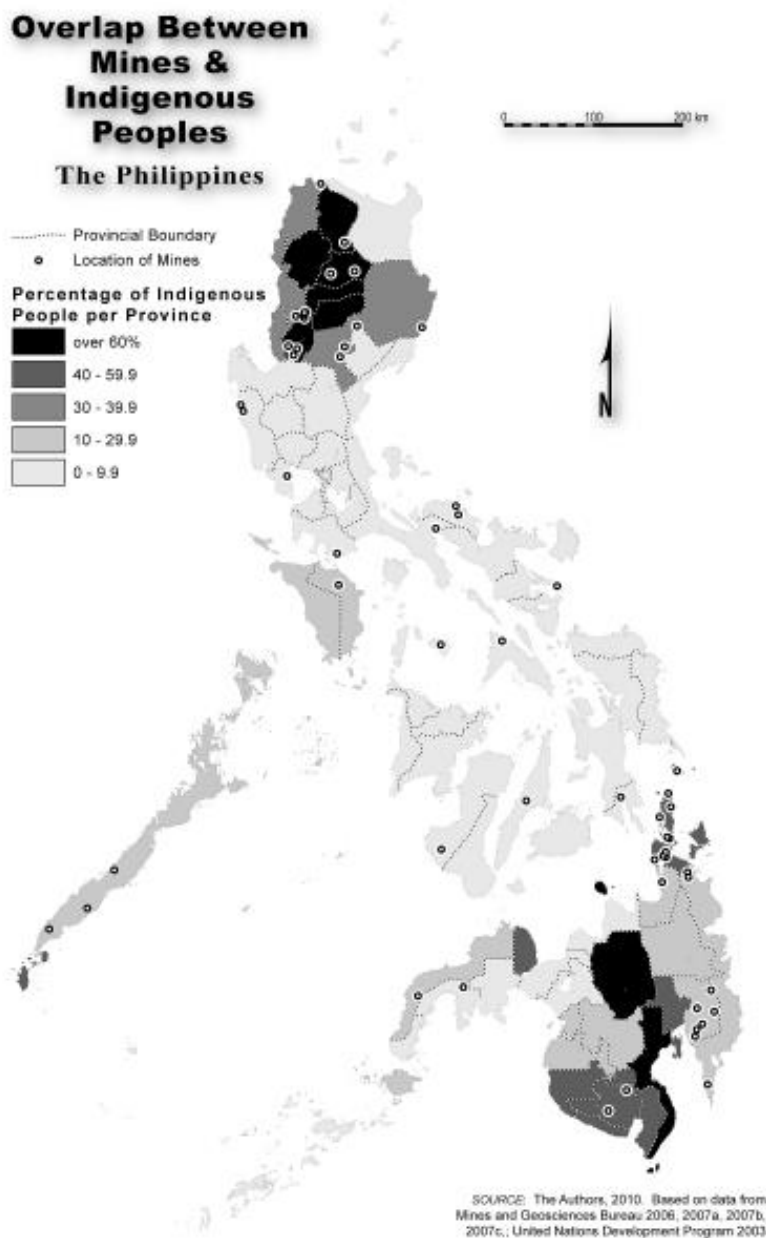
#### **4.3.5 War on Kindness: Red Tagging & Vilification of Dissent**

Since 1969, there has been a longstanding civil war between the Government of the Republic of the Philippines and the Communist Party of the Philippines- New People's Army- National Democratic Front of the Philippines (CPP-NPA-NDF) (Tugade, 2020). In retaliation against the State, the New People's Army, which is the armed extension of the Communist Party of the Philippines, have been engaged in guerrilla warfare with the Armed Forces of the Philippines, resulting in over 40,000 deaths (Holden et al., 2011; Holden, 2014). Recognized as one of the longest civil wars globally, red-tagging has manifested into one of many potent externalities of the Philippines ' civil conflict.

Red-tagging is known as targeting individuals or organizations as terrorists due to accusations of alleged ties to communist political parties. Red-tagging has infringed upon human rights, such as freedom of speech and assembly for civilians in the Philippines (Tugade, 2020). Between July 2016 to December 2020, there have been 376 reported extrajudicial political killings and 488 cases of attempted killings in the archipelago (Karapatan, 2020 p. 13). Under institutionalized forms of red-tagging, our findings highlight the systematic weaponization of the Philippine legal system to silence resistance to mining in the Philippines.

Large-scale mining currently operates in 60% of ancestral domains, commonly in the mineral-rich hinterland regions of Luzon and Mindanao (Simbulan, 2016) (Fig. 8). As of 2020, the Philippines has been characterized as the second deadliest place in the world to be a land

defender and environmental activist, with mining being the most dangerous sector globally (Global Witness, 2020). Global Witness (2020) further indicates that usually, those who died as victims of human rights violations are the elders and leaders who take the lead for examining the company's presence, challenging the process, questioning the deployment of the military, with "many of those killed were Indigenous people asserting their right to self-determination and their ancestral lands" (p. 27).



**Figure 7. Map by Holden et al. (2011) showcasing the overlap between mines and Indigenous Peoples in the Philippines. Research has shown over 60% of mining in the nation operates within ancestral domains (Simbulan, 2016)**

Red-tagging has been used to sow fear, arrest, silence or murder activists speaking out against mining injustices (Tugade, 2020). For land defenders, Indigenous leaders and activists seeking justice and accountability in the extractive industry, the phenomenon of red-tagging

poses nefarious implications which have led to vilification, arrests, disappearances and death (Global Witness, 2020). Simultaneously, acute power dynamics are embodied within the Philippine legal system as rulings on dispute cases tend to possess bias inclinations favouring mining companies (Christian Aid, 2004). This bias is harmful as it comes at the expense of communities whose consent is legally required, raising significant issues for communities that lack agency and engagement during social license processes (O'Callaghan and Vivoda, 2015).

Three local respondents from affected large-scale mining communities in Mindanao and one local respondent from Luzon identified themselves as victims of red-tagging. These respondents shared similar experiences of being publicly vilified as terrorists and receiving multiple death threats concerning their socio-environmental activism (See for example, Table 6a). There was overwhelming opposition to the Anti-Terrorism Act, with local respondents describing the law's enactment as government pushback to the growing resistance movements and unpopularity of the beleaguered Philippine state. Several respondents have expressed this Bill through the narrative of fear for civil society and a climate of impunity for state actors (Table 6 b, c). Our results indicate that these legislative frameworks have allowed the phenomena of red-tagging to blacklist, harass and threaten individuals or organizations who are critical of the current administration.

