

Sustainable Integration of Environmental Law in Judicial Training Curricula – Steps, Processes, Challenges and Solutions: The Asian Experience

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Legal Characterization of Environmental Protection Principles

- Challenging Traditional Legal Systems (not indigenous law) as “impediments”
 - concept of right and duty bearers: only the living
 - only human beings as possessed with rights
 - absolute freedom of contract
 - absolute ownership

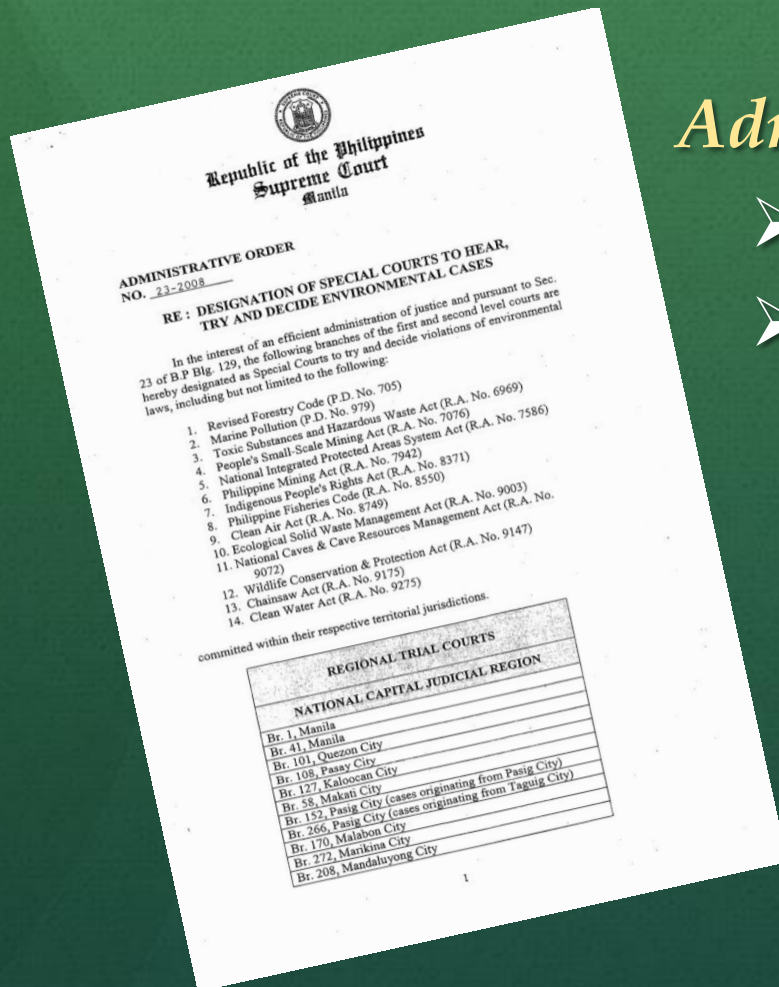
Environmental Justice

The concept of *environmental justice* embraces two objectives. The *first* is to ensure that rights and responsibilities regarding the utilization of environmental resources are distributed with greater fairness among communities, both globally and domestically. This entails ensuring that poor and marginalized communities do not suffer a disproportionate burden of the costs associated with the development of resources, while not enjoying equivalent benefits from their utilization. The *second* is to reduce the overall amount of environmental damage domestically and globally. (*Forum Guide, Forum on Environmental Justice, April 16-17, 2009*)

Green Courts

Administrative Order No. 23-2008

- Issued on January 28, 2008
- Designating 117 environmental courts
 - 80 RTCs
 - 7 MeTCs
 - 26 MTCCs



Forum on Environmental Justice

*Conducted on April 16-17, 2009 in Baguio City
with video-conferencing in Iloilo and Davao Cities*

A *Memorandum of Agreement* was signed and created a partnership among government agencies and institutions from the 3 branches of government and non-government entities for the purposes of strengthening their commitment and common resolve to realize the principles of sustainable development, environmental protection, intergenerational responsibility, and social justice as embodied in the environmental laws, through their effective, coordinated and cooperative implementation.

Forum on Environmental Justice

*Conducted on April 16-17, 2009 in Baguio City
with video-conferencing in Iloilo and Davao Cities*

The draft *Rules of Procedure for Environmental Cases* was validated and enhanced through the multi-sectoral workshops of the second day. Supreme Court Justice Consuelo Ynares-Santiago presented a survey of issues and summary suggestions from the workshops.

