

**RIGHTS-BASED APPROACH TO LAND:
THE CASE OF SEAWEED FARMERS IN CALUYA, ANTIQUE, PHILIPPINES**

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*PAKISAMA is a national movement and confederation dedicated to empower family farmer organizations with a vision of “Empowered, Prosperous, and Caring Family Farmers and Resilient Rural Communities” and has over 30 000 member farmers and fishers in 30 provinces and 54 peasant organizations across the country. The authors wish to acknowledge the work of Raul Socrates Banzuela, PAKISAMA’s National Coordinator and PAKISAMA’s Advocacy Team .



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Abstract

Rights and access to land is an important matter for people's livelihood, especially for the rural poor who are still depending on agriculture for their livelihood and whose income comes largely from small scale farming and artisanal fishing. Landlessness is one of the roots of rural poverty. Hence, democratizing access to and control over land and water resources is crucial for ending poverty.

Securing land rights and access to natural resources is an important foundation for the realization of human rights and for poverty reduction; it is a fundamental basis for economic, social and cultural rights. The UN High Commissioner for Human Rights has brought this issue to the fore saying that land is not a mere commodity, but an essential element for the realization of many human rights.

Seaweed farmers in Caluya, Antique in the Philippines who have been evicted from their lots and others who currently face a threat of eviction have filed a complaint at the Commission on Human Rights (CHR) to sustain their livelihoods and environment against the threats of open pit mining and aggressive commercial tourism. The CHR decision will have far-reaching implications not only on their land and human rights situation, but also on rural communities nationwide who are or will be affected by the operations of mining corporations.

Key Words: Coal mining, Human rights, Landgrabbing, Land rights, Seaweed farming



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Introduction

Rights and access to land is important for people's livelihood, particularly for the rural poor who depend on agriculture for their livelihood and whose income comes largely from small scale farming and artisanal fishing. Landlessness is one of the roots of rural poverty, and democratizing access to and control over land and water resources is crucial for ending poverty.

Moreover, securing land rights and access to natural resources is an important foundation for the realization of human rights and for poverty reduction; it is a fundamental basis for economic, social and cultural rights. The UN High Commissioner for Human Rights has brought this issue to the fore saying that land is not a mere commodity, but an essential element for the realization of many human rights:

“Land is a cross-cutting issue that impacts directly on the enjoyment of a number of human rights. For many people, land is a source of livelihood, and is central to economic rights. Land is also often linked to peoples' identities, and so is tied to social and cultural rights... Disputes over land are frequently the cause of violent conflict and place obstacles to restoring sustainable peace. In short, the human rights aspects of land affect a range of issues including poverty reduction and development, peacebuilding, humanitarian assistance, disaster prevention and recovery, urban and rural planning, to name but a few.”
(UNHR, n.d.)

In many countries in the South, forced eviction and land conflicts are serious problems which many governments must contend with. This is especially true in the case of seaweed farmers in Caluya, Antique in the Philippines who have been victimized by land grabbing and forced displacement and are now pleading to return to their old communities. They are advocating to sustain their livelihoods and protect their environment against the threats of open pit mining and aggressive commercial tourism in their communities.

The Island Municipality of Caluya and Seaweed Farming

Caluya is an island municipality with three major islands (Semirara, Caluya, and Sibay) as well as several minor islets, namely Sibolo, Sibato, and Panatagan (Figure 1). Caluya has a population of 30,046 people (NSO 2010).



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The main sources of livelihood in Caluya's coastal areas include: subsistence farming and fishing; seaweed farming; cash cropping of copra, nipa, some vegetables; commercial fishing; wage labor for seaweed buyers, fishing boats, and construction; municipal jobs; mat weaving; entrepreneurial businesses such as sari-sari shops, tricycle driving (only on Caluya Island); teaching at the high school, newly opened college or one of the island elementary schools.

By far the main source of livelihood on most of the islands is seaweed farming. Seaweed is farmed for drying and processing into carrageenan, a gelling agent added to thousands of food and other products. The Philippines is a world leader in seaweed production and the world's number one producer of food grade carrageenan production. Seaweed accounts for 70% of the Philippines aquaculture and fisheries product exports. Seaweed is a cash crop, but unlike other cash crops is almost all produced by smallholder entrepreneurs like the over 4,500 seaweed farmers in Caluya (Arnold 2010).

Aside from the 4,500 seaweed farmers, many more people make their living through the industry as buyers, traders, laborers, small business owners providing supplies, etc. It is the economic heart of most of the municipality bringing in over \$400 million pesos annually to the area (Arnold 2010). This is more than the revenue from the competing economic industry in the area: coal mining. However, the coal mining revenue goes directly to the local government budgets, while the seaweed farming revenue is distributed throughout the economy. This difference has implications for the relative power and access to decision-making of the seaweed farmers.

Varieties of *Kappaphycus alvarezii* processed for carrageenan production need the unpolluted waters and specific ecosystem conditions found in Caluya. Shallow, sandy beaches, clear, unpolluted waters, and a coral reef to break the waves are qualities that make Caluya ideal for seaweed cultivation. Caluya is the main seaweed producing area for the Western Visayas region, which, in turn, is the fourth largest producing area in the country.

Seaweed farming has transformed the lives of people in Caluya and has helped rejuvenate traditional agrarian and fishing livelihoods in the area. It has increased local food security, access to new commodities and entrepreneurial opportunities, and enabled the parents to send their children to school. Seaweed farming has also resulted in the rejuvenation of rural livelihood options and once damaged



marine ecosystems. This coastal municipality is rare in the Philippines with most losing its young people to the cities with rural-urban migration. Caluya's booming seaweed farming is bringing people back and keeping younger families there who see seaweed farming as a good opportunity for a decent standard of living without leaving their island home (Arnold 2008).

High Mangrove and Marine Biodiversity

Seaweed farming can work well with existing ecosystems. It uses no chemicals, just the natural growth cycle while suspended in the ocean and it will die if pollution is in the water. People can continue to fish and forage around seaweed farms and it is a benefit to keep the sea grass and coral areas from harm.

Caluya is particularly biodiverse. On the ground surveys conducted by PAKISAMA, with experts from Southern Iloilo Polytechnique College - WVCST Miagao Campus and University of the Philippines Visayas (UPV), found that over 600 hectares of mangroves thrive in the three major islands of Caluya, Semirara and Sibay. Some 31 species of mangrove out of a possible 35 found in the Philippines are in Caluya. Of these, 3 rare species and mutations are attracting international research attention. Satellite survey research, however, shows that 84 hectares of old growth mangroves have been destroyed by mining on Semirara Island between only 2009-2014 (Figure 2). It is not yet quantified how many more hectares were lost over the 30-year period of active mining (Sansait et al 2014).