**Table 6. Examples of quotes and excerpts from key informant interviews which describe lived experiences of the implications of red tagging, institutionalized through the Anti-Terrorism Act, and the National Task Force to End Local Communist Armed Conflict**

| Respondent  | Quote |
|-------------|-------|
| Red-tagging |       |

|   |   |   |
|---|---|---|
| a   | Interview 46,<br>Local<br>respondent<br>from Agusan<br>del Norte,<br>Mindanao | “So, that is why it is really difficult for me because politicians who support the mining companies or are involved in the management of the mining companies, have resorted to some dirty tactics, accusing us [of being communist sympathizers] through red-tagging. They have already victimized me...there were instances where there have been attempts to my life and luckily, with the help of God, I survived”.   |
| Impact of Anti-Terrorism Bill on Freedom of Speech & Assembly                 |   |   |
| b   | Interview 34,<br>Local<br>respondent<br>from Surigao<br>del Sur,<br>Mindanao  | “Wow, the Anti Terrorism Bill. So scary. They will use that especially for Indigenous people protecting their ancestral domain. They will, <i>pagbibintangan agad sila</i> (accuse them immediately). Because the government is protecting the capitalists, that’s one thing. We kept on questioning during our dialogues with the Department for Environment and Natural Resources (DENR) and the Armed Forces of the Philippines (AFP), why are you protecting the mining company? Why are you not protecting us? The people, who are protecting the environment?”  |
| c   | Interview 11,<br>Local<br>respondent<br>from<br>Masbate,<br>Luzon             | “I want to tell the whole world. I want all the citizens to know what is happening in our town, but we have been deterred to speak out. Especially with the Anti-Terror Bill, if we speak out, the government will tag us as a leftist. So, if you are tagged as a leftist, your life is more vulnerable. We are also very careful right now because of the high risk in our life.... It really affects us to voice out our opinion because if you voice out your opinion...You are [deemed] against the government. But when I speak in public, I always say we are not your enemy. We are not the enemy of the government. We are the one helping the government. So do not persecute us because we are the ones helping you. So yeah, the Anti-Terrorism Bill has a big effect on our human rights.” |
| National Task Force to End Communist Conflict - <i>Oplan Tokhang</i> Strategy |   |   |
| d   | Interview 28,<br>Local<br>respondent  | “There are experiences of the Indigenous peoples there that the armed soldiers are the one knocking at their doors and telling them to accept mining companies. These are scary things. These state security forces are   |

|  |                                |  |
|--|--------------------------------|--|
|  | from Surigao del Sur, Mindanao | also the security forces of the private mining companies. And they are made to believe that mining can change their lives and improve their lives. I can point to some persons who are killed because of this kind of opposition. It's unfortunate. And the destruction of the school. The attack on the school, the massacre that happened on September 1 2015 is the result of this campaign for extractive industries to enter in their areas. So, once you oppose. You are now a target, a military target.” |
|--|--------------------------------|--|

To silence human and environmental rights defenders, political authorities in the Philippines have taken advantage of red-tagging as a form of social order and dominance over civilians asserting their freedom of speech. For example, on May 4th, 2021, Cristina Palabay, Secretary General of *Karapatan*, a national alliance to protect human rights in the Philippines, spoke at the Canadian Subcommittee on International Human Rights of the House of Commons Standing Committee on Foreign Affairs and International Development. On May 8th, 2021, an explicit example of red-tagging took place when the Director-General of the National Intelligence Coordinating Agency, Alex Monteagudo, shared a Facebook post that demonized Palabay for advocating “for the rights of the NPA to kill, tax, recruit young people” (Fig. 9) (InvestigatePH, 2021).



**Figure 8. Example of red-tagging upon human rights defender Cristina Palabay from Karapatan after testifying on the human rights situation at the May 4<sup>th</sup> 2021 Canadian Subcommittee on International Human Rights of the House of Commons Standing Committee on Foreign Affairs and International Development (InvestigatePH, 2021). Translated into, “What are the rights that Karapatan Alliance Philippines and its Secretary-General Cristina Palabay fight for? The rights of communist terrorists to kill innocent lives.” Image publicly posted on Alex Monteagudo, Director General of the National Intelligence Coordinating Agency of the Philippines’ Facebook account on May 8<sup>th</sup> 2021.**

The creation of the National Task Force to End Local Communist Armed Conflict (NTF-ELCAC) in December 2018 (See Executive Order No. 70) enabled the operationalization and institutionalized enforcement of red-tagging. The issuance of the NTF-ELCAC manifested into the militarization, weaponization and engagement of the entire civilian bureaucracy within the

counterinsurgency drive. Once the NTF-ELCAC was created, each civilian agency and department at all levels of the government became mandated to play a role and contribute to the regimes' counterinsurgency campaign objectives. The implications of the NTF-ELCAC advances the systematic use of government resources across platforms and agencies to red tag and demonize activists (InvestigatePH, 2021).

On February 24th, 2021, the Regional Law Enforcement Coordinating Committee in the Cordillera Region in Northern Luzon, an extension of the NTF-ELFAC, created a resolution to address insurgency issues (Quitacol, 2021). This resolution outlines the coordination of law enforcement agencies and local government unit representatives to undertake the "*Oplan Tokhang*" strategy to "known left-leaning personalities in the government, media and other entities" (Mercado, 2021).

The *tokhang* method, a Tagalog phrase translated as "knock and persuade," is enforced by the Duterte administration's anti-narcotics campaign, infamously known as the "war on drugs." The *Oplan Tokhang* strategy is undertaken by the Philippine National Police, in coordination with other government agencies, to create lists of suspected illegal drug users at the barangay level. Once individuals are identified, the police force can conduct warrantless house-to-house visitations to advise suspects to eliminate drug use ostensibly. However, police visitations have often resulted in extrajudicial killings, abductions, and shootings, with investigative reports revealing incentive systems for executions made by the police (Amnesty International, 2017 p. 29; Curato, 2017).

The resolution passed in the Cordillera region has institutionalized the *tokhang* method for political dissenters, with the Philippine National Police red-tagging individuals possessing



"left-leaning" political ideologies at the local community level (InvestigatePH, 2021). A local respondent from Mindanao described similar experiences of *tokhang* within their community. Indigenous community members have faced door-to-door visitations from military forces protecting the industry to intimidate, propagate fear and even kill individuals resisting mining in the region (Table 6d).

Moreover, at the local level, respondents share the intractable complexity of the counterinsurgency beyond the standard reductionist narrative of the New Peoples Army versus Armed Forces of the Philippines conflict. When asked about the impacts of mining on ancestral domains, Interviewee 46, a consultant from Mindanao's Conflict-Sensitive Resource and Asset Management (GIZ-COSERAM) program, described the issue through the intersection of identity politics, class conflict, and individual struggles. They state that the narrow characterization of individuals within the NPA or AFP has been used as "weaponized machinery" for the ruling class to rationalize human rights violations occurring under red-tagging and the criminalization of dissent against mining. These sentiments are corroborated by Interviewee 28, a local priest from Mindanao affected by large-scale mining who describes the complexity of Indigenous identities and activism in the archipelago,

*"The Indigenous communities are always found in the hinterlands, and these hinterlands in my area are the stronghold of the revolutionaries [CPP-NPA-NDF]. And because of this, it complicates the matter because what they are fighting now is identified with the left's agenda ....So, unfortunately, what happens now is, the state forces are attacking them. Because of two things-- they are suspected as communist rebels or sympathizers, and at the same time,*

*they have to be dismantled [by the State] because they are the ones opposing the entry of the mining industries in their areas."* (Local activist from Mindanao, Surigao del Sur)

Several respondents describe how the State rejects civilian demands due to identity politics, assumptions upon the individual's ideological beliefs, and mere association with communist groups. Holden et al. (2011) 's findings strengthen the respondent's arguments stating, "the Armed Forces of the Philippines may be militarizing areas near mining projects, which are inhabited by Indigenous peoples, in order to intimidate them into discontinuing their opposition to mining. When this happens, Indigenous people opposed to mining are accused of rebellion or engaging in terrorist activities" (p. 155) (Capuyan, 2009; Carreon, 2009; Permanent Peoples' Tribunal, 2007; Mora, 2009).

