





# Completing the Circle of Human Rights: The Puno Initiative





# Completing the Circle of Human Rights: The Puno Initiative

by the Public Information Office  
Supreme Court



## **Completing the Circle of Human Rights: The Puno Initiative**

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Published by  
the Public Information Office, Supreme Court of the Philippines  
in cooperation with the  
United Nations Development Programme.

Printed and bound by Innovasia.

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3rd floor, New Supreme Court Building Annex  
Padre Faura Street, Manila 1000  
(632) 522 5090 • (632) 526 8129  
<http://sc.judiciary.gov.ph>

Printed in the Republic of the Philippines.

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## Foreword

*Chairperson Leila M. de Lima  
Commission on Human Rights*

The circle is a fitting metaphor for the effort to protect human rights in the Philippines, and around the world. It captures the idea that we are currently following an arc, away from our fundamental principles, away from our ideals and aspirations, and we must now bend that arc back, so that ours will be a society and a nation which truly reflects our core convictions and beliefs.

Within all of us, within all human beings, is a fundamental understanding of how each of us possesses an underlying dignity and value which must be respected. We all at some basic level understand, that subjecting another human being to torture or summary execution is an abomination, which has no place in any civilized society. At some level, we all recognize that access to the courts, and to justice, cannot be predicated on the size of a person's bank account, or his or her lot in life. And we all know that our fates and the fate of humankind are inextricably intertwined with that of our environment and our planet.

At some fundamental level, these are things that we all know. At some fundamental level, we all comprehend the vital and indispensable nature of human rights. And yet our development as a society and as a nation has not always reflected this understanding, and instead, we continue to chart a course and follow an arc away from these universally-held ideals. Hence, we witness pervasive poverty and impunity. And abductions, extralegal killings, marginalization, malnutrition, and grave damage to the environment are far too commonplace.

This trajectory is unsustainable. We cannot continue to follow this arc, at the end of which is our ruin as a civilized society and as a people. The effort to bend this arc back, to force the curve to return to a place where our belief in the dignity of all persons is made real, is something that many individuals and organizations have undertaken. And over our recent history in this nation, one of the institutions which has been a pillar of the human rights campaign is the Supreme Court of the Philippines, under the distinguished leadership and guidance of Chief Justice Reynato S. Puno.

We, at the Commission on Human Rights of the Philippines (CHR), deeply appreciate and honor the efforts of this great man, and this great institution, aimed at protecting human dignity and making human rights real, in the Philippines. For decades, the CHR has been working to investigate claims of abuses, help bring about accountability, and strengthen respect for and the protection of human rights. Too many times, we have been faced with government leaders who choose to ignore the existence of any problem, or who merely offer rationalizations or vague promises of change.

But this Supreme Court, with Chief Justice Puno at the helm, has been markedly different. While other leaders choose to bury their heads in the sand, Chief Justice Puno has chosen to confront the issues and human rights violations head on, and has brought a greater transparency, inclusiveness, and fairness to the task of uncovering the facts and the truth. While other leaders choose to do nothing, or engage merely in superficial action for show, Chief Justice Puno has chosen to bring the awesome power of the Judiciary to bear, against the prevailing culture of impunity, in search of meaningful accountability and true change.

These next several chapters chronicle the many initiatives undertaken by the Supreme Court, in furtherance of fundamental freedoms and human dignity. These initiatives deal with the full range of human rights, from civil and political rights (the writs of *amparo* and *habeas data*), economic, social, and cultural rights (the *Enhanced Justice on Wheels Project*), and collective rights (the writ of *kalikasan*). These serve as a continuing testament to the commitment of the Supreme Court to human rights, and a legacy of the Court for the Filipino people.

At the close of the tenure of Chief Justice Puno, we can readily say that the Supreme Court has stood tall and formidable, against the ravenous oppressors of human rights. The many innovations propounded by the Court have significantly advanced human rights in the Philippines.

Chief Justice Puno, and the High Court under his leadership, have steered the course of human rights protection, in ways previously unexplored. As we seek to build on the momentum, needed to overcome the inertia of years of human rights stagnation, the inventiveness of the High Court should be the guide and inspiration of the future Supreme Court, of government

leaders and human rights advocates, of civil society, and the Filipino people. For their invaluable contributions to the cause of human rights, the country owes Chief Justice Puno, the Supreme Court and the Judiciary, a great debt.

Much more must be done to complete the circle of human rights, and much more must follow the innovations conceived of by the Chief Justice and the High Court. As changes in the law, procedure, and policy continue to be crafted, our prodding and other efforts must be sustained, so that true change may materialize and come to fruition. And even when the circle of human rights is traced back to its origin, when we are finally at the point where human rights become real, our efforts must continue *ad infinitum*, just as a complete circle betrays no beginning or end.

Quezon City, March 2010.

## Prologue

### ***Resisting the Silent “Race to the Bottom”***

The state of human rights’ protection on the international level may seem unsteady. On one hand, the evolution of human rights law persists, and its principles and implementation enjoy the support of several types of organizations, from interest groups to governments and international organizations. On the other hand, realms such as economic development, political affairs, and governmental behavior offer seemingly competing, and perhaps mutually exclusive, interests to human rights. It is this unfortunate shade of reality that continues to threaten human rights protection under the veil of indifference, relative irrelevance, and lack of urgency.

The reality of the global milieu in which we reside does not make matters any easier for human rights. In terms of behavioral patterns, our world can be partially defined by a wave of “races to the bottom.” The term “race to the bottom” is used in many contexts. One such context is globalization, wherein critics of the phenomenon might describe the participation of economically weaker countries in globalization as a lose-lose situation: poorer economies

join the wave of global development and integration at the expense of local interests, such as social development, while ironically failing to attain the economic status of more powerful economies dictating the movement. A more specific context, for example, would include a push for economic development at the expense of environmental interests. Essentially, economies “race to the bottom” of lowly environmental standards, so as long as their economic performance shows manifest improvement.

Along these lines we also see an even more disturbing trend. The “race to the bottom” that appears to be most evident, yet ominously silent, is the one that downgrades the protection of human rights within the hierarchy of developmental interests. The incentives to compete economically with regional and global economies are probably best characterized by a fear of being left behind. Limited resources and the unreliable nature of political behavior all lend themselves to the notion that as countries desire to race to the top in prosperity relative to others, it eventually engages in a race to the bottom when it comes to the more basic issues of fundamental human dignity.

The greatest challenge for any establishment of a human rights regime is to fall out of the race, and replace complacency on human rights protection with urgency and initiative. Turning to one hand on the emergence of international human rights law, the foundation upon which our leaders have responded to this urgent call has already been established. Assuming that there is enough political will to establish a human rights regime on a local level, our leaders are now faced with the task to develop the best solutions that directly address the multi-faceted plight of the Filipino people. In addition to economic suffering – the most apparent form of injustice facing our nation for decades – Filipinos have faced categories of human rights violations that have flown under the radar. With the evolution of human rights, different categories

of rights are now recognized and protected under different authorities, giving our country no better time than now to find better ways to enforce them.

### ***A Paradigm Shift for the Filipino***

[L]et us not forget that we have a glorious history of protecting human rights in our shores and of advancing their frontiers elsewhere in the world. Nobody can dispute the fact that Rizal, Mabini, Del Pilar, and our other national heroes established the first democracy in Asia. Nobody can dissolve the truth that the Philippine delegation to the United Nations, led by the well regarded Carlos P. Romulo, played a significant role in the drafting of the Universal Declaration of Human Rights. Nobody can wink away the fact that in 1986, the Filipinos put an end to a homegrown authoritarianism through a revolution bereft of bullets and bombs.

- Chief Justice Reynato S. Puno<sup>1</sup>

Today, our country faces two main challenges in developing a human rights regime for the Filipino people. First, how can human rights principles, which find its roots in basic dignity and are recognized in international norms, be implemented with the teeth and authority of the rule of law? Second, how can one tailor the protection of human rights to the idiosyncrasies, nuances, and peculiarities of our culture and the core problems of poverty, corruption, and lack of justice? The legacy of the Honorable Reynato S. Puno, Chief Justice of the Supreme Court of the Philippines, is largely defined by progressive, meaningful answers to these questions. Chief Justice Puno has recognized

<sup>1</sup> “No Turning Back on Human Rights,” delivered at the Luce Auditorium, Silliman University, Dumaguete City during its University Convocation and Presentation of the 2007 Outstanding Silliman University Law Alumni Association (SULAW) Award and 19<sup>th</sup> SULAW General Assembly and Alumni Homecoming.

the urgency in creating a stable and authoritative foundation for human rights protection. He has encouraged creativity and discipline within the Philippine Judiciary, as it continues to lay the bedrock for human rights programs for the betterment of our people.

To be sure, the creation of a human rights regime is not as simple as rendering decisions or enacting laws. To illustrate the difficulty, one must first take into account our storied nation and its ongoing struggle to attain the status of a fully-functioning democracy. Gaining independence as a nation would only be the first step of many towards the development of a republic. Over the past half-century, several of the challenges facing the Philippines involved structural queries: How do we best distribute authority among our branches? What is the most effective way to create laws? How can we achieve optimal representation and participation of the people? Such questions were common in the discourse of political and social development. Thus, the idea of state-building focused on macro ideas and concepts, as coursed through the activities of traditional political bodies.

To state that the achievement of these national goals has been challenging is an understatement. Cultural patterns and a colonial history push us to continuously evaluate the compatibility of our governing structures with the unique personality and character of the Filipino people. Additionally, economic strife only emphasized the disparity between the principles of our democracy on paper and the reality of the limited resources and woeful living conditions of the vast majority. The fine discord between the power-hungry and the benevolent muddle our circle of leadership to the point of stagnancy and ineffectiveness.

In recent history, however, the discourse shifted from a macro view to the welfare of the individual. Accordingly, the greater challenge to state-building has become the protection of human dignity as a focal point to development. In this era, one cannot deny the simple notion that the development of our nation to an advanced level is highly dependent on the social and economic conditions of the individual. The cosmetic workings of a democracy have faded as greater awareness of political issues affecting individuals has increased. Thus, leaders are now tasked with balancing the guarantee of individual rights with the accomplishment of further development in the traditional areas of state-building mentioned above.

The struggle for power and the constant flux of revision in our government has produced in many instances, the collateral effect of disregarding human rights. Sadly, the pattern of shunning basic human rights has been present for a long time, though lurking in the background. Now that the world has turned its attention to this neglect of basic rights, focus on the question of “how to realize true democracy and independence” has shifted to the more basic question of “how to accord the citizen true freedom.” One main reason why human rights are now considered sacrosanct is because of its backing in international law. Although academicians and experts continue to debate over the breadth, authority, and application of such rights, the international consensus on its importance is indisputable. Naturally, this new regime of rights found its way to domestic jurisdictions, and the Philippines has taken notice.

Most notably, the Supreme Court of the Philippines, under the leadership of Chief Justice Puno continues to nurture the growth of human rights awareness and enforcement, and does so with full use of its lawful

authority. Taking full advantage of its power to protect constitutional rights, the Supreme Court has recognized the intersection between these constitutional rights and human rights, and utilized its rule-making authority to develop and implement progressive solutions through innovative programs and legal means.

## Chapter I

### *The Human Rights Initiatives of the Supreme Court*

I respectfully submit that the framers of the 1987 Constitution were gifted with a foresight that allowed them to see that the dark forces of human rights violators would revisit our country and wreak havoc on the rights of our people. With this all-seeing eye, they embedded in our 1987 Constitution a new power and vested it on our Supreme Court – the power to promulgate rules to protect the constitutional rights of our people. This is a radical departure from our 1935 and 1972 Constitutions, for the power to promulgate rules or laws to protect the constitutional rights of our people is essentially a legislative power, and yet it was given to the judiciary, more specifically to the Supreme Court. If this is disconcerting to foreign constitutional experts who embrace the tenet that separation of powers is the cornerstone of democracy, it is not so to Filipinos who survived the authoritarian years, 1971 to 1986. Those were the winter years of human rights in the Philippines. They taught us the lesson that in the fight for human rights, it is the judiciary that is our last bulwark of defense; hence, the people entrusted to the Supreme Court this right to promulgate rules protecting their constitutional rights.

- *Chief Justice Reynato S. Puno*<sup>2</sup>

<sup>2</sup> Ibid.

With these constitutional powers as a framework, Chief Justice Puno exuded the belief that we the Filipino people are capable of building a regime that genuinely upholds the rule of law. More importantly, the nature of this regime, as envisioned, is one that must only be anchored by a compelling esteem for human rights. From its end, the Supreme Court has acted accordingly upon this universal call for human rights protection. Since the beginning of his tenure as the head of the Supreme Court, Chief Justice Puno has paved the way for a multi-pronged rights-centric approach to justice, or as he labeled it, completing the circle of human rights.

In formulating on-the-ground solutions for enhancing human rights justice, Chief Justice Puno incorporated the concept of the evolution of human rights through Three Generations.<sup>3</sup> The First Generation encompasses civil and individual rights referring to personal liberty, religion, due process, and political rights.<sup>4</sup> The Second Generation includes social, economic, and cultural rights. These rights subsume the right to education, health care, labor rights, and cultural heritage.<sup>5</sup> Finally, a Third Generation of human rights has come into fruition in recent history, giving importance to the recognition of collective rights, such as rights of indigenous communities and the right to a healthy environment.<sup>6</sup>

<sup>3</sup> European Jurist Karel Vasak defined the three generations of human rights, as eventually embodied in several international covenants or instruments. See Vasak, Karel, "Human Rights: A Thirty-Year Struggle: the Sustained Efforts to give Force of Law to the Universal Declaration of Human Rights," UNESCO COURIER 30: 11, Paris: United Nations Educational, Scientific, and Cultural Organization (Nov. 1977); see also, Brief submitted to International Institute of Human Rights, Strasbourg (1979); PH Koojimans Netherlands Int'l Law Review 37: 315-329 Cambridge University Press (1990).

<sup>4</sup> See id.; see also International Covenant on Civil and Political Rights.

<sup>5</sup> See id.; see also International Covenant on Economic, Social and Cultural Rights.

<sup>6</sup> See id.; see also 1972 Stockholm Declaration of the United Nations Conference on the Human Environment, and the 1992 Rio Declaration on Environment and Development.



*The coral reef fights for survival  
against fishermen who employ  
improper fishing methods.  
San Remigio, Cebu.*

The Supreme Court has acted upon this call by first identifying where the dearth of such generation-defined rights exists within the context of the Philippines. After this evaluation, the Court has taken action, deriving its authority from nothing less than our Constitution in engaging these issues. Notably, Article VIII §5, paragraph 5 of the Philippine Constitution states in part that the Supreme Court shall have the power to “[p]romulgate rules concerning the protection and enforcement of constitutional rights...”

By explicitly including the words “protection and enforcement of constitutional rights,” the 1987 Constitution granted the Supreme Court broader rule-making power to establish a Judiciary that is more responsive to the rights of the people than in prior history. The realization of a tightly-knit intersection between constitutional rights and human rights is of no coincidence. Moreover, the Supreme Court has used its administrative authority over the entire Judiciary in rolling out specific programs to bring justice closer to the people.

Chief Justice Puno recognized that the most stubborn of concerns today, namely the perpetual neglect of human rights, can only be addressed by innovative, creative, and extensive solutions. In doing so, he had no doubt that the Court’s role in developing these solutions would be central. While other judiciaries and high courts (or the equivalent) around the world remain firm in their conservative shell, the Supreme Court of the Philippines has used its broad rule-making power to go a step further in becoming a more responsive judiciary, and one that allows the people proper access to the courts and the relief sought.

That being said, however, a global consensus on the role of courts in human rights is all but certain. In his keynote speech during the *National*

*Consultative Summit of Extra-judicial Killings and Enforced Disappearances*, the Chief Justice stated that there are “archantagonists of judicial power warning against the wisdom of its exercise.”<sup>7</sup> Referring to a movement called “judicialization of politics,”<sup>8</sup> Chief Justice Puno noted that post-World War II liberal democracies tended to bestow upon their judiciaries the authority to protect human rights. Coinciding with the global expansion of judicial power, the Philippines judiciary has endeavored in a new dimension of administering justice that addresses the critical rights that have been lacking in the previous era of government.<sup>9</sup> Chief Justice Puno recognized that the story of the Filipino people’s resilience amidst a breakdown of freedom during the martial law era has provided not only the context for this expanded judicial power, but also the impetus by which the people ratified the 1987 Constitution.

In further support of this trend, Chief Justice Puno aptly pointed out the difficulty in relying solely on the political branches of government to protect human rights:

There is a catalogue of causes for this failed expectation, but let me just cite the main ones. Elected officials usually go for what is popular but the vindication of human rights sometimes demand taking unpopular decisions especially in instances, where due to technicalities, the right of the righteous is trumped by the rights of the wicked. Likewise, elected officials sometimes demur in making decisions that will displease their powerful constituencies. Also, it is the findings that elected officials are sometimes more interested in high profile issues or those with great impact on the larger number of their constituents. Oftentimes, however, human rights cases are low profile especially when they affect

7 Held July 16-17, 2007, Manila Hotel.

8 Id.

9 See id.

the marginalized, or people whose existence some would hardly recognize or worse, people dismissed as the invisibles of society.<sup>10</sup>

Having said this, the Chief Justice did not discount the participation of the political branches in the protection of human rights. He stated, “nothing less is required by the universality of human rights than a seamless, synchronized, and synergistic action on the part of the political and apolitical branches of government to address violations of human rights.”

Staunch in his mission to fully exploit the judicial power to protect human rights, Chief Justice Puno led the Court through the path of the three generations, in an effort to complete the circle in a way most meaningful to the people.<sup>11</sup>



10 Id.  
11 Id.



*A criminal case is being heard inside the Justice on Wheels Bus as Chief Justice Puno observes together with Justice Consuelo Ynares-Santiago and Albay Governor Joey Salceda. Legazpi City, Albay.*

## Chapter II

### *The First Generation of Human Rights ~ Civil and Political Rights*

In effectuating a human rights initiative, Chief Justice Puno first directed the Supreme Court to focus on the category of rights commonly associated with democratic principles: the civil and political rights of the people.<sup>12</sup> While this First Generation of human rights appears to include nothing novel, Chief Justice Puno urged the Judiciary, the other branches of government, the public, and other civil sectors to take another look at these civil and political rights from the perspective of basic human dignity. The Constitution already provides for the protection of such rights, yet its enforcement and realization is weakened by collective neglect and indifference to dignity.

For as long as the existence of constitutionally recognized rights of the people (as enshrined, for example, in the Bill of Rights of the Philippine Constitution), the civil and political rights of the citizen represent a form of paramount protection from the potential tyranny of those in power. Throughout the evolution of democracy in several states, tenets in their

<sup>12</sup> See generally, Vasak.

constitutions represented this form of fundamental protection. Yet, the complications associated with historically assimilating these known democratic constructs into culturally different and poorer countries posed a challenge for the realization of freedom and inevitably, the enjoyment of such civil and political rights. Moreover, those in power have succumbed to the temptation of self-interest, and have abused their authority to create the opposite effect of what these rights would otherwise entail. The Philippines to this day continues with this struggle. It is frustrating to observe that the supreme law of the land is mocked by those who are tasked to enforce the same.

Over the past few decades, however, the constitutions and bill of rights (or their equivalent) of numerous democracies such as our own, have obtained a boost from, and therefore, a fresher look into, the protection of these rights through the wave of international human rights norms. A global paradigm shift had occurred in which the focus of liberty transitioned from the unfettered sovereignty of states to the welfare and basic rights of the individual, irrespective of their citizenship or race. The emergence of the International Covenant on Civil and Political Rights (to which the Philippines is a signatory) is a testament to the international consensus on the priority of upholding this new legal construct.

It is with this global wave that Chief Justice Puno desired to bring an enhanced meaning to the intersection of constitutional political and civil rights and their equivalent in the body of international human rights norms. The initiative sought to answer the basic question: how can the Supreme Court by its authority respond to the constant cry for civil and political rights by the people?

### ***The Alarming Trend of Extra-judicial Killings and Enforced Disappearances***

As stated previously, the first step in formulating a proactive solution was to first recognize areas wherein civil and political rights are systematically compromised in the Philippines. One such area is the phenomenon of extra-judicial killings and enforced disappearances.

In April 2008, United Nations Special Rapporteur on Extra-judicial, Summary and Arbitrary Executions Phillip Alston presented a report to the U.N. on his mission to the Philippines. His findings told of an unapologetic environment of systemic killings involving a range of political squabbles. According to the report, the first area of rampant extra-judicial killings is the continuing conflict with communist rebels. Some Government officials have claimed that numerous civil society organizations serve as fronts for the Communist Party of the Philippines and its armed group, the New People's Army (NPA). Accordingly, efforts to quell the insurgency of communist rebels have included the extra-judicial execution of leftist activists. The hunt for such activists also leaves a trail of abuse, as counter-insurgency operations included interrogation and torture of those who may know the whereabouts of these activists. In the end, heads of civil society groups pay the price through indiscriminate military and law enforcement operations.

Another category of extra-judicial killings is the execution of journalists. Notorious for being a dangerous country for the media, the Philippines has not been able to adequately protect members of the media from politically motivated killings, and there is no end in sight. According to the Alston report, from 1986 to 2002, the average killings of journalists

were between 2 to 3 a year depending on the counting method. From 2003 to 2006, that number increased to 7 to 10 journalists a year.

The latest episode of the Maguindanao massacre has labeled the Philippines with the notorious distinction of having the single deadliest event for journalists in history. On the morning of November 23, 2009, a group including the wife and sisters of would be gubernatorial candidate Esmael Mangudadatu, journalists, lawyers, and aides formed a motor convoy to file Mangudadatu's certificate of candidacy. Believed to have been under threat to file it personally, Mangadadatu sent the convoy under the notion that the presence of women and journalists would prevent any violence from occurring. The entourage was ambushed by several armed men, resulting in the gruesome massacre of about 57 people, including Mangadadatu's wife and sisters. Also among the dead were 34 journalists. Due to this event, the Philippines earned the dubious distinction of being the most dangerous country for members of media and journalists in 2009, according to the International Federation of Journalists based in Belgium.<sup>13</sup>

Other categories of extra-judicial killings include disputes between peasants, landowners, and armed groups, and human rights abuses in relation to the conflicts in western Mindanao and Sulu. Coupled with these atrocious episodes is the trend of enforced disappearances.

All in all, the vicious cycle of constant disregard for human life and subsequent lack of accountability are deplorable. Different civil society groups

<sup>13</sup> See *End of a Deadly Decade: Journalists and Media Staff Killed in 2009*, accessed on June 18, 2010, available at <http://www.ifj.org/assets/docs/059/046/c93b13b-7-a4a82e.pdf>.

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**Peso hits 7-year high: 45.25 to \$1**  
**DENR to employees: Your job or your friendster**  
By TI BURGOS

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**Oakwood mutineers claim: If Gringo is innocent, so are we**  
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**WORLD / A27**  
**Britain expels Russian diplomats over Moscow refusal to hand over murder suspect**  
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**Undiscovered hangouts, shopping haunts, 24-hr bar, other city secrets**  
By TI BURGOS

# PHILIPPINE DAILY INQUIRER

BALANCED NEWS, FEARLESS VIEWS

## Summit to GMA: Stop it

**Law experts urge gov't action to end political slays**

By Herman Soriano and Lito Salaverida  
A HIGH-POWERED JUDICIAL summit ended yesterday with President Macapagal ordering a stop to the adoption of new laws that would empower investigators to search state and private premises for victims of forced disappearances.



## 28 more cases vs antiterror law filed at SC

By Lito B. Salaverida and Jerome Ajong  
HISTORIC security permits initiated, reviewed and conducted by the Supreme Court to hold custodial and search for solutions to extrajudicial killings and antiterror law filed at SC.

## Puno lost judge-brother to assassin

By Voli Contreras  
A JUDGE WHO WAS A BROTHER to the late Justice Puno was assassinated by a gunman in a drive-by shooting in a Manila suburb.

