Golden opportunities for profits, corporate plunder for OceanaGold Corporation

Big corporations dominate the global mining industry. Among the top 10 biggest firms are from Northern countries, such as BHP Billiton and Rio Tinto from the United Kingdom; Glencore from Switzerland; and Freeport-McMoran from the United States. Big corporations from the so-called BRICS countries include Vale S.A. from Brazil, Coal India, among others.

For 2016, the top 40 corporations increased their market capitalisation by USD 714 billion; with “traditional companies” from the North capturing 86% of this increase. For industry analyst Pricewaterhouse Coopers, continued recovery of the mining industry (or more accurately, its big players) rests on preventing the “pumping up [of] production with...expensive projects,” which result to “significant impairments when commodity prices decline.”

Aside from the largest transnational corporations (TNCs) in the mining industry, there are so-called “junior” mining corporations. They operate with relatively smaller capital, but sizeable enough to invest abroad for the extraction of mineral resources. Their entry into Southern countries is still subject to whether state actors have a blanket open-door policy to foreign investment. In many cases, grassroots movements still critique these “junior” mining companies as operating at the cost of social, economic, and political rights of peoples in the South.
An important example of this “junior” corporation is OceanaGold. An Australian-Canadian TNC, it operates in mineral extraction in parts of New Zealand, the United States and the Philippines. Australia’s “fourth largest listed gold miner” is present at both the Australian and Toronto stock exchange, and is headquartered in Melbourne, Australia with another corporate office in Vancouver, Canada.

Past mergers, current shareholders, operations

While being a “junior” firm, the history of OceanaGold Corporation remains a history of capital mergers and the acquisition of mining sites through buying other firms. It began operations as the Macraes Mining Company in 1989 through acquiring the license and sites for exploration from Golden Point Mining and BHP Gold Mines. It incorporated as Oceana Gold Ltd in 2003, and was listed as OceanaGold Corporation in 2007.

In 2006, OceanaGold bought the assets of Climax Mining, and therefore acquired this company’s Didipio Gold and Copper Project in Nueva Vizcaya, Philippines. In 2013, OceanaGold bought Canada-based Pacific Rim, which wanted to mine in El Salvador. In 2015, OceanaGold acquired the Waihi Gold Mine in New Zealand from the Newpoint Mining Corporation, and bought off the Romanco Minerals Inc. which operated the Haile Gold Mine in South Carolina.

Currently, OceanaGold operations in the global North include the two mines in New Zealand (the Waihi Gold Mine, the Macraes Goldfield) and the Haile Gold Mine. In late March 2018, OceanaGold has expressed intentions to drill underground at the Martha Mine in Waihi, New Zealand. Community organisations immediately expressed concern given the already dangerous conditions in the open-pit mine, which saw rockfalls and collapsing walls in 2015.

As of early 2018, the top shareholders of the company captured just around 1% of the company’s shares. The top shareholders include the UK branch of JP Morgan Asset Management; the French CM-CIC Asset Management and the USAA Asset Management. Despite the relatively small slice of the pie captured by the top shareholders, “institutional” investors, that is, commercial banks, insurance funds and other finance companies from big industrialised countries still siphoned 97% of the pool of OceanaGold shares for 2017. Forty-four percent of the total shares are held by US investors, followed by 20% from the United Kingdom, 12% from Canada, 11% each for Australia-New Zealand (through the ANZ bank) as well as mainland Europe, while only 2% from Asia.

OceanaGold in the global South, and the role of state actors: El Salvador and the Philippines

Aside from the three Northern operations mentioned above, OceanaGold has also shown extensive interest in operating in Southern countries – to varying success for the company, but in both cases revealing the danger of persisting neoliberal institutions and norms from which OceanaGold and other TNCs benefit.

El Salvador: Exposing the pitfalls of the neoliberal trade and investment regime

This junior mining TNC enters the picture in El Salvador through the investor-state arbitration case between OceanaGold/Pac Rim Cayman LLC and the Republic of El Salvador, which the former filed at the International Centre on the Settlement of Investment Disputes (ICSID) of the World Bank Group. OceanaGold became embroiled in the case when it bought the Pacific Rim Mining Corporation (which owns Pac Rim Cayman LLC) and its mining projects in 2013.