The seagrass beds surveyed around Caluya, Sibolo and Sibato are the most extensive in Region VI. This is a type of ecosystem that is endangered in the Philippines suffering loss all over. The coral reefs are in good condition and showing signs of recovery from years of damaging fishing techniques that were used before seaweed farming. There is a high variety of reef fish (Campus et al 2014). The United Nations Environment Programme (UNEP) has identified Caluya as a nursery area of the endangered Philippines Dugong. Caluya is also home to protected manta rays, whalesharks, hawksbill and green turtles, and the rare endemic Tatus, or coconut crab.

Coal Mining

In 1940, Caluya municipality was declared by national proclamation a coal mining reserve. Open pit mining operations started on Semirara Island in the 1970s with a major increase of activity in the mid-1990s when the Semirara Mining and Power Corporation (SMPC) took over the contract to mine (Figure



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3). Coal mining being an energy security concern, SMPC's operations fall under the jurisdiction of the Department of Energy (DOE).

On May 13, 2008, SMPC's request for a 15-year term extension of its Coal Operation Contract (COC) until July 14, 2027 was granted. On November 12, 2009, the contract was amended further, expanding its potential exploration area to include Caluya and Sibay islands covering an additional area of 3,095 and 4,096 hectares, respectively. Neither of these decisions included consultation with the affected communities.

SMPC accounts for 96 percent of total coal production in the country in 2009-2015, according to the 2nd Report of the Philippine Extractive Industries Transparency Initiative (MICC-NEDA, 2016). The company contributes an annual average of PhP 1.3 billion in tax revenue and government share from the sale of coal during the same period. However, the company has been on a corporate tax break with no income tax required since 2008 and the energy law allows coal companies to receive a rebate on 90 percent of operation expenses such as equipment. Mining revenue to the local government is between PhP200 and 400 million annually. As noted above, this is less than or similar to the revenue from seaweed farming.

The financial benefits from SMPC do not take into consideration the environmental and social costs of the coal mining operations. Widespread environmental damage of Semirara island has been well documented and there are ongoing labor disputes concerning the working conditions of the operation. With the expansion of the mining operation, much of Semirara's seaweed farming was ruined due to pollution in the water and displacement of seaweed farmers from the municipal waters to make way for mining operation construction. Many seaweed farmers from Semirara have been forced to move to other communities in order to find planting areas. This has caused more pressure and tension on the other islands.

The pollution from the coal mine is also felt on other islands. When the wind currents are flowing from Semirara coal dust can coat seaweed throughout nearby Caluya causing disease and crop loss. The open pit mine is permitted to dump the land cleared to get to the coal directly into the ocean. Over the last 6-7 years approximately 2.5 km of fill has grown of the northern edge of the island. This is directly on top of what was once some of the most fruitful fishing grounds and coral areas.



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On top of the wide spread ecosystem impacts, the residents on the island have lived in atmosphere of fear for decades. The mine has their own armed guards and operate with impunity – taking land when it is needed, closing access to roads and beaches, and harassing any residents who voice concerns.

Knowing the damage to the land, mangroves, and ocean that has been caused by the mining operation on Semirara, residents in Caluya are justly troubled by the possibility that the municipality may be allowing the company to move on to a new island. According to documents released by the company when they went public, there is only seven more years of coal left in their current location. Therefore, the pressure on the municipality to allow expansion will continue to increase. The municipality also receives a large amount of its revenue from the mining company operation and has a vested stake in seeing continued operation.

SMPC documents show that its overall coal exploration program in 2013-2027 aims to “fully evaluate the coal potential of the three islands of Semirara, Sibay and Caluya covered by COC No. 5” (DOE, 2016a). Semirara island would be fully explored until 2023, and exploration work will then shift to Sibay island in 2024-2025, and Caluya island in 2026-2027 (Table 1).

To summarize, the direct and indirect impacts of coal mining goes far beyond Semirara island:

- loss of livelihood through loss of fishing grounds, loss of land area, siltation of fishing grounds, loss of sea access for seaweed farming;
- insecurity of land tenure and being moved due to other projects such as worker housing, roads, company farms, tree nursery, road building, pier building, quarrying, CSR projects such as MPA (Marine Protected Area), mangrove planting, nursery, etc;
- health impacts – soot, air pollution that extend to other islands depending on wind and sea currents; and
- fear about tenure security, harassment, and being excluded from decision making.

Tourism

The Caluya Islands are only a four hour boat trip from Boracay, the Philippine’s most popular tourism destination with one of the longest stretch of white powdery sand beaches in the world. Now that Boracay has become overdeveloped, large developers have set their sights on ‘unspoiled’ Caluya for future



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development. One of these includes the parent company of the Semirara Mining Corporation – DMCI. Not only are they a mining and coal power plant firm, DMCI is one of the Philippines biggest housing and tourism developers. They are already in discussions with the municipality about ‘helping’ them develop tourism. In fact, one of the most recent threats of households being displaced is near their old, closed pit where plans have leaked out that they want to develop a hotel and park area in the site.

Another major Philippines tourism developer, Mega World, has been planning for years and aggressively buying land in the area. They proposed a development plan for Caluya municipality that includes hotels and resorts on Sibolo, Sibato and Caluya Islands, an international airport and a golf course on Caluya Island, and a 6-km airstrip on Sibolo Island. In 2006, they began working closely with the then mayor to secure land and change the municipal zoning laws and managed to buy large chunks of land. The plans call for the removal of seaweed farms from their current areas in order to clear the beach and shallows for tourists. This would displace at least 500 households from their livelihood source on Sibolo Island.

The Mayor has now started work on development of an airport on Caluya and has secured a Php500 million loan from the Development Bank of the Philippines. This would bring a massive influx of people to the island and displace many off their land. Currently, there are only slow ferries to the island and a handful of visitors each year with one small scuba diving operation. There is no waste treatment facility, most neighborhoods do not have running water, proper toilet facilities, or consistent electricity.

Seaweed farmers in Caluya are not against tourism as an alternative income source and feel that there can be smaller scale tourism that works well with seaweed farming. They have tried to make their voices heard, however the local government with support from the mining company are looking for large-scale resorts.

Below are some the Caluya residents’ main concerns about tourism from workshops and meetings organized by PAKISAMA:

- “Where will we be able to park our motor bancas? Loss of access to beaches, fishing, seaweed.”
- “We are business owners now. With the resort we will only be able to do jobs like massage, cleaning, and labor.”



