

# RESPONSE FROM PHILIPPINES COMMISSION ON HUMAN RIGHTS

## Questionnaire for the Background Paper on Human Rights and the Environment

### PART 1: The “Right to Environment” in Your Country

#### 1. Has a “right to environment” been recognized in your constitution or national legislation?

YES.

##### a. Constitution

1987 PHILIPPINE CONSTITUTION, Section 16, Article II (entitled “Declaration of Principles and State Policies”) provides that,

***“The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.”***

This right unites with the right to health which is provided for in the preceding Section (15) of the same Article of the Constitution, to wit:

“The State shall protect and promote the right to health of the people and instill health consciousness among them.”

##### b. National Legislations

PRESIDENTIAL DECREE NO. 1151, passed on June 6, 1977, entitled “*Philippine Environmental Policy*.” Section 3 states that,

“Right to a Healthy Environment. – In furtherance of these goals and policies, ***the Government recognizes the right of the people to a healthful environment***. It shall be the duty and responsibility of each individual to contribute to the preservation and enhancement of the Philippine environment.”

This Presidential Decree NO. 1151 paved the way for the passage of PRESIDENTIAL DECREE NO. 1152, otherwise known as “*The Philippine Environment Code*” on the same day, June 6, 1977.

NOTE: Copies of other pertinent provisions of the Constitution and the laws as well as the cases mentioned here will be sent through mail.

#### 2. Have your national courts recognized a “right to environment” as a component of other human rights? If so, please provide copies of some of the most significant decisions.

YES.

- a. OPOSA, et al. vs. FULGENCIO S. FACTORAN, JR. et al. (G.R. No. 101083, July 30, 1993)

This is a landmark case on the issue of the right to environment specifically on the protection of the rainforests. This case, wherein the Supreme Court held that the right to environment is both an "*inter-generational responsibility*" and "*inter-generational justice*," provided the benchmark for all subsequent cases dealing with the environment.

Synopsis: This is a case filed by several minors, represented by their parents, against the Department of Environment and Natural Resources to cancel existing timber license agreements in the country and to cease from issuing new ones. The petitioners claim that the refusal to cancel the timber license agreements contravened the Constitutional policy of the State to protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature, and that it was contrary as well to natural law and violative of their right to self-preservation and perpetuation. Moreover, the minor plaintiffs claim to represent their generation as well as generations yet unborn.

Finding for the petitioners, the Supreme Court made the following epic pronouncements:

"While the right to a balanced and healthful ecology is to be found under the Declaration of Principles and State Policies and not under the Bill of Rights, it does not follow that it is less important than any of the civil and political rights enumerated in the latter. Such a right belongs to a different category of rights altogether for it concerns nothing less than self-preservation and self-perpetuation, the advancement of which may even be said to predate governments and constitutions. As a matter of fact, these basic rights need not even be written in the Constitution for they are assumed to exist from the inception of humankind. If they are now explicitly mentioned in the fundamental charter, it is because of the well-founded fear of its framers that unless the rights to a balanced ecology and to health are mandated as state policies by the Constitution itself, thereby highlighting their continuing importance and imposing upon the state a solemn obligation to preserve the first and protect and advance the second, the day would not be too far when all else would be lost not only for the present generation, but also for those to come – generations which stand to inherit nothing but parched earth incapable of sustaining life.

The right to a balanced and healthful ecology carries with it the correlative duty to refrain from impairing the environment."

- b. HENARES, et al. vs. LAND TRANSPORTATION AND FRANCHISING REGULATORY BOARD (LTFRB) G.R. No. 158290, October 23, 2006

This petition focuses on one fundamental legal right of petitioners, their right to clean air. While the Supreme Court recognized the right of the petitioner, it however, ruled that the lack of legislation on the matter served as a restriction on the prayer to grant mandamus.

Synopsis: Petitioners challenge the Supreme Court to issue a writ of mandamus commanding respondents Land Transportation Franchising and Regulatory Board (LTFRB) and the Department of Transportation and

Communications (DOTC) to require public utility vehicles (PUVs) to use compressed natural gas (CNG) as alternative fuel in order to prevent the bane of air pollution and related environmental hazards.

Petitioners allege that the particulate matters (PM) – complex mixtures of dust, dirt, smoke, and liquid droplets, varying in sizes and compositions emitted into the air from various engine combustions – have caused detrimental effects on health, productivity, infrastructure and the overall quality of life.