Supreme Court Rules of Procedure for Environmental Cases

Promulgated on April 13, 2010, Became effective on April 29, 2010

The *Rules of Procedure for Environmental Cases* aims to protect and advance the right of the people to a balanced and healthful ecology, to provide a simplified, speedy and inexpensive procedure for the enforcement of environmental rights and duties adopting innovations and best practices, and to enable courts to monitor and exact compliance with orders and judgments in environmental cases.
(Rule 1, Section 3)

Special Features of the Rules of Procedure for Environmental Cases

Citizen Suit – Any Filipino citizen in representation of others, including minors or generations yet unborn, may file an action to enforce rights or obligations under environmental laws. (Rule 2, Section 5)

Exemption from filing fees – In ordinary environmental cases, the payment of filing fee is deferred and constitutes a lien on the judgment award. In petitions for writs of kalikasan and continuing mandamus, the one filing suit is exempted from payment of filing fees.

Salient Features of the Rules of Procedure for Environmental Cases not found in the existing Rules on Civil and Criminal Procedure

Writ of Kalikasan – a special civil action for indefinite injunctive relief designed to address unlawful acts or omissions by anyone that threaten to violate the constitutional right to a balanced and healthful ecology (Rule 7, Sec. 1)

First Ever Writ of Kalikasan Petition: *West Tower Condominium Corp., et al. vs. First Philippine Industrial Corp., et al.*, G.R. No. 194239

Salient Features of the Rules of Procedure for Environmental Cases not found in the existing Rules on Civil and Criminal Procedure

Writ of Continuing Mandamus – allows the court to compel the performance of an act specifically required by law

The case where the Court issued for the first time a continuing mandamus: *Metro Manila Development Authority vs. Concerned Residents of Manila Bay*, G.R. Nos. 171947-48

Salient Features of the Rules of Procedure for Environmental Cases not found in the existing Rules on Civil and Criminal Procedure

Temporary Environmental Protection Order – If the matter involved is of extreme urgency and the applicant will suffer grave injustice and irreparable damage, the court may issue ex parte a TEPO effective for a period of 72 hours upon receipt of the Order by the party or person enjoined. Within said period, the court where the case is assigned, shall conduct a summary hearing to determine whether the TEPO may be extended until the termination of the case.

Salient Features of the Rules of Procedure for Environmental Cases not found in the existing Rules on Civil and Criminal Procedure

SLAPP Suit – It refers to an action whether civil, criminal or administrative, brought against any person, institution or any government agency or LGU or its officials and employees, with the intent to harass, vex, exert undue pressure or stifle any legal recourse that such person, institution or government agency has taken or may take in the enforcement of environmental laws, protection of the environment or assertion of environmental rights. (Rule 1, Section 4)

Salient Features of the Rules of Procedure for Environmental Cases not found in the existing Rules on Civil and Criminal Procedure

Precautionary Principle – this implies that when human activities may lead to threats of serious and irreversible damage to the environment that is scientifically plausible but uncertain, actions shall be taken to avoid or diminish that threat. (Rule 1, Section 4)