## Imelda visits PGH, 'scene of crime'

By Fa Zamora  
FORMER FIRST LADY IMELDA MARCOZ yesterday visited the hall of a coroner's office to see the scene of a crime.

# MANILA BULLETIN

THE NATION'S LEADING NEWSPAPER

## SONA to focus on economy, education, & peace

### SC leads summit on killings

#### 2-day meet starts today at Manila Hotel



**President's SONA to focus on economy, education, and peace**  
By GENALYN D. BARILING  
Developing the economy, improving education and social services, and bringing peace in Mindanao would be the main focus of President Arroyo's second State of the Nation Address (SONA) when Congress opens Monday, July 23.

## Lacson seeks more benefits for kin of slain lawmen

By HANNAH TAMBEROGA  
Sen. Franklin Lacson said yesterday he will push for additional benefits to be given to relatives of police personnel who are killed on unsolved cases.

## SC to call summit on slays

### 2-day meet starts today at Manila Hotel

**Summit to seek solutions to killings**  
— Chief Justice Puno  
By REY U. PANALIZAN  
The Supreme Court (SC) led the three branches of government, the academe, the media and non-governmental organizations in a two-day national summit on slaying today at the Manila Hotel.

## S. Korea embassy set to freeze all visa applications of OFWs

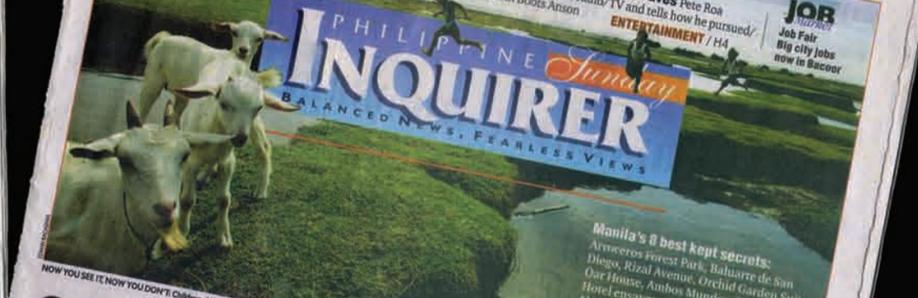
By CHARRIS LUCY  
The South Korean embassy is expected to suspend all visa applications of overseas Filipino workers (OFWs) today in response to the alleged "barbaric and inhuman" killing of a South Korean woman.

## Celebration of Nat'l Science, Technology Week starts today

By MADEL SABATER  
The national government's five-pronged science and technology (S&T) will be highlighted this year as the science community, led by Secretary Estrada Alameda of the Department of Science and Technology (DOST), celebrates starting today National Science and Technology Week (NSTW).

# PHILIPPINE INQUIRER

BALANCED NEWS, FEARLESS VIEWS



## SC to call summit on slays

### Puno: Command responsibility to be reviewed

By Voli Contreras  
THE SUPREME COURT IS BENT ON BRINGING itself closer to the battle against extrajudicial killings.

## PPCRV: May 14 polls a 'celebration of volunteerism'

By Fa Zamora  
THE MAY 14 ELECTION WAS A celebration of volunteerism, according to an assessment by the Philippine Political and Civil Rights Commission (PPCRV).

## Fisheries officials, fishermen trade places

By Amy R. Neno  
WHAT BETTER WAY TO UNDERSTAND another person's plight than to trade places with him?

## Mothers save milk to save lives

By Ethon C. Tindoc Jr.  
THEY SAVE BREAST MILK AND they use it to save lives.

## Ricky Davao's wife caught in shabu den raid

NEWS / A9  
Ricky Davao's wife caught in shabu den raid.

## The Gospel of Silvia: Black book of secrets to make life easier for expats, by four expat women

LIFESTYLE / C1  
The Gospel of Silvia: Black book of secrets to make life easier for expats, by four expat women.

## Nato air strike kills 25 Afghan civilians caught in a battle against the Taliban

NEWS / A5  
Nato air strike kills 25 Afghan civilians caught in a battle against the Taliban.

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have also expressed outrage over the worsening situation, yet members of the government, including members of the military have denied the events and downplayed the gravity of extra-judicial killings. Some have downplayed the Alston report and clamor from activist groups stating that enough measures have been implemented to address the problem. In an unfortunate twist, government retorts turned silent after the country witnessed the horror of the Maguindanao massacre.

Action had been taken by the different branches of government in the past. On May 13, 2006, President Gloria Macapagal Arroyo created Task Force Usig to be headed by the Philippine National Police to monitor and address the growing concern of extra-judicial killings. Later that year, in August, President Arroyo issued Administrative Order No. 157, entitled “Creating and Independent Commission to Address Media and Activist Killings.” Otherwise known as the Melo Commission, the body was mandated to investigate the trend of extra-judicial killings of media members and activists. It would then submit a report containing its findings, as well as recommendations for moving forward. From the Judiciary’s end, the Supreme Court issued Administrative Order No. 25-2007 on March 1, 2007, entitled “Designation of Special Courts to Hear, Try and Decide Cases involving Killings of Political Activists and Members of Media.” Under the Order, 99 regional trial courts were now assigned to hear such special cases.

As mentioned above, the Alston report was submitted to the U.N. in 2008. Other than the Special Rapporteur, other organizations have also been keeping track of extra-judicial killings and enforced disappearances. The Commission on Human Rights has monitored the trends of extra-judicial killings in the country for the past decade. Task Force Usig monitored the killings as well. In addition, non-governmental organizations such as

*KARAPATAN*, a human rights advocacy group has kept a close eye on the disturbing wave of such violence. As of 2007, *KARAPATAN* has reported an estimated 800 extra-judicial killings since 2001.<sup>14</sup> On the other hand, Task Force Usig reported around 200 extra-judicial killings.<sup>15</sup> Although the numbers and explanations for the killings vary between organizations, the worsening trend remains consistent notwithstanding the abovementioned umbrella measures from the different branches of government.

### ***National Consultative Summit on Extra-judicial Killings and Enforced Disappearances***

In another effort to reevaluate the national situation of extra-judicial killings and enforced disappearances, Chief Justice Puno looked to the potential application of the First Generation of human rights as the foundation for more effective solutions. Accordingly, Chief Justice Puno led the Supreme Court in examining legal procedures and recalibrating them to best address the flaws that prevent justice from being properly administered. Namely, he envisioned stronger processes to make legal relief more available and helpful to victims of these human rights violations, more forceful against suspected perpetrators, and more demanding of government agencies involved in such cases. To do this, the Court availed of its special judicial powers as laid out in the Constitution.

<sup>14</sup> See Report on Extra-judicial Killings and Enforced Disappearances in the Philippines, Human Rights Now (April 2008).

<sup>15</sup> “2007 Human Rights Report”, *KARAPATAN* Press Release, December 3, 2007.

Under Article VIII, Sec. 5 paragraph 5 of the 1987 Constitution, the Supreme Court can “promulgate rules concerning the protection and enforcement of constitutional rights...” With this at hand, the Supreme Court, led by Chief Justice Puno, invited relevant sectors to participate in a summit organized for the purposes of innovating more effective solutions to extra-judicial killings and enforced disappearances. The output of this summit would aid in determining the best use of the Court’s rulemaking power for purposes of protecting these rights. The landmark event was entitled the *National Consultative Summit on Extra-judicial Killings and Enforced Disappearances*.

Held on July 16 to 17, 2007 at the Manila Hotel, the *Summit* attracted a number of participants from the most vital sectors of government and civil society. Representatives ranged from members of the Armed Forces of the Philippines, Philippine National Police, the National Bureau of Investigation, the Commission on Human Rights, prosecutors, the Integrated Bar of the Philippines, members of the Legislative branch, media, and members of the academe, among others. Cognizance of the issue at hand was evident in the diversity of groups attending the *Summit*. For instance, in addition to the several representatives of different government branches, the Court impressively gathered members of organizations with various and sometimes conflicting platforms and political beliefs, such as *KARAPATAN*, the religious sector, Rep. Satur Ocampo of *Bayan Muna*, Rep. Etta Rosales of *Akbayan*, and other prominent members of known groups attended the *Summit* as well. In total, over 500 participants attended the landmark *Summit*.

Hoping to leverage off of this rare collaboration, the *Summit* aimed to meet specific objectives: (1) to search for holistic solutions and provide inputs to the Supreme Court in its objective to enhance existing rules, or promulgate new ones, both adjudicative and non-adjudicative, in the protection and

enforcement of constitutional rights, including the protection of witnesses; (2) to examine the concept of extralegal killings and enforced disappearances pursuant to the standards provided for by the local and international laws, including United Nations instruments; (3) to revisit the rules of evidence such as hearsay, circumstantial, forensic, and the like, as well as rules on police investigations and evidence gathering; and (4) to explore more remedies for the aggrieved parties aside from the writ of *habeas corpus*.

During the *Summit*, representatives from different sectors presented papers on their inputs on the matter. Following the presentations, all participants were divided into twelve groups, each headed by an Associate Justice of the Supreme Court, to discuss the papers and other inputs of the different sectors as well as answer guide questions given by the organizers. Observers from the diplomatic corps and other various international organizations were allowed to sit in the group discussions. At the end of the group discussions, a plenary session was held where the groups reported to the body their recommendations and solutions. Furthermore, the groups forwarded all synthesized information to the appropriate government bodies for their consideration in the creation of new solutions. As far as the Judiciary was concerned, the Supreme Court took into account the synthesized input in the formulation of special rules to best address cases of extra-judicial killings and enforced disappearances.

#### ***Landmark Remedies: Writ of Amparo and Writ of Habeas Data***

After carefully studying the findings of the *Summit* as well as conducting extensive research on foreign jurisdictions and their remedies, the Supreme Court promulgated a rule providing for two innovative remedies: the writ of



*Clockwise from top: Chief Justice Reynato S. Puno makes way for the right and the left to converge at the National Consultative Summit on Extra-judicial Killings and Enforced Disappearances to search for solutions to the mounting number of extra-judicial killings and enforced disappearances in the country. With Chief Justice Puno are (from left to right) Armed Forces of the Philippines Chief of Staff Hermogenes Esperon, Presidential Adviser on the Peace Process Jesus Dureza, House Speaker Jose De Venecia, and Bayan Muna Party-list Representative Satur Ocampo.*

*Chief Justice Reynato S. Puno, Senior Justice Leonardo A. Quisumbing, and Justice Consuelo Ynares-Santiago join the prayer for the victims of extralegal killings and enforced disappearances.*

*Court of Appeals Justices listen intently to the discussions during the Summit.*



*amparo* and the writ of *habeas data*. The overarching goal of these writs is to provide the people with a judicial means to protect their constitutional right to life, liberty, and security, where other remedies, such as the writ of *habeas corpus*, have fallen short.

On September 25, 2007, Chief Justice Puno announced the promulgation of the *Rule on the Writ of Amparo*, which means “protection” in Spanish. The Rule empowers the courts to issue a slew of reliefs through orders of protection, production, inspection, and other reliefs necessary for the protection of life, liberty, and security.<sup>16</sup> This writ covers both acts and threats of extralegal killings, or killings committed without due process, such as executions carried out without judicial proceedings, and enforced disappearances, such as the abduction of persons by a government official.<sup>17</sup> The writ of *amparo* is comprehensive as it also provides for temporary reliefs such as temporary protection orders, inspection orders, productions orders, and witness protection orders. The writ can be filed at any time with a Regional Trial Court, the Sandiganbayan, the Court of Appeals, or the Supreme Court.

The writ’s broad power addresses a flaw in a petition for the writ of *habeas corpus*. During the proceedings for a petition for the writ of *habeas corpus*, for example, military or government officials can easily deny any involvement. The writ of *amparo* on the other hand does not allow these officials to resort to such categorical denials or alibis in answering a petition. Instead, a respondent is required to make a return of the writ with any defenses to establish innocence as well as explanations of actions taken by the respondent to determine the

<sup>16</sup> *Rule on Writ of Amparo*, A.M. No. 07-9-12-SC, Sections 14-15.

<sup>17</sup> See *Annotation to the Writ of Amparo*, A.M. No. 07-9-12-SC, pp. 47-48; see also definition, *Declaration on the Protection of All Persons from Enforced Disappearances*, G.A./RES/47/133 1992.

whereabouts of the missing person and the person(s) responsible for the threat or act. If a respondent refuses to make a return of the writ, the court may hold the respondent in contempt of court and impose a penalty including a fine or imprisonment.

The remedy of *amparo* originated from Latin America.<sup>18</sup> For purposes of addressing the human rights issues in our country, the Supreme Court of the Philippines specifically adopted the Mexican model of *amparo*. In Mexico, although *amparo* was primarily used as a remedy to protect human rights, it featured different functions to cover various circumstances. “*Amparo libertad*” sought to protect personal freedom in the same way the writ of *habeas corpus* does.<sup>19</sup> “*Amparo contra leyes*” allowed courts to review the constitutionality of statutes, while “*Amparo casacion*” and “*Amparo administrativo*” provided for the judicial review of the constitutionality of judicial decisions and administrative actions, respectively.<sup>20</sup> It is, however, the umbrella authority to provide protection of human dignity that makes *amparo* a concept well worth adopting in our unsettling political environment.

As a member twice over of Constitutional Commissions tasked to change the Constitution as reflected in its 1973 and 1987 versions, former Supreme Court Associate Justice Adolfo S. Azcuna attempted to include the concept of *amparo* into both Constitutions, but failed despite his best efforts. It was only during the Puno court that *amparo* came into effect. Its promulgation is celebrated as a breakthrough in human rights enforcement that is long overdue.

<sup>18</sup> The Rationale for the Writ of Amparo, A.M. No. 07-9-12-SC, p. 32.

<sup>19</sup> See *id.*

<sup>20</sup> See *id.*, at 33.

As of December 2009, 60 writ of *amparo* cases were filed and over 40 were decided.<sup>21</sup> (Fig 1)

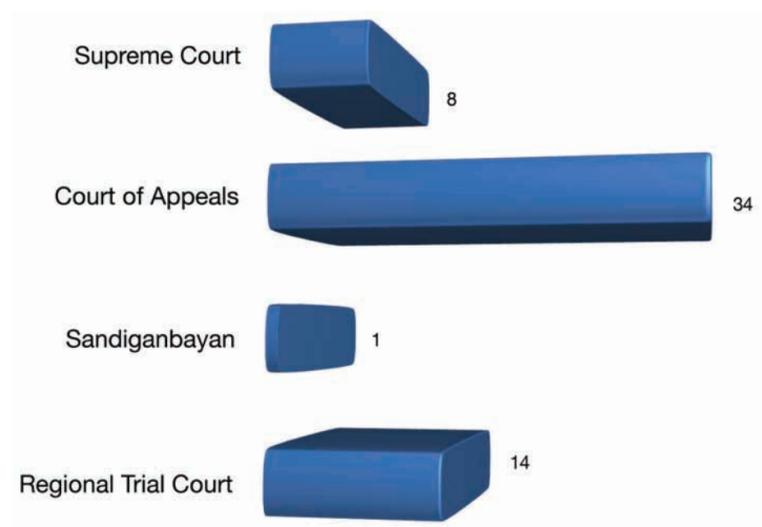


Fig 1 ~ Writ of Amparo of Cases Filed as of December 31, 2009

The people wasted no time in exercising their constitutional (and human) rights through this innovative remedy. In October 2007, on the same day the *Rule of the Writ of Amparo* took effect, the two mothers of missing activists Karen Empeno and Shirley Cadapan filed a petition for the writ of *amparo* with the Supreme Court to find their children. In this landmark action, the petitioner-mothers asked the Court to direct the military to allow them to search military premises for their daughters. The Court eventually granted the petition and

<sup>21</sup> Summary: Statistical Data on Cases Involving the Writ of *Amparo* (as of August 2009) Source: OCA.

issued the writ of *amparo*. It also directed the Court of Appeals to hold a hearing on the matter. The Court of Appeals then rendered a favorable decision to the mothers and ordered the release of the activists as well as an investigation into the matter. This decision is now on appeal with the Supreme Court.

*Amparo*, however, first fulfilled its promise two weeks following its promulgation. On October 30, 2007, the family of abducted activist and youth leader, Ruel Muñasque sought relief with the Regional Trial Court of Pagadian City, Zamboanga Del Sur, Branch 18, by filing a petition for the writ of *amparo*. Their goal was to ask the Court for help in freeing Muñasque from military custody. Muñasque was a leader of the Christian Youth Fellowship of the United Church of the Christ in the Philippines (UCCP) and member of national activist organization *Bayan Muna*. He and a friend were abducted by soldiers in Zamboanga del Sur, Mindanao at a checkpoint. After having all their personal effects forcibly taken, the two were then handcuffed and blindfolded, and forced into a jeepney. The two men were brought to an unknown place where they were questioned about their political activities, and were even threatened with death if they did not cooperate. Due to the courage of Muñasque's sister to avail of the writ of *amparo*, the trial court found no basis for Muñasque's detention, and ordered the military to release him accordingly. He was released on the same day of the order.

One year after the *Rule on the Writ of Amparo* took place, the Supreme Court reached a milestone. On October 7, 2008, the Court rendered its first decision involving the writ of *amparo*. In *The Secretary of National Defense v. Manalo*<sup>22</sup>, the Court upheld a Court of Appeals decision favoring the issuance of the writ of *amparo*. The Court in *Manalo* sent a strong message to the nation

<sup>22</sup> G.R. No. 180906, October 7, 2008.

by ordering the Secretary of National Defense and the Chief of Staff of the Armed Forces of the Philippines to provide the Court and aggrieved parties with all pertinent information, including official and unofficial investigation reports, on the military's custody of brothers Raymond and Reynaldo Manalo. The decision affirmed the privileges of the writ of *amparo* by essentially giving credence to the lower court testimony of the alleged victims on their unwarranted abductions and abuse by military officials, and compelling the highest of government offices to shed light on the abduction.<sup>23</sup>

More recently, the Court of Appeals granted Melissa Roxas' petition for a writ of *amparo* after her abduction and torture by military personnel. Roxas, a Filipino-American activist, claimed that she was abducted in Tarlac by 15 military men during a research trip for a future medical mission. She was subjected to physical and mental torture in what she claimed to be a military camp before she was released six days after the abduction. Military officials denied that the abduction had even taken place, yet the Court of Appeals issued the writ of *amparo* in favor of Roxas. These cases are only a small sample of numerous successful petitions for a writ of *amparo* filed throughout the Philippines.

To complement the writ of *amparo*, in 2007, the Court also approved the *Rule on the Writ of Habeas Data*, which took effect on February 2, 2008. The writ of *habeas data* provides access to vital information in order to protect any person whose right to privacy in life, liberty, or security is violated or threatened by an unlawful act or omission of a public official, or of a private individual or entity engaged in the gathering, collecting or storing of data or information regarding the person, family, home, and correspondence of the

<sup>23</sup> Id.

aggrieved party.<sup>24</sup> The term "*habeas data*" literally translates to "you should have the data."

The primary function of the writ is to provide access to information where other remedies are insufficient. On a more specific level, the remedies rendered by the writ of *habeas data* include updating, correcting, suppressing, or destroying the database of files in possession or control of the respondent. This is of particular importance in cases of enforced disappearances. In such cases, persons are often victims to abductions and secret executions without trial. Through the writ of *habeas data*, families of missing individuals, also known as *desparecidos*, can seek relief by petitioning the courts to compel government officials to produce information related to the disappearances. Further, the writ imposes on the government an obligation to investigate the disappearance so as to inform the families of *desparecidos* of the full circumstances leading to the disappearance. In the same manner, the writ of *habeas data* complements the writ of *amparo* by compelling respondents to provide all information related to extra-judicial killings, as well as any other information that is needed to further protect the rights of *desparecidos*.

Notably, the writ of *habeas data* also seeks to protect the broader constitutional right to information independent of the context of extra-judicial killings and enforced disappearances. One can avail of the writ of *habeas data* to enforce informational privacy or to protect the right to truth. Protecting the right to truth means that the writ can be used to prevent the collection or dissemination of erroneous data. Moreover, such a remedy enhances investigative efforts of journalists by strengthening their right to information. Persons can file a petition for a writ of *habeas data* in the lower courts where the

<sup>24</sup> Rule on the Writ of *Habeas Data*, A.M. No. 08-1-16-SC, Section 1.

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EXTRAJUDICIAL KILLINGS

The Supreme Court, using its rule-making powers, takes the unusual step of looking into the rise of extrajudicial killings and enforced disappearances, convening a first-ever summit and putting on guard the Arroyo government, the police and the military with measures like the writ of amparo and the doctrine of command responsibility

Activist Chief Justice Reynato S. Puno judicializes politics

MILITANTS sit beside 'suspects' at summit

High court asked to rule on legality of terror law

Writ of amparo protects citizens against abuses

Anti-Red paper called for antiterror act

MILF won't surrender rebels behind beheading of Marines

**Puno: Time to use power of judiciary**

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MILF won't surrender rebels behind beheading of Marines

MILF won't surrender rebels behind beheading of Marines

MORO GUERRILLAS YESTERDAY REJECTED government demands for them to immediately surrender those responsible for beheading 10 Philippine Marines in an ambush on Basilan, and demand for more dialogue.

Moro Islamic Liberation Front rebels have announced attacking a convoy of Marines who last week captured a search for kidnappers behind their disappearance 10 days.

The gruesome killings have caused outrage in this predominantly Roman Catholic country, with at least one church leader calling the government to "stop the killing."

"We will not surrender any of our fighters," chief MILF spokesman Marikol Islam said, and press by telephone. "There has to be an investigation first. We do not assume bodies, we have nothing to do with this."

The efforts of Chief Justice Puno to effect judicial reforms make headlines. Manila, June 2007.

petitioner resides or where data is gathered, stored, or collected. They may file a petition for the writ of *habeas data* with the Supreme Court, the Court of Appeals or the Sandiganbayan where the information subject of the petition is of public nature or in the possession of government bodies.

Similar to the writ of *amparo*, respondents are not allowed to issue denials in response to petitions of writ of *habeas data*. Respondents are required to make a return of the writ, which should also include disclosure of the data or information and the purpose of its collection, the accuracy of the data or information, as well as the steps or actions taken by the respondent to ensure the security and confidentiality of the data or information.

To properly disseminate the importance of the writ of *habeas data* to the public, the UNESCO Philippine National Committee on Information for All Programme (IFAP) and the Asian Institute of Journalism and Communication (AIJC) organized the *Forum on the Writ of Habeas Data* on February 1, 2008, a day before the *Rule on the Writ of Habeas Data* took effect. With the help of external organizations such as the United States Agency for International Development (USAID) and The Asia Foundation (TAF), the *Forum* sought to generate greater awareness of the writ and its vital role in exercising the rights of the people, such as the right to information. The *Forum* was successful with the participation of 77 individuals, a number of whom were members of the media.

Since its promulgation, persons have tested the remedy of the writ of *habeas data* within different contexts. On March 11, 2008, the Court of Appeals issued the writ on a petition filed by former Cabinet member Guillermo M.

Luz in the case *Luz v. AFP Chief of Staff*.<sup>25</sup> Luz requested that the Court gather information from top military officials in order to verify his suspicions that the military had been conducting surveillance operations on his person. Luz at the time had been allegedly linked to plots ousting President Arroyo from her post. The Court eventually terminated the case after Luz withdrew his petition.

The Court issued a writ of *habeas data* on March 30, 2008, and ordered the Court of Appeals to hear the petition of Jose de Venecia III, who is requesting the Court to order a cessation of all surveillance and monitoring activities against him by the government. In a move to protect his privacy, de Venecia also prayed that the government be compelled to return all documents and information obtained through alleged wiretapping activities. The diversity of these cases only affirms the general application of the writ of *habeas data* to cases that involve the right to information and the right to truth.