The Duterte administration's counterinsurgency campaign possesses an intrinsically myopic lens to the nation's longstanding civil war. Instead of approaching the armed conflict from its historical socio-economic and political roots, the government illustrates counterinsurgency issues through unsubstantiated accusations of recruitment within the CPA-NPA-NDF. Investigate PH, a 2020-2021 Independent International Commission of Investigation into Human Rights Violations in the Philippines, reinforces these arguments, "demands aligning with progressive movements such as land reform, national industrialization, social justice, human rights, and national sovereignty are directly associated with the objectives of the CPP and NPA, and ultimately become baseless according to the State" (p. 37). As the government defines the Philippines' armed conflict through the lens of anti-communism initiatives, it enables powerful

bureaucratic actors to utilize the judicial system as a means of legal weaponry against civil society and activism.

#### **4.3.6 The Tribal Dealer & The Politics of Indigeneity**

When analyzing the nuances in Canadian mining behaviours, our findings show that natural resource governance conflicts in the Philippines are rooted, for the most part, in the politics of indigeneity. Indigenous peoples enmeshed in the contemporary mining landscape possess multifaceted interests, identities, and relations to mining at any given time, which can be inconsistent with popular narratives (Bainton, 2020). Our results reinforce that host community-company mining relations are increasingly complex, with the politics of indigeneity playing a fundamental role in the ways that Indigenous community members perceive mining.

Specifically, our results demonstrate the "tribal dealer" phenomenon, where corporate and government officials manufacture consent for mining in two ways: (1) the corruption, bribery, and co-optation of Indigenous leaders (2) and the forgery of Indigenous land ownership through fabricated genealogies.

Under the Indigenous Peoples' Rights Act of 1997, the Philippine government created the National Commission for Indigenous Peoples (NCIP) (See Republic Act No. 8371 of 1997). NCIP is an Indigenous-centred governmental agency whose main responsibility is to engage with Indigenous Peoples and respond to their needs related to safeguarding socio-cultural traditions and rights to ancestral lands (Paredes, 2019). Under the IPRA statute in NCIP Administrative Order 1998-1, the NCIP enact the rules and regulations which legally mandate that the "free prior informed consent (FPIC) of all members of an Indigenous cultural community be obtained as a precondition for any mining activity located on lands which are the ancestral domain of an

Indigenous community" (Holden et al., 2011 p. 151). It is important to note that the corruption of Indigenous socio-political governance structures for corporate interests was a prevailing theme within our findings. However, a government executive from a regional Mindanao office of the National Commission on Indigenous Peoples remained the only key informant who denied that conflict occurred between Indigenous peoples, mining companies and associated government units (Interview 36).

Under the Indigenous Peoples Rights Act, the label of "Indigeneity" in the Philippines holds explicit political connotations. It seeks to legally define the ethnic minorities who are culturally and racially distinct from the mainstream Filipino population (Paredes, 2019). At its surface, the legislation is seen as a progressive reform to ensure Indigenous peoples' socio-cultural preservation and self-determination to their ancestral domains (Doyle, 2020). However, scholars such as Paredes (2019) criticize the practical consequences of the Indigenous Peoples Rights Act, stating its legal codification of Indigenous rights "allows the state to impose its own definition of indigeneity, often compelling Indigenous minorities to conform to stereotypes in order to acquire the fundamental rights and benefits that, by law, are supposed to be guaranteed." (p.86).

Moreover, the IPRA law possesses an extremely ambiguous definition of Indigenous peoples in the Philippines. To add to its complexity, the NCIP as a bureaucratic agency relies on self-identification due to the absence of formalized registration systems available to verify official population counts of Indigenous peoples (Paredes, 2019).

The tribal dealer phenomenon is characterised by the co-optation and exploitation of Indigenous leaders through corrupt operations such as bribery. Civil society organizations across

Canada and the Philippines, alongside Indigenous leaders and local community respondents, assert that Canadian companies have facilitated consent processes through the provision of such money and gifts (Canadian Network on Corporate Accountability (CNCA), 2007). The stark economic inequalities between leaders and their communities have caused division and conflict between members. NCIP staff are often utilized as point people for exploitation processes and are asked by companies to bribe Indigenous leaders and other NCIP bureaucrats. A former NCIP whistleblower, Ferdie Cerna from the Agusan del Sur NCIP office and appointed official for the Office of the Presidential Advisor for Indigenous Concerns, recalls how "NCIP officials bribe Indigenous leaders with money, women and cellphones to encourage them to grant permission to mining companies" (Global Witness, 2019, p. 51).

A 2009 report by the Committee on the Elimination of All Forms of Racial Discrimination corroborates our findings by asserting that the Philippines mining sector is notorious for corruption as "community development projects and payments made to communities prior to or during FPIC processes, are being used to influence the outcome of consent processes and constitute forms of coercion, undue influence or bribery" (Philippines Indigenous Peoples ICERD Shadow Report, p.52). This report highlights the commonality of explicit bribery of leaders and representatives in Indigenous and local communities by companies such as Australian-Canadian company OceanaGold and Canadian company Toronto Ventures Inc. Pacific, with material benefits ranging from cash, land, and vehicles. These results are corroborated by Foster (2015) that found that the Philippines possesses the highest number of company bribery allegations during consent and social license processes.

The second defining characteristic of the tribal dealer phenomenon is the forgery of Indigenous land ownership through the fabrication of genealogies. When tribal leaders and elders who possess ownership rights to the associated ancestral domain resist mining operations, local politicians, NCIP officials, and mining corporations have corrupted FPIC processes by choosing individuals to be placed in leadership positions at the company's advantage. Government officials and mining corporations undertake the manipulation of FPIC processes through the co-optation of an Indigenous person who does not possess the authority to represent the host community (Holden et al., 2011; Paredes, 2019). Our findings reinforce this phenomenon, highlighting how a chosen individual either from a different territory or identifies as an Indigenous member submissive to mining within the community is coerced into supporting the mining project. To legitimise this individual's leadership in the area, the company manufactures a comprehensive genealogy of an entire tribe following the individual's ancestral lineage. Once this process is completed and the signature of the fraudulent leader is obtained, the mining company can begin operations. A participant from peacebuilding organization International ALERT describes the manufacturing of Indigenous leaders for consent processes as the invention of tradition.

*"So a multi-national comes in. Okay, you are going to be my tribal leader. You're the one I'm negotiating with, and that fellow is a Dibawa, no wait, that person is a Timubo, maybe they are a Manobo, but it doesn't matter. He might not even be first among equals, he's just an ordinary Indigenous member, but now you vested some recognition upon him. And he signs the arrangement on behalf of a "so-called amorphous tribe of Manobos". Then the only thing you*

*need to do is draw up the genealogy of the entire tribe by tracing his ancestors, up and down. Now that you have the genealogy and the signature of the person, you can go into that area [to mine]." (Interview 17, member of the CSO, International ALERT)*

Our findings corroborate allegations made against OceanaGold for the creation of a "council of elders" to advance FPIC processes within the Indigenous *Bugkalot* community (Ilagan, 2009). Ilagan (2009) purported that the individuals within the council of elders were from outside the community or bribed for consent. These findings are also corroborated by a 2013 German report on FPIC in the Philippines, with results indicating limited community participation; intentional designs of FPIC processes to exclude openly resisting community members; and a "questionable selection and validation of [Indigenous leaders]" (Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ), 2013 p. 4). These types of fraudulent IPRA consent practices are directly tied to the vague definition of indigeneity in the IPRA law, the politics of representation, and the widespread corruption within the NCIP (Global Witness, 2019).

The second aspect of the tribal dealer phenomenon also occurs due to the homogenization of Indigenous communities under the IPRA and its limited acknowledgement of the discrete customary laws and socio-political structures between tribes. The IPRA defines Indigenous Political Structures through the decision-making processes of Indigenous communities through a "Council of Elders, Council of Timuays, Bodong Holders, or any other tribunal or body of similar nature" (See Republic Act No. 8371 Chapter 2).

