

PHILIPPINES: UNDERMINING WORKERS' RIGHTS

LABOUR RIGHTS ABUSES IN NICKEL SUPPLY CHAINS



Dinagat flag. © Aleks Taurus / Alamy Stock Photo

EXECUTIVE SUMMARY

The Philippines is one of the world's largest producers of nickel ore and is the leading supplier of nickel ore to China, where it is used in the production of stainless steel and in other industrial applications. Many of the operating nickel mines in the Philippines are located in Caraga region, including on Dinagat Island.

China is a key export destination for nickel mined on Dinagat Island. There is considerable Chinese investment in some of the nickel mines on Dinagat Island. Chinese investment in the nickel mining sector in the Philippines, including on Dinagat Island, has the potential to have a positive influence on human rights, including the rights of workers. Chinese companies engaged in overseas mining investment and cooperation are expected to follow guidelines for social responsibility developed by the China Chamber of Commerce of Metals Minerals and & Chemicals Importers & Exporters (CCCMC), an industry organization affiliated with China's Ministry of Commerce. CCCMC has recognized the importance of due diligence, including in relation to supply chains and human rights, in two sets

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of guidelines intended to bring the corporate behaviour of Chinese mining companies in line with international standards: the Guidelines for Social Responsibility in Outbound Mining Investments and Chinese Due Diligence Guidelines for Responsible Mineral Supply Chains. By operating in accordance with these two sets of guidelines, Chinese companies can seek to avoid causing or contributing to adverse human rights impacts through their own activities and should be able to positively influence the practices of other companies in their supply chains. This has the potential to improve labour practices in Chinese-Filipino nickel supply chains.

This report focuses on rights at work in nickel mine sites in Dinagat Islands, a province in the Caraga region of the Philippines. It examines labour practices in the nickel mining sector and is focused particularly on wages, including whether wages meet minimum wage requirements, are paid in full and on time and include payment of compulsory employee benefits, such as health insurance. The report also examines what barriers workers face in trying to access and receive remedy for abuses of their rights at work – which for many of the workers Amnesty International spoke with, would mean simply receiving the wages and benefits owed to them. Amnesty International’s research raises serious concerns about rights at work for workers in the nickel mining sector on Dinagat Island in the Philippines.

Amnesty International visited Dinagat Islands province three times between 2019 and 2021 and interviewed more than 100 people, the majority of whom are mine workers. Amnesty International also interviewed government officials – including officials from the Department of Labor and Employment and from the provincial government – as well as other expert stakeholders.

Amnesty International’s research raises serious concerns about the labour practices of mining companies on Dinagat Island and the labour-hire companies through which they employ their workforces. There is strong evidence to suggest there are labour-hire companies on Dinagat Island abusing workers’ rights in the nickel mining sector. The research has revealed numerous examples of workers being hired without contracts, delayed payment of wages and non-payment of compulsory employee benefits (including social security and health insurance) – all of which constitute violations of Philippines labour laws and international human rights standards. One in four workers Amnesty International interviewed said that they did not have a written contract with the mining company or labour-hire company they were employed by, and one in five workers Amnesty International interviewed also alleged that their compulsory employee benefits were not properly paid, or not paid at all, by the mining company or labour-hire company they were employed by.

In interviews with Amnesty International, expert stakeholders noted what they believe to be a lack of resources, capacity and will on the part of government institutions tasked with protecting labour rights in the Philippines more broadly. The relative geographical isolation of Dinagat Island, and its distance from government centres, also presents challenges that make it harder for those government agencies not present on Dinagat Island – or with a small presence – to inspect mining and labour-hire companies, monitor workplace conditions and arrangements, and ensure compliance with labour standards. Further, fragmented mandates and unclear delineation of responsibilities, as well as poor communication and coordination between key government agencies, is a significant impediment to enforcement of labour standards in the mining sector. The situation is further compounded by the failure of the Philippines government to ensure that workers’ access to effective remedy is easy and without barriers.

While Amnesty International is particularly concerned about the practices of the labour-hire companies through which mining company workforces are employed – a practice that is common in the mining sector in the Philippines – there are also clear implications for the mining companies themselves, which are linked to any abuse of workers’ rights through their business relationships with labour-hire companies. Amnesty International’s investigation suggests that workers employed through labour-hire companies to work at nickel mine sites on Dinagat Island face abuses of their human rights across the

sector. These abuses are well known risk factors in the Philippines and in the mining sector, and are therefore obvious and predictable. The mining companies know, or should know, that there is therefore a risk of labour abuses linked to their operations through their business relationships with the labour-hire companies.