In the end, the fruits of a pro-active judiciary have been apparent in the mission to restore and preserve the sanctity of civil and political rights. The promulgation of special remedies and the resulting number of petitions filed to avail of the same suggest that the people are not afraid to seek help from the Judiciary where no other means would suffice. Further, most especially in the realm of extra-judicial killings and abductions, filing petitions on these writs reflect the courage of people to challenge the authority of government officials suspected of circumventing the law. Indeed, by going to the courts, petitioners in writ of *amparo* cases, such as persons desperate to restore the freedom of their abducted family members, overcame the same fear and intimidation that brought about these violations of human rights in the first place. Likewise,

<sup>25</sup> CA-G.R. WRA No. 00023, June 16, 2008.



AFP Chief of Staff Hermogenes Esperon, together with General Nestor Sadiarin, attend the EJK Summit. Manila Hotel, June 2007.

petitioners in writ of *habeas data* cases have not withered in challenging the government. It is simply the people's consensus that the potential tyranny of those in power cannot trump other matters of dignity, such as the right to information in relation to one's unjustified surveillance and harassment, as well as the right to truth in cases of erroneous information. With the emergence of these writs, citizens now have an avenue to check potentially boundless government power.



## Chapter III

### *The Second Generation ~ Social and Economic Rights*

The success and growth of judicial relief brought about by the Supreme Court's first wave of initiatives allowed the people to view civil and political rights in a new light and with renewed confidence. Perhaps part of this fresh perspective is due to the Court's efforts to highlight the intersection between these basic constitutional rights and the inviolate human rights to life, liberty, and security. The consequent urgency to address these violations as issues of human rights law has instilled newfound confidence in the people to exercise vigilance. In this regard, Chief Justice Puno has laid down a workable foundation for the subsequent generations of human rights to be addressed.

Originally a western construct, the universality of civil and political rights are undeniable. That being said, the context of the Philippine state varies greatly from its western counterparts though similar in governmental structure. Sadly, throughout our relatively short history as a free nation, our leaders have been unsuccessful in translating political structural development into economic empowerment for the masses. The truth of our situation is that poverty continues to worsen, and there is no end in sight.

Within our dire situation, poverty becomes the prevalent constant that can undermine the effectiveness of cut-and-paste democratic formulas and resolutions, while simultaneously befuddling the minds of our greatest of thinkers. As a consequence, society spirals downward along with our wealth. Indeed, the inextricable link between social development and economic development is evident: denying one will almost certainly lead to the denial of the other.

At least the framers of our Constitution have recognized our difficulty. The rights of the people cannot be completely defined without mention of economic and social development, so the law reflects such rights. The concept of social justice has become quite relevant over the past decades. To this end, the rise of local and international organizations committed to this development is a manifestation of the collective will to alleviate the core impediment of our state.

Chief Justice Puno initiated greater judicial reform to address one approach to socio-economic development: basic access to justice for the poorest of our people. Thus, one year after the human rights initiatives against extra-judicial killings and enforced disappearances, the Court pursued new plans to address the Second Generation of human rights, namely socio-economic rights.<sup>26</sup> Here, the Supreme Court's mandate to promulgate rules in order to provide legal assistance to the underprivileged reflects the component of social justice in the Constitution. The Court's utilization of its rule-making power has also become a tool for effective reform, by bringing justice closer to the people. In addition to protecting constitutional rights,

<sup>26</sup> See generally, Vasak.

the Supreme Court also has the power to promulgate rules concerning legal assistance to the underprivileged.<sup>27</sup>

Our Constitution has made clear that one of the values it upholds is that of social justice in general.<sup>28</sup> This concept of justice covers a broad range of social, economic, and political deficiencies experienced by the masses. Also, the added ascendancy of human rights law only strengthens endeavors to increase access. As with the First Generation, the Supreme Court wishes to make clear that the intersection of constitutional rights and human rights exemplifies a more crucial need to abide by these laws on dignity.

One aspect of social justice is the simple denial of access to courts by the poor. Reasons for this prevalent denial of access to justice include lack of courts in close proximity to certain communities, lack of resources and finances to support the legal resolution of disputes, lack of adequate legal representation, and lack of an informed populace as to the rights and processes needed to secure justice.

The results are disappointing. Smaller provincial communities, for example, struggle to function without order, as the mechanisms to resolve legal disputes are literally nowhere to be found. In other instances, many people do not have the support to adequately defend themselves in criminal cases. Consequently, many of them are in jail and have no recourse while stripped of their liberty. To add insult to injury, those residing in these congested jails live in dire conditions with their health in peril. Needless to say, the chances of receiving adequate legal representation are unfavorable.

<sup>27</sup> Article III, Sec. 5, par. 5, 1987 Constitution.

<sup>28</sup> See Article XIII, Social Justice and Human Rights, 1987 Constitution.

Jails, however, are not the only things experiencing congestion. The dockets of our courts are filled with unresolved cases and need relief from the backlog, also another impediment to the administration of justice. The reason for backlog could include many things, from the mismanagement or attitude of the judge and court officials to the simple incapacity of the courts to deal with voluminous cases. In the end, the few that exercise the vigilance to seek redress with the courts nonetheless denied the opportunity to avail of justice where courts are paralyzed by inefficiency and lack of resources.

The gravity of the situation is overwhelming, and the Judiciary can neither stand idle nor rely on other government bodies and the civil sector to address it. Thus, under its mandated powers, the Judiciary through the Supreme Court has brought to reality some of the pertinent values espoused by the Constitution. In this regard, the Constitution is specific, explicit, and unequivocal when providing for the free access to justice by the poor. In the Bill of Rights, Section 11 states: “Free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty.” Moreover, section 16 provides that: “All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.”

### ***Forum on Increasing Access to Justice***

Heeding the call of the people, in 2008, the Supreme Court organized the *Forum on Increasing Access to Justice: Bridging Gaps, Removing Roadblocks*, another multi-sectoral gathering which led to the development of several projects, including, among others, the renowned project, *Enhanced Justice on Wheels (EJOW)*.

Prior to the engagement of this Second Generation, the Supreme Court has put into effect several judicial reform programs for several years. Yet, it was apparent that more was necessary to address the systemic flaws in the judicial system: delays in the resolution of cases, negative public perception, and simple access to the courts. Thus, the Court delved deeper into the realm of on-the-ground programs to further enhance judicial reform, and it optimized its rule-making power in doing so.

The milestone in these enhancement efforts came in the form of the *Forum on Increasing Access to Justice*, held in June 2008. Riding the momentum created by the *Summit on Extra-judicial Killings* held a year before, the *Forum on Increasing Access to Justice* affirmed the notion that projects created to improve the plight of the poor and marginalized must be given continued attention. Thus, the Court saw the need to organize an event that would bring together a comprehensive set of collaborators in order to address the systemic shortcomings in the administration of justice.

Over two full and productive days, participants in the *Forum on Increasing Access to Justice* included different stakeholders in the justice system, notably those who represent sectors that have been most affected by these issues. With a focus on the Second Generation of socio-economic rights, the objectives of the *Forum* were simple: (1) to identify and validate the issues and concerns of the marginalized sectors regarding the court system; and (2) to provide inputs as to how the Court under its constitutional rule-making power can enhance existing rules or promulgate new ones to increase their access to justice through the courts, thus upholding our people’s socio-economic rights.



Chief Justice Puno speaks at an EJOW launch. Lucena, Quezon.

### ***Enhanced Justice on Wheels***

The *EJOW Program* consists of several activities through the deployment of “mobile courts” in different poverty-stricken areas around the Philippines. The activities include Mobile-Court Annexed Mediation (MCAM), jail decongestion, medical and dental missions, legal aid clinics, dialogue among the stakeholders of the justice sector, and information dissemination. In two years, 3,654 overstaying inmates had been released under the program, 8,980 individuals benefited from the medical and dental missions, 5,637 cases have successfully been mediated with a success rate between 85%-100%, 2,235 individuals availed of free legal aid, and around 14,109 members of local communities and governments benefited from the information dissemination of the *Program*.<sup>29</sup> In addition, several of these communities experiencing the *EJOW Program* benefited from the dialogues of justice stakeholders in order to provide immediate solutions for the deplorable circumstances of these communities. Similar projects such as Filipinization of courts in a predominantly, if not totally, English-laden legal regime, and the enabling of small claims courts around the country have also contributed to greater access of justice by the less fortunate.<sup>30</sup>

The original *Justice on Wheels Project* was originally adopted from a Guatemalan system of deploying mobile courts to far-flung areas of the country. The judicial system as it stood could not accommodate the needs of the poorest of the poor, by mere reason of distance and convenience. Thus, the idea of mobile courts became an innovative option, and a proactive step of the Judiciary to secure the legal needs of the citizens.

<sup>29</sup> See Table 2 below, report provided by the Office of the Court Administrator.

<sup>30</sup> Annual Report of the Supreme Court of the Philippines 2008, p. 40.

Following the *Forum on Increasing Access to Justice*, Chief Justice Puno launched the *Enhanced Justice on Wheels Program*. Key to this enhancement is the increased support by international and local groups alike. The World Bank supplied the Court with its first *EJOW* bus. Later, the Province of Sarangani, and the Federation of Filipino-Chinese Chambers of Commerce and Industry, Inc, donated a bus each to the *EJOW Program*. In January 2010, the Court through the World Bank procured three more *EJOW* buses, upping the total number of buses to eight. As the fleet of buses continues to grow, the Court’s capacity to reach more distant regions of the country within any given time has improved significantly.

World Bank Country Manager Bert Hofman stated, “We are honored to be a part of the Supreme Court’s efforts to bring justice to every Filipino, especially those who have less access to the courts due to poverty and distance. The Justice on Wheels project rates high in the World Bank’s list of initiatives that we are proud to be part of...[the World Bank] will continue to provide assistance, from project savings or the reallocation of loan proceeds, as appropriate, to expand the coverage of the Program.”<sup>31</sup>

In addition, the support given to the *EJOW Program* by several local groups is telling of its success. *EJOW* is a zero budget project, meaning that there are no appropriations of government funds. Thus, it is the support of communities and local governments that allow this Program to move forward. The support comes in many forms. Recognizing the need to market courts as accessible and universal, local governments and communities have played a major role and organizing *EJOW* missions. The City of Manila has also

<sup>31</sup> “SC Procures Three More EJOW Buses” Court News Flash, January 4, 2010.

donated two container vans that have been converted into courtrooms and mediation rooms to hear cases at the Manila City Jail.

Initially, the first missions were aimed at resolving criminal cases involving minors in Metro Manila. The main concern of such cases was the fact that numerous children have been detained for criminal transgressions without any legal checks or recourse for their cases or detention conditions. These missions then evolved into a more comprehensive set of components for *EJOW*. The first major component is the implementation of MCAM. Recognizing the need to resolve different types of cases in an expeditious manner, the Supreme Court deployed *EJOW* buses to areas where courts needed assistance in handling the same. In this program, the Court sends accredited mediators to different areas of the country to help relieve judges from some of their caseload. The presence of the buses and personnel of the Program instilled confidence in the parties with the idea that legal processes can be simple and speedy. Moreover, the general sentiment of aid and support allowed for an atmosphere conducive for mediation and amicable settlements.

Another component of *EJOW* is jail decongestion what with the reality of crowded jails nationwide. Through *EJOW*, court personnel introduced a venue wherein hearings for cases of inmates could be held expeditiously. In these cases, inmates move for, among others, bail or recognizance, referral to mediation, enforcement of a prior order of release, *mittimus* for transfer to Bureau of Corrections or National Bilibid Prison, release pending hearing due to the excess detention period beyond the maximum penalty imposed, and referral for psychological treatment.

The dire situation of inmates extends beyond rights and remedies germane to their incarceration. Chief Justice Puno recognized that these missions must uphold other aspects that touch upon the “human” element of “human rights.” Thus, *EJOW* included medical and dental missions for inmates to render basic, vital services to those that needed it the most. Not only did it serve as a functional solution to poor jail conditions, but it also reminded the people that with justice comes compassion. The lowest and forgotten of society do not deserve to be dehumanized. As such, physical health is an important supplement to the umbrella goals of administering justice.

The legal aid clinic is a critical component to the *EJOW Program*. Chief Justice Puno’s vision of providing a means to secure justice would not be complete if those who seek it do not have proper assistance by able professionals. It is disturbing to think that a sizeable number of persons incarcerated neither understand their rights nor have the knowledge to exercise them. *EJOW*’s legal aid clinic gives these inmates hope in finding a solution to problems that appeared to be permanent.

Another component is the dialogue with justice stakeholders. The justice sector is comprised of several elements needed for its functioning, including law enforcement, courts, local government officials, and jail wardens and officials, among others. While most aspects of the *EJOW Program* are planned ahead and with careful evaluation, court participants cannot see the entire picture of a community’s problem without being physically present. Thus, in the presence of the Chief Justice during *EJOW* missions, representatives of the justice sector and the local government in target communities meet to discuss how to provide immediate solutions for lingering problems, such as improvising the creation of more space for court documents, or creating



*Inmates rejoice as Chief Justice Puno announces that many of them shall be released during the EJOW Program.  
Sta. Cruz, Laguna.*

	2008	2009	2010	Total
Inmates Ordered Released / Cases Terminated	731	1782	1141	3654
Inmates Given Medical / Dental Attention	5386	1497	2097	8980
Cases Successfully Mediated	3409	2084	144	5637
Legal Aid Beneficiaries	595	508	1132	2235

Fig. 2 ~ *EJOW* Figures as of 31 May 2010 beginning 2008

better living conditions for detained persons. Such dialogues also encourage cooperation and solution-building between community leaders and members where none existed prior to the intervention of *EJOW*.

The final component of *EJOW* is the information dissemination campaign. While the Court has had success in introducing *EJOW* to different areas, it also needs to ensure continuity of judicial reform. In order to accomplish this, *EJOW* must empower the local governments, barangays, and communities with the know-how to sustain the processes under these judicial reform initiatives. Thus, the information dissemination campaign was established to educate these government and community members with the different issues and solutions that pervade their communities. These include Court-Annexed Mediation and Judicial Dispute Resolution Mechanisms, the Barangay Protection Order under the Anti-Violence Against Women and Children Act of 2004, Diversion under the Juvenile Justice and Welfare Act of 2006, Enforcement of Compromise Agreement before the Barangay in Small Claims Courts, and Land Titles and Laws on Environment. Tapping



*Elderly inmates await their release under the EJOW Program. Daet, Camarines Norte.*



its own resources, the Supreme Court used members of the Philippine Judicial Academy to implement this component.

As a result, the *EJOW Program* has brought its missions to numerous provinces in the area, including Rizal and Bulacan; Kalibo, Aklan; the cities of Caloocan and Quezon, Cebu Province, Digos, Davao del Sur, Tagum, Davao del Norte; Davao City; Bacoor, Cavite; Tacloban, Leyte; Olongapo, Zambales; Pasay City; Baler, Aurora; Sarangani Province; and the cities of Las Piñas and Tagaytay. Within the first quarter of 2010, the mobile courts will be deployed in Kalibo and Roxas in the Visayas; Sta. Cruz or Biñan, Laguna; Malolos, Bulacan; La Union and Baguio City; Cagayan de Oro and Iligan or South Cotabato and Maguindanao; Ilocos Norte, Ilocos Sur, and Abra; Tarlac and Pangasinan; Iloilo and Bacolod; Bohol and the Metro Manila cities of Marikina, Mandaluyong, Taguig, and Muntinlupa.

Improvisation during unforeseen events is also necessary at times in administering justice. Fortunately, the *EJOW* buses are assets that can be used for other functions when circumstances require. One such illustration was the aftermath of Typhoon Frank in 2008. Frank wreaked havoc across the southern region of the Philippines, leaving little intact and indiscriminately causing destruction on persons and property. Many were affected by the devastation, and parts of the Judiciary were not spared. The Hall of Justice in Kalibo, for example, was destroyed by the harrowing disaster, and for obvious reasons it could not function and conduct any activities. In response to this emergency, the Court allowed the use of the *EJOW* bus as a makeshift court in order to allow activities to resume.



*Female inmates cook in their cell.  
Lucena, Quezon.*

### ***Small Claims Courts Pilot Project***

The *EJOW* essentially addressed the clogged docket and jail congestion issues tied to criminal matters. Tireless and determined, Chief Justice Puno pushed for the implementation of the same ideas and principles within the setting of civil money claims. Thus, in continuing its efforts, the Supreme Court launched another program under the overarching initiatives in increasing access to justice by the poor and marginalized.

As mentioned above, several factors impede access to justice by the masses. In some instances, a person may be financially incapable of sustaining a lawsuit let alone obtaining legal representation. A willing litigant might be denied legal redress because a court has not yet given attention to his or her case due to clogged dockets. In other examples, one may simply not have the courage to seek legal relief over a simple money dispute. These factors are especially critical in the poorer areas of our country.

Seeking justice, however, should never be too lofty a goal for any citizen. With this line of thinking, it is the public institutions that must adjust to meet these goals. Thus, structural reform for adjudicating legal claims is preferable over allowing the proliferation of unanswered legal claims. To favor this paradigm would be to shift the judicial structure in such a way that the people distinguish their rights under the law from the misperceived privileges of the few. In this regard, the average Filipino should not be ashamed in seeking legal redress even for the smallest of money claims.

The Supreme Court, led by Chief Justice Puno, addressed this structural and paradigmatic quandary through the *Small Claims Court Pilot Project*. With the support of the United States Agency for International Development (USAID) and the American Bar Association-Rule of Law Initiative (ABA-



*Chief Justice Puno and EJOW Chairperson and Associate Justice Consuelo Ynares-Santiago discuss with two minors the facts of their case. Bayumbong, Nueva Vizcaya.*

ROLI), the Supreme Court promulgated A.M. No. 08-8-7-SC, also known as the *Rule of Procedure for Small Claims Cases*. The Supreme Court launched the Pilot Project on September 30, 2008 and took effect on October 1, 2008 through the designation of 22 pilot courts nationwide. In 2009, the Court added 22 more pilot courts for a total of 44 (See Fig. 2).

The *Small Claims Pilot Project* sought to provide an inexpensive and speedy procedure for the settlement of money disputes without having to go through the normal procedure of civil litigation. The underlying problem to be addressed is glaring. From October 2008, the launch of the *Pilot Project*, to June 2009, 76% of the total caseload of first-level courts in Metro Manila consisted of small claims cases. In these cases, most of the litigants were poor. The *Pilot Project* was created to alleviate this problem with a simple procedure.

The idea of having a small claims court system came about after former Senior Associate Justice Josue N. Belosillo of the Supreme Court conducted a study on such courts in Dallas, Texas, in the United States. Justice Bellosillo endorsed this idea to the Supreme Court in 1999. Small claims courts can help decongest court dockets. The key to such speedy hearings is the parties' participation without lawyers, through the help of simple, user-friendly forms. In 2008, the Court put into effect the *Pilot Project*.

Under the *Rule of Procedure for Small Claims Cases*, a small claim is an action for payment of money where the value of the claim does not exceed one hundred thousand pesos (PhP100,000.00). In such a case, the judge is tasked with the duty to encourage parties to settle their differences through mediation and conciliation. A full hearing and decision on the case would only be necessary if no amicable settlement is reached.

Following the promulgation of the *Rule of Procedure for Small Claims*, in October 2008, 138 small claims cases were filed in all courts. In June 2009, 837 small claims were filed. From an average of approximately 400 cases filed monthly in the original 22 small claims courts from October to December 2008, courts disposed of such cases at a rate of 242 cases per month. The disposal rate for small claims cases increased during the next quarter. More than one-third (37%) of the cases was settled amicably, while 42% of the disposed cases ended in default judgments rendered by the small claims courts. (See Fig. 3 to 5)

In over a year, the *Pilot Project* has created a profound result that reflects an increased willingness by the people to submit their money disputes to valid adjudicatory bodies.

### ***Other Access Programs***

Needless to say, successful judicial reform stems from innovative planning and implementation of effective and viable structures and systems. To be sure, the projects introduced under the access initiatives of the Supreme Court have boosted the confidence of the people in their ability to seek legal relief and in the Judiciary's capacity to administer justice. Yet, structures and processes alone cannot sustain effective change. The stakeholders and key players involved in these judicial programs must be informed of their rights and duties, the elements of the programs, and its ramifications. Accordingly, the solution is to come up with systems that do not just simply disseminate information, but also allow for the sharing of information between different players so as to create a common understanding on how things should work.



Chief Justice Puno delivers a speech to inmates and various members of the justice sector. Muntinlupa City.

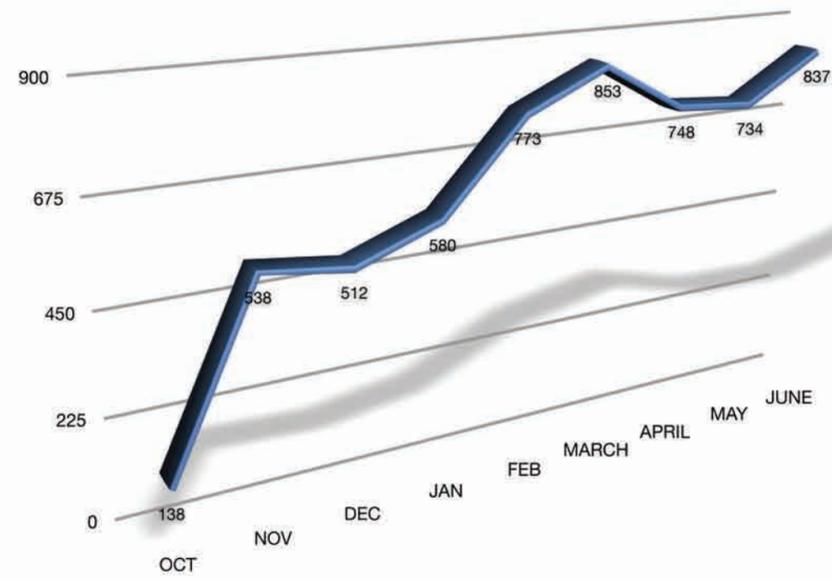


Fig 3 ~ Monthly inflow of Small Claims cases from October 2008 to June 2009

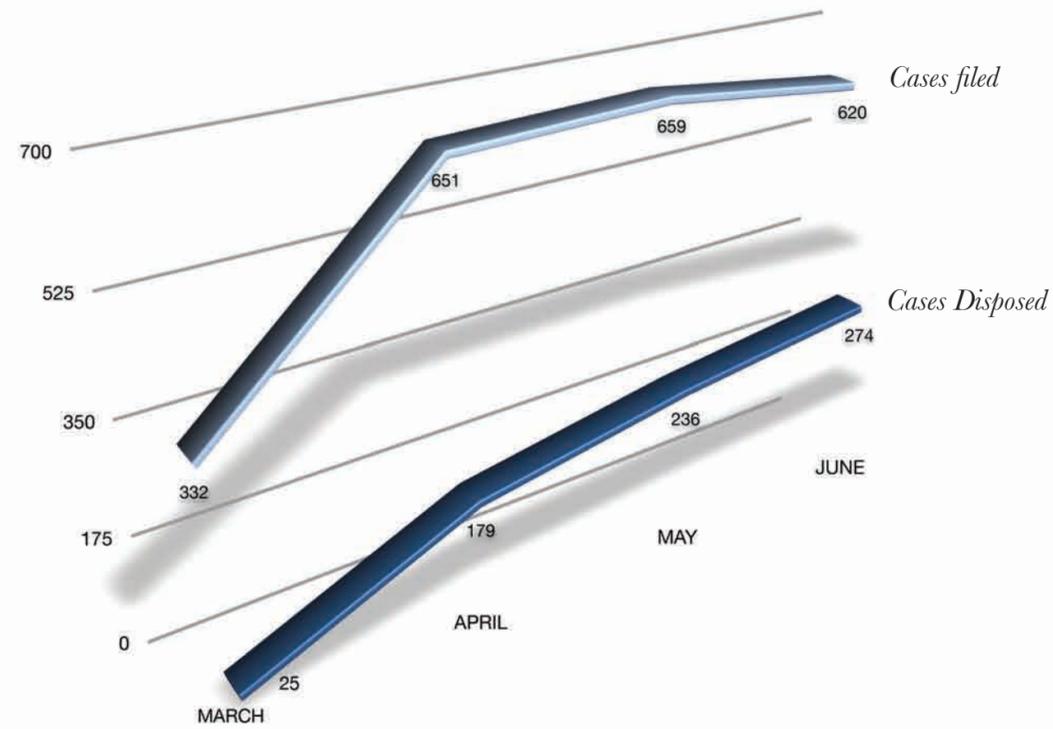


Fig 4 ~ Small Claims cases filed and disposed from March to June 2009

- *Outright dismissal*
- *Amicably settled*
- *Default judgment*
- *After hearing*