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- “Foreigners will bring bad habits to the islands that our children and husbands might follow like drugs, more gambling and videoke, prostitutes and girls to look at.”
- “The children will copy the habits they see. There will be so many people here...drugs will come.”
- No local loan and credit system anymore if the seaweed is gone.
- Return to more fishing, but the area for fishing would be restricted because of the tourist development and the rocky area of the island is not a good fishing area. Also, fishing income is less sure than seaweed planting because you cannot fish during bad weather.
- People might start dynamite fishing again.
- When seaweed is gone, poverty will return.
- We won't have money to send our kids to school anymore.
- People will have to go back to looking for work in Palawan and Mindoro.
- The company will spray chemicals in the water to clear away algae, like they do on Boracay.
- The company will bulldoze the area off the shore they own and kill any seaweed or corals there
- Small business may not be able to compete with big business owners who come to the island
- “If my son drinks during the nights...I have hypertension and the worries about it will make it worse.”
- They would give money to those who are affected. I'm worried that it is for a year only; Seaweed is our yearly source of income...What if you do not know how to handle another business?
- However, the seaweed farmers welcome opportunities to run their own home stays for tourists, to do experiential tourism with the seaweed farming, to learn to be snorkel guides, and want to ensure that the majority of tourism ventures are locally owned and that seaweed farming is not displaced.

Landgrabbing and Forced Displacement in Caluya

Over the years, these conflicting interests in the land for speculation and mining by power companies and local elites have led to the displacement of hundreds of families – whole neighborhoods evicted or relocated away from their farms and fishing grounds.

Farmers and fisherfolk in the whole municipality of Caluya claim ownership of the land through possession and vested rights. In 1940, Presidential Declaration 649 declared the municipality a coal mining reserve and therefore owned by the national government without the ability for private people to title. However, in everyday reality land is bought, sold, titled, and given tax declarations just as if it is



alienable and disposable (A&D).¹ Massive land speculation brought about by plans to develop large-scale tourism and expanded coal mining on the islands, is resulting in the land insecurity on the part of small farmers and fishers, while threatening their sustainable livelihoods such as seaweed farming.

Local elite families who claim large areas of land from the early days of settlement on the islands have leased their land to the mining company and are now selling it to land speculators, despite not having clear legal ownership. The Department of Environment and Natural Resources (DENR), in charge of land titling, has permitted this over the years. However, they have balked at granting farmers and fishers rights to their land they have been working and possessing for decades. Despite possession rights being in the law, it is only when the farmers and fishers try to make claims that the DENR suddenly falls back on the PD 649 declaring that all land in Caluya cannot be sold.

These future plans for land in Caluya are being pursued by local elites with the support of the some local officials without consultation with the broader community or a long-term planning process. The people directly affected are not being consulted and their lack of education and knowledge of their legal rights are being exploited as plans to displace the seaweed farmers is moving forward. The lack of transparency is causing widespread misinformation, tension within communities, a feeling of disempowerment and fear for the future of people's livelihoods and the local environment.

Demolition in Barangay Imba in Caluya Island

In the barangay of Imba in Caluya island, the pressure to increase investment in tourism has resulted in the forcible demolition 104 houses and the removal of people from an area they have lived in since the 1940s. On December 3-9, 2009, the people watched as their houses were demolished by a work crew from the mainland with the support of more than 50 armed police officers. The demolition was fulfilling a court order in favor of a certain Mr. Leto Javier who had come forward in 2004 to claim the land as his own. The 2.7 hectares of land claimed by the Leto family encompassed the most populated area of the barangay.

¹The 1987 Philippine Constitution categorizes lands of the public domain into agricultural, forest or timber, mineral lands, and national parks. Among these, only public agricultural lands can be sold, leased or otherwise alienated. The two major classifications of land are the alienable and disposable (A&D) lands and forest lands.



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The demolition of houses was the culmination of 5 years of court proceedings to clear the settler families, many of whom had lived there for 3 generations, from the land in order to sell it to a resort investment company. The case of ‘illegal detainer’ filed against the people of Imba by Leto Javier in 2004 was settled in his favor in 2008 and a demolition order was given. The community filed an appeal of the decision and on December 3, 2009 – the same day the demolition was started - they won their appeal and a Temporary Restraining Order against any forcible removal was issued by the Court of Appeals. The restraining order could have halted the demolition, but it was mysteriously not delivered to the municipality from the main land until after the forced removal of 300 people was completed some six days later.

The effect of the demolition of their homes has been devastating for people in Barangay Imba as well as on the broader community who feel powerless to help their family and neighbors. Residents feel overwhelmed with the situation and unsure where to turn and whom they can trust. Life has changed for everyone. The loss of years of hard work focused on building a home and livelihood was swept away in a week and people live in continual fear of even the small temporary housing they now have been taken away again. Children are now afraid when they see police officers and the psychological stress on families is taking its toll. The situation is still very difficult for people to talk about and the pain wells up as people struggle to express what they are feeling.

The affected families were forced to relocate to temporary bunkhouses where they still live seven years after the demolition of their houses. Around 33-35 families are still residing at the bunkhouses, while about 35 families have already left the area, according to the barangay chairman (DOE, 2016b). The bunkhouses are within the shorelines adjacent to their demolished houses. The bunk houses are small and the affected residents complain of lack privacy. Each bunkhouse has an estimated floor dimension of 15-20 square meters made of light materials.

Each bunkhouse is provided with electrical house wiring materials for basic electricity needs. The bunkhouses are connected to a one (1) mother kilowatt-hour meter that is registered to Barangay Council of Imba (DOE, 2016b). The barangay council pays the historical monthly average power bill consumption and the excess is equally divided to the families. The affected families demand that their electric meters which were taken away during the demolition be returned back to them.



In 2011, the local government planned to relocate them to an area further away from the beach on land owned by the mayor of Caluya which reportedly would be donated to the affected families. The people did not agree because aside from the distance, the proposed houses are small and the price at Php3,000/month is very high for marginalized seaweed farmers. Their demand remains the same – that they be allowed to return to their previous homelots so that they can continue to farm seaweed and live in dignity.

Currently, the Javier family is preparing for a second demolition based on the court order given to him (DAR, 2016). Although he is willing to sell the property to the local government at a right price for the housing project, this has not yet been realized and the LGU continues to pursue the buy the property.

This is only one of many documented cases of displacement on the islands.

Evictions and Threats of Displacement in Sabang in Semirara Island

Currently another major possible land grab is being fought off by residents. About 75 households, 200 adults and 115 children residents of Sitio Sabang, Tinogboc Barangay on Semirara Island, most of whom have been farming and living on the land and fishing in the nearby municipal waters for more than 30 years, have been resisting since 2013 increasing pressure and harassment from the mayor, LGU officials, SMPC officials, and local pastor to voluntarily move. Some residents who are also employees of the mining company have already moved after being threatened with job loss if they did not comply.