However, NCIP's legal requirements of obtaining consent through a council of elders have caused increasing conflict within egalitarian and autonomous Indigenous tribes (Paredes,

2019). Canadian corporations have corrupted IPRA's definition of Indigenous Political Structures to their advantage. For example, local respondents have raised allegations upon Toronto Ventures Incorporated (TVI) Pacific's Canatuan Gold Project's creation of a fraudulent council of elders within the *Subanon* tribe (Interview 16, Interview 4, Interview 7, Interview 35). These allegations were reinforced by Sanz (2007), who recalled TVI Pacific paying monthly honorariums to the council of elders. Experts in the field also described how government bodies such as the Mining Geosciences Bureau, the Department of Energy and Natural Resources and the NCIP cater to mining companies and facilitate processes to ensure that the company possesses the documents necessary to operate (Global Witness, 2019).

Deeply woven in rich history, the socio-political and cultural significance of a tribe remains physically entrenched in a sacred place, with conflict originating when tenurial and customary rights related to ancestral domains are infringed upon (Simbulan, 2016). The disenfranchisement and misrepresentation of Indigenous peoples during FPIC processes and the resulting deprivation of generational place-making have led to violent conflict within and between Indigenous communities. Through the tribal dealer phenomenon, dominant actors within the global mining industry have corrupted Free, Prior and Informed Consent processes to advance the dispossession of Indigenous lands and resources.

#### **4.4 Agents of Neocolonialism: The Government of Canada & its Mining Corporations**

With over 400 years of colonial history, the Philippines has been plundered and looted repeatedly by hegemonic nations (Rodan, 2021). Despite obtaining sovereignty from the United States in 1946, the Philippines continues to be subjugated to neo-colonialism emanating from



domestic elite oligarchies, transnational capitalist enterprises and foreign imperial powers (Camba, 2015). Bilateral relations between Canada and the Philippines have been sustained for over 70 years, with a long history of Canadian mining in the archipelago (Embassy of Canada in the Philippines, 2020). Our results indicate that Canadian government actors and corporations work in tandem with national elites to advance dispossession and neoliberal modes of extraction within the archipelago's mining industry. Our findings challenge the binary of home vs. host state accountability by highlighting the geopolitics of Canadian neo-colonial violence, which traverses transboundary spaces, scales, and relations within resource extraction in the Philippines.

Although theories of colonialism and neo-colonialism are founded upon forms of intergroup domination and control of other individuals, groups and territories, the ways they are operationalized make them distinct from one another. Horvath (1972) defines colonialism as a "form of intergroup domination in which settlers in significant number migrate permanently to the colony from the colonizing power" (p.50). In contrast, Kwame Nkrumah, the first prime minister and president of Ghana, provides a noteworthy definition of neocolonialism. Nkrumah (1976) defines neocolonialism as representing "imperialism in its final and perhaps its most dangerous stage (...) The essence of neocolonialism is that the State which is subject to it is, in theory, independent and has all the outward trappings of international sovereignty. In reality, its economic system and thus its political policy is directed from outside..." (Nkrumah, 1976 p. 1).

Governed through neoliberal institutions and ideologies, neocolonialism is a pervasive power that controls domestic policies within the colonizing State for the expansion of capital for the colonizer (Escobar, 1995; Escobar, 2004; Fanon 1963/ 2005). Neocolonial influence is

exercised through relationships of dependency founded upon globalization, cultural imperialism, and conditional aid (Nkrumah, 1976; Rodney, 1972). This dependency has imitated relationships of traditional colonialism, with debt obligations producing degrees of geopolitical power and control over developing nations.

Although neocolonialism was first coined in the 1960s, the term has evolved to provide a more encompassing conceptualization of neocolonialism, one which has been enriched by over 50 years of scholarly contributions (Caouette and Kapoor, 2016). Uzoigwe (2019) describes the shifts in neocolonialism as a political lexicology within the 21<sup>st</sup> century as, “From the 1980s to the present, earlier concerns about neocolonialism based primarily on economic, political, and military issues have been expanded to include issues of slavery and the slave trade, geopolitics, psychology, class struggle, national liberation, Pan-Africanism, tourism, petroleum products, neoliberalism, structural adjustment, religious missions and theology, education, literacy, and the path toward peace in the future” (p. 64). Thus, we utilize contemporary and intersectional ideologies of neocolonialism to focus on how Canadian governments and corporations act as agents in fueling neocolonialism within the Philippine mining industry.

#### **4.4.1 Canada As a Neocolonial Agent within the Philippines Extractive Industry**

Due to the unevenly distributed and finite nature of mineral deposits, Canadian mining corporations have operated in some of the most economically poor, marginalized, and environmentally vulnerable communities in the Philippines and across the world. Canadian mining corporations are criticized for their involvement in egregious human rights violations, dispossession, and environmental devastation within the Philippines (Broad et al., 2018; CNCA,

2007). To this day, there remains a lack of binding regulatory legislation which holds Canadian corporations accountable for their operations extraterritorially (Coumans, 2019).

The Government of Canada has addressed socio-environmental negligence and human rights violations of Canadian mining operations abroad through voluntary and self-regulated CSR mechanisms operationalized through its Responsible Business Conduct (RBC) Abroad program (Global Affairs Canada, 2021a). This section describes the various Canadian neocolonial tools of domination and control, such as the enforcement of weak regulatory mechanisms of accountability; paternalistic development discourse; and diversified forms of aid and military support that the Canadian government employs to ensure the exploitation of mineral resources in the Philippines.

The Government of Canada and the Trade Commissioner Service work together with the Mining Association of Canada (MAC) to promote MAC's CSR protocols under the Towards Sustainable Mining Initiative (TSM) (Global Affairs Canada, 2021b). The TSM initiative is internationally lauded for its eight protocols which operationalize responsible business conduct, environmental sustainability, and human rights across the international mining industry (MAC, 2021). However, civil society organizations such as Mining Watch Canada scrutinize TSM for its voluntariness, self-regulation and lack of transparency (Coumans, 2020). Alongside this, the TSM initiative is described through inadequate issue coverages, insufficient levels of enforceability and weak standards (Coumans, 2020). For example, the new TSM protocol released in December 2019, which focuses upon Indigenous and Community relations, fails to address the legal requirement for corporations to obtain Free Prior and Informed Consent (Coumans, 2020). Instead, under the TSM initiative, corporations only need to showcase a

"demonstrated commitment to aim to obtain Free, Prior and Informed Consent of directly affected Indigenous peoples" (MAC, 2019 p. 7).

In 2017, the Philippines Chamber of Mines adopted the Mining Association of Canada's Towards Sustainable Mining initiative (MAC, 2019). A notable criticism of TSM from our findings is its homogenous application for culturally and ethno-linguistically diverse groups of citizens and Indigenous peoples across host communities in the Philippines. When asked about the effectiveness of TSM in regulating transnational mining corporations, an interesting resonance occurred between individuals representing conflicting institutions.

Specifically, Interviewee 10, a local respondent affiliated with *Alyansa Tigil Mina* [Alliance to Stop Mining], and an executive from the Philippines' most influential industry association, the Chamber of Mines, described the TSM initiative through its lack of culturally translatable application in the Philippines. For example, the executive from the Chamber of Mines repeatedly mentioned the need to adapt TSM to be culturally appropriate in the archipelago, "There are certain protocols that are very Canadian, so we'll have to Filipinize it" (Interview 9). These results align with research undertaken by Andrews et al. (2017), who assert that the adoption of Western policies within the Global South can often be characterized as a "success" despite failures in effective implementation.