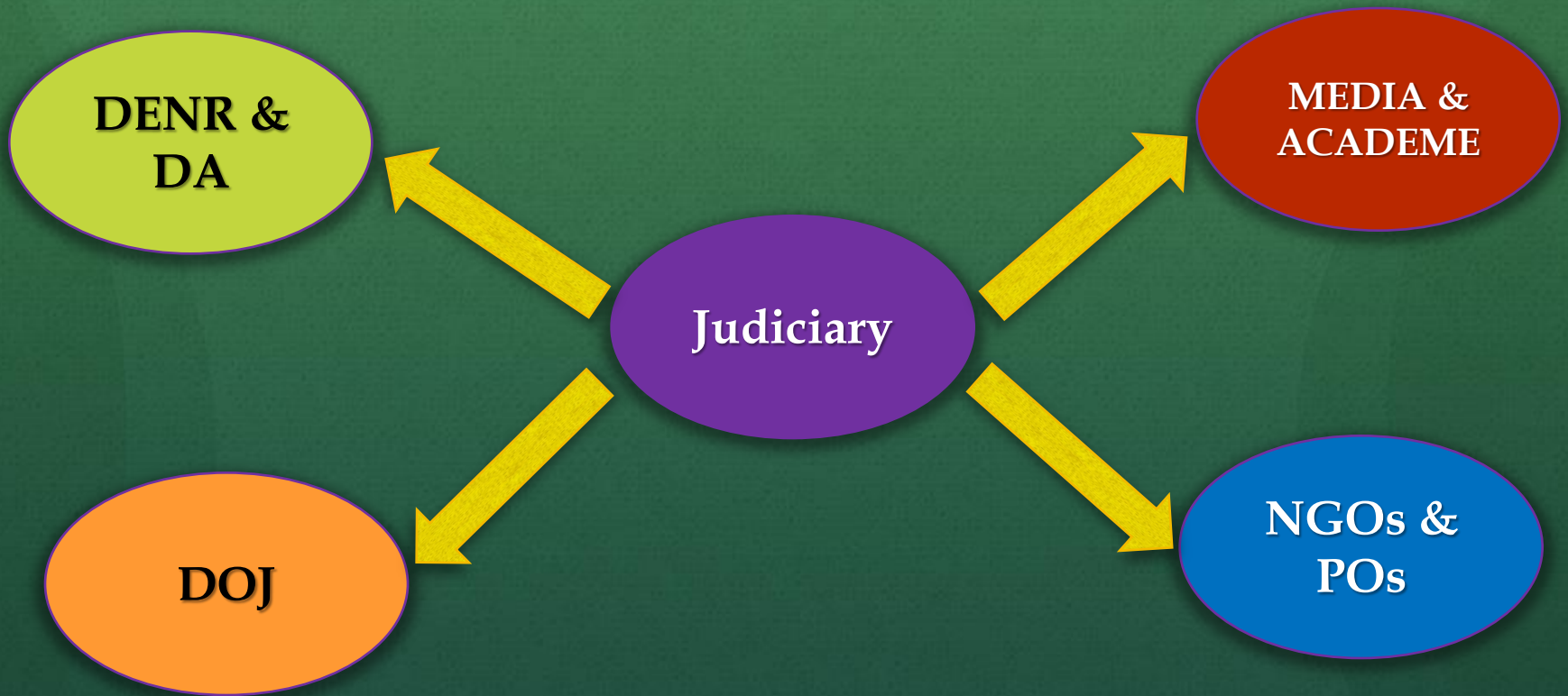
Consent Decree – a judicially-approved settlement between concerned parties based on public interest and public policy to protect and preserve the environment

STRATEGY for JUDICIAL ENFORCEMENT of “ENVI-RULES”

- Multi-pronged: multi-sectoral approach
- Capacity-building of stakeholders
- Development of information, education and communication tools
- Regional “best practices” sharing on enforcement of “envi-rules”

STRATEGY for JUDICIAL ENFORCEMENT of “ENVI-RULES”

Multi-pronged



STRATEGY for JUDICIAL ENFORCEMENT of “ENVI-RULES”

CAPACITY-BUILDING

**CASE STUDY
(FACTS)**



**SUBSTANTIVE
(LAWS)**



**PROCEDURAL
(RULES)**



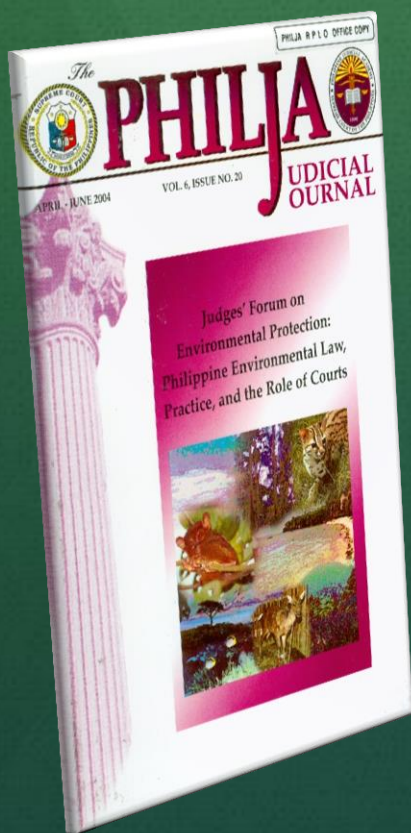
**MOOT
COURT
(ROLE-PLAY)**



**INTEGRATED RESPONSE
(Action Plans)**

Information, Education and Communication (IEC) Materials

***Judges' Forum on Environmental Protection:
Philippine Environmental Law, Practice, and the Role of Courts***
PHILJA Judicial Journal, Vol. 6 Issue No. 20, April-June 2004



Speeches, presentations and papers delivered at the *Judges' Forum on Environmental Protection: Philippine Environmental Law, Practice and the Role of Courts* held on August 13, 2003 at the PHILJA Development Center, Tagaytay City. Other pertinent documents are also included in this issue.