In February 2014, using SMPC equipment and personnel, LGU officials arrived to clear 5 hectares of land for a housing project. This has evicted four farming households from their farmland. The affected farmers barricaded the land and were forcibly cleared by the LGU after four days when the mayor came with a supposed deed of sale and donation for the 5 hectares.

In May 2014, 123 hectares of land, which includes irrigated rice farms, decades-old fruit bearing trees, and access to foreshore was ‘purchased’ by four private individuals through sale transfer of their tax declarations. The sitio elementary school and day care center are also located in the land. These five individuals are executives of SMPC.

Although private individuals purchased the land, it is SMPC that has declared they will be converting the



land to a dairy farm as part of its Corporate Social Responsibility and will be evicting the residents to do so. Armed company guards, officials, and equipment have started to clear land and asked the barangay to evict the residents.

Despite clear communication from the remaining residents of Sabang that they are not willing to move and that they claim the land, the LGU went forward with their own effort to relocate them and planned a relocation site for the affected people. There was no consultation or consent by people.

The residents of Sabang have made it very clear that the site offered by the LGU for relocation is unsuitable for the people of Sabang who are fisherfolk and if relocated must maintain access to the foreshore and fishing grounds as guaranteed in RA10654 (amended Fisheries Code). The lots offered by the LGU are tiny with no farm area, no area for animals, and are kilometers from the water. The villagers should not be forced off their productive land.

As of April 2016, fencing and farming of land on vacated lots by SMPC continues; the remaining farmers refuse to leave their land (Figure 4). Most springs on the island, used by farmers to irrigate their rice fields, are already controlled by the company (Figure 5). About 7 other nearby communities are also under threat of forced displacement (Figure 6).

Human Rights Concerns in Semirara

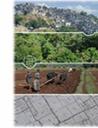
The case of the threat of displacement against some residents in Semirara was brought to the attention of the Philippines' Commission on Human Rights (CHR) in 2015 which noted the following human rights concerns:

- “There are residents in Semirara Island who are vulnerable to displacement and harassment due to the unsettled nature of the lands that they occupy;
- There may be lapses in the processes undertaken by the local government of Caluya, Antique to ensure public participation and consultation on issues of development in Semirara Island, which has impacts on the observance of the rights of the affected residents to peaceably assemble, and petition the government for redress of grievances, among other basic human rights;



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- The manner by which Semirara Mining Corporation is supposed to respect the human rights of concerned residence, in accordance with the United Nations Guiding Principles on Business and Human Rights, is not yet shown;
- The residents believe that one of the causes of their vulnerability is Presidential Decree No. 649, issued on November 20, 1940 by former President Manuel Quezon, titled “Establishing as coal mining reservations all the coal deposits and coal-bearing lands in the southern portion of the province and islands of Mindoro and the islands of Semirara, Sibay, and Caluya, Province of Antique, Philippines”. The residents requested the Commission’s intervention to the effect: “*maialis ang P.D. No. 649 na siyang humahadlang sa mga namomosisyon na mabigyang titulo ang mga lupa at tuluyan nang maiaward sa mga nakatira ang mga lupang aming sininop* (Repeal PD 649 which prevents the residents from securing titles to the lands that they have cultivated.)” (CHR, 2015)

Moreover, the CHR said that it has made a “strong position against any attempt of the municipal government of Caluya, Antique to relocate and evict the affected residents without the proper conduct of adequate consultation and information dissemination,” and has called the attention of the mayor to the advisory on the right to adequate housing issued by the CHR in September 2011 (CHR, 2015).

CHR Inter-Agency Working Group

In 2016, the CHR established an Inter-Agency Working Group (IAWG) to investigate and discuss the human rights situation at Semirara Island and Caluya. The IAWG is participated by various government agencies – e.g., DOE, DENR, Department of Agrarian Reform (DAR), Department of Agriculture (DA), Land Regulatory Authority (LRA), Department of Interior and Local Government (DILG), Department of Education (DepEd), Department of Health (DOH) – and CSOs, including PAKISAMA and local community organizations.

PAKISAMA, together with the seaweed farmers and fishers of Caluya municipality – through their organizations Imba Fishers and Seaweed Planters Association (IFSA) and Sabang Pooan Farmers and Fishermen Association (SAPOFFA) – have raised the following issues at the CHR’s IAWG:

- **Status of Land.** In 1940, Presidential Proclamation 649, declared the islands of Caluya, Semirara, and Sibay in the municipality as a coal mining reserve. In the 1970s, Semirara Mining



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Corporation (now SMPC) was granted sole rights to exploit the minerals found in the area and enjoy that right to this day. The villagers demanded to repeal PD 649 and exempt those lands not yet permitted for operation (e.g., Caluya Island, Sibay Island, Southern Semirara) from the mining reserve status.

- **Coal Operating Contract (COC) and Mining Permits.** In 2008, the SMPC COC was extended from its expected end date 2012 until 2027. It was not until 2010 that many residents were aware that this extension had been granted. Many of the residents expressed that they have never been consulted about mining in their community and were not previously aware that the company also had rights to engage in coal exploration in Caluya and Sibay Islands.
- **Comprehensive Agrarian Reform Program (CARP).** Caluya was explored for CARP during the late 1990s, but this process was abandoned. Though CARP may not be applicable under PD 649 as it stands, the reality on the ground is that a few families own vast tracts of land and are selling and leasing it at will despite farmers being in possession and working the land for decades. How are these farmers protected and access to their land secured?
- **Land and Water Tenure/Rights.** What are the exact coordinates and permitted operations for SMPC in Caluya – for all projects including CSR projects such as mangrove planting, marine protected areas, dairy farm, etc? Can PD 649 be repealed and ensure that land not currently under permit for operation be exempted from future mining reserve policy? In the case of reversion, who will the land revert to?
- **Environmental Regulations and Biodiversity Issues.** How does the DENR conduct pollution monitoring? Can the community access the full reports? Is there any alternative to prevent toxic emissions of SMPC? How can the mangroves be protected from the siltation and dumping of the coal mining? Is this a legal part of their operations?
- **LGU Development and Tourism Planning.** SMPC contributes a substantial share to the resources of the local government units. How are these revenues allocated, and accounted for? Who benefits? Why do residents, like in Imba village, still suffer from lack of electricity when Caluya contributes a lion's share to the nation's energy security? Why is there a lack of potable



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water system and adequate transport system in the islands? What are consultative mechanisms in place?

The CHR-IAWG held its first meeting on February 9, 2016. The CHR stressed that the intent of the IAWG is not adversarial but rather an Inter-Agency meeting that intends to provide solution whatever the gaps with the existing policies, and to address the concerns of the residents in the Semirara Island. It will also consider the vulnerability situation such as lack of security of tenure and threat of losing livelihoods.