In 2009, the “investor” Pac Rim Cayman LLC initiated the arbitration case against the Salvadoran government. The government supposedly violated the Central America-United States-Dominican Republic Free Trade Agreement (CAFTA) when it “wrongfully refused
to grant environmental permits” and “fail[ed] to protect investments.” Later on, the ICSID deemed it impossible for Pacific Rim to invoke CAFTA, thus Pacific Rim instead argued that El Salvador violated its own investment laws.

The government of El Salvador halted the issuance of new mining permits in 2009 through a moratorium, due to a worsening water crisis brought by pollution linked to metal mining which led to a rising call to action from affected rural communities. At one point, 90% of Salvadoran surface water became contaminated. The ban covered the extraction permits needed by Pacific Rim to mine in the northern region of Cabañas.

This ban was decreed, given a 1996 Mining Law that made it “convenient for investors in the mining sector,” as well as an amending decree that increased the land area that could be granted to mining corporations. The 1996 law has been described as “obsolete” by concerned sectors, since it only made the country “especially vulnerable to exploitation.”

The case between OceanaGold/Pacific Rim Cayman LLC and El Salvador is one among the various Investor-State Dispute Settlement (ISDS) cases against governments around the world. In 2016, there were 696 ISDS cases against the governments of 107 countries. ISDS provisions are commonly included in free trade agreements (FTAs) signed by Northern and Southern governments themselves. These remain included in the recently-signed Comprehensive and Progressive Trans-Pacific Partnership (CPTPP), and the Regional Comprehensive Economic Partnership still under negotiation.

Critics point out that ISDS provisions bolster corporate power at the expense of people’s rights, worsening the blanket norm of trade and investment liberalisation, de-regulation, and privatisation forwarded in FTAs.

According to a Salvadoran group, the defeat of foreign mining interests in the OceanaGold case “vindicates our [the Salvadoran people’s] right to determine our own development path.” Since then, El Salvador became the first state to legislate an outright ban on metal mining. But according to a CSO letter signed by 280 organisations around the world, the ISDS case against El Salvador “should never have taken place,” and demonstrates the abuse linked to ISDS provisions.

Philippines: Continued open-door policy for foreign corporate mining interests

OceanaGold operations in the Philippines, meanwhile, are notable for being called the company’s “flagship operation.” OceanaGold has been extracting mineral resources at the Didipio Gold-Copper Mine in the province of Nueva Vizcaya (located 270km North of Manila). The Didipio Gold-Copper Mine Project, estimated to have 1.59 million ounces of gold and 0.21 metric tonnes of copper reserves, started its commercial operations in 2013. Its operations started with a five-year tax holiday;
the gold and copper reserves could be mined for 27 years.\textsuperscript{24}

In 2006, OceanaGold bought Climax Arimco Mining Corporation, resulting to the subsidiary OceanaGold Philippines, Inc. (OGPI). OGPI is a wholly-owned subsidiary of the OceanaGold parent company.\textsuperscript{25} OceanaGold acquired the Didipio Project through this deal. They also acquired Climax Arimco’s Financial or Technical Assistance Agreement (FTAA) with the Philippine government, originally awarded in 1994. FTAs are mining contracts for “large-scale exploration, development and utilization of minerals which allows up to 100% foreign equity participation/ownership” (emphasis added).\textsuperscript{26}

The rules for FTAs have been codified in the Mining Act of 1995 (Republic Act 7942) and its Implementing Rules and Regulations. This “open-door policy” enshrined in the mining liberalisation law provides tax holidays, the “right” of a mining TNC against government expropriation, among various incentives. Thus for critics, this law “promotes and implements destructive, irresponsible mining.”\textsuperscript{27} The Philippine Supreme Court declared the law unconstitutional in 2004, but reversed its own decision eleven months later.\textsuperscript{28} OceanaGold has iterated usual corporate discourse, insisting that a move against the 1995 Mining Act would “discourage foreign investments,”\textsuperscript{29} regardless of resulting rights violations.