The Supreme Court, taking cue from the earlier case of *Oposa*, ruled thus:

“In the same manner that we have associated the fundamental right to a balanced and healthful ecology with the twin concepts of "inter-generational responsibility" and "inter-generational justice" in *Oposa*, where we upheld the right of future Filipinos to prevent the destruction of the rainforests, so do we recognize, in this petition, the right of petitioners and the future generation to clean air. In *Oposa* we said that if the right to a balanced and healthful ecology is now explicitly found in the Constitution even if the right is "assumed to exist from the inception of humankind,... it is because of the well-founded fear of its framers [of the Constitution] that unless the rights to a balanced and healthful ecology and to health are mandated as state policies by the Constitution itself, thereby highlighting their continuing importance and imposing upon the state a solemn obligation to preserve the first and protect and advance the second, the day would not be too far when all else would be lost not only for the present generation, but also for those to come...

It is the firm belief of this Court that in this case, it is timely to reaffirm the premium we have placed on the protection of the environment in the landmark case of *Oposa*. Yet, as serious as the statistics are on air pollution, with the present fuels deemed toxic as they are to the environment, as fatal as these pollutants are to the health of the citizens, and urgently requiring resort to drastic measures to reduce air pollutants emitted by motor vehicles, we must admit in particular that petitioners are unable to pinpoint the law that imposes an indubitable legal duty on respondents that will justify a grant of the writ of mandamus compelling the use of CNG for public utility vehicles. It appears to us that more properly, the legislature should provide first the specific statutory remedy to the complex environmental problems bared by herein petitioners before any judicial recourse by mandamus is taken.”

**3. Have your national courts recognized that environmental harms have violated the rights to life or health? If so, please provide copies of some of the most significant decisions.**

**YES.**

- a. LAGUNA LAKE DEVELOPMENT AUTHORITY vs. COURT OF APPEALS, et al. (G.R. No. 110120, March 16, 1994)

Balancing between the responsibility of the city government to take care of its garbage and the right of the people living near the dumpsite to a pollution-free environment, the Supreme Court ruled that the right to health is a constitutionally enshrined right over which no impairment can be made. The

Supreme Court further said that the Philippines is a party to international instruments which recognizes the right to health as a fundamental right.

Synopsis: This case is a clash between the responsibility of the city government to dispose off the 350 tons of garbage it collects daily and the growing concern and sensitivity to a pollution-free environment of the residents of the place where the garbage are dumped everyday. Task Force Camarin Dumpsite filed a letter complaint with the petitioner seeking to stop operation of the open garbage dumpsite in their place due to its harmful effects on the health of the residents and the possibility of pollution of the water content of the surrounding area. The petitioner, after investigation and public hearing, issued a Cease and Desist Order against the city government. However, the city government was able to seek a temporary restraining order.

The Supreme Court reversed the lower court and permanently ordered the city government to stop garbage dumping operations in the area. On balancing the interest of the city government as against the individual citizens, the Court has the following to say:

“The immediate response to the demands of ‘the necessities of protecting vital public interests’ gives vitality to the statement on ecology embodied in the Declaration of Principles and State Policies of the 1987 Constitution. Article II, Section 16 which provides:

“The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.”

As a constitutionally guaranteed right of every person, it carries the correlative duty of non-impairment. This is but in consonance with the declared policy of the state “to protect and promote the right to health of the people and instill health consciousness among them.” It is to be borne in mind that the Philippines is a party to the Universal Declaration on Human Rights and the Alma Conference Declaration of 1978 which recognizes health as a fundamental human right.

- b. Also, in the following cases, the Supreme Court granted the claim of the families of employees with the Employees’ Compensation Commission and/or Workmen’s Compensation Commission saying that exposure to harmful elements at the workplace and the pollution in the environment has directly caused or otherwise contributed to the decline of the health of the employee and his subsequent death:

- ⇒ Anicia vda. De Galang vs. Workmen’s Compensation Commission and Procter and Gamble, Inc., (G.R. No. L-42531, March 30, 1977)
- ⇒ G.B. Francisco, Inc. vs. Workmen’s Compensation Commission (G.R. No. L-42565, November 21, 1975)
- ⇒ Angeles vda. De Sison vs. Workmen’s Compensation Commission and Philippine National Railways (G.R. No. L-42817, November 29, 1978)
- ⇒ Gloria D. Menez vs. Employees’ Compensation Commission, Government Service Insurance System (G.R. No. L-48488, April 25, 1980)
- ⇒ Bayani Dator vs. The Employees’ Compensation Commission and The Government Service Insurance System (G.R. No. L-57416, January 30, 1982)