The IAWG has also conducted a field visit in Semirara and Caluya islands on May 23-26, 2016, and investigated the issues raised by PAKISAMA, IFSA and SAPOFFA. The site visit aimed to gather information and raise awareness on the various issues on human rights, land classification, environment and local governance. It also provided a space and time for the community to raise questions and issues to the IAWG. Central to the issues is the mining operation in Semirara Island which is contracted by the government to the SMPC.

The IAWG field visit included interfacing with the municipal officials headed by the Municipal Mayor and some members of the local municipal bodies. The IAWG also had a community dialogue at the demolition site and bunkhouses in Barangay Imba in Caluya Island, and was able to observe first-hand the seaweeds farming also in the said barangay. Then the IAWG had an ocular inspection around the island of Semirara especially in the mining site of Barangay Semirara. A meeting with the management of SMPC with a presentation of its Corporate Social Responsibility (CSR) and a visit to its mining site and its facilities and other projects of the company were also included in the IAWG's itinerary. The last stop of the site visit was in SitioSabang, Barangay Tinogboc in Semirara Island where the IAWG had a community dialogue with its residents.²

The local government officials and residents said that this was the first time that at least five National Agencies, including a Constitutional Commission (CHR), visited the municipality of Caluya.

²The issues that were tackled by the fact-finding group include discussions on the land classification and ownership of Panagatan Islands in Barangay Harigue, the demolition of houses in Barangay Imba, the displacement of community in SitioSabang, Barangay Tinogboc, the mining operations of SMPC in Barangay Semirara and other issues raised by the local government and the community such as the Presidential Proclamation 649, among others.



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Although the IAWG has yet to come out with a formal report of the results of its human rights investigation Caluya, but already, much information has been brought forward and clarified in the course of the investigation. Each participating agency was tasked to dig deep into their files and databases to present accurate information and shed light on issues raised by the affected villagers, e.g., extent of land titles awarded in Caluya despite it being a coal mining reserve; mining permits granted to SMPC; status of the proposed dairy farm. This information had been repeatedly requested by the affected villagers in the past, but the concerned agencies had not been too willing to offer the information.

Each participating government agency was also enjoined to suggest proposals on how to move forward. Some of these proposals include:

- **DAR:** (a) Repeal or amend thru act of Congress the PP 649; thereafter, applicable agrarian laws can be applied, particularly Joint DAR-DENR Administrative Order No #3, Series of 2014 for untitled private agricultural lands;³ (b) Issuance of Implementing Rules and Regulations (IRR) for the full implementation of EO 448, Series of 1991.⁴
- **DOE:** (a) Given the existing conditions of the Imba residents living in temporary bunkhouses, electric cooperative should install electric kilowatt hour meters subject to their agreement; (b) Review the utilization of the National Wealth Share (NWS) of Caluya municipality since this is sufficient enough to finance the electricity needs not only of Imba but also the whole municipality; (c) The LGU of Caluya, in coordination with electric coop, must utilize the NWS for the acquisition of renewable energy electrification solutions such as solar home systems, etc.
- **DENR-Environment Management Bureau (EMB):** (a) Review the ECC provisions of SMPC, especially compliance with social and environmental considerations, process of consultation; (b) Adopt a community-based impact assessment measure; (c) The Multi-stakeholder Monitoring Team (MMT) to serve as grievance mechanism for issues and concerns of local residents; (d) Inclusion of new membership to the MMT coming from SAPOFFA, IFSA, and others; (e)

³Significant portions of that island are still untitled. Therefore the said AO can still be applied.

⁴After the issuance of the said EO, there was no corresponding IRR to be followed in the course of implementation of the EO 448.



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Determine the impacts of mining activities in Semirara Island, e.g., in areas near the sea, known as “overburden” as shown during the field visit.

- **DENR-Mines and Geology Bureau (MGB):** (a) Clarify the applicable policy and regulation covering the situation when the mining company, such as SMPC, extracts limestone in the course of its operation for coal mining; (b) discuss the interaction between DOE and MGB in this situation; (c) Investigation on the Himalian Limestone Project.⁵
- **Bantay Kita (CSO):** (a) Establish a credible selection process for CSO representation; (b) Capacity building for the MMT members especially for CSO representative; (c) Establish a governance mechanism anchored on the need for feedback.
- **NEDA:** Provide expert advice in evaluating realization of economic, social and cultural rights in Caluya, Antique given the complicated context on land classification, governance, and environmental concerns.

Moving forward, the CHR also recommended that SMPC engage the community and enhance trust, using human rights-based approach (HRBA), and Adopt a no-displacement policy as part of its human rights commitment.

The IAWG report, and any CHR advisory on the human rights situation in Semirara and Caluya, will have far-reaching implications not only on the land and human rights situation of small seaweed farmers in Caluya, Antique but also on rural communities nationwide who are or will be impacted by the operations of mining corporations. It should be noted here that the CHR is developing “*Guidelines in the National Monitoring of Human Rights Compliance in the Mining Industry.*”⁶

⁵ MGB reported that the proposed Semirara Limestone Quarry Project will be established at the middle of the southern section and at the northern section of Semirara Island, between Unong Pit and Bunlao Spring, with area of 3,807.0571 hectares in Brgy. Tinogboc; but no mining/exploration activity is being undertaken at present since the expiration of the EP No. 99- 001 (VI).

⁶In 2013, the Office of the President (OP) assigned the CHR, Department of Justice (DO) and Department of Labor and Employment (DOLE) to draft the monitoring guidelines. The CHR submitted the draft to the National Economic and Development Authority (NEDA) and OP in the same year, and still waiting for comments.



Towards a Human Rights-Based Approach (HRBA) to Land

International human rights conventions, such as the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Universal Declaration of Human Rights - UNDHR (which recognizes all individuals' right to food, to property and to adequate housing), provide a source of binding international laws for protection against illegitimate land grabs (Neef, 2016). However, they continue to be weakly enforced at the national and international level.

The Rights to Food, Water, Adequate Housing

- **Right to food:** The right to food is enshrined in the UNDHR (1948), Art. 25 which stipulates that “[e]veryone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, [...]”.

The ICESCR explicitly recognizes “the fundamental right of everyone to be free from hunger” (Art. 11(2)) and places an obligation upon state parties to take measures, either in their individual effort or through international cooperation, to address all forms of food insecurity. States are obliged to ensure that everyone under their jurisdiction has access to minimum essential food that is sufficient, accessible, nutritionally adequate and safe to ensure their freedom from hunger.

The *UN Special Rapporteur on the Right to Food* defined the right to adequate food as “having regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of people to which the consumer belongs, and which ensures a physical and mental, individual and collective fulfilling and dignified life free of fear.” It should be emphasized that the right to food is not simply a right to be fed, but primarily the right to feed oneself in dignity.