In 2011, the Philippine rights commission confirmed that OceanaGold is indeed embroiled in rights violations in Didipio, cases long-exposed by communities. In the same year, the Philippine government declared a moratorium on new mining permits, but was lifted two years later.\textsuperscript{30} The Philippine government continued to de facto endorse OceanaGold in the Philippines, lauding it for supposed excellence in “protecting the environment, keeping their operations safe, and helping communities.”\textsuperscript{31} In March 2016, the OGPI’s FTAA was extended for another five years.

Recent prospects for ending the blanket liberalisation policy were quickly reversed.\textsuperscript{32} Regina Lopez, the environment secretary who launched a drive to stop mining operations including that of OceanaGold, met the opposition of mining interest groups.

According to Joey Leviste Jr., Vice-President of the Philippine Chamber of Mines, Lopez’s eventual replacement is a “steady signal from the [Philippine] Senate and the House of Representatives that it [sic] welcomes good investment policy.”\textsuperscript{33} Leviste Jr. is also the Chairman of OceanaGold Philippines Inc., and a member of the Board of Directors of OceanaGold Corporation (the parent company).

Today, the discourse of “responsible mining”\textsuperscript{34} continues, arguably hiding rampant violations of people’s political and socio-economic rights through corporate social responsibility programmes.\textsuperscript{35}

**Higher profits due to intensified extractive activities in the South**

For 2017, OceanaGold gained a net profit – after taxes, operating expenses – of USD 171 million, after ending the year with USD 724 million in revenue.\textsuperscript{36} This recorded net profit was 26\% higher than the previous year.

OceanaGold attributed higher net profit to increased quantities of gold and copper extracted from their sites.\textsuperscript{37} In the global South, the Didipio mine in the Philippines has served the corporation well. All recorded copper production for 2017, and 31\% of the corporation’s gold production (177 thousand ounces) came from the Didipio site at the Nueva Vizcaya region. Meanwhile, 27\% and 22\% of gold production, respectively, come from their New Zealand operations in Macraes and Waihi, and 21\% from the new Waihi mine in South Carolina.
**OceanaGold Operating and Financial Results, 2012-2017 (selected data)**

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<tr>
<td>Total gold produced (ounces)</td>
<td>574,606</td>
<td>416,741</td>
<td>419,153</td>
<td>307,463</td>
<td>325,732</td>
<td>232,909</td>
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<td>from Didipio** (% of total/year)</td>
<td>176,790(30.7%)</td>
<td>147,150(35.3%)</td>
<td>127,086(30.3%)</td>
<td>106,256(34.5%)</td>
<td>66,277(20.3%)</td>
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<tr>
<td>from Macraes, Reefton*** [’12-’16] (% of total/year)</td>
<td>160,266 (27.8%)</td>
<td>153,563 (36.8%)</td>
<td>222,093 (52.9%)</td>
<td>201,207 (65.4%)</td>
<td>259,455 (79.6%)</td>
<td>232,909 (100%)</td>
</tr>
<tr>
<td>from Waihi (% of total/year)</td>
<td>119,084 (20.7%)</td>
<td>116,028 (27.8%)</td>
<td>69,973 [H2 2015] (16.6%)</td>
<td>-</td>
<td>-</td>
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<tr>
<td>from Haile (% of total/year)</td>
<td>118,466 (20.6%)</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
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<tr>
<td>Total copper produced (tons)</td>
<td>18,351</td>
<td>21,123</td>
<td>23,109</td>
<td>25,010</td>
<td>23,059</td>
<td>-</td>
</tr>
<tr>
<td>From Didipio (% of total)</td>
<td>18,351 (100%)</td>
<td>21,123 (100%)</td>
<td>23,109 (100%)</td>
<td>25,010 (100%)</td>
<td>23,059 (100%)</td>
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### Financial results