- ⇒ Sylvia Panagui and Olivia Panagui vs. The Employees' Compensation Commission and The Government Service Insurance System (G.R. No. L-56259, March 18, 1983)
- ⇒ Mariwasa Manufacturing, Inc. vs. Workmen's Compensation Commission and Octavio Vidanes, Jr. (G.R. No. L-40608, January 31, 1984)
- ⇒ Emilia vda de Inguillo vs. Employees' Compensation Commission and Procter and Gamble, Inc. (G.R. No. L-51543, June 6, 1989)
- ⇒ Employees' Compensation Commission and Government Service Insurance System vs. Court of Appeals and Lilia Arreola, G.R. No. 121545, November 14, 1996

**4. Have your national courts recognized that environmental harms have violated human rights other than the rights to life and health? If so, please provide copies of some of the most significant decisions.**

**YES.**

b. VILLANUEVA vs. CASTAÑEDA, G.R. No. L-61311, September 21, 1987

Aside from the right to health, the Supreme Court also noted the right to public safety in this case.

Synopsis: This involves the construction of stalls of vendors along a certain strip of land in San Fernando, Pampanga near creating a *talipapa* (small public market). The petitioners claim they have a right to remain in and conduct business in this area by virtue of a previous authorization granted to them by the municipal government. However, this authorization was superseded by another municipal ordinance declaring the land as part of public plaza. The Association of Concerned Citizens and Consumers of San Fernando filed a petition for the immediate implementation of Resolution No. 29, to restore the subject property "to its original and customary use as a public plaza."

The Supreme Court ruled against the petitioners saying,

"Since the occupation of the place in question in 1961 by the original 24 stallholders (whose number later ballooned to almost 200), it has deteriorated increasingly to the great prejudice of the community in general. The proliferation of stags therein, most of them makeshift and of flammable materials, has converted it into a veritable fire trap, which, added to the fact that it obstructs access to and from the public market itself, has seriously endangered public safety. The filthy condition of the *talipapa*, where fish and other wet items are sold, has aggravated health and sanitation problems, besides pervading the place with a foul odor that has spread into the surrounding areas. The entire place is unsightly, to the dismay and embarrassment of the inhabitants, who want it converted into a showcase of the town of which they can all be proud. The vendors in the *talipapa* have also spilled into the street and obstruct the flow of traffic, thereby impairing the convenience of motorists and pedestrians alike. The regular stallholders in the public market, who pay substantial rentals to the municipality, are deprived of a sizable volume of business from prospective customers who are intercepted by the *talipapa* vendors before they can reach the market proper. On top of all these, the people are denied the proper use of the place as a public plaza, where they may spend their leisure in a relaxed and even

beautiful environment and civic and other communal activities of the town can be held.”

- c. SOCIAL JUSTICE SOCIETY, ET AL. V. ATIENZA, JR., GR No. 156052, March 7, 2007)

In this most recent case on environment, the Supreme Court recognized the delegated police power of local government units “to promote the order, safety, and health, morals, and general welfare of the society.”

SYNOPSIS: Ordinance No. 8027, approved by Manila City Council on November 28, 2001 and effective December 28, 2001, reclassifies portions of Pandacan and Sta. Ana from industrial to commercial and directs the owners and operators of businesses disallowed under Section 1 to cease and desist from operating their businesses within six months from the ordinance’s effectivity. Among the businesses in the area are the so-called Pandacan Terminals of Caltex, Petron, and Shell.

Ordinance No. 8027 was enacted by the City of Manila right after the Philippines, along with the rest of the world, witnessed the horror of that September 11, 2001 attack on the Twin Towers of the World Trade Center in New York City. The objective of the ordinance is to protect the residents of Manila from the catastrophic devastation that will surely occur in case of a terrorist attack on the Pandacan Terminals.

Subsequently, the petitioners filed with the High Court an original action for mandamus praying to compel Mayor Atienza to enforce said ordinance and to order the immediate removal of the terminals of the oil companies.

The Supreme Court granted the petition and ordered the immediate removal of the terminals of the said oil companies. The Court held that “there is nothing that legally hinders [Mayor Atienza] from enforcing Ordinance No. 8027.” Further, the Supreme Court said that,

“The Local Government Code imposes upon Atienza the duty, as city mayor, to ‘enforce all laws and ordinances relative to the governance of the city.’ One of these is Ordinance No. 8027. As the chief executive of the city, he has the duty to enforce Ordinance No. 8027 as long as it has not been repealed by the *Sanggunian* or annulled by the courts. He has no other choice. It is his ministerial duty to do so.