- **Right to water.** The *UN Committee on Economic, Social and Cultural Rights* in November 2002 declared that “the human right to water is indispensable for leading a life in human dignity. It is a prerequisite for the realization of other human rights.”



It was not until July 2010 that the *United Nations General Assembly* through Resolution 64/292 explicitly recognized the human right to water and sanitation. In the context of land grabbing, violations of this fundamental human right may stem from (1) diversion of freshwater supplies to agro-industrial plantations or other water-intensive economic processes at the expense of drinking and irrigation water provision for other stakeholders, such as small-scale farmers or pastoralists, (2) contamination of freshwater sources through agrochemicals, mining operations and other industrial activities and (3) evictions of communities from areas with adequate water supply.

- **Right to adequate housing.** Article 11 of the ICESCR encapsulates the right to adequate housing. Article 25(1) of the UNDHR also guarantees this right, which prohibits forced evictions. The practice of forced evictions also violates various other rights, including a number of civil and political rights, the right to security of the person and the right to non-interference with privacy, family and home.

The right to suitable shelter and/or housing, adequate food, clean water, safe and sustainable environment, and others are strongly depended on respect, protection, fulfillment, and providing legal certainty to right, access and control over land individually or collectively by members of community. Freedom of opinion and expression, peaceful assembly and association, and political rights are also be affected by land tenure system. Land rights is significant to respect, protect and fulfill human rights.

UN Guiding Principles on Business and Human Rights

The UN Guiding Principles on Business and Human Rights, agreed upon by the UN Human Rights Council (HRC) in 2011, has three pillars, namely the state's duty to *protect* against human rights abuses, the corporate responsibility to *respect* the human rights of all peoples, and the contractual parties' obligation to ensure access to effective *remedy* when protection fails (Neef, 2016). The fundamental problem with code of conduct for multinational corporations and domestic investors, however, is that they are voluntary and there is no binding force.

Land Rights and Sustainable Development

Sustainable Development Goal 1 aims to “End poverty in all its forms everywhere.” One of the pillar targets to that end, Target 1.4, calls for “By 2030, ensure that all men and women, in particular the poor



and the vulnerable, have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources, appropriate new technology and financial services, including microfinance.” This target encompasses all people regardless of where they reside, their livelihood activities, or the assets they own. It covers both social and economic resources.

Secure rights to land are key to accessing income, food, status, housing, credit, government services, and greater household- and community-level decision-making. Moreover, “tenure security,” a widely accepted concept that encompasses more than ownership, would protect the rights of those who access land through a number of group- or individually-held tenure arrangements. Secure rights to land should also reduce gender inequality.

Secure land rights are a critical component of a transformational agenda of the Post-2015 Sustainable Development Goals (SDGs). This pertains to secure rights to land, property, and natural resources, which can be measured by: (a) percentage with legally documented or recognized evidence of tenure, and (b) percentage who perceive their rights are recognized and protected (OXFAM, 2015; Landesa, 2015).

Landgrabbing and Human Rights

Large-scale land grabbing is defined as “acquisitions or concessions that are one or more of the following: (1) in violation of human rights, particularly the equal rights of women; (2) not based on free, prior and informed consent of the affected land-users; (3) not based on a thorough assessment, or are in disregard of social, economic and environmental impacts, including the way they are gendered; (4) not based on transparent contracts that specify clear and binding commitments about activities, employment and benefits sharing, and (5) not based on effective democratic planning, independent oversight and meaningful participation” (ILC, 2011 cited in Neef, 2016).

Land grabbing, as is happening to seaweed farmers in Caluya islands, can adversely affect the enjoyment of human rights, e.g., the right to land and property through the loss of farmland; the right to food through food insecurity and hunger; the right to housing: through involuntary or forced evictions and deprivation of access to water and sanitation; the right to an adequate standard of living through loss of livelihood



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opportunities and means of subsistence; the right to consultation and information of local communities (Neef, 2016).

Concluding Remarks

The seaweed farmers and other affected resident of Caluya continue to fight for their tenure rights and access to the sea where they plant seaweed and foreshore lands where they dry the seaweed, as well as their basic human right to live a life of dignity. They have formed new associations (IFSA and SAPOFFA) and together with PAKISAMA, continue to work with the community to facilitate legal training, collect information about the current municipal plans for development, increase their organizational capacities, reach out to neighboring barangay association to strengthen the voice of seaweed farmers and fishers in municipal decisions, and advocate for support at the national level.



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REFERENCES

Arnold, Shannon, 2008, *Seaweed, Power, and Markets: A Political Ecology of the Caluya Islands, Philippines*, Masteral Thesis, submitted to Faculty of Environmental Studies, York University, Toronto
<http://fes.yorku.ca/files/2015/12/shannon-arnold.pdf>

_____, 2011, *Seaweed the nature of a global cash crop in the Caluya Islands, Philippines*, ChATSEA Working Paper Series <https://tspace.library.utoronto.ca/handle/1807/72666>

Campos et al (2013). *Survey of reef areas, PCRA of reef flat and seagrass beds, and fisheries profiles of key barangays, Caluya*. University of the Philippines Visayas Foundation Inc. in partnership with Foundation for the Philippines Environment and PAKISAMA.

Commission on Human Rights (CHR), 2015, *Annual Accomplishment Report*.
<http://198.23.173.74/chr/wp-content/uploads/2015-ANNUAL-REPORT-FINAL.pdf>

Commission on Human Rights Inter-Agency Working Group on Semirara (CHR-IAWG), 2016 (Various Proceedings, unpublished)

Department of Agrarian Reform (DAR), 2016, Report to the CHR Inter Agency Working Group (CHR-IAWG), June 2016.

Department of Energy (DOE), 2016a, Report to the CHR Inter Agency Working Group (CHR-IAWG), September 2, 2016.

_____, 2016b, Report to the CHR Inter Agency Working Group (CHR-IAWG), June 2016.

Landesa, 2015, *One Indicator, Many Targets: A Path for Tracking Land Rights Post-2015*(April 17, 2015)
<http://landpost2015.landesa.org/wp-content/uploads/2015/04/One-Indicator-Many-Targets-A-Path-for-Tracking-Land-Rights-Post-2015.pdf>



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National Economic Development Authority-Mining Industry Coordinating Council(NEDA-MICC), 2016, *MICC Secretariat Recommendation on the Human Rights Issues in Semirara Island, Caluya, Antique*, Submitted to CHR-IAWG, May 10, 2016 (unpublished)

Neef, Andreas, 2016, *Land Rights Matter! Anchors to Reduce Land Grabbing, Dispossession and Displacement: A Comparative Study of Land Rights Systems in Southeast Asia and the Potential of National and International Legal Frameworks and Guidelines*. Published by Brot für die Welt (September 2016).