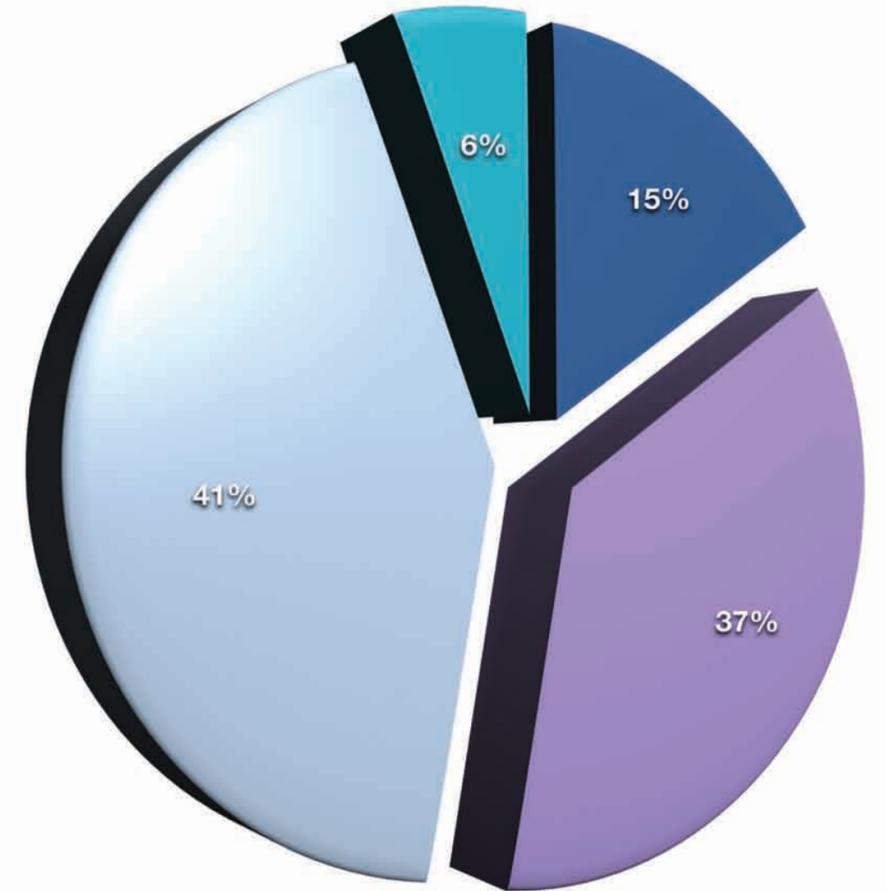


Fig 5 ~ Cases Disposed of by the Designated Small Claims Courts from October 2008 to June 2009



*Chief Justice Puno observes the Court Annexed Mediation set up in a town chapel during one of the various EJOW programs. Roxas City, Capiz.*

Taking into account this need, the Supreme Court initiated an information program under the *Access to Justice for the Poor Project* funded by the European Union. Specifically, the Court formulated the *Information, Education, and Communication Guidelines for Municipal Court Information Officers*. For the most part, the poor and marginalized sectors simply do not know how to initiate legal actions. These special *Guidelines* look to empower and encourage the first line of legal officers – the first level clerks of court as municipal court information officers – to aid people who seek to avail of the court system. With the use of these *Guidelines*, the dissemination of pertinent information is decentralized. Indeed, the advantage of leveraging the positions of the clerks of court also known as municipal court information officers is their contact with the disadvantaged sectors of society.

The *Guidelines* also lay out the standards of conduct for these municipal court information officers in regards to the disclosure of and access to court information. Furthermore, the court officials involved in this information program are trained to appreciate the sensitivities and intricacies of the socio-economic conditions that come with the persons seeking justice. For example, the *Guidelines* provide that municipal court information officers follow certain steps when a party applies for a protection order in cases of violence against women and their children (VAWC) where there are no family courts in the place where the offended party resides. Additionally, the *Guidelines* give these officers provisions when dealing with child witnesses or with the media.



## Chapter IV

### *The Third Generation ~ The Right to a Healthy Environment*

Indeed, the growing belief is that the right of the people to a balanced and healthy ecology is today more important, more needful of effective and comprehensive protection than any other species of human rights. The body of evidence throughout the length and breadth of our planet supports this emerging worldview – for, more than any other factor, environmental degradation is the cause of so many diseases, so many deaths, every second, every minute, every hour, anywhere and everywhere on this planet Earth. Considering the degree of its detriment to the mother of all rights -- our right to life -- environmental degradation is a notch higher than the worst of the crimes against humanity.

- Chief Justice Reynato S. Puno<sup>32</sup>

<sup>32</sup> Message delivered on the occasion of the launch of the Rules of Procedure for Environmental Cases on April 29, 2010, 2.00 p.m., at the Supreme Court New Session Hall.

Finally, in 2010, the Supreme Court completed the circle of human rights with its initiatives in addressing the Third Generation: the right to a healthy environment.<sup>33</sup>

As a final step to seal his human rights legacy, Chief Justice Puno has led the Supreme Court in an effort to employ human rights protection of what may very well be the most pervasive, yet neglected predicament facing us all: the degradation of our environment. Already mired in political and socio-economic instability, the elements of our state and people have placed environmental concerns on the backburner. Yet, the perception of environmental damage is distorted, as few only see it as a threat to flora and fauna. Environmental damage, in actuality, is now more than ever linked to the health of the people, and weaves into the socio-economic complications experienced by our state today. Pollution to our land, sea, and air coupled with the inability to develop at a sustainable level has threatened future generations by gradually depriving them of a habitable earth. It is with this acknowledgement of this inseparable link with our humanity that a larger, more universal legal regime has emerged to address environmental concerns.

This is partly summarized by a rights-based approach to environmental rights. Instead of shunning the degradation of the environment, a collective and novel understanding that the health of the environment relates directly to the health of humans hopes to elicit greater urgency in addressing environmental woes. Moreover, action to achieve this can only be aided by the hand of justice. Thus, the rights-based approach looks to buttress the

<sup>33</sup> See generally, Vasak; see e.g. 1972 Stockholm Declaration of the United Nations conference on the Human Environment, and the 1992 Rio Declaration on Environment and Development.

principles of environmental rights by integrating them with human rights, wherein man has a fundamental claim to a healthful ecology.

Similar to the previous generations of human rights, Chief Justice Puno recognized that certain principles enshrined in the Constitution were fundamental enough to be given this second look through a different set of lenses. The 1987 Constitution lays out the legal status of environmental protection. Section 16, Article II of the Constitution 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.” Further, Section 15 of the same Article states: “The State shall protect and promote the right to health of the people and instill health consciousness among them.”

The intersection between the protection of the environment under the Constitution and international law is a challenge to those who have passed off the language of our Constitution as mere rhetoric. This is particularly true in regards to the Constitution’s provisions for environmental protection. However, given the challenge and difficulty of enforcing a multitude of democratic ideals enshrined in this superior legal document, one cannot be blamed for perceiving the language as such.

Given this skepticism, Chief Justice Puno recognized the importance of bringing forth these constitutional rights in a new light. As with the other generations of human rights, the ascendancy of international legal norms enhances the obligation of the state to ensure fundamental rights. Consequently, our right to a healthful and balanced ecology becomes a right of the people, and not a mere political debate. In turn, exercising environmental rights begets the novel concept of environmental justice.

Environmental justice has 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 on the global and domestic level.<sup>34</sup> In this respect, the poor and disenfranchised do not suffer a disproportionate burden of costs in relation to the development of resources, while not enjoying equivalent benefits from their utilization.<sup>35</sup> The second is to reduce the overall amount of environmental damage globally and domestically, both levels of which are linked.<sup>36</sup> As a fundamental right, the protection of the environment, as brought about by the Supreme Court's initiative, takes on the character and approach of enforcing rights that are not necessarily provided for via political avenues and other policies.

This environmental endeavor, as with the other human rights initiatives, represents the Supreme Court's progressive approach to resolving our tribulations. In doing so, the Court has leveraged its judicial authority, most especially its rule-making power, to the benefit of the state. Such a move reflects a more pro-active judiciary, and perhaps one that breaks away from the traditional definition of this independent branch of government in other states. That being said, however, the proactive efforts of the Supreme Court, especially in relation to environmental justice, finds support in the global consensus of numerous judiciaries.

The *Johannesburg Principles*, as drafted in August 2002 during the *Global Judges Symposium on Sustainable Development* held in Johannesburg, South Africa,

<sup>34</sup> See Johannesburg Principles on the Role of Law and Sustainable Development, August 2002.

<sup>35</sup> See *id.*

<sup>36</sup> See *id.*

states that “an independent judiciary and judicial process is vital for the implementation, development and enforcement of environmental law...”

It further states that: “the fragile state of the global environment requires the Judiciary, as the guardian of the Rule of Law, to boldly and fearlessly, implement and enforce applicable international and national laws, which, in the field of environment and sustainable development will assist in alleviating poverty and sustaining an enduring civilization, and ensuring that the present generation will enjoy and improve the quality of life of all peoples, while also ensuring the inherent rights and interests of succeeding generations are not compromised.”

This consensus is compelling, and has provided the Supreme Court with yet another basis for partaking in environmental initiatives. Notably, one need not look beyond jurisprudence to see that the foundation for such initiatives have already been laid out.

In the landmark case of *Oposa v. Factoran*,<sup>37</sup> the Supreme Court found that plaintiffs representing minors and generations yet unborn for the enforcement of environmental laws had standing to sue. The goal of the plaintiffs was to help stop deforestation by asking the Court to enjoin the Secretary of Department of Environment and Natural Resources from issuing timber license agreements. The novelty of this ruling is in its qualification and shifting of a traditional legal doctrine of standing, by bringing into context the silent, but festering problem of environmental degradation. In the end, *Oposa* signified the reality that environmental justice must be approached with critical consideration of its unique complexities and repercussions. Simply

<sup>37</sup> 224 SCRA 792 (1993).



*The Taal Volcano surrounded by the waters of Taal Lake.  
Taal City, Batangas.*



put, pre-existing laws and rules formulated to answer civil and criminal claims do not suffice in addressing the nuances of environmental issues.

The Supreme Court has made further strides in protecting the environment. In the case of the *Metropolitan Manila Development Authority v. Concerned Residents of Manila Bay*, the Court effectuated a jurisprudential milestone by issuing for the first time ever a writ of continuing *mandamus*.<sup>38</sup> Specifically, the Court ruled that the Metro Manila Development Authority could be compelled by the Court through *mandamus* to perform its duties in cleaning and preserving a polluted Manila Bay, and that such agency was obligated to submit quarterly progress reports to the Court. This new doctrine is revolutionary in the sense that the Court did not simply hand down an order of compliance and obligation. Rather, this case showed the Court's active involvement in the execution of its decisions, such as monitoring the progress of obligations of violating parties or government agencies in restoring or protecting the environment.

*Oposa* has created a profound influence in the global academic and legal community searching for answers in strengthening international environmental law. The Philippines has good reason to progress with such decisions. As one of the countries with a high level of biodiversity, and pressing issues of development and limited resources, legal progression has become a necessary solution. Our body of law includes several statutes developed to address various environmental problems. Also, government agencies are tasked with the responsibility to uphold environmental regulation and compliance among key business, state, and economic players. Notwithstanding these efforts, there is a general air of ignorance with regard to general environmental issues, and

<sup>38</sup> See G.R. Nos. 171947-48, December 18, 2008.

prior to these initiatives, very little guidance on one's opportunities to enforce environmental rights.

More specifically, the utilization of courts to obtain environmental justice remains unclear to the average citizen. One may not know whether he or she has rights under certain environmental statutes, or whether they are in a position to assert such rights. In addition, the lack of education with regard to environmental issues inhibits the growth of a collective willingness to prioritize the health of our ecology and people.

Taking into account these challenges, the Supreme Court initiated a third wave of initiatives by again bringing together stakeholders and key players to discuss the impediments to environmental justice, and how the Judiciary can best address the same.

### ***Forum on Environmental Justice***

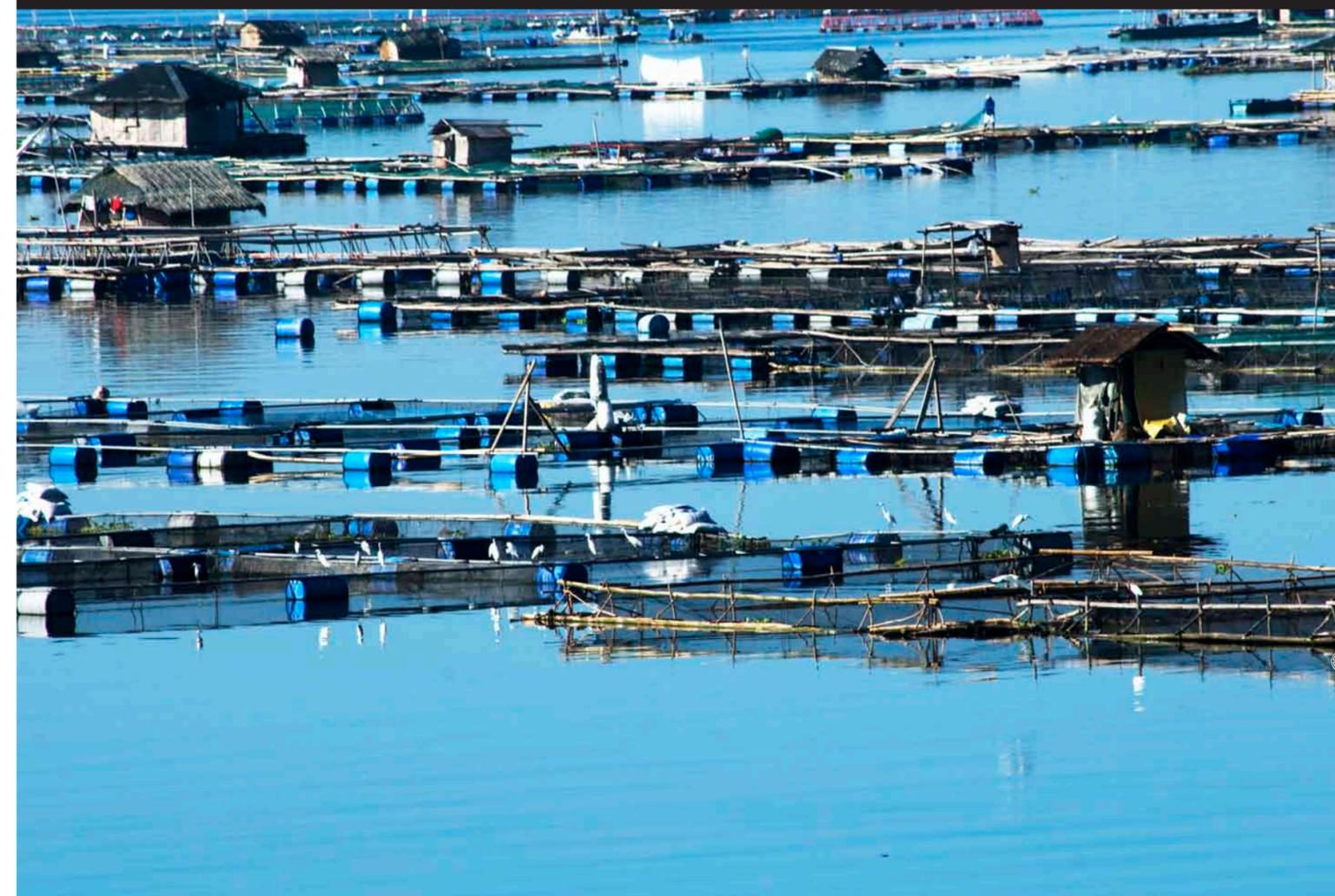
In April 2009, the Supreme Court organized the *Forum on Environmental Justice: Upholding the Rights to a Balanced and Healthful Ecology*, which was held simultaneously in Baguio, Iloilo and Davao. As with its predecessors, this *Forum* attracted numerous players in the regulation and enforcement of the environment, from government officials (judicial, executive, and legislative branches), to NGOs, people's organizations, the academe, and development partners. Over 600 participants and observers attended the two-day *Forum* in its different venues around the Philippines. To foster a more comprehensive, insightful, and cooperative atmosphere, the *Forum* availed of teleconferencing technology among the three venues.

Defined by workshops and constructive group activities, the *Forum* sought to identify the difficulties associated with enforcing environmental laws. Further, the process of collaboration and interaction also brought about a clearer sense of what each organization's or person's role would be in effectuating the overall goals of environmental justice. As a starting point, the *Forum* sought to absorb the several comments and concerns of each person or organization based on their own experiences with attempting to attain environmental justice. It was evident that at the core of these concerns was the lack of clarity, structure, and procedure for the Judiciary to enforce existing environmental laws.

Accordingly, the Court shaped the *Forum's* objectives as such:

1. To recommend to the Supreme Court actions it may take to protect and preserve the environment;
2. To validate the draft *Rules of Procedure for Environmental Cases*;
3. To discuss the need for a mechanism/structure that will address the need to monitor environmental cases or issues and monitor compliance thereat; and
4. To identify best practices of some agencies/units and replicate in a particular situation.

A multi-angled perspective is vital to any discussions on rights and the process needed to enforce them. As such, the Supreme Court successfully gathered key speakers from the different branches of government, agencies, international organizations, and other sectors to not only share their experiences regarding environmental justice, but also garnering their commitment to the principles which the *Forum* sought to espouse and enhance. Notably, international



*Fishing nets in the third largest lake in the Philippines and home to various kinds of freshwater fish.  
Taal Lake, Batangas.*

observers from development partners, as well as key representatives from allied countries, attended the *Forum* to express their support to this important cause.

Within the workshop groups, several NGO members, prosecutors, environmental litigators, and judges shared their experiences with actual cases. On one end, the *Forum* gained insight into the lack of knowledge in regards to environmental laws in general. On the other end, groups that have attempted to enforce the law have had no guidance as to how to utilize the courts to achieve their ends. The realm of environmental law is a grey area for many of the participants, and many of them have shared stories of frustration, confusion, and ignorance with regard to these laws and the repercussions that follow.

Given this valuable insight, all workshop groups pooled their experiences and synthesized the information gathered in order to aid in the development of comprehensive and people-friendly rules of procedure for environmental cases. Part of the *Forum's* innovation is that the Court has opened its doors to the voice of the people, and has allowed their experiences to help tell the story of our environmental state. Following this synthesis, the recommendations, as annotated in a proposed rule of procedure, were submitted to the Court for their review. The Sub-Committee on the Rules of Procedure for Environmental Cases then convened to analyze these recommendations, conduct further research, and develop procedural rules that would facilitate the administration of environmental justice moving forward.

In addition to the facilitation of environmental litigation for the people, another important aspect of these new *Rules of Procedure* is the fact that the Supreme Court needed to develop procedural rules that reflected

the principles laid out through groundbreaking jurisprudence, namely, *Oposa* and the *Manila Bay* case mentioned earlier. As the head of the Judiciary, the Supreme Court manages the processes through which the administration of justice can occur. Furthermore, the special constitutional powers bestowed on the Supreme Court to protect human rights requires a pro-active approach not typically found in judicial bodies of other jurisdictions. Taken together, the Supreme Court does not simply rely on its own jurisprudential doctrines to effectuate justice, especially in a relatively unexplored realm of environmental law. As seen in this Third Generation right, the Court has optimized its rule-making authority to innovatively address the concerns of environmental justice, where no pre-existing laws or rules suffice.

### ***Rules of Procedure for Environmental Cases***

The Supreme Court promulgated the *Rules of Procedure for Environmental Cases* on April 13, 2010. The *Rules of Procedure* were published the next day on April 14, 2010, and took effect on April 29, 2010. The *Rules of Procedure* are a culmination of processes that stem from several influences and sources: the 1987 Constitution, the existing rules of court, the concerns of players in environmental litigation and regulation (as described in the *Forum*), international concepts, and best practices in other jurisdictions, among others.

In general, the *Rules of Procedure for Environmental Cases* apply to cases that involve the enforcement of environmental laws, the protection of the environment, or the assertion of an environmental right. This scope includes, but is not limited to, the numerous environmental statutes enacted, which cover a variety of environmental aspects, such as pollution of our land, air, and sea,

and industries such as mining and fishing. The *Rules of Procedure* are to be used by trial courts, and under some provisions, govern special procedure before the Court of Appeals and the Supreme Court. The intended overall effect of the new *Rules of Procedure* is to touch upon all interaction of environmental concerns with the Judiciary, while ensuring the guidance and facilitation of those who seek environmental justice.

The Supreme Court recognized that environmental cases are tricky to litigate and resolve. One concern can be summed up in the question, “If the degradation of the environment is pervasive and borderless, such as air or water pollution, who is in a position to enforce environmental rights?” For the most part, the Supreme Court already provided for a liberally broad range of plaintiffs in enforcing such, through the *Oposa* ruling. Acknowledging standing to sue for representatives of future unborn generations subsequently begged the question of whether procedure would reflect this liberal ruling. As explained below, the use of citizen’s suits and the special remedy of the writ of *kalikasan* subsume this doctrinal idea, and put it into legal practice for general availability.

Another concern is the challenge of scientific evidence. Then there are the practical concerns that are associated with litigating environmental claims. In a regular civil case, a plaintiff must prove with a preponderance of evidence that his claims against the defendant are true. In an environmental case, plaintiffs have the difficulty of establishing a defendant’s liability to contributing to environmental damage like air pollution. The Supreme Court has taken into account this difficulty by incorporating into the *Rules of Procedure* the precautionary principle. Some versions of the precautionary principle, though still debated among experts worldwide, provide for leniency in proving a plaintiff’s environmental claim, where the scientific aspect of such a claim

could more likely than not be proven with utmost certainty. The principle is that environmental concerns need urgent resolutions, and erring on the side of precaution has been found to be an acceptable approach to administering environmental justice.

An example of another major concern is the practicality and convenience of filing environmental cases. In certain cases, plaintiffs are environmental groups or individuals looking to assert environmental rights against corporations allegedly involved in activities leading to the degradation of the environment. The *Rules of Procedure* provide for a temporary Environmental Protection Order to cease such activities. Through a special provision on Strategic Lawsuit Against Public Participation, the *Rules of Procedure* also protect the plaintiff from harassment through frivolous suits filed against them in order to stifle their efforts to enforce environmental laws. Other features, such as consent decree, and criminal procedure for environmental cases have been developed to clarify the processes that have eluded environmental litigants and enforcers for far too long.

One of the main features of the *Rules of Procedure* is the availability of the writ of *kalikasan*. Any person, or people’s organization, non-governmental organization, or public interest group accredited or registered by a government agency can file for a petition for the writ of *kalikasan* in order to seek speedy relief for environmental damage. Filed with either the Supreme Court or Court of Appeals, the writ of *kalikasan* applies to cases wherein the magnitude of environmental damage extends to prejudice the life, health, or property of inhabitants in two or more cities or provinces.

If appropriate, petitioners for the writ of *kalikasan* may avail of temporary relief such as an order to cease and desist from activities allegedly causing the

environmental damage claimed in the case. As with the rules of civil procedure for environmental cases, abbreviated periods for compliance with the writ in addition to enumerated prohibited pleadings allow for speedy disposition of such petitions. Petitioners can also avail of certain discovery measures to support their claims.

In the end, the Court can direct respondents to permanently cease and desist from undertaking the activities alleged as being in violation of environmental laws and resulting in environmental damage. Moreover, since the petitioner can avail of the writ of *kalikasan* against public officials, the Court may direct the respondent public official or government agency to monitor strict compliance with the court orders and make periodic reports on the execution of the final judgment. The writ of *kalikasan* also allows for other remedies which relate to the right of the people to a balanced and healthful ecology.