Ordinance No. 8027 was enacted right after the Philippines, along with the rest of the world, witnessed the horror of that September 11, 2001 attack on the Twin Towers of the World Trade Center in New York City. The objective of the ordinance is to protect the residents of Manila from the catastrophic devastation that will surely occur in case of a terrorist attack on the Pandacan Terminals. No reason exists why such a protective measure should be delayed.”

The Court described Ordinance No. 8027 as a measure enacted pursuant to the delegated police power of local government units “to promote the order, safety, and health, morals, and general welfare of the society.”

- d. In some cases, the Supreme Court allowed the payment of just compensation to private persons whose properties were destroyed due to environmental hazards. (National Power Corporation vs. Pobre, G.R. No. 106804, August 12, 2004)

## **PART 2: Issues Raised in the Terms of Reference**

### **1. How has the right to life been interpreted by various actors (e.g. your Commission, the Courts) in your country? What positive obligations have been placed on the State to protect this right?**

#### **✓ Right to Life according to the Commission on Human Rights**

The Commission on Human Rights defines the right to life in consonance with the Universal Declaration on Human Rights, the International Covenant on Civil and Political Rights as well as relevant international instruments. It is the supreme right from which no derogation is permitted even in time of public emergency which threatens the life of the nation.<sup>1</sup> The right to life is defined in its broadest sense to include, among others, the arbitrary taking of life, the abolition of death penalty, the right against torture and other cruel, inhuman and degrading punishment, the right against enforced disappearance, the right of unborn children, the right to water, the right to food, the right to livelihood, the right to health and such other rights as may be related to the right to life.

#### **✓ Right to Life according to the Constitution**

All previous Constitutions of the Philippines, including the first one ordained at Malolos in 1899, guarantee that "no person shall be deprived of life, liberty or property without due process of law."

This primary right of the people to enjoy life — life at its fullest, life in dignity and honor — is not only reiterated by the 1987 Charter but is in fact fortified by its other pro-life and pro-human rights provisions. Hence, the (1987) Constitution values the dignity of every human person and guarantees full respect for human rights (Article II, Section 11); expressly prohibits any form of torture (Article III, Section 12, paragraph 2) which is arguably a lesser penalty than death; emphasizes the individual right to life by giving protection to the life of the mother and the unborn from the moment of conception (Article II, Section 12) and establishes the people's rights to health (Article II, Section 15), a balanced ecology (Article II, Section 16) and education (Article II, Section 17).<sup>2</sup>

#### **✓ Right to Life according to the legal system/courts**

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<sup>1</sup> Article 4, International Covenant on Civil and Political Rights cited in General Comment No. 6: The right to life, paragraph 1

<sup>2</sup> People of the Philippines vs. Leo Echagaray, G.R. No. 117472, February 7, 1997

Life as understood under the due process clause of the Constitution (Article III, Section 1 – “No person shall be deprived of life, liberty or property without due process of law”) connotes in the first place the integrity of the physical person. The meaning that it is not permissible for the government to deprive the individual of any part of his body, and this is true even if it be as punishment for crime. Accordingly, it will be unlawful to amputate his hands if he is thief or castrate him if he is a rapist or strike out his eyes for unjust vexation or cut off his tongue for objectionable remarks he may have made. Any measure that would even only endanger his health or subject him to unnecessary pain or to unreasonable physical exertion, would also be subject to challenge. Thus, in sustaining the law requiring the sterilization of incurable hereditary imbeciles, the U.S. Supreme Court observed in *Buck vs. Bell* (274 U.S. 200), that the operation only involved “a minimum pain, or none at all,” and did not endanger the imbecile’s life or health.

But the term according to our Supreme Court, should not be dwarfed into mere animal existence. In fact, the word should embrace the enjoyment by the individual of all the God-given faculties that can make his life worth living. Included in the guaranty therefore would be his right to give full rein to all his natural attributes, to expand the horizons of his mind, to widen the reach of his capabilities, to enhance those moral and spiritual values that can make his life more meaningful and rewarding. The right of reproduction, for example, and the resultant savoring of joys of parenthood, are part of the life vouchsafed to the individual under due process of law.<sup>3</sup>

**2. Do your national courts recognize customary international law as a source of law to be complied with? Include any cases that refer to rules of customary law as establishing the scope of the right to life.**

**YES.**

Apart from the Constitution, domestic laws, domestic jurisprudence and writings of legal experts, the structure of the Philippine legal system considers international laws, international customs, general principles of international laws, international jurisprudence and writings of legal luminaries as sources of laws. In fact, under Article II, Section 2 of the 1987 Philippine Constitution, otherwise known as incorporation clause, it is explicitly stated that,

“The Philippines renounces war as an instrument of national policy, ***adopts the generally accepted principles of international law as part of the law of the land***, and adheres to the policy of peace, equality, justice, freedom, cooperation, and amity with all nations.”