Despite ongoing socio-environmental negligence and a lack of adequate regulatory oversight, Canadian mining corporations in the Philippines continue to win prestigious national and international CSR awards. For example, in 2020, B2Gold was recognized as an industry-leading responsible mine through the Prospectors & Developers Association of Canada's 2021

Sustainability Award, which highlights "outstanding initiative, leadership and accomplishment in establishing good community relations during a mine operation" (PDAC, 2021b para. 1).

In contrast, a local respondent affected by B2Gold operations described lived experiences of B2Gold's socio-environmental externalities in the area and its resulting usurpation of local community rights to water, land, livelihoods and self-determination (Interview 12). Although we acknowledge that company-community relations are locally contingent, several respondents mentioned the disconnect of reality on the ground within Canadian CSR recognition and associated national and international mining awards. To strengthen international market relations, the picture that emerges from the analysis above is intrinsic to CSR and its use to obscure socio-environmental violence within large-scale mining operations and advance favourable investment climates.

While CSR awards remain a crucial signal of legitimacy for reputable investments, such awards receive low credibility at the local level as recognitions are regulated by the industry association and government officials with private interests in the company. Rather than strengthening the ecosystems and livelihoods in the region, our results align with Gamu and Dauvergne (2018)'s analysis, "CSR represents an accommodation intended to reify private interests and perpetuate relationships of power and production and, in our case, preserve a de-regulated model of non-renewable resource usage.... It achieves hegemonic status precisely because multinational corporations concede to reforms at the margin rather than addressing the root causes of exploitation and degradation" (p. 960).

Debates over host vs home state accountability for corporate mining abuse abroad are highly contested between civil society, governments, and corporations. Dominant mining

discourse, upheld by governments and corporations, is centred around host state accountability (Frederiksen, 2018; Imai et al., 2017). Host state accountability characterizes Canadian corporate negligence abroad as an externality of the weak governance of Global South countries, such as the Philippines, which are hosting mining operations (Coumans, 2019). In contrast, home state accountability, usually advocated by civil society, calls for home states such as Canada to implement stronger binding regulations for extraterritorial mining through legislation, judicial remedies, and sanctions to ensure corporate compliance (Gagnon et al., 2003; Seck, 2008). Governments worldwide argue that implementing binding laws for corporate accountability will lead to conflict within foreign national sovereignty (Seck, 2008). A respondent from the Mining Association of Canada reinforces this sentiment stating,

*"There is a pressure on home country mechanisms to take on the role of dispute resolution as the primary source... It's a new kind of colonialism to suggest that we should be overruling what goes on in other countries...If we focus too much on [home state] remedy without focusing on helping countries build the capacity to make their own decisions and to manage these issues effectively then we're not doing a service to developing countries".*

(Interview 43, executive from the Mining Association of Canada)

Host state accountability discourse is intrinsically tied to western-centric worldviews and definitions of sustainability and development (Ciupa & Zalik, 2020; Coumans, 2019). Here, the respondent fails to address the colonial entanglements and role that Canada has historically played in destabilizing and weakening institutions in the Philippines, and across the Global South through conditional aid, financial loans and policy restructuring (Asuncion et al., forthcoming).

A 2020 policy brief by Mining Watch Canada challenges the dominant discourse surrounding the weak governance of host states, "developing countries discussed in the context of the need for good governance are often the same ones that have been and continue to be persuaded to develop their mineral resources by International Financial Institutions, to which they are indebted, by the governments of mining multinationals and by countries seeking secure supply for their own industries" (Coumans, 2020 p. 3).

Correspondingly, the binary of home vs. host state accountability remains a logical fallacy as it assumes that the legal responsibility of transnational corporate negligence should and can only be vested upon one nation. The mining industry remains highly protected against regulation through international investment agreements which enable investors to sue host governments at international arbitration tribunals if there are accusations of their profits being unjustifiably affected (Olivet et al., 2016).

For example, Canada possesses 5 large-scale mining projects in the Philippines and holds a Philippines-Canada Bilateral Investment Treaty (BIT) which protects mining investors, alongside the Trans-Pacific Partnership Agreement (TPP), which has been undergoing negotiations from year to year (Olivet et al., 2016). A respondent from Above Ground, an NGO working towards strengthening human rights and Canadian corporate accountability highlights the legal fiction that occurs within the current Canadian non-binding regulatory regime for its mining corporations operating abroad, "There's a company in Canada, and then a company in the Philippines and they have nothing to do with each other, legally. So, if the company in the Philippines is doing bad things, the people in Canada are not responsible. This is a legal fiction.

It was set up because corporations control the State, and it works for them." (Interviewee 29, key informant representing Above Ground).

The respondent describes the legal fiction that occurs within Canadian legislative systems that fails to provide judicial sanctions for the harm inflicted by the corporations listed and regulated under Canadian jurisdiction. They further delve into the regulatory capture and legacies of colonial legal systems protecting capital and neoliberal institutions at the expense of vulnerable mining communities and ecosystems.

Rather than implementing binding legal action for corporate negligence abroad, Canada strongly advocates for technical and financial assistance for the extractive industry. For example, Brown (2020) concludes that Canada's increasing financial assistance to the mining sector has become the new norm in Canadian aid policy, standing out amongst donor peers within the Development Assistance Committee of the Organization for Economic Co-operation and Development (OECD-DAC).

Canada's provision of finances to mining corporations abroad aims to capacitate nations in the Global South with the economic prosperity and sustainable development necessary to transform "weak governance." However, Canada's provision of financial aid for Canadian corporations operating in the Philippines has supported deplorable mining operations directly related to our three core research themes: CSR dependency, criminalization of dissent and red-tagging, and FPIC corruption.

Canada's international dominance within the mining industry is sustained by Canada's domestic investments and financial services (Deneault and Sacher, 2012). Crown corporations, wholly owned by the government and financed through public tax dollars, are integral to



Canada's prominence within the mining industry. For example, Export Development Canada, a Crown corporation, provided approximately \$92 million to finance exports, foreign investment and trade development initiatives to Canadian mining business in 2020 (EDC, 2020).

Coincidentally, at the end of June 2021, the Canadian Pension Plan reported over \$500 billion in net assets of public funds, one of the most significant investment funds in the country. It was previously reported that the Canadian Pension Plan Investment Board invested in approximately \$3.4 billion in Canadian mining companies (CNCA, 2007). Canadian investments are limited in regulatory oversight. The lack of proper screening and due diligence monitoring for Canadian assets has led to public and governmental funds financing negligent and neocolonial business practices overseas.

Despite the growing international concerns related to the brutal suppression and human rights violations occurring under the Philippine military and police institutions (United Nations Office of the High Commissioner for Human Rights (OHCHR, 2020), Canada continues to support the Philippines with military funding, training, and partnership. Since 1997, Canada and the Philippines have upheld an army partnership between the Armed Forces of the Philippines and the Canadian Armed Forces, which has led to over 150 Filipino military personnel being trained in Canada (Global Affairs Canada, 2014).

Moreover, in 2018-2019, Canada provided a total of 37.9 million dollars in assistance, with 2.4 million of the bilateral aid allocated for counter-terrorism programs (Table 6) (Global Affairs, 2020 p. 27). The Government of Canada utilizes multilateral assistance through institutions such as the Association of Southeast Asian Nations (ASEAN) and Interpol to channel funding for counter-terrorism programs. Canada's financing of counter-terrorism programs and

military have contributed to the repression of resistance and human rights violations occurring under the Duterte regime's whole-of-the-nation approach to counterinsurgency.