Seeing the power and accessibility of writs in other cases (*e.g.*, writ of *habeas corpus* and writ of *amparo*), the Court is optimistic that environmental litigators will avail of the writ of *kalikasan* in just the same way. The broad and speedy application of the writ of *kalikasan* will also enhance the involvement of the Supreme Court and Court of Appeals in environmental cases, with the hope that the attention and urgency given to such cases will produce a profound and influential effect on all courts presented with environmental claims.

Apart from the writ of *kalikasan*, the *Rules of Procedure for Environmental Cases* lay out the procedural framework for regular environmental civil cases. In such cases, the courts may issue a Temporary Environmental Protection Order (TEPO), where it appears from the verified complaint that the matter is of extreme urgency and the applicant will suffer grave injustice

and irreparable injury. The TEPO will last for 72 hours during which the judge hearing the application for TEPO will conduct a summary hearing to determine whether the TEPO should be extended. Applicants for TEPO are exempted from posting a bond for the issuance of the TEPO. As with other features of the *Rules of Procedure for Environmental Cases*, the TEPO reflects an urgency to address the distinctive dimension of environmental damage. In judgment the court may convert a TEPO into a permanent EPO.

As stated earlier, a central thrust to the promulgation of these *Rules of Procedure* is to provide continuation and enhancement for already established jurisprudence on environmental justice. In *Oposa*, the Supreme Court's holding of a liberalized standing in environmental cases had proven to be a landmark ruling with no match found in other jurisdictions. The *Rules of Procedure for Environmental Cases* now reflect the ruling in *Oposa* by providing for citizen suits. Under this provision, any Filipino citizen in representation of others including minors or generations yet unborn may file an action to enforce the rights or obligations provided for under environmental laws.

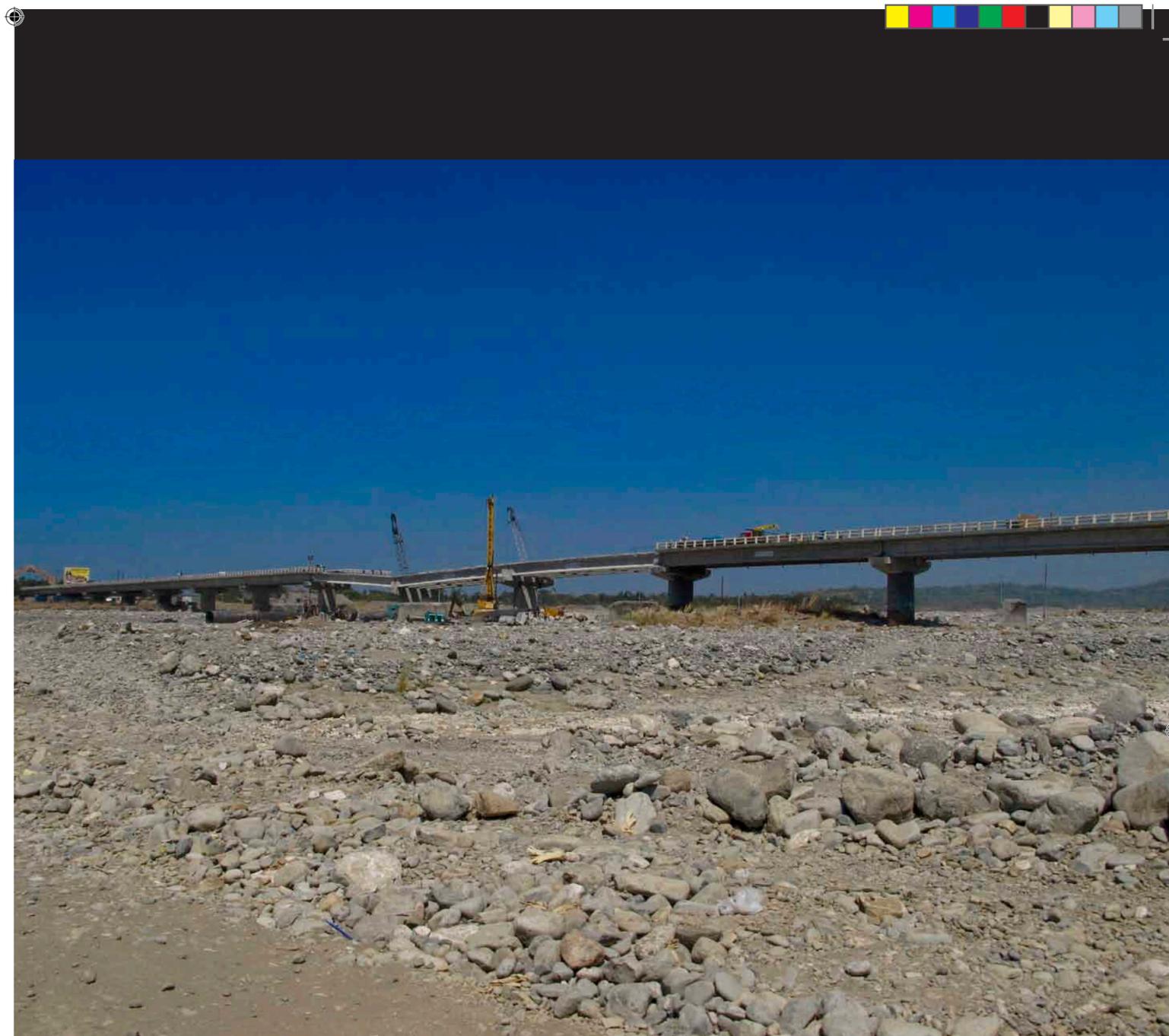
In a citizen's suit, the court has leeway in granting relief so as long as such relief protects, preserves, or rehabilitates the environment. The court may also require more innovative forms of relief. Violators may be required to submit a program of rehabilitation or restoration, the costs of which will be borne by them. Also, the court may require the violator to contribute to a trust fund to be administered by the proper government agency, which will be monitored or controlled by the court rendering the judgment.

Other than the citizen's suit, the Court has also put into effect and integrated into the *Rules of Procedure* another important environmental case doctrine. As stated earlier, the *Manila Bay* case gave teeth to the execution of

judgment in environmental cases through a writ of continuing *mandamus*. The *Rules of Procedure for Environmental Cases* allows for the court to convert a TEPO into a permanent Environmental Protection Order, or issue a writ of continuing *mandamus*, directing the adverse party to perform a schedule of acts for an unlimited period up until judgment is satisfied. Furthermore, the court may monitor (or direct a government agency to monitor) the execution of judgment by requiring the party to submit periodic reports on the progress of the execution. Clearly, vital rulings on environmental cases, coupled with such provisions in the *Rules of Procedure*, have reshaped the courts' role in ensuring environmental justice. While this is undoubtedly revolutionary in any form of litigation, it is important to recognize that provisions such as the writ of continuing *mandamus* underscore the need to address the complex nature of environmental damage and enforcement.

Attempts to enforce environmental laws have proven to be difficult in other jurisdictions, where persons or organizations seeking enforcement are met with frivolous actions filed by alleged violators mainly to stifle their cause. In the United States, these types of frivolous litigation have been labeled as Strategic Lawsuit Against Public Participation (SLAPP). Anticipating similar patterns of behavior in our own setting, the Supreme Court, after extensive research, included a SLAPP provision in the *Rules of Procedure for Environmental Cases* to better protect environmental plaintiffs from unwarranted suits.

SLAPP can come in the form of civil damages or defamation suits such as libel, where a corporation would claim that an environmental group is defaming the company with allegations of harmful environmental



*A highway is being reconstructed after it was damaged by Typhoon Ondoy (Ketsana) in 2009. La Union Province.*

activity. In such cases, typical environmental defendants have the means and financial resources to sustain litigation, while environmental plaintiffs (namely interest groups and community members) do not have the same resources. Accordingly, a SLAPP can effectively curb attempts to enforce environmental laws. It is simply a form of harassment and imposition of duress against plaintiffs and would be plaintiffs alike.

In a SLAPP, an environmental enforcer is typically the defendant. Under the *Rules of Procedure for Environmental Cases*, the environmental enforcer may invoke a defense alleging that the case filed is a SLAPP. The court will resolve the defense in a summary hearing. If the defense is successful, the court may grant the defendant attorney's fees, damages, and litigation costs. The SLAPP provision is another innovation adopted by the Court after taking into account the obstacles to administering environmental justice.

A final concept adopted by the Supreme Court and reflected in the *Rules of Procedure for Environmental Cases* is the precautionary principle. The realms of environmental science and environmental law are still in its developmental stages partly due to its amorphous nature. Plaintiffs claiming environmental damage have the major obstacle of establishing with scientific certainty the link between a defendant's activities and the alleged environmental harm. In reality, environmental harm in many of its forms is difficult to prove with scientific certainty. This reality makes enforcement of environmental laws more difficult than it already is. Thus, the *Rules of Procedure* incorporated the precautionary principle which eases the burden of plaintiffs to prove environmental claims. Under this principle, for instance, a court may opt to not dismiss claims based on scientific uncertainty alone. This is supplementary to regular rules of evidence, and is used as a last resort

in favor of the environment where the regular rules of evidence cannot apply. In general, the adoption of the precautionary principle emboldens the cause of citizens and interest groups to attain environmental justice, where the current system cannot.



## Epilogue

### *Small Steps towards a Greater Future*

Within a few years of launching the circle of human rights, Chief Justice Puno quickly reaffirmed the idea that because the Constitution provides additional authority to the judicial branch in the protection of human rights, the Judiciary through the Supreme Court will give sufficient and urgent attention to these issues. The writ of *amparo*, writ of *habeas data*, *Enhanced Justice on Wheels Program*, *Small Claims Court Project*, and the *Rules of Procedure of Environmental Cases* including the writ of *kalikasan*, among others, all provide tangible answers to the disturbing trends of human rights violations in our country. One need not look further than the news to see the impact of these initiatives on the ground and in the poorest, most neglected communities of our country.

Yet, measuring the impact of the Supreme Court's human rights initiatives by numbers and statistics provides only part of the bigger picture. The mindset of Chief Justice Puno in spearheading these programs is that the Court should adopt initiatives that encourage their own continuity, while inspiring future members of the Judiciary to nurture growth and evolution in human rights rules and programs. The prerogative of the Court to maximize

its judicial authority should serve as an example for the other branches of government to reinvent their approach to protecting human rights as well.

Evolution and growth are crucial aspects to building a human rights regime. The remedies and programs stemming from the circle of human rights address very real and immediate concerns, with tangible, immediate solutions. For example, the cascading of the *Enhanced Justice on Wheels Program* in a certain province results in the quick release of inmates who were marginalized by the otherwise unstable state of local courts. The writ of *amparo* has proven to be an effective remedy in several cases for persons who have claimed that they or their loved ones had been wrongly abducted. Soon, the *Rules of Procedure for Environmental Cases* will not only facilitate access to the courts for environmental plaintiffs, but also shield them from impediments to enforcing environmental laws. These *Rules* and projects will continue to evolve under the guidance of future leaders of the Philippine Judiciary. For now, these small steps in addressing the most pressing of human rights situations should affirm the idea that the Philippines can be an exemplar of human rights protection.

## CONCLUSION

Many before Chief Justice Puno have marked their legacies with historical case decisions, and their leadership of the Court. The Supreme Court's completion of the circle of human rights adds a chapter to Chief Justice Puno's legacy that impacts our nation in countless ways. The mere recognition of the three generations of human rights has brought hope to those who have always believed in protecting nature, or laborers who have had the courage, but not the means, to stand up against state intimidation. Even on the level of poverty – the lamentable constant in our society – the



Court's efforts to protect the rights of the poor as a fundamental right provide for a deeper, yet more relevant meaning of social justice, as enshrined in and guaranteed by our Constitution. Bringing justice to the far-flung areas of the country or providing a venue to resolve small monetary disputes sends the message to the masses that access to justice discriminates against no one. Chief Justice Puno brilliantly retooled our view of the Constitution in light of its synergistic intersection with human rights law. The hope is that many will see this endeavor as a crucial reminder of the human rights inherent in us all. Equally important, the words of our Constitution should continue to resonate in the people, but with deeper meaning, most especially when its principles are implemented with full force.





## Annexes

- 1 RULE ON THE WRIT OF AMPARO
- 2 RULE ON THE WRIT OF HABEAS DATA
- 3 THE RULE OF PROCEDURE FOR SMALL CLAIMS CASES
- 4 RULES OF PROCEDURE FOR ENVIRONMENTAL CASES



Republic of the Philippines  
Supreme Court  
Manila

EN BANC  
A.M. No. 08-1-16-SC

### RULE ON THE WRIT OF AMPARO

Acting on the recommendation of the Chairperson and Members of the Committee on Revision of the Rules of Court submitting for this Court's consideration and approval the proposed Rule on the Writ of Habeas Data, the Court Resolved to APPROVE the same.

This Resolution shall take effect on February 2, 2008 following its publication in three (3) newspapers of general circulation.

January 22, 2008.

(Signed)  
**REYNATO S. PUNO**  
Chief Justice

(Signed)  
**LEONARDO A. QUISUMBING**  
Associate Justice

(Signed)  
**ANGELINA SANDOVAL-GUTIERREZ**  
Associate Justice

(Signed)  
**MA. ALICIA AUSTRIA-MARTINEZ**  
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Associate Justice

(Signed)  
**ANTONIO EDUARDO B. NACHURA**  
Associate Justice

(Signed)  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

### THE RULE ON THE WRIT OF AMPARO

SECTION 1. *Petition.* – The petition for a writ of *amparo* is a remedy available to any person whose right to life, liberty and security is violated or threatened with violation by an unlawful act or omission of a public official or employee, or of a private individual or entity.

The writ shall cover extralegal killings and enforced disappearances or threats thereof.

SEC. 2. *Who May File.* – The petition may be filed by the aggrieved party or by any qualified person or entity in the following order:

- (a) Any member of the immediate family, namely: the spouse, children and parents of the aggrieved party;
- (b) Any ascendant, descendant or collateral relative of the aggrieved party within the fourth civil degree of consanguinity or affinity, in default of those mentioned in the preceding paragraph; or
- (c) Any concerned citizen, organization, association or institution, if there is no known member of the immediate family or relative of the aggrieved party.

The filing of a petition by the aggrieved party suspends the right of all other authorized parties to file similar petitions. Likewise, the filing of the petition by an authorized party on behalf of the aggrieved party suspends the right of all others, observing the order established herein.

SEC. 3. *Where to File.* – The petition may be filed on any day and at any time with the Regional Trial Court of the place where the threat, act or omission was committed or any of its elements occurred, or with the Sandiganbayan, the Court of Appeals, the Supreme Court, or any justice of such courts. The writ shall be enforceable anywhere in the Philippines.

When issued by a Regional Trial Court or any judge thereof, the writ shall be returnable before such court or judge.

When issued by the Sandiganbayan or the Court of Appeals or any of their justices, it may be returnable before such court or any justice thereof, or to any Regional Trial Court of the place where the threat, act or omission was committed or any of its elements occurred.

When issued by the Supreme Court or any of its justices, it may be returnable before such Court or any justice thereof, or before the Sandiganbayan or the Court of Appeals or any of their justices, or to any Regional Trial Court of the place where the threat, act or omission was committed or any of its elements occurred.

SEC. 4. *No Docket Fees.* – The petitioner shall be exempted from the payment of the docket and other lawful fees when filing the petition. The court, justice or judge shall docket the petition and act upon it immediately.

SEC. 5. *Contents of Petition.* – The petition shall be signed and verified and shall allege the following:

- (a) The personal circumstances of the petitioner;
- (b) The name and personal circumstances of the respondent responsible for the threat, act or omission, or, if the name is unknown or uncertain, the respondent may be described by an assumed appellation;
- (c) The right to life, liberty and security of the aggrieved party violated or threatened with violation by an unlawful act or omission of the respondent, and how such threat or violation is committed with the attendant circumstances detailed in supporting affidavits;
- (d) The investigation conducted, if any, specifying the names, personal circumstances, and addresses of the investigating authority or individuals, as well as the manner and conduct of the investigation, together with any report;
- (e) The actions and recourses taken by the petitioner to determine the fate or whereabouts of the aggrieved party and the identity of the person responsible for the threat, act or omission; and
- (f) The relief prayed for.

The petition may include a general prayer for other just and equitable reliefs.

SEC. 6. *Issuance of the Writ.* – Upon the filing of the petition, the court, justice or judge shall immediately order the issuance of the writ if on its face it ought to issue. The clerk of court shall issue

the writ under the seal of the court; or in case of urgent necessity, the justice or the judge may issue the writ under his or her own hand, and may deputize any officer or person to serve it.

The writ shall also set the date and time for summary hearing of the petition which shall not be later than seven (7) days from the date of its issuance.

SEC. 7. *Penalty for Refusing to Issue or Serve the Writ.* – A clerk of court who refuses to issue the writ after its allowance, or a deputized person who refuses to serve the same, shall be punished by the court, justice or judge for contempt without prejudice to other disciplinary actions.

SEC. 8. *How the Writ is Served.* – The writ shall be served upon the respondent by a judicial officer or by a person deputized by the court, justice or judge who shall retain a copy on which to make a return of service. In case the writ cannot be served personally on the respondent, the rules on substituted service shall apply.

SEC. 9. *Return; Contents.* – Within seventy-two (72) hours after service of the writ, the respondent shall file a verified written return together with supporting affidavits which shall, among other things, contain the following:

- (a) The lawful defenses to show that the respondent did not violate or threaten with violation the right to life, liberty and security of the aggrieved party, through any act or omission;
- (b) The steps or actions taken by the respondent to determine the fate or whereabouts of the aggrieved party and the person or persons responsible for the threat, act or omission;
- (c) All relevant information in the possession of the respondent pertaining to the threat, act or omission against the aggrieved party; and
- (d) If the respondent is a public official or employee, the return shall further state the actions that have been or will still be taken:
  - (i) to verify the identity of the aggrieved party;
  - (ii) to recover and preserve evidence related to the death or disappearance of the person identified in the petition which may aid in the prosecution of the person or persons responsible;
  - (iii) to identify witnesses and obtain statements from them concerning the death or disappearance;
  - (iv) to determine the cause, manner, location and time of death or disappearance as well as any pattern or practice that may have brought about the death or disappearance;
  - (v) to identify and apprehend the person or persons involved in the death or disappearance; and
  - (vi) to bring the suspected offenders before a competent court.

The return shall also state other matters relevant to the investigation, its resolution and the prosecution of the case.

A general denial of the allegations in the petition shall not be allowed.

SEC. 10. *Defenses not Pleaded Deemed Waived.* – All defenses shall be raised in the return, otherwise,

they shall be deemed waived.

SEC. 11. *Prohibited Pleadings and Motions.* — The following pleadings and motions are prohibited:

- (a) Motion to dismiss;
- (b) Motion for extension of time to file return, opposition, affidavit, position paper and other pleadings;
- (c) Dilatory motion for postponement;
- (d) Motion for a bill of particulars;
- (e) Counterclaim or cross-claim;
- (f) Third-party complaint;
- (g) Reply;
- (h) Motion to declare respondent in default;
- (i) Intervention;
- (j) Memorandum;
- (k) Motion for reconsideration of interlocutory orders or interim relief orders; and
- (l) Petition for *certiorari*, *mandamus* or prohibition against any interlocutory order.

SEC. 12. *Effect of Failure to File Return.* — In case the respondent fails to file a return, the court, justice or judge shall proceed to hear the petition *ex parte*.

SEC. 13. *Summary Hearing.* — The hearing on the petition shall be summary. However, the court, justice or judge may call for a preliminary conference to simplify the issues and determine the possibility of obtaining stipulations and admissions from the parties. The hearing shall be from day to day until completed and given the same priority as petitions for *habeas corpus*.

SEC. 14. *Interim Reliefs.* — Upon filing of the petition or at anytime before final judgment, the court, justice or judge may grant any of the following reliefs:

(a) *Temporary Protection Order.* — The court, justice or judge, upon motion or *motu proprio*, may order that the petitioner or the aggrieved party and any member of the immediate family be protected in a government agency or by an accredited person or private institution capable of keeping and securing their safety. If the petitioner is an organization, association or institution referred to in Section 3(c) of this Rule, the protection may be extended to the officers involved.

The Supreme Court shall accredit the persons and private institutions that shall extend temporary protection to the petitioner or the aggrieved party and any member of the immediate family, in accordance with guidelines which it shall issue.

The accredited persons and private institutions shall comply with the rules and conditions that may be imposed by the court, justice or judge.

(b) *Inspection Order.* — The court, justice or judge, upon verified motion and after due hearing, may order any person in possession or control of a designated land or other property, to permit entry for the purpose of inspecting, measuring, surveying, or photographing the property or any relevant object or operation thereon.

The motion shall state in detail the place or places to be inspected. It shall be supported by affidavits or testimonies of witnesses having personal knowledge of the enforced disappearance or whereabouts of the aggrieved party.

If the motion is opposed on the ground of national security or of the privileged nature of the information, the court, justice or judge may conduct a hearing in chambers to determine the merit of the opposition.

The movant must show that the inspection order is necessary to establish the right of the aggrieved party alleged to be threatened or violated. The inspection order shall specify the person or persons authorized to make the inspection and the date, time, place and manner of making the inspection and may prescribe other conditions to protect the constitutional rights of all parties. The order shall expire five (5) days after the date of its issuance, unless extended for justifiable reasons.

(c) *Production Order.* — The court, justice or judge, upon verified motion and after due hearing, may order any person in possession, custody or control of any designated documents, papers, books, accounts, letters, photographs, objects or tangible things, or objects in digitized or electronic form, which constitute or contain evidence relevant to the petition or the return, to produce and permit their inspection, copying or photographing by or on behalf of the movant.

The motion may be opposed on the ground of national security or of the privileged nature of the information, in which case the court, justice or judge may conduct a hearing in chambers to determine the merit of the opposition.

The court, justice or judge shall prescribe other conditions to protect the constitutional rights of all the parties.

(d) *Witness Protection Order.* — The court, justice or judge, upon motion or *motu proprio*, may refer the witnesses to the Department of Justice for admission to the Witness Protection, Security and Benefit Program, pursuant to Republic Act No. 6981.

The court, justice or judge may also refer the witnesses to other government agencies, or to accredited persons or private institutions capable of keeping and securing their safety.

SEC. 15. *Availability of Interim Reliefs to Respondent.* — Upon verified motion of the respondent and after due hearing, the court, justice or judge may issue an inspection order or production order under paragraphs (b) and (c) of the preceding section.

A motion for inspection order under this section shall be supported by affidavits or testimonies of witnesses having personal knowledge of the defenses of the respondent.

SEC. 16. *Contempt.* – The court, justice or judge may order the respondent who refuses to make a return, or who makes a false return, or any person who otherwise disobeys or resists a lawful process or order of the court to be punished for contempt. The contemnor may be imprisoned or imposed a fine.

SEC. 17. *Burden of Proof and Standard of Diligence Required.* – The parties shall establish their claims by substantial evidence.

The respondent who is a private individual or entity must prove that ordinary diligence as required by applicable laws, rules and regulations was observed in the performance of duty.

The respondent who is a public official or employee must prove that extraordinary diligence as required by applicable laws, rules and regulations was observed in the performance of duty.

The respondent public official or employee cannot invoke the presumption that official duty has been regularly performed to evade responsibility or liability.

SEC. 18. *Judgment.* — The court shall render judgment within ten (10) days from the time the petition is submitted for decision. If the allegations in the petition are proven by substantial evidence, the court shall grant the privilege of the writ and such reliefs as may be proper and appropriate; otherwise, the privilege shall be denied.

SEC. 19. *Appeal.* – Any party may appeal from the final judgment or order to the Supreme Court under Rule 45. The appeal may raise questions of fact or law or both.

The period of appeal shall be five (5) working days from the date of notice of the adverse judgment.

The appeal shall be given the same priority as in *habeas corpus* cases.