OXFAM, 2016, *Land Rights: An Essential Global Indicator for the Post-2015 SDGs* (August 26, 2015) <http://policy-practice.oxfam.org.uk/publications/land-rights-indicators-in-the-post-2015-sdgs-recommendations-for-the-inter-agen-527861>

PAKISAMA, 2011, *Justice to Caluya Seaweed Farmers! Caluya Island, Antique* <https://www.youtube.com/watch?v=fkkazNRrm4c>

PAKISAMA, 2012, *Seaweed farmers' housing demolition and displacement in Barangay Imba, Caluya Municipality, Antique province* (unpublished)

PAKISAMA, 2012, *Large-Scale Land Acquisition: The Case of Seaweed Farmers of Barangay Imba, Caluya Municipality, Antique Province*, In: AFA (2012), *AFA Cases on Large Scale Land Acquisition in Asia* (Josefa Petilla, ed.), Published by Asian Farmers' Association (AFA)

PAKISAMA, 2015, *Brief on Imminent Evictions in Sabang Sitio, Semirara*. Report submitted by PAKISAMA, IFSA and SAPOFFA to the CHR, October 28, 2015.

PAKISAMA, 2016, *Position Paper Submitted by PAKISAMA, SAPOFFA and IFSA to the Philippine Commission on Human Rights Interagency Working Group (CHR-IAWG)*, April 27, 2016.

Sansait et al (2014), *Assessment of Mangrove Communities in Brgy Imba, Brgy Tinogbok, Caluya Antique*, University of the Philippines Visayas Foundation Inc. in partnership with Foundation for the Philippines Environment and PAKISAMA.



United Nations Human Rights, Office of the High Commissioner (n.d.), *Land and Human Rights*
<http://www.ohchr.org/EN/Issues/LandAndHR/Pages/LandandHumanRightsIndex.aspx>



Figure 1. Semirara, Caluya and Sibay islands in Caluya municipality, Antique province (PAKISAMA, 2012)

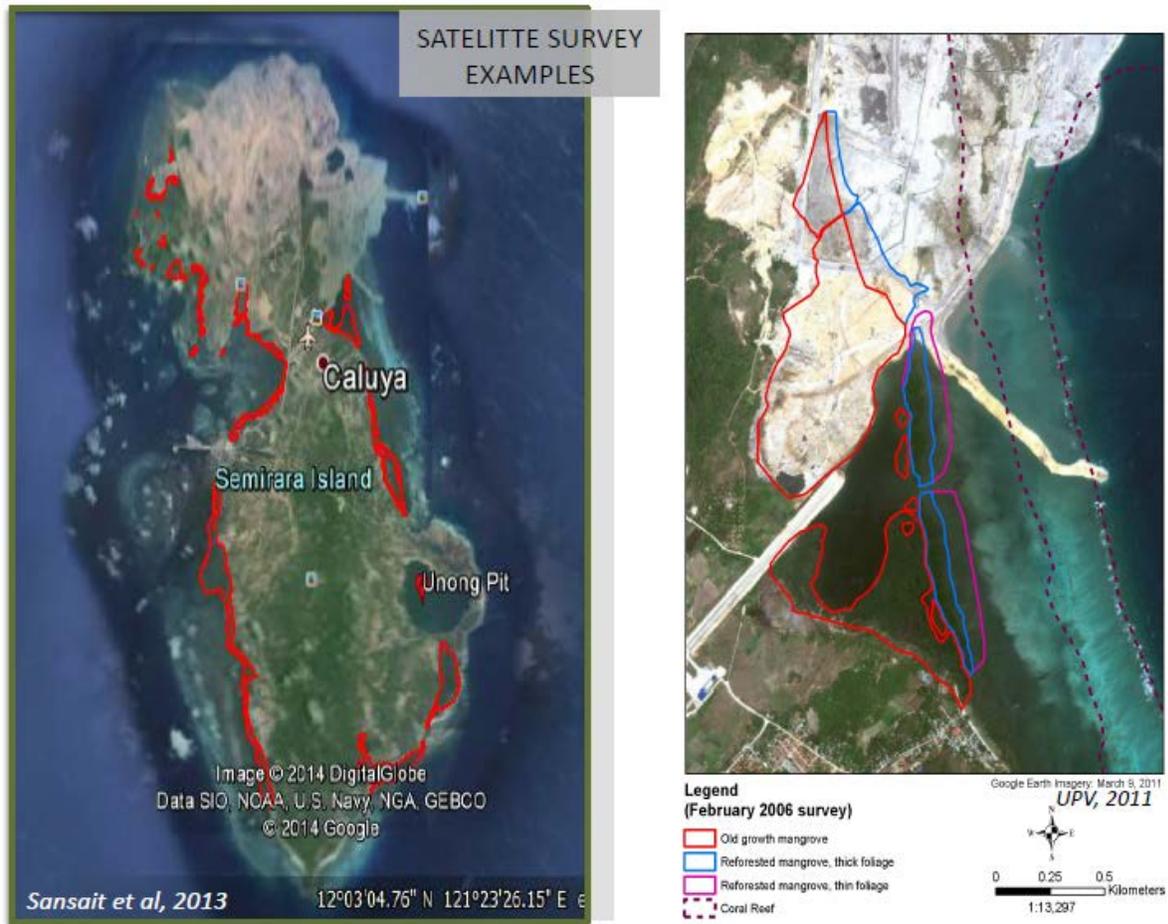


Figure 2. Satellite survey research of mangrove loss in Semirara (PAKISAMA, 2016)