**Table 7. Canada's international assistance to the Philippines retrieved from Global Affairs Canada Statistical Report on International Assistance for the Fiscal Year 2018-2019 (Global Affairs Canada, 2020)**

| <b>Type of Canadian Assistance to the Philippines (2018-2019)</b> | <b>Amount (CAD)</b>      |
|---|--------------------------|
| Emergency assistance  | \$2.6 million (p.18)     |
| Total bilateral and multilateral assistance                       | \$ 37.99 million (p. 27) |
| Bilateral assistance  | \$16.47 million (p.27)   |
| Multilateral assistance   | \$21.52 million (p. 35)  |
| Other bilateral flows   | \$620, 0000 (p.37)       |
| Total   | 41.21 million            |

The 2019 government report, *Voices at Risk: Canada's Guidelines on Supporting Human Rights Defenders*, declares that upholding human rights remains “at the heart of Canada’s international policies and engagement” (Global Affairs Canada, 2019 p. 3). However, the Government of Canada has yet to release a public statement regarding the state of human rights and democracy in the Philippines. Specifically, Canada has remained silent to the mass extrajudicial killings of land defenders in the archipelago that have occurred under the oversight

of Canadian mining operations. Canadian mining corporations' function within regions ridden with gross human rights violations in the Philippines, ultimately profiting from the dispossession, repression and militarization of host communities resisting large-scale mining operations. By providing aid and finances to negligent business enterprises, Canadian governments and associated mining companies remain complicit to neocolonial projects and interventions in the Philippines.

## **4.5 Conclusion**

Our results provide evidence of neo-colonial praxis and ideologies between Canadian government and transnational actors working in tandem with domestic elites for capital accumulation within the Philippines mining industry. Our findings identify several governance gaps related to Canadian mining behaviour in the Philippines, which have resulted in the utility of the legal system to suppress mining resistance and advance neoliberal modes of extraction:

- Canadian CSR programs uphold relationships of dependency between mining communities and companies. Moreover, the benefits of CSR are used to promote political interests and weaken social resistance to mining within host communities;
- Institutionalized red-tagging through the Anti-Terrorism Act and the National Task Force to End Local Communist Armed Conflict, amongst other legislative instruments have criminalized dissent and delegitimized the valid concerns of community members affected by Canadian mining;
- The tribal dealer phenomenon emphasizes how much of the conflict surrounding natural resource governance in the Philippines is rooted in the politics of indigeneity and the

corrupt ways Canadian corporations and government officials manufacture consent for mining development;

- The Canadian state and its corporate actors play an active role in perpetrating neocolonial behaviour in the Philippines's mining industry through technical, financial and military aid and its weak regulatory regime for its Canadian transnational mining operations

In sum, responsibility for mining externalities put solely on host states and domestic remedies will not ensure that socio-environmental justice is upheld for Canadian transnational corporate abuse in the Philippines.

## **4.6 Limitations and Opportunities**

We were faced with several limitations related to data collection methods, participant recruitment, and analysis. Limitations in data collection methods arose alongside the COVID-19 pandemic, with barriers posed for international face-to-face fieldwork. Originally planning for face-to-face interviews, we utilized online alternatives to the interview methodology. The main limitations to the interviews were related to the recruitment of participants located in the Philippines, primarily for local and Indigenous community members, due to barriers in accessibility and unstable internet connectivity. Some limitations to accessibility were mitigated by conducting interviews through domestic telephone calls or by email. However, this study was only able to capture the perspectives of participants who possessed access to cellular devices, computers and had reliable internet and telephone connections.

We faced limitations within participant recruitment that arose alongside the current socio-political environment of the Philippines. Unequal power relations between corporations and local

communities may have fostered an unsafe environment for local and Indigenous community members to speak publicly about their experiences with large-scale mining operations. Although this research prioritized anonymity and confidentiality of participant information, we were told by one participant that local community members who were approached about contributing to this study had declined in fear that their participation would have implications on the benefits that the mining company in the region had promised to them. Furthermore, participants may have been wary of contributing to this study due to the Philippines' national campaigns for public order, creating a dangerous climate for affected community members to speak about negative mining experiences.

We also faced limitations within the data analysis process related to the researchers' focus on coding within the context of Canadian transnational mining in the Philippines. This coding process became an explicit methodological limitation as it was difficult for respondents to differentiate between Canadian mining companies and other large-scale mining operations in the region. This limitation coincides with the ambiguity and lack of transparency within beneficial ownership of mining corporations in the Philippines and globally.

To further examine the power structures held within global mining institutions, future studies could explore the manifestations of international and domestic policy contexts at the nexus of history, politics, lived experiences, diverse worldviews, knowledge systems and social locations. Moreover, to gain a deeper understanding of how legal systems and globalized forces impact local and Indigenous communities, future studies could examine community agency at the intersections of multi-generational colonialism, poverty, patriarchy, misogyny, and racism amongst other systems between time and space (Hankivsky et al., 2014). Further, we recommend

the Canadian government implement binding regulatory mechanisms to ensure corporate compliance to human and environmental due diligence within the extractive industry and enable judicial remedies for those affected by corporate abuse overseas.

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## **5 Conclusion**

This thesis examined the corporate behaviors of large-scale Canadian mining companies operating in the Philippines. This thesis demonstrated how Canadian international finance capital can, directly and indirectly, shape domestic political decision-making within nations hosting large-scale transnational mining, such as the Philippines. This thesis further addresses the necessity for home states and host states to work together in implementing strong binding

regulatory regimes for transnational mining corporations to uphold human and environmental rights within the Global South mining industry. While the case study of Canadian mining in the Philippines limits the generalizability of the results, this approach provides new insight into the ways domestic and international actors have used the legal system to suppress mining resistance and advance neoliberal modes of extraction.

This thesis explored the effectiveness of the Canadian government in regulating the social and environmental impact of Canadian corporations operating in the Philippines. The results show that international and domestic policies have been used to legitimize the socio-environmental devastation of extractive operations within global economic markets rather than its ostensible purpose of strengthening the collective wellbeing and livelihoods of communities hosting mining operations.

Chapter 2 outlines the structural power inequalities within Canadian mining policies and international mining discourse that have enabled Canadian corporations to operationalize broad systemic violence and environmental devastation in the Philippines. Through a review of the socio-political conditions involved in the Philippines mining industry, Chapter 3 outlined the co-existing gaps in resource governance that have resulted in increasing state violence and infringements upon Lumad civil liberties in the Philippines' large-scale mining sector. This chapter outlines the oligarchies of political elitists and transnational actors that have enabled corruption to ravage the nation's extractive sector with legal impunity.

Chapter 4 outlines the neocolonial behaviour of the Canadian mining industry in the Philippines. Through a synthesis of government, local, and corporate narratives on Canadian large scale mining operations in the Philippines, this chapter demonstrated the Philippine



government's weaponization of the legal system as a colonial legacy of settler states using threat, administrative detention, incarceration, corruption and violence to halt the resistance of wretched and dispossessed populations. In conjunction, the Canadian state contributes to the active destabilization of the Philippines to exploit the archipelago's rich mineral wealth. Chapter 4 highlights how Canada's absence of legal remedies for citizens seeking justice against Canadian corporate malfeasance underlines the government's complicity in the Philippines' human rights violations.