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<tr>
<td>Gold sold****</td>
<td>555,632</td>
<td>437,146</td>
<td>401,350</td>
<td>318,972</td>
<td>308,081</td>
<td>230,119</td>
</tr>
<tr>
<td>Copper sold****</td>
<td>18,091</td>
<td>21,413</td>
<td>22,764</td>
<td>25,886</td>
<td>21,290</td>
<td>-</td>
</tr>
<tr>
<td>Revenue (USD millions)</td>
<td>724.4</td>
<td>628.6</td>
<td>508</td>
<td>563.3</td>
<td>553.6</td>
<td>385.4</td>
</tr>
<tr>
<td>Net profit (USD millions)</td>
<td>171.7</td>
<td>136.5</td>
<td>53.1</td>
<td>111.5</td>
<td>47.9</td>
<td>20.7</td>
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*Percentages may not add up to 100% due to rounding off
**Didipio mine started commercial operation in 2013
***Reefton mine closed in the first quarter of 2016
****Includes Didipio Q1 2013 pre-commerical production of 2,791 ounces of gold and 1,549 tonnes of copper sold

Data sources:

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**Small but terrible: Are attacks on people’s rights worth the weight in gold?**

Despite their relatively smaller corporation size, OceanaGold operations and practices have been recorded to have violated people’s rights, especially those of Southern peoples.

**People’s civil and political rights**

In 2015, an Australian-Philippine mission to the area of Didipio, made up of civil society organisations, reported that OGPI lawyers have used “heavy-handed tactics” on residents that called for action on the corporation’s commitments to the community, such as scholarships and compensation.
Rights violations by security personnel as well as police have also been reported. People’s organisations have pointed to cases of harassment, threats and even killings of environmental defenders. These threats have even resulted to the forced displacement of residents from their communities.

In El Salvador, OceanaGold/Pacific Rim operations have also been linked to the killings of community leaders, environmental and health advocates, students, and critics of the corporation in general. Three among them died in 2009, the same year when Pacific Rim filed the ISDS case against El Salvador. Among those killed were Dora “Alicia” Sorto Recinos, who was pregnant when she was gunned down on the way home; Ramiro Rivera, who was an official in an organisation that educated communities about cyanide poisoning due to OceanaGold/Pacific Rim operations; and Marcelo Rivera, a prominent advocate against Pacific Rim operations.

People’s economic rights, environmental destruction

OceanaGold’s forced and illegal demolitions of indigenous peoples’ homes in the Philippines, constitute both an affront to their right to housing and on their right to practice their culture in their lands. The corporation has also deprived members of the community of their land rights as OceanaGold fenced off lands and denied “some residents access to their homes and farmlands.” OceanaGold has also drilled for exploration without consultation from small, local landholders.

Aside from outright land-grabbing, the corporation’s open-pit mining has resulted to the erosion in the Dinkidi Hill in Nueva Vizcaya. Corporate mining operations have destroyed the hill, located at the Mamparang range of the Sierra Madre. Residents who once planted rice in the slopes of the hill or started citrus orchards, were displaced.

In El Salvador, the need to protect the people’s economic rights, in particular to water, was an important reason for the Salvadoran government’s decision to limit OceanaGold operations. In Didipio in the Philippines, the right to water is also vital, but violated in practice by corporate mining activities.

The local economy in Didipio is tightly linked to natural resources, such that the flow of heavy metal tailings and sewage into rivers destroys community surroundings, health, as well as their livelihoods in agriculture — with polluted water unsuitable for irrigation purposes. Sources of potable water have also been contaminated, leading to cases of diarrhea. Residents have also pointed to the mining-related pollution that has caused respiratory disorders. Residents thus dispute the truthfulness of OceanaGold’s environmental reports.

These constitute long-term damage on the environment, and when taken together, these effects of OGP mining operations deprive the communities of opportunities for their development, aside from being an affront to Didipio peoples’ economic and social rights to their resources and health.