Information, Education and Communication (IEC) Materials

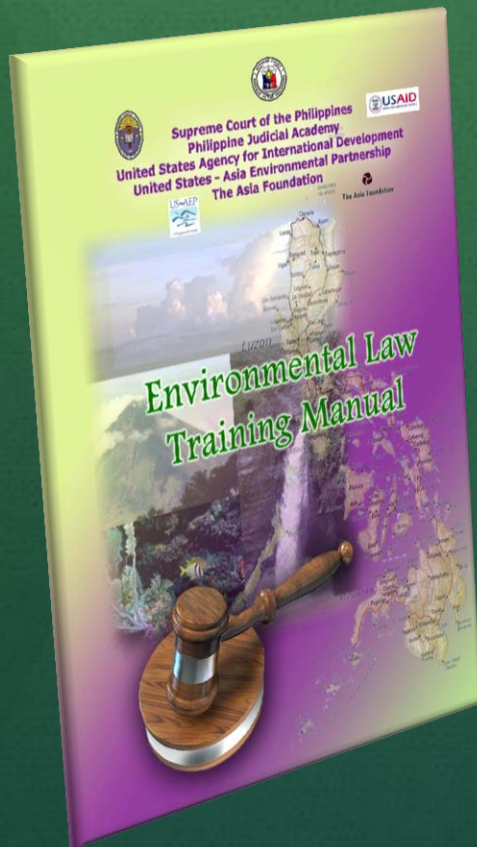
***Asian Justices Forum on the Environment:
Sharing Experiences to Strengthen Environmental Adjudication in Asia***
PHILJA Judicial Journal, Vol. 9 Issue No. 28, July-December 2007

Speeches, presentations and papers delivered at the *Sharing Experiences to Strengthen Environmental Adjudication in Asia* held on July 5, 2007 at the EDSA Shangri-La Hotel, Manila, Philippines.



Information, Education and Communication (IEC) Materials

Environmental Law Training Manual



The manual focused mainly on the state of the Philippine environment, laws created as a response to the state of the Philippine environment, role and participation of government implementing agencies/offices, remedies available to various groups, problems encountered in availing of the remedies, role of non-government organizations (NGOs).

Information, Education and Communication (IEC) Materials

Greening the Judiciary (Learning Modules on the Environment)

The Interactive Training Modules focused on the legal and non-legal aspects of environmental protection. The modules covered were Basic Environmental Science Concepts, Understanding the Air We Breathe, Understanding the Water We Drink, Dangerous Climate Change, The Carbon Trading Game, An Introduction to Environmental Economics, and Environmental Legal Framework.



Information, Education and Communication (IEC) Materials

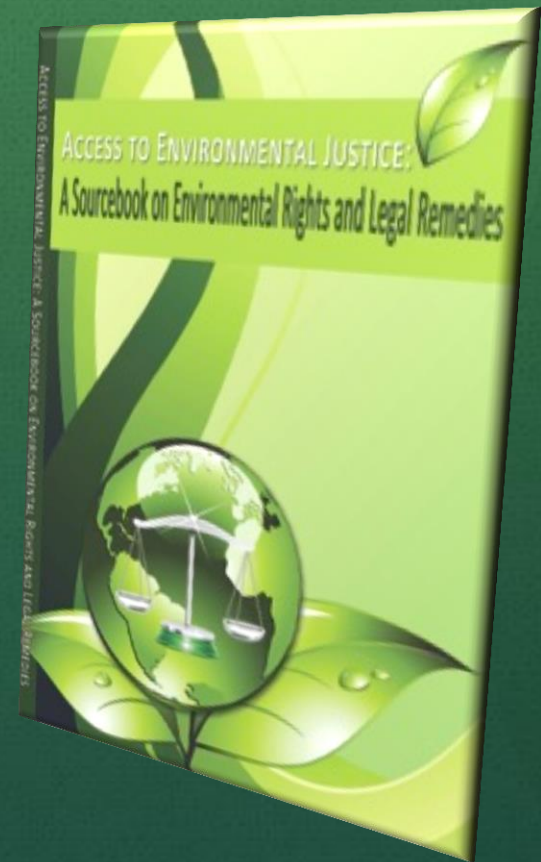
Laws, Rules and Issuances for Environmental Cases