Yet Amnesty International has found no evidence that mining companies on Dinagat Island are conducting adequate or any due diligence on their subcontracting arrangements with labour-hire companies. Without such due diligence, they cannot identify and address these issues in relation to the labour-hire companies they use to employ their workforce. Indeed, some workers told Amnesty International that they have informed the mining companies of their concerns and experiences, and yet no action has been taken. In failing to conduct human rights due diligence, identify possible labour rights abuses and breaches of Philippines labour law, and take action to address them, the mining companies are contributing to abuses. They are therefore failing to meet their responsibility to respect human rights.

Our research has also found that workers face numerous barriers to accessing and receiving remedy for abuse of their rights at work. These barriers include:

- Practical barriers, including costs and long distances workers would need to travel to present their cases;
- Long delays in cases being heard by relevant authorities and in receiving remedy; and
- Power asymmetry, for example workers fear losing their job if they make a complaint.

There is an urgent need for these barriers to be addressed.

KEY RECOMMENDATIONS

To all labour-hire companies active in the mining sector in Dinagat Islands province:

- Urgently modify working policies and practices to ensure compliance with the Labor Code of the Philippines and related orders, rules and regulations, and international human rights and labour standards.
- Offer written contracts to all workers that they employ.
- Make retroactive arrangements for the payment of wages, and for the payment of compulsory employee benefits, where these have not been paid in full.

To all mining companies operating in Dinagat Islands province:

- Establish and implement an ongoing human rights due diligence process to identify, prevent, mitigate and account for how they address their potential and actual adverse human rights impacts throughout their mining operations including in their use of labour-hire companies.
- Establish and implement a process that workers can access in order to raise concerns about their rights at work and through which these concerns can be addressed effectively and fairly.
- Investigate potential labour rights abuses involving the labour-hire companies through which their workforce is employed and remediate, in cooperation with those labour-hire companies, the harms suffered by workers who have been working at their mine sites.
- Not use labour-hire companies that are not registered with the Department of Labor and Employment, or that have been found to have abused workers' rights including with regards to the underpayment of wages, delayed payment of wages, non-payment of mandatory benefits and engaging workers without a written employment contract.

To all companies involved in Filipino-Chinese nickel supply chains:

- Identify and manage risks in their supply chains, including by conducting human rights due diligence on their suppliers and responding to identified risks, to ensure all companies in their supply chains respect human rights consistent with the Guidelines for Social Responsibility in Outbound Mining Investments developed by the CCCMC and the UN Guiding Principles on Business and Human Rights.
- Take remedial action, in cooperation with other relevant actors, if human rights abuses have occurred at any point in a supply chain or business relationship.

To the Chinese Chamber of Metals Minerals & Chemicals Importers and Exporters (CCCMC):

- Require Chinese companies in nickel supply chains to put in place processes for conducting supply chain due diligence following the process set out in the Guidelines for Social Responsibility in Outbound Mining Investments and the OECD Due Diligence Guidance for Responsible Business Conduct.

To the Philippines national government:

- Strengthen government institutions with responsibility for enforcing labour standards in the mining sector (including the Department of Labor and Employment) so they are better resourced and have greater capacity to monitor and inspect mining activities, ensure the fair and timely resolution of worker disputes with their employers, and more effectively collaborate and coordinate with other parts of government.
- Harmonize relevant legislation, and related orders, rules and regulations to clarify and strengthen the mandates of government institutions with responsibility for enforcing labour standards in the mining sector and to ensure all relevant legislation is consistent with the UN Committee on Economic, Social and Cultural Rights' General Comment No. 23 on the right to just and favourable conditions of work.

To the Department of Labor and Employment:

- Invest resources and build institutional capacity to ensure that only registered contractors, and contractors which are otherwise compliant the Labor Code of the Philippines, are used by mining companies.
- Invest resources and build institutional capacity to ensure the regular inspection of mine sites, including where labour-hire companies are used to employ mine site workforces, to determine compliance with the Labor Code of the Philippines.

To the National Labor Relations Commission:

- Establish a satellite office, or other permanent presence, on Dinagat Island to adjudicate labour and management disputes.

To the provincial government of Dinagat Islands, unions, workers, mining companies and labour-hire companies:

- Engage in dialogue on the policy issues raised in the report. This dialogue could occur through the Caraga Mining Industry Tripartite Council or through some other multi-stakeholder or tripartite forum.