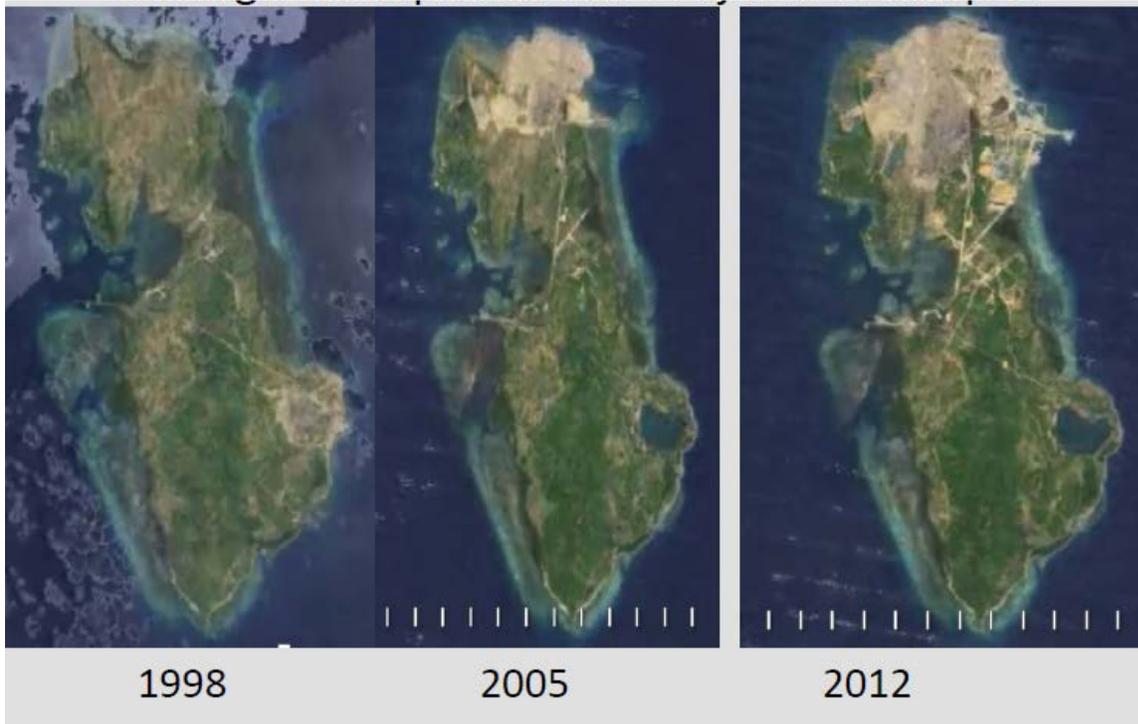


Figure 3. Mining development and projects timelapse (PAKISAMA, 2016)



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UPDATE ON SABANG

- 123 has
 - 200 adults
 - 115 children
 - 110HH remain
 - Approx 50 moved
 - hundreds of coco,fruit trees
 - 25 has. irrigated rice
 - 30 has. Mangrove
 - Beachfront access
 - Elementary School, Day Care
 - Farmer Assoc. office
-
- Fencing and farming of land on vacated lots by company continues
 - Guard destroyed house
 - Guards on site left in Feb
 - FARMERS CLAIM LAND, WILL NOT LEAVE



Figure 4. Update on Sabang (PAKISAMA, 2016)



Sitio Sabang, Semirara



Irrigated rice lands and Natural Spring used for irrigation, most springs on the island are already controlled by company



Sitio Sabang mangrove forest



Figure 5. Sitio Sabang, Semirara (PAKISAMA, 2016)



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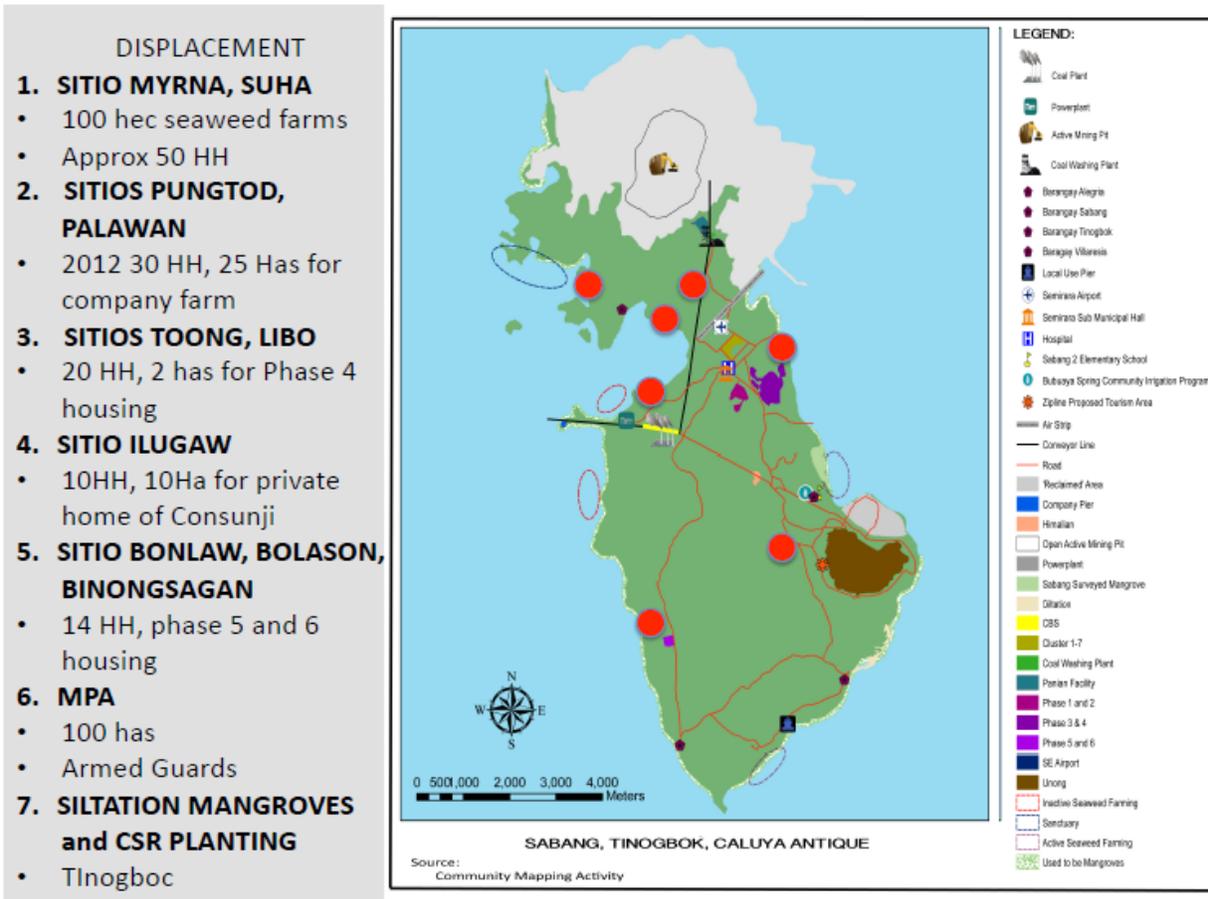


Figure 6. Imminent displacement in 7 sitios in Semirara (PAKISAMA, 2016)



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Table 1. SMPC's Overall Exploration Program (2013-2027)

Island/Area	Period	Remarks
A. Semirara	2013 to 2016	Ongoing
1. Molave-West Panian	2017 to 2018	To locate extensions of Narra coal deposit
2. Narra-East Panian	2019	
3. West Himalian	2020 to 2021	To locate extensions of Himalian coal deposit
4. Himalian-Alegria	2022 to 2023	Exploratory-recon drilling
5. Himalian-Tinogboc		Exploratory-recon drilling
B. Sibay Island	2024 to 2025	Exploratory-recon drilling
C. Caluya Island	2026 to 2027	Exploratory-recon drilling

(Source: DOE, 2016)