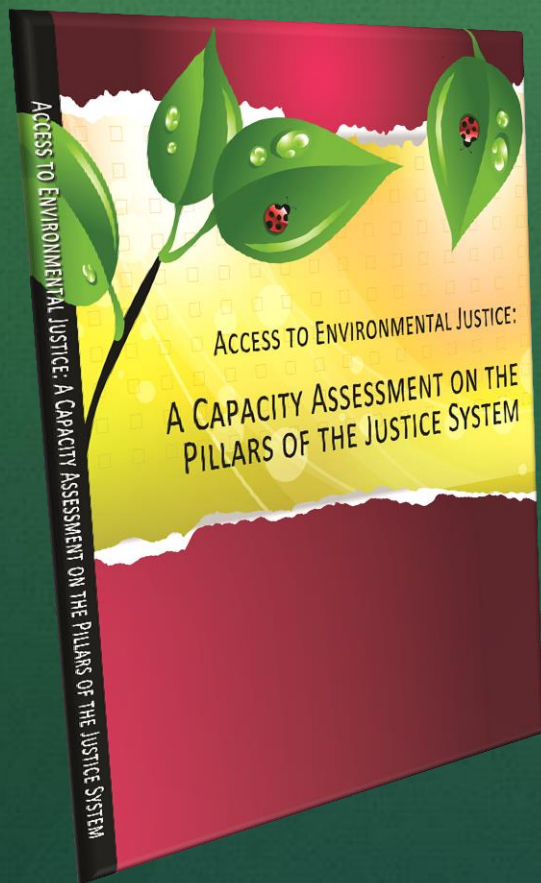
A Compilation of Philippine
Laws, Rules and Issuances for
Environmental Cases

Information, Education and Communication (IEC) Materials

The Sourcebook is a comprehensive, relevant and timely material which aims to address all policy gaps and give recommendations for the effective access to Environmental Justice.



Information, Education and Communication (IEC) Materials



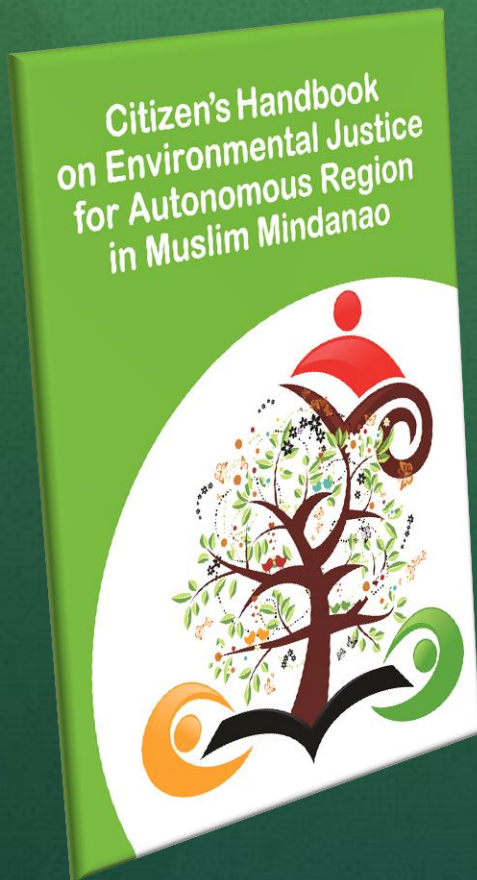
The *Capacity Assessment* book, produced along with the *Sourcebook*, situates the current state of the environment in the Philippine setting and its impact on the vulnerable groups of our society. The assessment process determined the mandates of the pillars of the judicial system with respect to enhancing environmental justice, identified the gaps and issues the pillars face on an institutional level, and gave recommendations to strengthen their capacities.

Information, Education and Communication (IEC) Materials

The Handbook outlines, in simplified approach, the procedures under existing Environmental Laws and the Rules of Procedures for Environmental Cases to educate the citizens and their communities.



IEC



The Handbook educates the ARMM citizens of their participation in the promotion of the environment in consonance with the Islamic principles and sacred teachings and the enforcement of environmental laws supplemented by relevant local laws passed by the ARMM Regional Assembly.

REGIONAL BEST PRACTICES

- Roundtable Discussion on Strategy for Support to Envi-Courts (January, 2005); USAID
- Asian Justices Forum on the Environment – to Strengthen Environmental Adjudication in Asia (July, 2007); USAID
- Seminar on Managing Environmental Cases (August, 2008); USAID

REGIONAL BEST PRACTICES

- ASEAN Chief Justices' Roundtable on Environment:
 - December 2011, Indonesia
 - Second, December 2012, Malaysia
 - Third, November 2013, Thailand
 - Fourth, December 2014, Vietnam
 - Sixth, November 2016, Philippines

REGIONAL BEST PRACTICES

- First Asian Judges Symposium on Environment (July 2010, Manila)
- Second Asian Judges Symposium on Environment (December 2013, Manila)
- Third Asian Judges Symposium on Environment (September 2016, Manila)

Thank you.