There are scant Supreme Court decisions dealing on the issue of applying customary laws in the Philippines, however, none of them dealt with the right to life.

**3. What obligations does the State have in your country to protect individuals against violations of their rights by non-State actors engaged either in public or private projects? Has the State been required:**

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<sup>3</sup> Constitutional Law by Justice Isagani Cruz, pp. 98-99

- a. **To take steps to prevent potential harms, for instance, by regulating industry, or by providing the public with information about threats to their life or health?**
- b. **To provide remedies where violations have occurred?**

- a. Apart from the Constitution, the State, in several domestic laws, is given the responsibility of protecting the individuals and the environment against violations by non-State actors including violations committed by transnational corporations.

The Department of Environment and Natural Resources is the lead national agency to look into environmental concerns of the country. In addition, special governmental agencies have been created to look into specific areas of concern like the Pollution Adjudication Board, the Laguna Lake Development Authority, the Land Transportation and Franchising Regulatory Board, the National Pollution Commission and the like. Further, the local government units have the power to issue ordinances for the protection of the environment and regulate the projects and activities of these non-State actors (transnational corporations).

Firstly, the grant of license to these transnational corporations lies with the State. In some Supreme Court decisions, licenses and/or registrations were withheld in instances where it was found that the corporation has violated the environment and has failed in protecting and caring for the same. (Ysmael vs. Deputy Executive Secretary, G.R. No. 79538, October 18, 1990)

Secondly, the State has the power to issue restraining orders and/or injunctions for non-State actors found violating the environmental code. In addition, closure of these corporations and payment of damages may also be ordered. (Pollution Adjudication Board, vs. Court of Appeals, G.R. No. 93891, March 11, 1991; Technology Developers. Inc. vs. Court of Appeals, G.R. No. 94759, January 21, 1991; Republic vs. Marcopper, G.R. 137174, July 10, 2000; Laguna Lake Development Authority vs. Court of Appeals, G.R. Nos. 120865-71, December 7, 1995)

Thirdly, heads or officers of these corporations may likewise be found criminally liable for negligence in their operation and violations of environmental laws. (Mustang Lumber, Inc. vs. Court of Appeals, G.R. No. 104988, June 18, 1996; Loney vs. People, G.R. No. 152644, February 10, 2006)

In the case of Mustang Lumber, the Supreme Court boldly stated that, "The Government must not tire in its vigilance to protect the environment by prosecuting without fear or favor any person who dares to violate our laws for the utilization and protection of our forests."

Fourthly, the local government units may issue ordinances protecting the environment which may have the effect of regulating non-State actors. In some Supreme Court decisions, the constitutionality of these ordinances in so far as they were made in furtherance of the right to a healthful ecology was sustained. (Taño vs. Socrates, G.R. No. 110249, August 21, 1997; Social Justice Society, Et Al. vs. Atienza, Jr., GR No. 156052, March 7, 2007)

Fifthly, the legislature can enact laws to regulate projects and activities of these industries in order to protect the environment and promote the health. Further, the legislature can enact laws protecting the environment. (Province of Rizal vs. Executive Secretary, G.R. No. 129546, December 13, 2005)

Sixthly, the judiciary is tasked to interpret laws and in doing so, takes into consideration the principles enunciated in the Constitution including the right to life and health. It can declare laws and ordinances as unconstitutional. Further, the judiciary has the power to punish violators of our laws and demand reparation for damages. (Macasiano vs. Diokno, G.R. No. 97764, August 10, 1992; Republic vs. Marcopper, G.R. 137174, July 10, 2000;)

Lastly, efforts towards education of the people on the area of environment is being conducted by the state agencies as well as non-governmental organizations.

- b. In cases of violations, the Supreme Court has documented, in its decisions, instances where licenses were not granted nor renewed to these non-State actors, punishments were meted out to them and even criminal prosecutions were allowed.