SEC. 20. *Archiving and Revival of Cases.* – The court shall not dismiss the petition, but shall archive it, if upon its determination it cannot proceed for a valid cause such as the failure of petitioner or witnesses to appear due to threats on their lives.

A periodic review of the archived cases shall be made by the *amparo* court that shall, *motu proprio* or upon motion by any party, order their revival when ready for further proceedings. The petition shall be dismissed with prejudice upon failure to prosecute the case after the lapse of two (2) years from notice to the petitioner of the order archiving the case.

The clerks of court shall submit to the Office of the Court Administrator a consolidated list of archived cases under this Rule not later than the first week of January of every year.

SEC. 21. *Institution of Separate Actions.* — This Rule shall not preclude the filing of separate criminal, civil or administrative actions.

SEC. 22. *Effect of Filing of a Criminal Action.* – When a criminal action has been commenced, no

separate petition for the writ shall be filed. The reliefs under the writ shall be available by motion in the criminal case.

The procedure under this Rule shall govern the disposition of the reliefs available under the writ of *amparo*.

SEC. 23. *Consolidation.* – When a criminal action is filed subsequent to the filing of a petition for the writ, the latter shall be consolidated with the criminal action.

When a criminal action and a separate civil action are filed subsequent to a petition for a writ of *amparo*, the latter shall be consolidated with the criminal action.

After consolidation, the procedure under this Rule shall continue to apply to the disposition of the reliefs in the petition.

SEC. 24. *Substantive Rights.* — This Rule shall not diminish, increase or modify substantive rights recognized and protected by the Constitution.

SEC. 25. *Suppletory Application of the Rules of Court.* – The Rules of Court shall apply suppletorily insofar as it is not inconsistent with this Rule.

SEC. 26. *Applicability to Pending Cases.* – This Rule shall govern cases involving extralegal killings and enforced disappearances or threats thereof pending in the trial and appellate courts.

SEC. 27. *Effectivity.* – This Rule shall take effect on October 24, 2007, following its publication in three (3) newspapers of general circulation.



Republic of the Philippines  
Supreme Court  
Manila

EN BANC  
A.M. No. 08-1-16-SC

### RULE ON THE WRIT OF HABEAS DATA

Acting on the recommendation of the Chairperson and Members of the Committee on Revision of the Rules of Court submitting for this Court's consideration and approval the proposed Rule on the Writ of Habeas Data, the Court Resolved to APPROVE the same.

This Resolution shall take effect on February 2, 2008 following its publication in three (3) newspapers of general circulation.

January 22, 2008.

(Signed)  
**REYNATO S. PUNO**  
Chief Justice

(Signed)  
**LEONARDO A. QUISUMBING**  
Associate Justice

(Signed)  
**ANGELINA SANDOVAL-GUTIERREZ**  
Associate Justice

(Signed)  
**MA. ALICIA AUSTRIA-MARTINEZ**  
Associate Justice

(Signed)  
**CONSUELO YNARES-SANTIAGO**  
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**ADOLFO S. AZCUNA**  
Associate Justice

(On Official Leave)  
**MINITA V. CHICO-NAZARIO**  
Associate Justice

(Signed)  
**ANTONIO EDUARDO B. NACHURA**  
Associate Justice

(Signed)  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

### RULE ON THE WRIT OF *HABEAS DATA*

SECTION 1. *Habeas Data*.—The writ of *habeas data* is a remedy available to any person whose right to privacy in life, liberty or security is violated or threatened by an unlawful act or omission of a public official or employee, or of a private individual or entity engaged in the gathering, collecting or storing of data or information regarding the person, family, home and correspondence of the aggrieved party.

SEC. 2. *Who May File*.—Any aggrieved party may file a petition for the writ of *habeas data*. However, in cases of extralegal killings and enforced disappearances, the petition may be filed by:

- Any member of the immediate family of the aggrieved party, namely: the spouse, children and parents; or
- Any ascendant, descendant or collateral relative of the aggrieved party within the fourth civil degree of consanguinity or affinity, in default of those mentioned in the preceding paragraph.

SEC. 3. *Where to File.*—The petition may be filed with the Regional Trial Court where the petitioner or respondent resides, or that which has jurisdiction over the place where the data or information is gathered, collected or stored, at the option of the petitioner. The petition may also be filed with the Supreme Court or the Court of Appeals or the Sandiganbayan when the action concerns public data files of government offices.

SEC. 4. *Where Returnable; Enforceable.*—When the writ is issued by a Regional Trial Court or any judge thereof, it shall be returnable before such court or judge.

When issued by the Court of Appeals or the Sandiganbayan or any of its justices, it may be returnable before such court or any justice thereof, or to any Regional Trial Court of the place where the petitioner or respondent resides, or that which has jurisdiction over the place where the data or information is gathered, collected or stored.

When issued by the Supreme Court or any of its justices, it may be returnable before such Court or any justice thereof, or before the Court of Appeals or the Sandiganbayan or any of its justices, or to any Regional Trial Court of the place where the petitioner or respondent resides, or that which has jurisdiction over the place where the data or information is gathered, collected or stored.

The writ of *habeas data* shall be enforceable anywhere in the Philippines.

SEC. 5. *Docket Fees.*—No docket and other lawful fees shall be required from an indigent petitioner. The petition of the indigent shall be docketed and acted upon immediately, without prejudice to subsequent submission of proof of indigency not later than fifteen (15) days from the filing of the petition.

SEC. 6. *Petition.*—A verified written petition for a writ of *habeas data* should contain:

(a) The personal circumstances of the petitioner and the respondent; (b) The manner the right to privacy is violated or threatened and how it affects the right to life, liberty or security of the aggrieved party; (c) The actions and recourses taken by the petitioner to secure the data or information; (d) The location of the files, registers or databases, the government office, and the person in charge, in possession or in control of the data or information, if known; (e) The reliefs prayed for, which may include the updating, rectification, suppression or destruction of the database or information or files kept by the respondent. In case of threats, the relief may include a prayer for an order enjoining the act complained of; and (f) Such other relevant reliefs as are just and equitable.

SEC. 7. *Issuance of the Writ.*—Upon the filing of the petition, the court, justice or judge shall immediately order the issuance of the writ if on its face it ought to issue. The clerk of court shall issue the writ under the seal of the court and cause it to be served within three (3) days from its issuance; or, in case of urgent necessity, the justice or judge may issue the writ under his or her own hand, and may deputize any officer or person to serve it.

The writ shall also set the date and time for summary hearing of the petition which shall not be later than ten (10) work days from the date of its issuance.

SEC. 8. *Penalty for Refusing to Issue or Serve the Writ.*—A clerk of court who refuses to issue the writ

after its allowance, or a deputized person who refuses to serve the same, shall be punished by the court, justice or judge for contempt without prejudice to other disciplinary actions.

SEC. 9. *How the Writ Is Served.*—The writ shall be served upon the respondent by the officer or person deputized by the court, justice or judge who shall retain a copy on which to make a return of service. In case the writ cannot be served personally on the respondent, the rules on substituted service shall apply.

SEC. 10. *Return; Contents.*—The respondent shall file a verified written return together with supporting affidavits within five (5) work days from service of the writ, which period may be reasonably extended by the Court for justifiable reasons. The return shall, among other things, contain the following:

- (a) The lawful defenses such as national security, state secrets, privileged communication, confidentiality of the source of information of media and others;
- (b) In case of respondent in charge, in possession or in control of the data or information subject of the petition: (i) a disclosure of the data or information about the petitioner, the nature of such data or information, and the purpose for its collection; (ii) the steps or actions taken by the respondent to ensure the security and confidentiality of the data or information; and (iii) the currency and accuracy of the data or information held; and (c) Other allegations relevant to the resolution of the proceeding. A general denial of the allegations in the petition shall not be allowed.

SEC. 11. *Contempt.*—The court, justice or judge may punish with imprisonment or fine a respondent who commits contempt by making a false return, or refusing to make a return; or any person who otherwise disobeys or resists a lawful process or order of the court.

SEC. 12. *When Defenses May Be Heard in Chambers.*—A hearing in chambers may be conducted where the respondent invokes the defense that the release of the data or information in question shall compromise national security or state secrets, or when the data or information cannot be divulged to the public due to its nature or privileged character.

SEC. 13. *Prohibited Pleadings and Motions.*—The following pleadings and motions are prohibited: (a) Motion to dismiss; (b) Motion for extension of time to file opposition, affidavit, position paper and other pleadings; (c) Dilatory motion for postponement; (d) Motion for a bill of particulars; (e) Counterclaim or cross-claim; (f) Third-party complaint; (g) Reply; (h) Motion to declare respondent in default; (i) Intervention; (j) Memorandum; (k) Motion for reconsideration of interlocutory orders or interim relief orders; and (l) Petition for *certiorari*, *mandamus* or prohibition against any interlocutory order.

SEC. 14. *Return; Filing.*—In case the respondent fails to file a return, the court, justice or judge shall proceed to hear the petition *ex parte*, granting the petitioner such relief as the petition may warrant unless the court in its discretion requires the petitioner to submit evidence.

SEC. 15. *Summary Hearing*.—The hearing on the petition shall be summary. However, the court, justice or judge may call for a preliminary conference to simplify the issues and determine the possibility of obtaining stipulations and admissions from the parties.

SEC. 16. *Judgment*.—The court shall render judgment within ten (10) days from the time the petition is submitted for decision. If the allegations in the petition are proven by substantial evidence, the court shall enjoin the act complained of, or order the deletion, destruction, or rectification of the erroneous data or information and grant other relevant reliefs as may be just and equitable; otherwise, the privilege of the writ shall be denied.

Upon its finality, the judgment shall be enforced by the sheriff or any lawful officer as may be designated by the court, justice or judge within five (5) work days.

SEC. 17. *Return of Service*.—The officer who executed the final judgment shall, within three (3) days from its enforcement, make a verified return to the court. The return shall contain a full statement of the proceedings under the writ and a complete inventory of the database or information, or documents and articles inspected, updated, rectified, or deleted, with copies served on the petitioner and the respondent.

The officer shall state in the return how the judgment was enforced and complied with by the respondent, as well as all objections of the parties regarding the manner and regularity of the service of the writ.

SEC. 18. *Hearing on Officer's Return*.—The court shall set the return for hearing with due notice to the parties and act accordingly.

SEC. 19. *Appeal*.—Any party may appeal from the judgment or final order to the Supreme Court under Rule 45. The appeal may raise questions of fact or law or both.

The period of appeal shall be five (5) work days from the date of notice of the judgment or final order.

The appeal shall be given the same priority as *habeas corpus* and *amparo* cases.

SEC. 20. *Institution of Separate Actions*.—The filing of a petition for the writ of *habeas data* shall not preclude the filing of separate criminal, civil or administrative actions.

SEC. 21. *Consolidation*.—When a criminal action is filed subsequent to the filing of a petition for the writ, the latter shall be consolidated with the criminal action.

When a criminal action and a separate civil action are filed subsequent to a petition for a writ of *habeas data*, the petition shall be consolidated with the criminal action.

After consolidation, the procedure under this Rule shall continue to govern the disposition of the reliefs in the petition.

SEC. 22. *Effect of Filing of a Criminal Action*.—When a criminal action has been commenced, no separate petition for the writ shall be filed. The reliefs under the writ shall be available to an aggrieved party by motion in the criminal case.

The procedure under this Rule shall govern the disposition of the reliefs available under the writ

of *habeas data*.

SEC. 23. *Substantive Rights*.—This Rule shall not diminish, increase or modify substantive rights.

SEC. 24. *Suppletory Application of the Rules of Court*.—The Rules of Court shall apply suppletorily insofar as it is not inconsistent with this Rule.

SEC. 25. *Effectivity*.—This Rule shall take effect on February 2, 2008 following its publication in three (3) newspapers of general circulation.



Republic of the Philippines  
Supreme Court  
Manila

EN BANC  
A.M. No. 08-8-7-SC  
THE RULE OF PROCEDURE FOR SMALL CLAIMS CASES

Acting on the recommendation of the Chairperson, Technical Working Group, Committee on Revision of the Rules of Court, submitting for the consideration and approval of the Court the proposed “The Rule of Procedure for Small Claim Cases,” the Court resolved to **APPROVE** the same.

The Rule shall take effect on October 1, 2008 following its publication in two (2) newspapers of general circulation.

September 9, 2008.

(Signed)  
**REYNATO S. PUNO**  
Chief Justice

(Signed)  
**LEONARDO A. QUISUMBING**  
Associate Justice

(On Official Leave)  
**ANTONIO T. CARPIO**  
Associate Justice

(Signed)  
**RENATO C. CORONA**  
Associate Justice

(Signed)  
**CONSUELO YNARES-SANTIAGO**  
Associate Justice

(Signed)  
**MA. ALICIA AUSTRIA-MARTINEZ**  
Associate Justice

(Signed)  
**CONCHITA CARPIO MORALES**  
Associate Justice

(Signed)  
**ADOLFO S. AZCUNA**  
Associate Justice

(Signed)  
**MINITA V. CHICO-NAZARIO**  
Associate Justice

(Signed)  
**ANTONIO EDUARDO B. NACHURA**  
Associate Justice

(Signed)  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

(Signed)  
**DANTE O. TINGA**  
Associate Justice

(Signed)  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice

(Signed)  
**RUBEN T. REYES**  
Associate Justice

(Signed)  
**ARTURO D. BRION**  
Associate Justice

**RULE OF PROCEDURE  
FOR SMALL CLAIMS CASES AS AMENDED**

SECTION 1. *Title.*—This Rule shall be known as “The Rule of Procedure for Small Claims Cases.”

SEC. 2. *Scope.*—This Rule shall govern the procedure in actions before the Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts and Municipal Circuit Trial Courts for payment of money where the value of the claim does not exceed One Hundred Thousand Pesos (P100,000.00) exclusive of interest and costs.

SEC. 3. *Definition of Terms.*—For purposes of this Rule:

(a) *Plaintiff* refers to the party who initiated a small claims action. The term includes a defendant who has filed a counterclaim against plaintiff;

(b) *Defendant* is the party against whom the plaintiff has filed a small claims action. The term includes a plaintiff against whom a defendant has filed a claim, or a person who replies to the claim;

(c) *Person* is an individual, corporation, partnership, limited liability partnership, association, or other juridical entity endowed with personality by law;

(d) *Individual* is a natural person;

(e) *Motion* means a party's request, written or oral, to the court for an order or other action. It shall include an informal written request to the court, such as a letter;

(f) *Good cause* means circumstances sufficient to justify the requested order or other action, as determined by the judge; and

(g) *Affidavit* means a written statement or declaration of facts that are sworn or affirmed to be true.

SEC. 4. *Applicability*.—The Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts, and Municipal Circuit Trial Courts shall apply this Rule in all actions which are: (a) purely civil in nature where the claim or relief prayed for by the plaintiff is solely for payment or reimbursement of sum of money, and (b) the civil aspect of criminal actions, either filed before the institution of the criminal action, or reserved upon the filing of the criminal action in court, pursuant to Rule 111 of the Revised Rules Of Criminal Procedure.

These claims or demands may be:

(a) For money owed under any of the following:

1. Contract of Lease; 2. Contract of Loan; 3. Contract of Services; 4. Contract of Sale; or 5. Contract of Mortgage;

(b) For damages arising from any of the following:

1. Fault or negligence; 2. Quasi-contract; or 3. Contract;

(c) The enforcement of a *barangay* amicable settlement or an arbitration award involving a money claim covered by this Rule pursuant to Sec. 417 of Republic Act 7160, otherwise known as the Local Government Code of 1991.

SEC. 5. *Commencement of Small Claims Action*.—A small claims action is commenced by filing with the court an accomplished and verified Statement of Claim (*Form 1-SCC*) in duplicate, accompanied by a Certification of Non-forum Shopping (*Form 1-A, SCC*), and two (2) duly certified photocopies of the actionable document/s subject of the claim, as well as the affidavits of witnesses and other evidence to support the claim. No evidence shall be allowed during the hearing which was not attached to or submitted together with the Claim, unless good cause is shown for the admission of additional evidence.

No formal pleading, other than the Statement of Claim described in this Rule, is necessary to initiate a small claims action.

SEC. 6. *Joinder of Claims*.—Plaintiff may join in a single statement of claim one or more separate small claims against a defendant provided that the total amount claimed, exclusive of interest and costs, does not exceed P100,000.00.

SEC. 7. *Affidavits*.—The affidavits submitted under this Rule shall state only facts of direct personal knowledge of the affiants which are admissible in evidence.

A violation of this requirement shall subject the party, and the counsel who assisted the party in the preparation of the affidavits, if any, to appropriate disciplinary action. The inadmissible affidavit(s) or

portion(s) thereof shall be expunged from the record.

SEC. 8. *Payment of Filing Fees*.—The plaintiff shall pay the docket and other legal fees prescribed under Rule 141 of the Revised Rules of Court, unless allowed to litigate as an indigent.

A claim filed with a motion to sue as indigent (*Form 6-SCC*) shall be referred to the Executive Judge for immediate action in case of multi-sala courts, or to the Presiding Judge of the court hearing the small claims case. If the motion is granted by the Executive Judge, the case shall be raffled off or assigned to the court designated to hear small claims cases. If the motion is denied, the plaintiff shall be given five (5) days within which to pay the docket fees, otherwise, the case shall be dismissed without prejudice. In no case shall a party, even if declared an indigent, be exempt from the payment of the P1,000.00 fee for service of summons and processes in civil cases.

SEC. 9. *Dismissal of the Claim*.—After the court determines that the case falls under this Rule, it may, from an examination of the allegations of the Statement of Claim and such evidence attached thereto, by itself, dismiss the case outright on any of the grounds apparent from the Claim for the dismissal of a civil action.

SEC. 10. *Summons and Notice of Hearing*.—If no ground for dismissal is found, the court shall forthwith issue Summons (*Form 2-SCC*) on the day of receipt of the Statement of Claim, directing the defendant to submit a verified Response.

The court shall also issue a Notice (*Form 4-SCC*) to both parties, directing them to appear before it on a specific date and time for hearing, with a warning that no unjustified postponement shall be allowed, as provided in Section 19 of this Rule.

The summons and notice to be served on the defendant shall be accompanied by a copy of the Statement of Claim and documents submitted by plaintiff, and a copy of the Response (*Form 3-SCC*) to be accomplished by the defendant. The Notice shall contain an express prohibition against the filing of a motion to dismiss or any other motion under Section 14 of this Rule.

SEC. 11. *Response*.—The defendant shall file with the court and serve on the plaintiff a duly accomplished and verified Response within a non-extendible period of ten (10) days from receipt of summons. The Response shall be accompanied by certified photocopies of documents, as well as affidavits of witnesses and other evidence in support thereof. No evidence shall be allowed during the hearing which was not attached to or submitted together with the Response, unless good cause is shown for the admission of additional evidence.

The grounds for the dismissal of the claim, under Rule 16 of the Rules of Court, should be pleaded.

SEC. 12. *Effect of Failure to File Response*.—Should the defendant fail to file his Response within the required period, and likewise fail to appear at the date set for hearing, the court shall render judgment on the same day, as may be warranted by the facts.

Should the defendant fail to file his Response within the required period but appears at the date set for hearing, the court shall ascertain what defense he has to offer and proceed to hear, mediate or adjudicate the case on the same day as if a Response has been filed.

SEC. 13. *Counterclaims Within the Coverage of this Rule.*—If at the time the action is commenced, the defendant possesses a claim against the plaintiff that (a) is within the coverage of this Rule, exclusive of interest and costs; (b) arises out of the same transaction or event that is the subject matter of the plaintiff's claim; (c) does not require for its adjudication the joinder of third parties; and (d) is not the subject of another pending action, the claim shall be filed as a counterclaim in the Response; otherwise, the defendant shall be barred from suit on the counterclaim.

The defendant may also elect to file a counterclaim against the plaintiff that does not arise out of the same transaction or occurrence, provided that the amount and nature thereof are within the coverage of this Rule and the prescribed docket and other legal fees are paid.

SEC. 14. *Prohibited Pleadings and Motions.* — The following pleadings, motions, or petitions shall not be allowed in the cases covered by this Rule:

- (a) Motion to dismiss the complaint;
- (b) Motion for a bill of particulars;
- (c) Motion for new trial, or for reconsideration of a judgment, or for reopening of trial;
- (d) Petition for relief from judgment;
- (e) Motion for extension of time to file pleadings, affidavits, or any other paper;
- (f) Memoranda;
- (g) Petition for *certiorari*, *mandamus*, or prohibition against any interlocutory order issued by the court;
- (h) Motion to declare the defendant in default;
- (i) Dilatory motions for postponement;
- (j) Reply;
- (k) Third-party complaints; and
- (l) Interventions.

SEC. 15. *Availability of Forms; Assistance by Court Personnel.*—The Clerk of Court or other court personnel shall provide such assistance as may be requested by a plaintiff or a defendant regarding the availability of forms and other information about the coverage, requirements as well as procedure for small claims cases.

SEC. 16. *Appearance.* — The parties shall appear at the designated date of hearing personally. Appearance through a representative must be for a valid cause. The representative of an individual-party must not be a lawyer, and must be related to or next-of-kin of the individual-party. Juridical entities shall not be represented by a lawyer in any capacity.

The representative must be authorized under a Special Power of Attorney (*Form 5- SCC*) to enter into an amicable settlement of the dispute and to enter into stipulations or admissions of facts and of documentary exhibits.

SEC. 17. *Appearance of Attorneys Not Allowed.*—No attorney shall appear in behalf of or represent a party at the hearing, unless the attorney is the plaintiff or defendant. If the court determines that a party cannot properly present his/her claim or defense and needs

assistance, the court may, in its discretion, allow another individual who is not an attorney to assist that party upon the latter's consent.

SEC. 18. *Non-appearance of Parties.*—Failure of the plaintiff to appear shall be cause for the dismissal of the claim without prejudice. The defendant who appears shall be entitled to judgment on a permissive counterclaim.

Failure of the defendant to appear shall have the same effect as failure to file a Response under Section 12 of this Rule. This shall not apply where one of two or more defendants who are sued under a common cause of action and have pleaded a common defense appears at the hearing.

Failure of both parties to appear shall cause the dismissal with prejudice of both the claim and counterclaim.

SEC. 19. *Postponement When Allowed.*—A request for postponement of a hearing may be granted only upon proof of the physical inability of the party to appear before the court on the scheduled date and time. A party may avail of only one (1) postponement.

SEC. 20. *Duty of the Court.*—At the beginning of the court session, the judge shall read aloud a short statement explaining the nature, purpose and the rule of procedure of small claims cases.

SEC. 21. *Hearing.* — At the hearing, the judge shall exert efforts to bring the parties to an amicable settlement of their dispute. Any settlement (*Form 7-SCC*) or resolution (*Form 8-SCC*) of the dispute shall be reduced into writing, signed by the parties and submitted to the court for approval (*Form 12-SCC*)

Settlement discussions shall be strictly confidential and any reference to any settlement made in the course of such discussions shall be punishable by contempt.

SEC. 22. *Failure of Settlement.* — If efforts at settlement fail, the hearing shall proceed in an informal and expeditious manner and be terminated within one (1) day. Either party may move in writing (*Form 10-SCC*) to have another judge hear and decide the case. The reassignment of the case shall be done in accordance with existing issuances.

The referral by the original judge to the Executive Judge shall be made within the same day the motion is filed and granted, and by the Executive Judge to the designated judge within the same day of the referral. The new judge shall hear and decide the case within five (5) working days from receipt of the order of reassignment.

SEC. 23. *Decision.*—After the hearing, the court shall render its decision on the same day, based on the facts established by the evidence (*Form 13-SCC*). The decision shall immediately be entered by the Clerk of Court in the court docket for civil cases and a copy thereof forthwith served on the parties.

The decision shall be final and unappealable.

SEC. 24. *Execution.*—If the decision is rendered in favor of the plaintiff, execution shall issue upon motion (*Form 9-SCC*).