In doing so, this thesis challenged the binary of home vs host state accountability by outlining how accountability for the harm inflicted by Canadian multinational mining operations transcend beyond the archipelago's borders. Across proximate and distant spaces, domestic and transnational actors work together to exploit resource-abundant regions for capital accumulation. The structural power asymmetries held between Canada and the Philippines have enabled a culture of impunity in the archipelago for the socio-environmental exploitation of local and Indigenous communities hosting large-scale Canadian mining operations.

The utilization of an action-oriented research approach influenced by intersectional eco-feminist ideologies enabled critical analysis of domestic and international inter-institutional dynamics and power asymmetries in the global mining industry. Through the methodologies of document analysis and open-ended semi-structured interviews, I was able to talk to a diverse group of networks associated with the global mining industry. The value added from this thesis lies in my ability to gain a deeper understanding of Canadian mining behavior in the Philippines and the impacts of CSR through learning from the lived experiences and expertise of key informants and knowledge holders across Canada and the Philippines. Through an action-

oriented approach influenced by intersectional eco-feminist ideologies, I was able to identify the multiplicities of oppression individuals and institutions are subjugated to within legal institutions influenced by colonial legacies and the mechanisms necessary to uphold community agency and Indigenous self-determination.

To better understand the implications of these results, future studies should address the decolonization of the Canadian and Philippine legal systems. Research avenues in this field could focus on the provision of international and domestic binding accountability mechanisms; deconstructing the symbolic and structural violence within transboundary law and extractive governmentality; identify the mechanisms that ensure local agency and Indigenous sovereignty within land-use planning; and examine the legal instruments necessary to eliminate cultures of impunity for state and corporate corruption.

## **APPENDIX A**

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Dave Gydes

## APPENDIX B

## **GMLC Interview Guide for Indigenous Leaders (English)**

### **Background**

1. Can you please tell us some background information about yourself and your position as the tribal leader of the community?
2. How would you describe your community's relationship with the land and its purpose?
3. How would you describe your community's relationship with the nearby mining corporation? Positive, Negative, in Between? Why?
4. How has the entry of the mine impacted your community's customary laws, culture, and protection of ancestral domains?
5. How did the entrance of the mine affect your livelihood and state of life over the past 5 years? Or how do you think the mine will affect your livelihood in the next 5 years?
6. What do you think will happen if the mine closes? What do you think the effects will be in the community if it closes down in 5 years?

### **Mining Community – Company Relationship**

7. What are your communities demands and priorities when it comes to mining within your area?
8. Do you feel comfortable and safe speaking out against the company or confronting the company if their operations are negatively impacting your community's livelihood? Why or why not?
9. What has your experience been with dealing or coordinating with the mining company?

10. Would you be able to describe the steps and initiatives the company took to address the demands and priorities of the community?
11. Have there been any good programs and projects that the mines have offered so far?
  - a. What specific projects do you recommend mining projects should include in their programs?
12. Are local community members engaged within the decision-making processes related to nearby mining operations? If so, could you describe your level of engagement?
13. The DENR has issued a statement that mining will be pursued as an economic recovery strategy from the COVID-19 pandemic. What challenges do you believe local communities will have to face with increased mining during and after the pandemic?

#### **Effectiveness and Recommendations for Associated Mining Development Programs**

14. Has there been conflict related to local communities resisting mining within the area?
  - a. How has the company dealt with community resistance and conflict?
15. Has there been any issues between your community and Indigenous communities nearby related to different priorities for mining/ development programs between IPs?
16. How effective has the Indigenous Peoples Rights Act of 1997 been in protecting your community's self-determination to land and resources?
17. How was the Free Prior and Informed Consent process when the mining company approached your community for consent to operate in your ancestral domain?
18. Have you or other members in your community been a part of the development of the Social Development Management Plan?

19. What initiatives do you want to emphasize within the Community Royalty Development Programs?
20. What are ways you believe your community can become more engaged and empowered within local decision making regarding nearby mining operations?
21. Do you have any other statements you would like to make? Do you know of anyone that would like to participate in this study?

## **GMLC Interview Guide for Indigenous Leaders (Tagalog Translation)**

### **Background**

1. Kamusta po, pwede niyo po bang ishare sa amin ang ilang impormasyon tungkol sa sarili niyo tulad ng kung paano kayo napunta sa pagiging IP leader ng inyong tribo?
2. Ano po ang pagpapahalaga o value ng lupa para sa inyo? Ano ang gamit o papel nito sa buhay ng mga IP sa inyong lugar?
3. Ano po ang masasabi niyo tungkol sa pakikipag-ugnayan o negosasyon niyo sa mining company sa inyong komunidad? Madali po ba silang lapitan o nagkaron ba kayo ng issue tungkol sa mga hinihinging demands sa kanila ng inyong komunidad?
4. Paano nakaapekto ang pagpasok ng minahan sa inyong mga customary laws, kultura at sa paggamit niyo sa inyong ancestral domain?
5. Paano nakaapekto ang pagpasok ng mining company sa inyong kabuhayan at estado ng buhay sa nakaraang 5 taon? O paano sa palagay mo makakaapekto ang minahan sa inyong kabuhayan sa susunod na 5 taon?
6. Ano sa palagay mo ang mangyayari sa inyong komunidad sakaling magsara ang minahan? Ano sa palagay mo ang magiging epekto inyong komunidad kung magsara ito sa loob ng 5 taon?

### **Mining Community – Company Relationship**

7. Ano ang mga demands at prayoridad ng inyong komunidad o tribo mula sa produkto minahan?

8. Sa tingin mo ba, komportable at safe kayo na magsalita laban sa mining company o harapin ang kumpanya kung ang kanilang operasyon ay negatibong nakakaapekto sa kabuhayan ng inyong komunidad?
9. Ano ang iyong karanasan sa pakikipag-usap o pakikipag-ugnay sa mining company? Madali ba silang lapitan tungkol sa mga proyekto sa inyong komunidad?
10. May naaalala po ba kayong mga projects, programa o patakaran ang mining company na ginawa para mabigyang focus o masagot ang mga hinihingi at pangangailangan ng inyong komunidad?
11. Mayroon bang mga magagandang programa at proyekto na ibinigay sa inyo ang mining company ngayon?
  - a. Anong mga proyekto ang tingin niyo ay dapat isali ng mining company sa kanilang mga programa para sa komunidad o impact areas?
12. Kasama ba sa pagdedesisyon sa mga usapin o aktibidad tungkol sa pagmimina ang mga normal na miyembro ng inyong komunidad? Kung oo, sa papanong paraan sila nagiging parte ng pagdedesisyon?
13. Ang DENR ay naglabas ng isang pahayag na ang mining daw ay gagamitin para sa pagangat ng ekonomiya mula sa COVID-19 pandemic. Sa palagay mo, anong mga hamon o challenges sa ang kakaharapin ng mga komunidad sa pagtaas ng aktibidad ng mining sa panahon at pagkatapos ng pandemic?

### **Effectiveness and Recommendations for Associated Mining Development Programs**

14. Nagkaroon ba ng conflict o issue sa inyong komunidad tungkol sa paglaban sa pagpasok ng isang mining company sa inyong ancestral domain?