**4. Does your country have legislation or regulations imposing human rights obligations on non-State actors? Have your national courts found that non-State actors have obligations to protect the rights to life and health against environmental harms arising from their activities?**

**YES.**

<b>Republic Act No.</b>	<b>Title</b>	<b>Short Title</b>
R.A. No. 7942	AN ACT INSTITUTING A NEW SYSTEM OF MINERAL RESOURCES EXPLORATION, DEVELOPMENT, UTILIZATION AND CONSERVATION.	Philippine Mining Act of 1995
R. A. No. 9367	AN ACT TO DIRECT THE USE OF BIOFUELS, ESTABLISHING FOR THIS PURPOSE THE BIOFUEL PROGRAM, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES.	Biofuels Act of 2006
R.A. No. 9359	AN ACT ESTABLISHING A STANDBY FUND IN THE SUM OF EIGHT HUNDRED FIFTY MILLION PESOS (850,000.000.00) FOR THE CLEAN UP OF THE GUIMARAS OIL SPILL, FOR THE RELIEF OPERATIONS FOR THE VICTIMS OF THE ERUPTION OF MAYON VOLCANO, AND FOR THE EMERGENCY REPATRIATION, EVACUATION AND RELIEF OF OVERSEAS FILIPINO WORKERS AND OTHER FILIPINO NATIONALS AND FOR OTHER PURPOSES.	

R.A. No. 7657	AN ACT TO AMEND REPUBLIC ACT NUMBERED SEVENTY-SIX HUNDRED THIRTY-SEVEN ENTITLED 'AN ACT APPROPRIATING THE SUM OF TEN BILLION PESOS FOR THE AID, RELEIF, RESETTLEMENT, REHABILITATION AND LIVELIHOOD SERVICES AS WELL AS INFRASTRUCTURE SUPPORT FOR THE VICTIMS OF THE ERUPTION OF MT. PINATUBO, CREATING THE MT. PINATUBO ASSISTANCE, RESETTLEMENT AND DEVELOPMENT COMMISSION, AND FOR OTHER PURPOSES.	
R.A. No. 7637	AN ACT APPROPRIATING THE SUM OF TEN BILLION PESOS FOR THE AID, RELEIF, RESETTLEMENT, REHABILITATION AND LIVELIHOOD SERVICES AS WELL AS INFRASTRUCTURE SUPPORT FOR THE VICTIMS OF THE ERUPTION OF MT. PINATUBO, CREATING THE MT. PINATUBO ASSISTANCE, RESETTLEMENT AND DEVELOPMENT COMMISSION, AND FOR OTHER PURPOSES.	
R.A. No. 9072	AN ACT TO MANAGE AND PROTECT CAVES AND CAVE RESOURCES AND FOR OTHER PURPOSES	National Caves and Case Resources Management and Protection Act.
R.A. No. 9106	AN ACT FOR THE ESTABLISHMENT AND MANAGEMENT OF SAGAY MARINE RESERVE, DEFINING ITS SCOPE COVERAGE, AND FOR OTHER PURPOSES.	Sagay Marine Reserve Law
R.A. No. 8550	AN ACT PROVIDING FOR THE DEVELOPMENT, MANAGEMENT AND CONSERVATION OF THE FISHERIES AND AQUATIC RESOURCES, INTEGRATING ALL LAWS PERTINENT THERETO, AND FOR OTHER PURPOSES.	The Philippine Fisheries Code of 1998
R.A. No. 7586	AN ACT PROVIDING FOR THE ESTABLISHMENT AND MANAGEMENT OF NATIONAL INTEGRATED PROTECTED AREAS SYSTEM, DEFINING ITS SCOPE AND COVERAGE, AND FOR OTHER PURPOSES.	National Integrated protected Areas System Act of 1992
Presidential Decree No. 705 May 19, 1975	REVISING PRESIDENTIAL DECREE NO. 389, OTHERWISE KNOWN AS THE FORESTRY REFORM CODE OF THE PHILIPPINES	Revised Forestry Code of the Philippines
R.A. No. 9003	AN ACT PROVIDING FOR AN ECOLOGICAL SOLID WASTE MANAGEMENT PROGRAM, CREATING THE NECESSARY INSTITUTIONAL MECHANISM AND INCENTIVES, DECLARING CERTAIN ACTS PROHIBITED AND PROVIDING PENALTIES, APPROPRIATING FUNDS THEREFOR, AND FOR OTHER PURPOSES.	Ecological Solid Waste Management Act of 2000
R.A. No. 3931	AN ACT CREATING THE NATIONAL WATER AND AIR POLLUTION CONTROL COMMISSION	