SEC. 25. *Applicability of the Rules of Civil Procedure.*—The Rules of Civil Procedure shall apply



suppletorily insofar as they are not inconsistent with this Rule.

SEC. 26. *Effectivity.*—This Rule shall take effect on October 1, 2008 for the pilot courts designated to apply the procedure for small claims cases following its publication in two newspapers of general circulation.

The amendments to this Rule shall take effect ninety (90) days from publication in two (2) newspapers of general circulation.



Republic of the Philippines  
Supreme Court  
Manila

EN BANC  
A.M. No. 09-6-8-SC

**RULES OF PROCEDURE FOR ENVIRONMENTAL CASES**

**RESOLUTION**

Acting on the recommendation of the Chairperson of the Sub-committee on the Rules of Procedure for Environmental Cases submitting for this Court's consideration and approval the proposed Rules of Procedure for Environmental Cases, the Court Resolved to APPROVE the same.

These Rules shall take effect within fifteen (15) days following its publication once in a newspaper of general circulation.

April 13, 2010.

(Signed)  
**REYNATO S. PUNO**  
Chief Justice

(Signed)  
**ANTONIO T. CARPIO**  
Associate Justice

(Signed)  
**RENATO C. CORONA**  
Associate Justice

(On Official Leave)  
**CONCHITA CARPIO MORALES**  
Associate Justice

(Signed)  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice

(Signed)  
**ANTONIO EDUARDO B. NACHURA**  
Associate Justice

(Signed)  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

(Signed)  
**ARTURO D. BRION**  
Associate Justice

(Signed)  
**DIOSDADO M. PERALTA**  
Associate Justice

(Signed)  
**LUCAS P. BERSAMIN**  
Associate Justice

(Signed)  
**MARIANO C. DEL CASTILLO**  
Associate Justice

(Signed)  
**ROBERTO A. ABAD**  
Associate Justice

(Signed)  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice

(Signed)  
**JOSE P. PEREZ**  
Associate Justice

(Signed)  
**JOSE C. MENDOZA**  
Associate Justice

**RULES OF PROCEDURE  
FOR ENVIRONMENTAL CASES**

**PART I**

**RULE 1**

**GENERAL PROVISIONS**

SECTION 1. *Title.* – These Rules shall be known as “*The Rules of Procedure for Environmental Cases.*”

SEC. 2. *Scope.* – These Rules shall govern the procedure in civil, criminal and special civil actions before the Regional Trial Courts, Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts and Municipal Circuit Trial Courts involving enforcement or violations of environmental and other related laws, rules and regulations such as but not limited to the following:

- (a) Act No. 3572, Prohibition Against Cutting of Tindalo, Akli, and Molave Trees;

- (b) P.D. No. 705, Revised Forestry Code;
- (c) P.D. No. 856, Sanitation Code;
- (d) P.D. No. 979, Marine Pollution Decree;
- (e) P.D. No. 1067, Water Code;
- (f) P.D. No. 1151, Philippine Environmental Policy of 1977;
- (g) P.D. No. 1433, Plant Quarantine Law of 1978;
- (h) P.D. No. 1586, Establishing an Environmental Impact Statement System Including Other Environmental Management Related Measures and for Other Purposes;
- (i) R.A. No. 3571, Prohibition Against the Cutting, Destroying or Injuring of Planted or Growing Trees, Flowering Plants and Shrubs or Plants of Scenic Value along Public Roads, in Plazas, Parks, School Premises or in any Other Public Ground;
- (j) R.A. No. 4850, Laguna Lake Development Authority Act;
- (k) R.A. No. 6969, Toxic Substances and Hazardous Waste Act;
- (l) R.A. No. 7076, People's Small-Scale Mining Act;
- (m) R.A. No. 7586, National Integrated Protected Areas System Act including all laws, decrees, orders, proclamations and issuances establishing protected areas;
- (n) R.A. No. 7611, Strategic Environmental Plan for Palawan Act;
- (o) R.A. No. 7942, Philippine Mining Act;
- (p) R.A. No. 8371, Indigenous Peoples Rights Act;
- (q) R.A. No. 8550, Philippine Fisheries Code;
- (r) R.A. No. 8749, Clean Air Act;
- (s) R.A. No. 9003, Ecological Solid Waste Management Act;
- (t) R.A. No. 9072, National Caves and Cave Resource Management Act;
- (u) R.A. No. 9147, Wildlife Conservation and Protection Act;
- (v) R.A. No. 9175, Chainsaw Act;
- (w) R.A. No. 9275, Clean Water Act;
- (x) R.A. No. 9483, Oil Spill Compensation Act of 2007; and
- (y) Provisions in C.A. No. 141, The Public Land Act; R.A. No. 6657, Comprehensive Agrarian

Reform Law of 1988; R.A. No. 7160, Local Government Code of 1991; R.A. No. 7161, Tax Laws Incorporated in the Revised Forestry Code and Other Environmental Laws (Amending the NIRC); R.A. No. 7308, Seed Industry Development Act of 1992; R.A. No. 7900, High-Value Crops Development Act; R.A. No. 8048, Coconut Preservation Act; R.A. No. 8435, Agriculture and Fisheries Modernization Act of 1997; R.A. No. 9522, The Philippine Archipelagic Baselines Law; R.A. No. 9593, Renewable Energy Act of 2008; R.A. No. 9637, Philippine Biofuels Act; and other existing laws that relate to the conservation, development, preservation, protection and utilization of the environment and natural resources.

SEC. 3. *Objectives.* – The objectives of these Rules are:

- (a) To protect and advance the constitutional right of the people to a balanced and healthful ecology;
- (b) To provide a simplified, speedy and inexpensive procedure for the enforcement of environmental rights and duties recognized under the Constitution, existing laws, rules and regulations, and international agreements;
- (c) To introduce and adopt innovations and best practices ensuring the effective enforcement of remedies and redress for violation of environmental laws; and
- (d) To enable the courts to monitor and exact compliance with orders and judgments in environmental cases.

SEC. 4. *Definition of Terms.* –

- (a) *By-product or derivatives* means any part taken or substance extracted from wildlife, in raw or in processed form including stuffed animals and herbarium specimens.
- (b) *Consent decree* refers to a judicially-approved settlement between concerned parties based on public interest and public policy to protect and preserve the environment.
- (c) *Continuing mandamus* is a writ issued by a court in an environmental case directing any agency or instrumentality of the government or officer thereof to perform an act or series of acts decreed by final judgment which shall remain effective until judgment is fully satisfied.
- (d) *Environmental protection order (EPO)* refers to an order issued by the court directing or enjoining any person or government agency to perform or desist from performing an act in order to protect, preserve or rehabilitate the environment.
- (e) *Mineral* refers to all naturally occurring inorganic substance in solid, gas, liquid, or any intermediate state excluding energy materials such as coal, petroleum, natural gas, radioactive materials and geothermal energy.
- (f) *Precautionary principle* states 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.
- (g) *Strategic lawsuit against public participation (SLAPP)* refers to an action whether civil, criminal or administrative, brought against any person, institution or any government agency or local government unit 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.

- (h) *Wildlife* means wild forms and varieties of flora and fauna, in all developmental stages including those which are in captivity or are being bred or propagated.

## PART II

### CIVIL PROCEDURE

#### RULE 2

#### PLEADINGS AND PARTIES

SEC. 1. *Pleadings and motions allowed.* – The pleadings and motions that may be filed are complaint, answer which may include compulsory counterclaim and cross-claim, motion for intervention, motion for discovery and motion for reconsideration of the judgment.

Motion for postponement, motion for new trial and petition for relief from judgment shall be allowed in highly meritorious cases or to prevent a manifest miscarriage of justice.

SEC. 2. *Prohibited pleadings or motions.* – The following pleadings or motions shall not be allowed:

- (a) Motion to dismiss the complaint;
- (b) Motion for a bill of particulars;
- (c) Motion for extension of time to file pleadings, except to file answer, the extension not to exceed fifteen (15) days;
- (d) Motion to declare the defendant in default;
- (e) Reply and rejoinder; and
- (f) Third party complaint.

SEC. 3. *Verified complaint.* – The verified complaint shall contain the names of the parties, their addresses, the cause of action and the reliefs prayed for.

The plaintiff shall attach to the verified complaint all evidence proving or supporting the cause of action consisting of the affidavits of witnesses, documentary evidence and if possible, object evidence. The affidavits shall be in question and answer form and shall comply with the rules of admissibility of evidence.

The complaint shall state that it is an environmental case and the law involved. The complaint shall also include a certification against forum shopping. If the complaint is not an environmental complaint, the presiding judge shall refer it to the executive judge for re-raffle.

SEC. 4. *Who may file.* – Any real party in interest, including the government and juridical entities

authorized by law, may file a civil action involving the enforcement or violation of any environmental law.

SEC. 5. *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. Upon the filing of a citizen suit, the court shall issue an order which shall contain a brief description of the cause of action and the reliefs prayed for, requiring all interested parties to manifest their interest to intervene in the case within fifteen (15) days from notice thereof. The plaintiff may publish the order once in a newspaper of a general circulation in the Philippines or furnish all affected barangays copies of said order.

Citizen suits filed under R.A. No. 8749 and R.A. No. 9003 shall be governed by their respective provisions.

SEC. 6. *Service of the complaint on the government or its agencies.* – Upon the filing of the complaint, the plaintiff is required to furnish the government or the appropriate agency, although not a party, a copy of the complaint. Proof of service upon the government or the appropriate agency shall be attached to the complaint.

SEC. 7. *Assignment by raffle.* – If there is only one (1) designated branch in a multiple-sala court, the executive judge shall immediately refer the case to said branch. If there are two (2) or more designated branches, the executive judge shall conduct a special raffle on the day the complaint is filed.

SEC. 8. *Issuance of Temporary Environmental Protection Order (TEPO).* – If it appears from the verified complaint with a prayer for the issuance of an Environmental Protection Order (EPO) that the matter is of extreme urgency and the applicant will suffer grave injustice and irreparable injury, the executive judge of the multiple-sala court before raffle or the presiding judge of a single-sala court as the case may be, may issue *ex parte* a TEPO effective for only seventy-two (72) hours from date of the receipt of the TEPO 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.

The court where the case is assigned, shall periodically monitor the existence of acts that are the subject matter of the TEPO even if issued by the executive judge, and may lift the same at any time as circumstances may warrant.

The applicant shall be exempted from the posting of a bond for the issuance of a TEPO.

SEC. 9. *Action on motion for dissolution of TEPO.* – The grounds for motion to dissolve a TEPO shall be supported by affidavits of the party or person enjoined which the applicant may oppose, also by affidavits.

The TEPO may be dissolved if it appears after hearing that its issuance or continuance would cause irreparable damage to the party or person enjoined while the applicant may be fully compensated for such damages as he may suffer and subject to the posting of a sufficient bond by the party or person enjoined.

SEC. 10. *Prohibition against temporary restraining order (TRO) and preliminary injunction.* – Except the Supreme Court, no court can issue a TRO or writ of preliminary injunction against lawful actions of government agencies that enforce environmental laws or prevent violations thereof.

SEC. 11. *Report on TEPO, EPO, TRO or preliminary injunction.* – The judge shall report any action taken on a TEPO, EPO, TRO or a preliminary injunction, including its modification and dissolution, to the Supreme Court, through the Office of the Court Administrator, within ten (10) days from the action taken.

SEC. 12. *Payment of filing and other legal fees.* – The payment of filing and other legal fees by the plaintiff shall be deferred until after judgment unless the plaintiff is allowed to litigate as an indigent. It shall constitute a first lien on the judgment award.

For a citizen suit, the court shall defer the payment of filing and other legal fees that shall serve as first lien on the judgment award.

SEC. 13. *Service of summons, orders and other court processes.* – The summons, orders and other court processes may be served by the sheriff, his deputy or other proper court officer or for justifiable reasons, by the counsel or representative of the plaintiff or any suitable person authorized or deputized by the court issuing the summons.

Any private person who is authorized or deputized by the court to serve summons, orders and other court processes shall for that purpose be considered an officer of the court.

The summons shall be served on the defendant, together with a copy of an order informing all parties that they have fifteen (15) days from the filing of an answer, within which to avail of interrogatories to parties under Rule 25 of the Rules of Court and request for admission by adverse party under Rule 26, or at their discretion, make use of depositions under Rule 23 or other measures under Rules 27 and 28.

Should personal and substituted service fail, summons by publication shall be allowed. In the case of juridical entities, summons by publication shall be done by indicating the names of the officers or their duly authorized representatives.

SEC. 14. *Verified answer.* – Within fifteen (15) days from receipt of summons, the defendant shall file a verified answer to the complaint and serve a copy thereof on the plaintiff. The defendant shall attach affidavits of witnesses, reports, studies of experts and all evidence in support of the defense.

Affirmative and special defenses not pleaded shall be deemed waived, except lack of jurisdiction.

Cross-claims and compulsory counterclaims not asserted shall be considered barred. The answer to counterclaims or cross-claims shall be filed and served within ten (10) days from service of the answer in which they are pleaded.

SEC. 15. *Effect of failure to answer.* – Should the defendant fail to answer the complaint within the period provided, the court shall declare defendant in default and upon motion of the plaintiff, shall receive evidence *ex parte* and render judgment based thereon and the reliefs prayed for.

## RULE 3

### PRE-TRIAL

SEC. 1. *Notice of pre-trial.* – Within two (2) days from the filing of the answer to the counterclaim or cross-claim, if any, the branch clerk of court shall issue a notice of the pre-trial to be held not later than one (1) month from the filing of the last pleading.

The court shall schedule the pre-trial and set as many pre-trial conferences as may be necessary within a period of two (2) months counted from the date of the first pre-trial conference.

SEC. 2. *Pre-trial brief.* – At least three (3) days before the pre-trial, the parties shall submit pre-trial briefs containing the following:

- (a) A statement of their willingness to enter into an amicable settlement indicating the desired terms thereof or to submit the case to any of the alternative modes of dispute resolution;
- (b) A summary of admitted facts and proposed stipulation of facts;
- (c) The legal and factual issues to be tried or resolved. For each factual issue, the parties shall state all evidence to support their positions thereon. For each legal issue, parties shall state the applicable law and jurisprudence supporting their respective positions thereon;
- (d) The documents or exhibits to be presented, including depositions, answers to interrogatories and answers to written request for admission by adverse party, stating the purpose thereof;
- (e) A manifestation of their having availed of discovery procedures or their intention to avail themselves of referral to a commissioner or panel of experts;
- (f) The number and names of the witnesses and the substance of their affidavits;
- (g) Clarificatory questions from the parties; and
- (h) List of cases arising out of the same facts pending before other courts or administrative agencies.

Failure to comply with the required contents of a pre-trial brief may be a ground for contempt. Failure to file the pre-trial brief shall have the same effect as failure to appear at the pre-trial.

SEC. 3. *Referral to mediation.* – At the start of the pre-trial conference, the court shall inquire from the parties if they have settled the dispute; otherwise, the court shall immediately refer the parties or their counsel, if authorized by their clients, to the Philippine Mediation Center (PMC) unit for purposes of mediation. If not available, the court shall refer the case to the clerk of court or legal researcher for mediation.

Mediation must be conducted within a non-extendible period of thirty (30) days from receipt of notice of referral to mediation.

The mediation report must be submitted within ten (10) days from the expiration of the 30-day period.

SEC. 4. *Preliminary conference.* – If mediation fails, the court will schedule the continuance of the pre-trial. Before the scheduled date of continuance, the court may refer the case to the branch clerk of court for a preliminary conference for the following purposes:

- (a) To assist the parties in reaching a settlement;
- (b) To mark the documents or exhibits to be presented by the parties and copies thereof to be attached to the records after comparison with the originals;
- (c) To ascertain from the parties the undisputed facts and admissions on the genuineness and due execution of the documents marked as exhibits;
- (d) To require the parties to submit the depositions taken under Rule 23 of the Rules of Court, the answers to written interrogatories under Rule 25, and the answers to request for admissions by the adverse party under Rule 26;
- (e) To require the production of documents or things requested by a party under Rule 27 and the results of the physical and mental examination of persons under Rule 28;
- (f) To consider such other matters as may aid in its prompt disposition;
- (g) To record the proceedings in the “Minutes of Preliminary Conference” to be signed by both parties or their counsels;
- (h) To mark the affidavits of witnesses which shall be in question and answer form and shall constitute the direct examination of the witnesses; and
- (i) To attach the minutes together with the marked exhibits before the pre-trial proper.

The parties or their counsel must submit to the branch clerk of court the names, addresses and contact numbers of the affiants.

During the preliminary conference, the branch clerk of court shall also require the parties to submit the depositions taken under Rule 23 of the Rules of Court, the answers to written interrogatories under Rule 25 and the answers to request for admissions by the adverse party under Rule 26. The branch clerk of court may also require the production of documents or things requested by a party under Rule 27 and the results of the physical and mental examination of persons under Rule 28.

SEC. 5. *Pre-trial conference; consent decree.* – The judge shall put the parties and their counsels under oath, and they shall remain under oath in all pre-trial conferences.

The judge shall exert best efforts to persuade the parties to arrive at a settlement of the dispute. The judge may issue a consent decree approving the agreement between the parties in accordance with law, morals, public order and public policy to protect the right of the people to a balanced and healthful ecology.

Evidence not presented during the pre-trial, except newly-discovered evidence, shall be deemed waived.

SEC. 6. *Failure to settle.* – If there is no full settlement, the judge shall:

- (a) Adopt the minutes of the preliminary conference as part of the pre-trial proceedings and confirm the markings of exhibits or substituted photocopies and admissions on the genuineness and due execution of documents;
- (b) Determine if there are cases arising out of the same facts pending before other courts and order its consolidation if warranted;
- (c) Determine if the pleadings are in order and if not, order the amendments if necessary;
- (d) Determine if interlocutory issues are involved and resolve the same;
- (e) Consider the adding or dropping of parties;
- (f) Scrutinize every single allegation of the complaint, answer and other pleadings and attachments thereto, and the contents of documents and all other evidence identified and pre-marked during pre-trial in determining further admissions;
- (g) Obtain admissions based on the affidavits of witnesses and evidence attached to the pleadings or submitted during pre-trial;
- (h) Define and simplify the factual and legal issues arising from the pleadings and evidence. Uncontroverted issues and frivolous claims or defenses should be eliminated;
- (i) Discuss the propriety of rendering a summary judgment or a judgment based on the pleadings, evidence and admissions made during pre-trial;
- (j) Observe the Most Important Witness Rule in limiting the number of witnesses, determining the facts to be proved by each witness and fixing the approximate number of hours per witness;
- (k) Encourage referral of the case to a trial by commissioner under Rule 32 of the Rules of Court or to a mediator or arbitrator under any of the alternative modes of dispute resolution governed by the Special Rules of Court on Alternative Dispute Resolution;
- (l) Determine the necessity of engaging the services of a qualified expert as a friend of the court (*amicus curiae*); and
- (m) Ask parties to agree on the specific trial dates for continuous trial, comply with the one-day examination of witness rule, adhere to the case flow chart determined by the court which shall contain the different stages of the proceedings up to the promulgation of the decision and use the time frame for each stage in setting the trial dates.

SEC. 7. *Effect of failure to appear at pre-trial.* – The court shall not dismiss the complaint, except upon repeated and unjustified failure of the plaintiff to appear. The dismissal shall be without prejudice, and the court may proceed with the counterclaim.

If the defendant fails to appear at the pre-trial, the court shall receive evidence *ex parte*.

SEC. 8. *Minutes of pre-trial.* – The minutes of each pre-trial conference shall contain matters taken up therein, more particularly admissions of facts and exhibits, and shall be signed by the parties and their counsel.

SEC. 9. *Pre-trial order.* – Within ten (10) days after the termination of the pre-trial, the court shall issue a pre-trial order setting forth the actions taken during the pre-trial conference, the facts stipulated, the admissions made, the evidence marked, the number of witnesses to be presented and the schedule of trial. Said order shall bind the parties, limit the trial to matters not disposed of and control the course of action during the trial.

SEC. 10. *Efforts to settle.* – The court shall endeavor to make the parties agree to compromise or settle in accordance with law at any stage of the proceedings before rendition of judgment.

#### **RULE 4**

##### **TRIAL**

SEC. 1. *Continuous trial.* – The judge shall conduct continuous trial which shall not exceed two (2) months from the date of the issuance of the pre-trial order.

Before the expiration of the two-month period, the judge may ask the Supreme Court for the extension of the trial period for justifiable cause.

SEC. 2. *Affidavits in lieu of direct examination.* – In lieu of direct examination, affidavits marked during the pre-trial shall be presented as direct examination of affiants subject to cross-examination by the adverse party.

SEC. 3. *One-day examination of witness rule.* – The court shall strictly adhere to the rule that a witness has to be fully examined in one (1) day, subject to the court's discretion of extending the examination for justifiable reason. After the presentation of the last witness, only oral offer of evidence shall be allowed, and the opposing party shall immediately interpose his objections. The judge shall forthwith rule on the offer of evidence in open court.

SEC. 4. *Submission of case for decision; filing of memoranda.* – After the last party has rested its case, the court shall issue an order submitting the case for decision.

The court may require the parties to submit their respective memoranda, if possible in electronic

form, within a non-extendible period of thirty (30) days from the date the case is submitted for decision.

The court shall have a period of sixty (60) days to decide the case from the date the case is submitted for decision.

SEC. 5. *Period to try and decide.* – The court shall have a period of one (1) year from the filing of the complaint to try and decide the case. Before the expiration of the one-year period, the court may petition the Supreme Court for the extension of the period for justifiable cause.

The court shall prioritize the adjudication of environmental cases.

#### **RULE 5**

##### **JUDGMENT AND EXECUTION**

SEC. 1. *Reliefs in a citizen suit.* – If warranted, the court may grant to the plaintiff proper reliefs which shall include the protection, preservation or rehabilitation of the environment and the payment of attorney's fees, costs of suit and other litigation expenses. It may also require the violator to submit a program of rehabilitation or restoration of the environment, the costs of which shall be borne by the violator, or to contribute to a special trust fund for that purpose subject to the control of the court.

SEC. 2. *Judgment not stayed by appeal.* – Any judgment directing the performance of acts for the protection, preservation or rehabilitation of the environment shall be executory pending appeal unless restrained by the appellate court.

SEC. 3. *Permanent EPO; writ of continuing mandamus.* – In the judgment, the court may convert the TEPO to a permanent EPO or issue a writ of continuing *mandamus* directing the performance of acts which shall be effective until the judgment is fully satisfied.

The court may, by itself or through the appropriate government agency, monitor the execution of the judgment and require the party concerned to submit written reports on a quarterly basis or sooner as may be necessary, detailing the progress of the execution and satisfaction of the judgment. The other party may, at its option, submit its comments or observations on the execution of the judgment.

SEC. 4. *Monitoring of compliance with judgment and orders of the court by a commissioner.* – The court may *motu proprio*, or upon motion of the prevailing party, order that the enforcement of the judgment or order be referred to a commissioner to be appointed by the court. The commissioner shall file with the court written progress reports on a quarterly basis or more frequently when necessary.

SEC. 5. *Return of writ of execution.* – The process of execution shall terminate upon a sufficient showing that the decision or order has been implemented to the satisfaction of the court in accordance with Section 14, Rule 39 of the Rules of Court.

## RULE 6

### STRATEGIC LAWSUIT AGAINST PUBLIC PARTICIPATION

SEC. 1. *Strategic lawsuit against public participation (SLAPP)*. – A legal action filed to harass, vex, exert undue pressure or stifle any legal recourse that any person, institution or the government has taken or may take in the enforcement of environmental laws, protection of the environment or assertion of environmental rights shall be treated as a SLAPP and shall be governed by these Rules.

SEC. 2. *SLAPP as a defense; how alleged*. – In a SLAPP filed against a person involved in the enforcement of environmental laws, protection of the environment, or assertion of environmental rights, the defendant may file an answer interposing as a defense that the case is a SLAPP and shall be supported by documents, affidavits, papers and other evidence; and, by way of counterclaim, pray for damages, attorney's fees and costs of suit.