- a. Paano nakitungo ang kumpanya sa paglaban at conflict mula sa komunidad?
15. Nagkaroon ba ng anumang mga isyu sa pagitan ng inyong komunidad at ng katabing IP communities malapit sa inyong lugar patungkol sa mga prayoridad at programa na ibinibaba ng mining company?
- a. Paano maayos ang mga isyung ito?
16. Gaano kahusay ang naging Batas ng Mga Karapatan ng Katutubo ng 1997 sa pagprotekta sa pagpapasiya ng iyong komunidad sa lupa at mga mapagkukunan?
17. Paano ang proseso ng Free and Prior Informed Consent (FPIC) nang lumapit ang mining company sa inyong komunidad kanilang aktibidad sa loob ng inyong ancestral domain?
- a. Mayroon ka bang mga rekomendasyon para sa mga susunod na proseso ng FPIC?
18. Naging bahagi ka ba o ang ibang mga kasapi sa inyong komunidad sa pagbuo ng Social Development Management Plan o SDMO?
- a. Anong mga parte ng SDMP ang mahalaga para sa inyong komunidad?
19. Ano ang mga plano o programa ang nais mong bigyang-diin or maging prayoridad sa Community Royalty Development Program?
20. Ano ang mga paraan na sa tingin mo ang dapat gawin ng inyong komunidad upang maging mas maalam patungkol sa mga aktibidad sa inyong ancestral domain at mas magkaroon ng boses sa paggawa ng desisyon patungkol sa pumapasok na mga industriya sa inyong lugar

## APPENDIX C



### ONTARIO AGRICULTURAL COLLEGE

SCHOOL OF ENVIRONMENTAL DESIGN  
AND RURAL DEVELOPMENT

#### PARTICIPANT INFORMATION LETTER

##### Introduction

My name is Angela Asuncion and I am a MSc. student in the School of Environmental Design and Rural Development (SEDRD) at the University of Guelph. I would like to invite you to participate in a research study titled, "Global Minerals Local Communities". The information that we are collecting will be used for my thesis research, under the supervision of Dr. Nicolas Brunet. This study is being funded by a Canadian federal Social Sciences and Humanities Research Council insight grant. The purpose of this letter is to invite you to participate in a study exploring the impacts of mining operations upon local mining communities. This study focuses on mining corporate social responsibility (CSR) and its social and environmental impacts on nearby mining communities.

##### Purpose of This Study

This study concerns impacts of nearby mining operations and the associated social, environmental and economic, corporate social responsibility practices implemented by transnational mining corporations. This study will include key informants such as government officials, policy makers, corporate representative as well as local community members with varying relationships to the nearby mine. This study will not include communities that are not impacted by nearby mining operations. This study focuses on the following objectives: (i) Deepen our understanding of mining company-community relationships (ii) Explore how corporate and local narratives of CSR on mining operations differ (iii) Engage with local community members to inform environmental policy.

##### Research Procedures

If you decide to participate in this study, you will be asked to take part in a semi-structured interview. Each interview will last approximately 30-60 minutes. Interview questions will focus on your personal experiences corresponding to the themes of mining company-community relationships. All interviews will be audio recorded on an encrypted recording device and stored within an encrypted computer and encrypted hard drive. All information obtained will be confidential and destroyed after seven years (By 2027). Although it would be greatly appreciated if you would answer all material as frankly as possible, you should not feel obliged to answer any material that you find objectionable or that makes you feel uncomfortable. You may withdraw at any time without consequence. If you withdraw prior to completing and submitting the interview all data entered will be permanently removed. Your identity will not be recorded and therefore your anonymity will be protected.

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sedrd@uoguelph.ca  
[uoguelph.ca/sedrd](http://uoguelph.ca/sedrd)

Participation in this study is voluntary. You may refuse to participate, refuse to answer any questions, or withdraw from the study at any time. All possible steps will be taken to ensure anonymity (e.g. use of aliases, removal of any identifiable information). The participant will be able to withdraw data up until 6 months of retrieving the data. For example, if an interview was conducted on July 1<sup>st</sup> 2020, the participant will be able to withdraw the data collected up until January 1<sup>st</sup> 2021. All collected data will be stored on recording devices, hard drives, and portable jump drives. You will not be paid for participation in this study. Information will be disseminated in a master's thesis and these comments will not be identified publicly. The results of this research may also be published in professional journals or presented at scientific conferences, but any such presentations will report only aggregated findings, which in some instances may be illustrated by short, anonymous quotes carefully selected so as not to breach individual confidentiality. Should you be interested in receiving a copy of the study findings or a link to the website highlighting these findings, or would like to receive a copy of your transcripts, please indicate so.

If you have any questions regarding the importance of this project, your voluntary participation in this interview, or any general issues, please contact:

Angela Asuncion  
MSc student  
School of Environmental Design and Rural Development  
University of Guelph  
Guelph, ON  
N1G 2W1  
[asuncio@uoguelph.ca](mailto:asuncio@uoguelph.ca)

### Consent Statement

I have read the letter of information and have had the nature of the study explained to me and I agree to participate. All questions regarding this study have been answered to my satisfaction.

---

Printed Name

---

Signature

---

Date

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## APPENDIX D



### ONTARIO AGRICULTURAL COLLEGE

SCHOOL OF ENVIRONMENTAL DESIGN  
AND RURAL DEVELOPMENT

#### Translator Confidentiality Agreement

##### Introduction

This is an invitation to \_\_\_\_\_. As you are aware, my study concerns environmental impacts of nearby mining operations and the associated corporate social responsibility (CSR) practices implemented by transnational mining corporations. More specifically, this study focuses on the following objectives: (i) Deepen our understanding of mining company-community relationships (ii) Explore how corporate and local narratives on impacts of CSR differ (iii) Engage with local community members to inform local policy

This is a confidentiality agreement to \_\_\_\_\_, to be Angela Asuncion's research assistant during the course of her field work in the Philippines. Your anticipated duties include being a second interviewer, translator and transcriber throughout the period of Ms. Asuncion's engagement with fieldwork. This agreement ensures that during the processes of interpreting from Cebuano and Tagalog to English as well as during the transcribing processes, it is agreed that the identities and personal information provided by participants is kept private and not disclosed. Confidential information is defined as any data or information that is proprietary to the disclosing party (participant) and not generally known to the public.

##### Other Pertinent Information

Participation in this study is voluntary. You must be aware you are able to refuse to participate, refuse to answer any questions, or withdraw from the study at any time. All possible steps will be taken to ensure anonymity (e.g. use of aliases, removal of any identifiable information, facial blurring, voice changing, etc.). All collected data will be stored on encrypted recording devices, hard drives, and portable jump drives. Information will be disseminated in a master's thesis and these comments will not be identified publicly. The results of this research may also be published in professional journals or presented at scientific conferences, but any such presentations will report only aggregated findings, which in some instances may be illustrated by short, anonymous quotes carefully selected so as not to breach individual confidentiality. The video may also be published on academic websites, only under participant consent. Should you be interested in receiving a copy of the study findings or a link to the website highlighting these findings or would like to receive a copy of your transcripts/ footage, please indicate so. You do not waive any legal rights by agreeing to take part in this study.

If you have questions regarding your rights and welfare as a research assistant in this study (REB# 20-02-008), please contact:

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Manager, Research Ethics  
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(519)-824-4210 (ext. 56606)

If you have any questions regarding the importance of this project, your voluntary participation in this interview, or any general issues, please contact:

Angela Asuncion MSc in Rural Planning and Development in International Development  
School of Environmental Design and Rural Development  
University of Guelph  
[asuncio@uoguelph.ca](mailto:asuncio@uoguelph.ca)

OR

Primary Investigator, Dr. Nicolas Brunet  
School of Environmental Design and Rural Development  
University of Guelph  
[Nicolas.brunet@uoguelph.ca](mailto:Nicolas.brunet@uoguelph.ca)

#### **Consent Statement**

I have read the letter of information and have had the nature of the study explained to me. I agree to participate and agree to keep all information revealed during the course of my involvement in the project confidential. All questions regarding this study have been answered to my satisfaction.

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

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