R.A. No. 8041	AN ACT TO ADDRESS THE NATIONAL WATER CRISIS AND FOR OTHER PURPOSES.	National Water Crisis Act of 1995
R.A. No. 9275	AN ACT PROVIDING FOR A COMPREHENSIVE WATER QUALITY MANAGEMENT AND FOR OTHER PURPOSES.	Philippine Clean Water Act of 2004
Presidential Decree No. 1067 December 31, 1976	A DECREE INSTITUTING A WATER CODE, THEREBY REVISING AND CONSOLIDATING THE LAWS GOVERNING THE OWNERSHIP, APPROPRIATION, UTILIZATION, EXPLOITATION, DEVELOPMENT, CONSERVATION AND PROTECTION OF WATER RESOURCES.	The Water Code of the Philippines
Presidential Decree No. 979	PROVIDING FOR THE REVISION OF PRESIDENTIAL DECREE NO. 600 GOVERNING MARINE POLLUTION	
Presidential Decree No. 825	PROVIDING PENALTY FOR IMPROPER DISPOSAL OF GARBAGE AND OTHER FORMS OF UNCLEANLINESS AND FOR OTHER PURPOSES.	
Presidential Decree No. 1152	PHILIPPINE ENVIRONMENT CODE	Philippine Environment Code Title - Air Quality Management
Presidential Decree No. 1151 June 6, 1977	PHILIPPINE ENVIRONMENTAL POLICY	Environmental protection
Presidential Decree No. 1586	ESTABLISHING AN ENVIRONMENTAL IMPACT STATEMENT SYSTEM, INCLUDING OTHER ENVIRONMENTAL MANAGEMENT RELATED MEASURES AND FOR OTHER PURPOSES.	
R.A. No. 06969	AN ACT TO CONTROL TOXIC SUBSTANCES AND HAZARDOUS AND NUCLEAR WASTES, PROVIDING PENALTIES FOR VIOLATIONS THEREOF, AND FOR OTHER PURPOSES.	Toxic Substances and Hazardous and Nuclear Wastes Control Act of 1990
Executive order No. 446 September 26, 1997	MANDATING THE PHASE-OUT OF LEADED GASOLINE AS ONE OF THE MEANS OF SOLVING AIR POLLUTION.	
R.A. No. 8749	AN ACT PROVIDING FOR A COMPREHENSIVE AIR POLLUTION CONTROL POLICY AND FOR OTHER PURPOSES.	Philippine Clean Air Act of 1999.
Presidential Decree No. 984	PROVIDING FOR THE REVISION OF REPUBLIC ACT NO. 3931, COMMONLY KNOWN AS THE POLLUTION CONTROL LAW, AND FOR OTHER PURPOSES.	National Pollution Control Decree of 1976.

- 5. If your country is facing environmental threats to human life or health caused by activities occurring outside your country, what steps have been taken to address these problems? Have your national courts imposed any obligations on the State to protect against harms to human rights that originate outside the State?**

### **PART 3: Activities of Your Commission**

- 1. Has your Commission received complaints from individuals or groups claiming that environmental harms, including harms caused by non-State actors, have affected their right to life or health? If so, please indicate how many complaints you have received, and please describe some of the most important cases, and the role of your Commission in resolving the complaints.**

The Regional Offices of the Commission on Human Rights have received some complaints on environmental harms. Notable complaints include that of the problem of toxic wastes within the Clark Air Base area when the United States Bases left the Philippines in 1992. This affected the water system in the area and caused health problems of the residents due to contaminations of drinking water by heavy metals such as mercury and nitrates. Another complaint referred to the various mining activities in Siocon and Subanon in Mindanao by transnational companies. However, this case only indirectly tackled the issue of environment and focused moer on the rights of the indigenous peoples.

The Commission on Human Rights has conducted investigations over the said complaints, prepared the reports and referred the matter to the appropriate agencies for actions. With respect to the mining complaint, however, data were likewise used during the legislative investigation on the matter.

- 2. Has your Commission conducted research on the connection between environmental harms and the rights to life or health? If so, please provide the results of this research.**

The Commission has done research on this matter only with respect to legislative investigations on environmental law violations. These researches formed as basis of the Commission's position on issues affecting the environment.