The court shall direct the plaintiff or adverse party to file an opposition showing the suit is not a SLAPP, attaching evidence in support thereof, within a non-extendible period of five (5) days from receipt of notice that an answer has been filed.

The defense of a SLAPP shall be set for hearing by the court after issuance of the order to file an opposition within fifteen (15) days from filing of the comment or the lapse of the period.

SEC. 3. *Summary hearing*. – The hearing on the defense of a SLAPP shall be summary in nature. The parties must submit all available evidence in support of their respective positions. The party seeking the dismissal of the case must prove by substantial evidence that his acts for the enforcement of environmental law is a legitimate action for the protection, preservation and rehabilitation of the environment. The party filing the action assailed as a SLAPP shall prove by preponderance of evidence that the action is not a SLAPP and is a valid claim.

SEC. 4. *Resolution of the defense of a SLAPP*. – The affirmative defense of a SLAPP shall be resolved within thirty (30) days after the summary hearing. If the court dismisses the action, the court may award damages, attorney's fees and costs of suit under a counterclaim if such has been filed. The dismissal shall be with prejudice.

If the court rejects the defense of a SLAPP, the evidence adduced during the summary hearing shall be treated as evidence of the parties on the merits of the case. The action shall proceed in accordance with the Rules of Court.

## PART III

### SPECIAL CIVIL ACTIONS

## RULE 7

### WRIT OF KALIKASAN

SEC. 1. *Nature of the writ*. – The writ is a remedy available to a natural or juridical person, entity authorized by law, people's organization, non-governmental organization, or any public interest group accredited by or registered with any government agency, on behalf of persons whose constitutional right to a balanced and healthful ecology is violated, or threatened with violation by an unlawful act or omission of a public official or employee, or private individual or entity, involving environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces.

SEC. 2. *Contents of the petition*. – The verified petition shall contain the following:

- (a) The personal circumstances of the petitioner;
- (b) The name and personal circumstances of the respondent or if the name and personal circumstances are unknown and uncertain, the respondent may be described by an assumed appellation;
- (c) The environmental law, rule or regulation violated or threatened to be violated, the act or omission complained of, and the environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces.
- (d) All relevant and material evidence consisting of the affidavits of witnesses, documentary evidence, scientific or other expert studies, and if possible, object evidence;
- (e) The certification of petitioner under oath that: (1) petitioner has not commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency, and no such other action or claim is pending therein; (2) if there is such other pending action or claim, a complete statement of its present status; (3) if petitioner should learn that the same or similar action or claim has been filed or is pending, petitioner shall report to the court that fact within five (5) days therefrom; and
- (f) The reliefs prayed for which may include a prayer for the issuance of a TEPO.

SEC. 3. *Where to file*. – The petition shall be filed with the Supreme Court or with any of the stations of the Court of Appeals.

SEC. 4. *No docket fees*. – The petitioner shall be exempt from the payment of docket fees.

SEC. 5. *Issuance of the writ*. – Within three (3) days from the date of filing of the petition, if the

petition is sufficient in form and substance, the court shall give an order: (a) issuing the writ; and (b) requiring the respondent to file a verified return as provided in Section 8 of this Rule. The clerk of court shall forthwith issue the writ under the seal of the court including the issuance of a cease and desist order and other temporary reliefs effective until further order.

SEC. 6. *How the writ is served.* – The writ shall be served upon the respondent by a court officer or any person deputized by the court, who shall retain a copy on which to make a return of service. In case the writ cannot be served personally, the rule on substituted service shall apply.

SEC. 7. *Penalty for refusing to issue or serve the writ.* – A clerk of court who unduly delays or refuses to issue the writ after its allowance or a court officer or deputized person who unduly delays or refuses to serve the same shall be punished by the court for contempt without prejudice to other civil, criminal or administrative actions.

SEC. 8. *Return of respondent; contents.* – Within a non-extendible period of ten (10) days after service of the writ, the respondent shall file a verified return which shall contain all defenses to show that respondent did not violate or threaten to violate, or allow the violation of any environmental law, rule or regulation or commit any act resulting to environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces.

All defenses not raised in the return shall be deemed waived.

The return shall include affidavits of witnesses, documentary evidence, scientific or other expert studies, and if possible, object evidence, in support of the defense of the respondent.

A general denial of allegations in the petition shall be considered as an admission thereof.

SEC. 9. *Prohibited pleadings and motions.* – The following pleadings and motions are prohibited:

- (a) Motion to dismiss;
- (b) Motion for extension of time to file return;
- (c) Motion for postponement;
- (d) Motion for a bill of particulars;
- (e) Counterclaim or cross-claim;
- (f) Third-party complaint;
- (g) Reply; and
- (h) Motion to declare respondent in default.

SEC. 10. *Effect of failure to file return.* – In case the respondent fails to file a return, the court shall proceed to hear the petition *ex parte*.

SEC. 11. *Hearing.* – Upon receipt of the return of the respondent, the court may call a preliminary conference to simplify the issues, determine the possibility of obtaining stipulations or admissions from the parties, and set the petition for hearing.

The hearing including the preliminary conference shall not extend beyond sixty (60) days and shall be given the same priority as petitions for the writs of *habeas corpus*, *amparo* and *habeas data*.

SEC. 12. *Discovery Measures.* – A party may file a verified motion for the following reliefs:

- (a) *Ocular Inspection; order* – The motion must show that an ocular inspection order is necessary to establish the magnitude of the violation or the threat as to prejudice the life, health or property of inhabitants in two or more cities or provinces. It shall state in detail the place or places to be inspected. It shall be supported by affidavits of witnesses having personal knowledge of the violation or threatened violation of environmental law.

After hearing, the court may order any person in possession or control of a designated land or other property to permit entry for the purpose of inspecting or photographing the property or any relevant object or operation thereon.

The order shall specify the person or persons authorized to make the inspection and the date, time, place and manner of making the inspection and may prescribe other conditions to protect the constitutional rights of all parties.

- (b) *Production or inspection of documents or things; order* – The motion must show that a production order is necessary to establish the magnitude of the violation or the threat as to prejudice the life, health or property of inhabitants in two or more cities or provinces.

After hearing, the court may order any person in possession, custody or control of any designated documents, papers, books, accounts, letters, photographs, objects or tangible things, or objects in digitized or electronic form, which constitute or contain evidence relevant to the petition or the return, to produce and permit their inspection, copying or photographing by or on behalf of the movant.

The production order shall specify the person or persons authorized to make the production and the date, time, place and manner of making the inspection or production and may prescribe other conditions to protect the constitutional rights of all parties.

SEC. 13. *Contempt.* – The court may after hearing punish the respondent who refuses or unduly delays the filing of a return, or who makes a false return, or any person who disobeys or resists a lawful process or order of the court for indirect contempt under Rule 71 of the Rules of Court.

SEC. 14. *Submission of case for decision; filing of memoranda.* – After hearing, the court shall issue an order submitting the case for decision. The court may require the filing of memoranda and if possible, in its electronic form, within a non-extendible period of thirty (30) days from the date the petition is submitted for decision.

SEC. 15. *Judgment.* – Within sixty (60) days from the time the petition is submitted for decision, the

court shall render judgment granting or denying the privilege of the writ of *kalikasan*.

The reliefs that may be granted under the writ are the following:

- (a) Directing respondent to permanently cease and desist from committing acts or neglecting the performance of a duty in violation of environmental laws resulting in environmental destruction or damage;
- (b) Directing the respondent public official, government agency, private person or entity to protect, preserve, rehabilitate or restore the environment;
- (c) Directing the respondent public official, government agency, private person or entity to monitor strict compliance with the decision and orders of the court;
- (d) Directing the respondent public official, government agency, or private person or entity to make periodic reports on the execution of the final judgment; and
- (e) Such other reliefs which relate to the right of the people to a balanced and healthful ecology or to the protection, preservation, rehabilitation or restoration of the environment, except the award of damages to individual petitioners.

SEC. 16. *Appeal*. – Within fifteen (15) days from the date of notice of the adverse judgment or denial of motion for reconsideration, any party may appeal to the Supreme Court under Rule 45 of the Rules of Court. The appeal may raise questions of fact.

SEC. 17. *Institution of separate actions*. – The filing of a petition for the issuance of the writ of *kalikasan* shall not preclude the filing of separate civil, criminal or administrative actions.

## RULE 8

### WRIT OF CONTINUING MANDAMUS

SEC. 1. *Petition for continuing mandamus*. – When any agency or instrumentality of the government or officer thereof unlawfully neglects the performance of an act which the law specifically enjoins as a duty resulting from an office, trust or station in connection with the enforcement or violation of an environmental law rule or regulation or a right therein, or unlawfully excludes another from the use or enjoyment of such right and there is no other plain, speedy and adequate remedy in the ordinary course of law, the person aggrieved thereby may file a verified petition in the proper court, alleging the facts with certainty, attaching thereto supporting evidence, specifying that the petition concerns an environmental law, rule or regulation, and praying that judgment be rendered commanding the respondent to do an act or series of acts until the judgment is fully satisfied, and to pay damages sustained by the petitioner by reason of the malicious neglect to perform the duties of the respondent, under the law, rules or regulations. The petition shall also contain a sworn certification of non-forum shopping.

SEC. 2. *Where to file the petition*. – The petition shall be filed with the Regional Trial Court exercising jurisdiction over the territory where the actionable neglect or omission occurred or with the Court of

Appeals or the Supreme Court.

SEC. 3. *No docket fees*. – The petitioner shall be exempt from the payment of docket fees.

SEC. 4. *Order to comment*. – If the petition is sufficient in form and substance, the court shall issue the writ and require the respondent to comment on the petition within ten (10) days from receipt of a copy thereof. Such order shall be served on the respondents in such manner as the court may direct, together with a copy of the petition and any annexes thereto.

SEC. 5. *Expediting proceedings; TEPO*. – The court in which the petition is filed may issue such orders to expedite the proceedings, and it may also grant a TEPO for the preservation of the rights of the parties pending such proceedings.

SEC. 6. *Proceedings after comment is filed*. – After the comment is filed or the time for the filing thereof has expired, the court may hear the case which shall be summary in nature or require the parties to submit memoranda. The petition shall be resolved without delay within sixty (60) days from the date of the submission of the petition for resolution.

SEC. 7. *Judgment*. – If warranted, the court shall grant the privilege of the writ of continuing *mandamus* requiring respondent to perform an act or series of acts until the judgment is fully satisfied and to grant such other reliefs as may be warranted resulting from the wrongful or illegal acts of the respondent. The court shall require the respondent to submit periodic reports detailing the progress and execution of the judgment, and the court may, by itself or through a commissioner or the appropriate government agency, evaluate and monitor compliance. The petitioner may submit its comments or observations on the execution of the judgment.

SEC. 8. *Return of the writ*. – The periodic reports submitted by the respondent detailing compliance with the judgment shall be contained in partial returns of the writ.

Upon full satisfaction of the judgment, a final return of the writ shall be made to the court by the respondent. If the court finds that the judgment has been fully implemented, the satisfaction of judgment shall be entered in the court docket.

## PART III

### CRIMINAL PROCEDURE

#### RULE 9

### PROSECUTION OF OFFENSES

SEC. 1. *Who may file*. – Any offended party, peace officer or any public officer charged with the enforcement of an environmental law may file a complaint before the proper officer in accordance with

the Rules of Court.

SEC. 2. *Filing of the information.* – An information, charging a person with a violation of an environmental law and subscribed by the prosecutor, shall be filed with the court.

SEC. 3. *Special prosecutor.* – In criminal cases, where there is no private offended party, a counsel whose services are offered by any person or organization may be allowed by the court as special prosecutor, with the consent of and subject to the control and supervision of the public prosecutor.

## RULE 10

### PROSECUTION OF CIVIL ACTIONS

SEC. 1. *Institution of criminal and civil actions.* – When a criminal action is instituted, the civil action for the recovery of civil liability arising from the offense charged, shall be deemed instituted with the criminal action unless the complainant waives the civil action, reserves the right to institute it separately or institutes the civil action prior to the criminal action.

Unless the civil action has been instituted prior to the criminal action, the reservation of the right to institute separately the civil action shall be made during arraignment.

In case civil liability is imposed or damages are awarded, the filing and other legal fees shall be imposed on said award in accordance with Rule 141 of the Rules of Court, and the fees shall constitute a first lien on the judgment award. The damages awarded in cases where there is no private offended party, less the filing fees, shall accrue to the funds of the agency charged with the implementation of the environmental law violated. The award shall be used for the restoration and rehabilitation of the environment adversely affected.

## RULE 11

### ARREST

SEC. 1. *Arrest without warrant; when lawful.* – A peace officer or an individual deputized by the proper government agency may, without a warrant, arrest a person:

- (a) When, in his presence, the person to be arrested has committed, is actually committing or is attempting to commit an offense; or
- (b) When an offense has just been committed, and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it.

Individuals deputized by the proper government agency who are enforcing environmental laws

shall enjoy the presumption of regularity under Section 3(m), Rule 131 of the Rules of Court when effecting arrests for violations of environmental laws.

SEC. 2. *Warrant of arrest.* – All warrants of arrest issued by the court shall be accompanied by a certified true copy of the information filed with the issuing court.

## RULE 12

### CUSTODY AND DISPOSITION OF SEIZED ITEMS, EQUIPMENT, PARAPHERNALIA, CONVEYANCES AND INSTRUMENTS

SEC. 1. *Custody and disposition of seized items.* – The custody and disposition of seized items shall be in accordance with the applicable laws or rules promulgated by the concerned government agency.

SEC. 2. *Procedure.* – In the absence of applicable laws or rules promulgated by the concerned government agency, the following procedure shall be observed:

- (a) The apprehending officer having initial custody and control of the seized items, equipment, paraphernalia, conveyances and instruments shall physically inventory and whenever practicable, photograph the same in the presence of the person from whom such items were seized.
- (b) Thereafter, the apprehending officer shall submit to the issuing court the return of the search warrant within five (5) days from date of seizure or in case of warrantless arrest, submit within five (5) days from date of seizure, the inventory report, compliance report, photographs, representative samples and other pertinent documents to the public prosecutor for appropriate action.
- (c) Upon motion by any interested party, the court may direct the auction sale of seized items, equipment, paraphernalia, tools or instruments of the crime. The court shall, after hearing, fix the minimum bid price based on the recommendation of the concerned government agency. The sheriff shall conduct the auction.
- (d) The auction sale shall be with notice to the accused, the person from whom the items were seized, or the owner thereof and the concerned government agency.
- (e) The notice of auction shall be posted in three conspicuous places in the city or municipality where the items, equipment, paraphernalia, tools or instruments of the crime were seized.
- (f) The proceeds shall be held in trust and deposited with the government depository bank for disposition according to the judgment.

**RULE 13**  
**PROVISIONAL REMEDIES**

SEC. 1. *Attachment in environmental cases.* – The provisional remedy of attachment under Rule 127 of the Rules of Court may be availed of in environmental cases.

SEC. 2. *Environmental Protection Order (EPO); Temporary Environmental Protection Order (TEPO) in criminal cases.* – The procedure for and issuance of EPO and TEPO shall be governed by Rule 2 of these Rules.

**RULE 14**  
**BAIL**

SEC. 1. *Bail, where filed.* – Bail in the amount fixed may be filed with the court where the case is pending, or in the absence or unavailability of the judge thereof, with any regional trial judge, metropolitan trial judge, municipal trial judge or municipal circuit trial judge in the province, city or municipality. If the accused is arrested in a province, city or municipality other than where the case is pending, bail may also be filed with any Regional Trial Court of said place, or if no judge thereof is available, with any metropolitan trial judge, municipal trial judge or municipal circuit trial judge therein. If the court grants bail, the court may issue a hold-departure order in appropriate cases.

SEC. 2. *Duties of the court.* – Before granting the application for bail, the judge must read the information in a language known to and understood by the accused and require the accused to sign a written undertaking, as follows:

- (a) To appear before the court that issued the warrant of arrest for arraignment purposes on the date scheduled, and if the accused fails to appear without justification on the date of arraignment, accused waives the reading of the information and authorizes the court to enter a plea of not guilty on behalf of the accused and to set the case for trial;
- (b) To appear whenever required by the court where the case is pending; and
- (c) To waive the right of the accused to be present at the trial, and upon failure of the accused to appear without justification and despite due notice, the trial may proceed *in absentia*.

**RULE 15**  
**ARRAIGNMENT AND PLEA**

SEC. 1. *Arraignment.* – The court shall set the arraignment of the accused within fifteen (15) days from the time it acquires jurisdiction over the accused, with notice to the public prosecutor and offended party or concerned government agency that it will entertain plea-bargaining on the date of the arraignment.

SEC. 2. *Plea-bargaining.* – On the scheduled date of arraignment, the court shall consider plea-bargaining arrangements. Where the prosecution and offended party or concerned government agency agree to the plea offered by the accused, the court shall:

- (a) Issue an order which contains the plea-bargaining arrived at;
- (b) Proceed to receive evidence on the civil aspect of the case, if any; and
- (c) Render and promulgate judgment of conviction, including the civil liability for damages.

**RULE 16**  
**PRE-TRIAL**

SEC. 1. *Setting of pre-trial conference.* – After the arraignment, the court shall set the pre-trial conference within thirty (30) days. It may refer the case to the branch clerk of court, if warranted, for a preliminary conference to be set at least three (3) days prior to the pre-trial.

SEC. 2. *Preliminary conference.* – The preliminary conference shall be for the following purposes:

- (a) To assist the parties in reaching a settlement of the civil aspect of the case;
- (b) To mark the documents to be presented as exhibits;
- (c) To attach copies thereof to the records after comparison with the originals;
- (d) To ascertain from the parties the undisputed facts and admissions on the genuineness and due execution of documents marked as exhibits;
- (e) To consider such other matters as may aid in the prompt disposition of the case;
- (f) To record the proceedings during the preliminary conference in the Minutes of Preliminary Conference to be signed by the parties and counsel;
- (g) To mark the affidavits of witnesses which shall be in question and answer form and shall constitute the direct examination of the witnesses; and
- (h) To attach the Minutes and marked exhibits to the case record before the pre-trial proper.

The parties or their counsel must submit to the branch clerk of court the names, addresses and contact numbers of the affiants.

SEC. 3. *Pre-trial duty of the judge.* – During the pre-trial, the court shall:

- (a) Place the parties and their counsels under oath;

- (b) Adopt the minutes of the preliminary conference as part of the pre-trial proceedings, confirm markings of exhibits or substituted photocopies and admissions on the genuineness and due execution of documents, and list object and testimonial evidence;
- (c) Scrutinize the information and the statements in the affidavits and other documents which form part of the record of the preliminary investigation together with other documents identified and marked as exhibits to determine further admissions of facts as to:
  - i. The court's territorial jurisdiction relative to the offense(s) charged;
  - ii. Qualification of expert witnesses; and
  - iii. Amount of damages;
- (d) Define factual and legal issues;
- (e) Ask parties to agree on the specific trial dates and adhere to the flow chart determined by the court which shall contain the time frames for the different stages of the proceeding up to promulgation of decision;
- (f) Require the parties to submit to the branch clerk of court the names, addresses and contact numbers of witnesses that need to be summoned by subpoena; and
- (g) Consider modification of order of trial if the accused admits the charge but interposes a lawful defense.

SEC. 4. *Manner of questioning.* – All questions or statements must be directed to the court.

SEC. 5. *Agreements or admissions.* – All agreements or admissions made or entered during the pre-trial conference shall be reduced in writing and signed by the accused and counsel; otherwise, they cannot be used against the accused. The agreements covering the matters referred to in Section 1, Rule 118 of the Rules of Court shall be approved by the court.

SEC. 6. *Record of proceedings.* – All proceedings during the pre-trial shall be recorded, the transcripts prepared and the minutes signed by the parties or their counsels.

SEC. 7. *Pre-trial order.* – The court shall issue a pre-trial order within ten (10) days after the termination of the pre-trial, setting forth the actions taken during the pre-trial conference, the facts stipulated, the admissions made, evidence marked, the number of witnesses to be presented and the schedule of trial. The order shall bind the parties and control the course of action during the trial.

## RULE 17

### TRIAL

SEC. 1. *Continuous trial.* – The court shall endeavor to conduct continuous trial which shall not exceed three (3) months from the date of the issuance of the pre-trial order.

SEC. 2. *Affidavit in lieu of direct examination.* – Affidavit in lieu of direct examination shall be used, subject to cross-examination and the right to object to inadmissible portions of the affidavit.

SEC. 3. *Submission of memoranda.* – The court may require the parties to submit their respective memoranda and if possible, in electronic form, within a non-extendible period of thirty (30) days from the date the case is submitted for decision.

With or without any memoranda filed, the court shall have a period of sixty (60) days to decide the case counted from the last day of the 30-day period to file the memoranda.

SEC. 4. *Disposition period.* – The court shall dispose the case within a period of ten (10) months from the date of arraignment.

SEC. 5. *Pro bono lawyers.* – If the accused cannot afford the services of counsel or there is no available public attorney, the court shall require the Integrated Bar of the Philippines to provide *pro bono* lawyers for the accused.

## RULE 18

### SUBSIDIARY LIABILITY

SEC. 1. *Subsidiary liability.* – In case of conviction of the accused and subsidiary liability is allowed by law, the court may, by motion of the person entitled to recover under judgment, enforce such subsidiary liability against a person or corporation subsidiarily liable under Article 102 and Article 103 of the Revised Penal Code.

## RULE 19

### STRATEGIC LAWSUIT AGAINST PUBLIC PARTICIPATION IN CRIMINAL CASES

SEC. 1. *Motion to dismiss.* – Upon the filing of an information in court and before arraignment, the accused may file a motion to dismiss on the ground that the criminal action is a SLAPP.

SEC. 2. *Summary hearing.* – The hearing on the defense of a SLAPP shall be summary in nature. The parties must submit all the available evidence in support of their respective positions. The party seeking the dismissal of the case must prove by substantial evidence that his acts for the enforcement of environmental law is a legitimate action for the protection, preservation and rehabilitation of the environment. The party filing the action assailed as a SLAPP shall prove by preponderance of evidence that the action is not a SLAPP.

SEC. 3. *Resolution.* – The court shall grant the motion if the accused establishes in the summary hearing that the criminal case has been filed with intent to harass, vex, exert undue pressure or stifle any legal recourse that any person, institution or the government has taken or may take in the enforcement of environmental laws, protection of the environment or assertion of environmental rights.

If the court denies the motion, the court shall immediately proceed with the arraignment of the accused.

#### **PART IV**

#### **EVIDENCE**

#### **RULE 20**

#### **PRECAUTIONARY PRINCIPLE**

SEC. 1. *Applicability* – When there is a lack of full scientific certainty in establishing a causal link between human activity and environmental effect, the court shall apply the precautionary principle in resolving the case before it.

The constitutional right of the people to a balanced and healthful ecology shall be given the benefit of the doubt.

SEC. 2. *Standards for application* – In applying the precautionary principle, the following factors, among others, may be considered: (1) threats to human life or health; (2) inequity to present or future generations; or (3) prejudice to the environment without legal consideration of the environmental rights of those affected.

#### **RULE 21**

#### **DOCUMENTARY EVIDENCE**

SEC. 1. *Photographic, video and similar evidence.* – Photographs, videos and similar evidence of events, acts, transactions of wildlife, wildlife by-products or derivatives, forest products or mineral resources subject of a case shall be admissible when authenticated by the person who took the same, by some other person present when said evidence was taken, or by any other person competent to testify on the accuracy thereof.

SEC. 2. *Entries in official records.* – Entries in official records made in the performance of his duty by a public officer of the Philippines, or by a person in performance of a duty specially enjoined by law, are *prima facie* evidence of the facts therein stated.

#### **RULE 22**

#### **FINAL PROVISIONS**

SEC. 1. *Effectivity.* – These Rules shall take effect within fifteen (15) days following publication once in a newspaper of general circulation.

SEC. 2. *Application of the Rules of Court.* – The Rules of Court shall apply in a suppletory manner, except as otherwise provided herein.