People’s resistance

Towards curbing OceanaGold’s dirty operations in El Salvador and the Philippines, efforts of people’s organisations, communities, environmental advocates as well as international civil society continue to be essential.

Community-level organisations and groups play an essential role in voicing out resistance. In Cabanas in El Salvador, the grassroots media group Radio Victoria has been broadcasting about people’s issues – including the destructive impacts of big mining, as well as the Pacific Rim/OceanaGold ISDS case. Radio Victoria staff have received death threats as a result of their work. Broader movements such as the National Roundtable Against Metallic Mining in El Salvador (also known as La Mesa) are also
active to protect water rights and to counter corporate mining in the country. Salvadoran campaigns continue towards demanding justice for murdered environment defenders and activists.

In the Philippines, community organisations include the Samahang Pangkarapatan ng Katutubong Magsasaka at Manggagawa, Inc. (SAPAKKMMI, Rights Organisation of Indigenous Farmers and Workers) and the Alyansa ng Nagkakaisang Novo-Vizcayanos para sa Kalikasan (ANNVIK, Alliance of United Novo-Vizcayanos for the Environment). They are fundamental in building resistance: in 2016, a community-led barricade through SAPAKKMMI and DESAMA (Didipio Earth Savers Multi-Purpose Association) led OceanaGold to pull out its expansive drilling operations and equipment in the area of Sitio Camgat in Didipio.

Led by La Mesa, fact-finding missions have been held in Cabanas in El Salvador to take stock of the effects of corporate mining activities. Various solidarity and investigative missions have also been held in Didipio in the Philippines, for instance in 2011, 2014 and 2015. These have exposed the implications of OceanaGold operations to the grassroots, such as indigenous peoples’ and peasants’ communities.

In both El Salvador and the Philippines, the fight to repeal pro-corporate mining laws, and to establish stricter regulation, also continue. Movements in El Salvador have won victories such as the long-term ban on corporate metal mining in the country, while tackling remaining issues such as the welfare of small-time, artisanal miners and the traces of OceanaGold presence through its “non-profit” foundation. In the Philippines, community groups, allied environmentalists and people’s organisations continue to call for the repealing of the Mining Act of 1995, on the grounds that its effects favour foreign-owned mining contractors in the country (e.g., guarantees against government expropriation, tax incentives, etc). In its place, environmental advocates forward the People’s Mining Bill, which aims to re-orient the mining sector towards effective and strategic industrial policy, agricultural development and local ownership, while de-militarising mining operations and penalising mining-related rights violations.

In 2016, in time for ICSID decision on the Salvadoran case, community organisations in Didipio launched a coordinated solidarity action with other environmental groups in El Salvador and around the world. This case points to possibilities of coordination that drum up resistance. Further, international people’s campaigns have also shown larger efforts to build support for the national and community-level struggles against TNCs.

For instance, the US-Canadian International Allies against Mining in El Salvador (Stop ES Mining) has been active towards gathering solidarity in opposing the OceanaGold ISDS case as well as corporate-led mining plunder in general. There are also efforts such as the Yes to Life, No to Mining Global Solidarity Network, made up of at least 60 organisations, which serve as a conduit for information on various national campaigns against mining-related corporate plunder.

The International People’s Conference on Mining (IPCM) in 2015 was held in Manila towards coordinating efforts in resisting mining plunder in different parts of the world. It led to a campaign against OceanaGold launched in 2016, with protests at the OceanaGold general assembly in June 2016 among other actions.
All these international efforts greatly amplify people’s voices, but in themselves rest on the strong grassroots assertions that they support. To resist OceanaGold in particular, and corporate plunder in general, means continuing to build movements that assert to TNCs, state actors, and international institutions that people’s rights and sovereignty remain paramount over corporate interests, that people’s interests should never be sacrificed over profit.###

Endnotes

4. Ibid.
17. http://apnet.org/?p=455
42. h ttps://www.latintimes.com/el-salvadorian-activists-protest-tpp-lawsuit-how-pacific-rim-arbitration-case-preview-303775