- 3. Has your Commission undertaken awareness and education campaigns relating to environmental harms affecting the rights to life or health? If so, please provide details of these campaigns, identify the individuals or groups who have been trained and estimate how many people have been trained.**

Awareness and education campaigns are being conducted by the Commission with respect to international human rights standards including economic, social and cultural rights. However, educational campaigns specifically dealing with the right to environment has not been done so far.

- 4. Has your Commission intervened in court proceedings on the issue of the environment and the rights to life and health? If so, please provide details**

**of the cases, the role of the Commission and the outcome of the cases. Please provide copies of any submissions and court decisions.**

In one case, the Commission has intervened on the issue of the rights of indigenous peoples. The issue on environment, however, has been dealt with indirectly since the case involved ownership, exploitation and use of ancestral lands.

In *CRUZ vs. SECRETARY OF ENVIRONMENT AND NATURAL RESOURCES* (G.R. No. L-135385, December 6, 2000), the Commission filed a Motion to Intervene and/or to Appear as Amicus Curiae.

The case revolved on the issue of the constitutionality of the Indigenous Peoples Rights Act (IPRA). Petitioners assailed, among others, the constitutionality of certain provisions of the IPRA and its Implementing Rules on the ground that they amount to an unlawful deprivation of the State's ownership over lands of the public domain as well as minerals and other natural resources therein, in violation of the regalian doctrine embodied in Section 2, Article XII of the Constitution.

The CHR asserts that the IPRA Law is an expression of the principle of *parens patriae* and that the State has the responsibility to protect and guarantee the rights of those who are at a serious disadvantage like indigenous peoples.

Interesting in this case is the fact that it was dismissed due to an impasse among the Supreme Court Justices. The votes were equally divided (7 to 7) and the necessary majority was not obtained, the case was redeliberated upon. However, after redeliberation, the voting remained the same. Accordingly, pursuant to Rule 56, Section 7 of the Rules of Civil Procedure, the case was dismissed.

- 5. Has your Commission addressed the effect of environmental harms on the rights to life and health in its annual reports or in any other reports? If so, please provide a copy of the relevant sections.**

In the period when the complaints are filed with the Commission, these become part of the statistics on human rights violations as reported.

- 6. Does your Commission work in collaboration with civil society, including the private sector, government or U.N. agencies or multilateral donors, such as the World Bank, on the issue of environmental harms affecting the rights to life and health? If so, in what way?**

So far, the Commission has not done any collaborative work with any agency, whether international or domestic, on the issue of the environment.

- 7. Has your Commission proposed legislation or regulations relating to environmental harms that affect the rights to life and health, or helped to develop a national policy?**

No legislation on environment has yet been proposed by the Commission though it acted as resource person in instances of legislative investigations on environmental harms.

However, considering that the Congress will open soon, the Commission is looking into including environmental issues in its proposed legislative agenda for the 14<sup>th</sup> Congress.

**8. What jurisdiction does your Commission have over the activities of non-State actors? Has your Commission undertaken any activities to address environmental harms caused by non-State actors that are affecting the rights to life or health?**

The Commission, under the Constitution, may investigate, on its own or upon complaint any human rights violation including the rights to life, health and the environment. Further, it may conduct research, training and education on the said rights. Finally, it may monitor compliance with international instruments relating to the same.

**PART 4: Current Situation**

**1. Are there currently environmental problems in your country that could affect the rights to life and health, but have not been addressed as human rights issues? If so, what obstacles exist to addressing the human rights consequences of these environmental problems?**

Over the recent years, the Philippines has been battered by several natural calamities and environmental hazards such as the Guimaras Oil Spill, St. Bernard landslide in Guinsaugon, Leyte and typhoons Milenyo and Reming not mentioning the continuous degradation of our rainforests and mineral resources.

These environmental hazards, however, have not been squarely seen as a human rights issue. One obstacle is information dissemination to the people of the connection between the environment and the right to health.

**2. Would the articulation of specific right to the environment be valuable in addressing threats to human life and health in your country?**

**YES.**

Filipinos act and form opinion on the basis of information available to them. Media is a very powerful medium – the television, the radio, the newspaper and now the internet, contribute so much in shaping their mindset.

While the right to environment has taken a back seat over the years, it is slowly gaining recognition especially as of late when the media continue to tackle environmental issues not only domestically but also internationally. More importantly, the connection between environmental hazards and the rights to life and health are now being expounded.

The global environmental hazards that continue to happen as well as the impending threats have alarmed everyone. Awareness and concern for the environment has pleasantly increased even among Filipinos.