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Introduction

This report is one of 43 country reports which look at whether the laws and policies in countries around the world make it possible for children to access their environmental rights.

We are looking at:

- How the law protects - or fails to protect - children’s environmental rights.
- How children can currently access the courts in environmental cases.
- What courts can do when children’s rights are violated
- How these countries protect - or fail to protect - children’s civil and political rights so that they are able to protest and campaign on environmental issues.

These research reports are just the start to CRIN’s work on this issue. We think it’s important to start with a solid foundation and understanding of what the law says, but we want to build on this in collaboration with others. We want to turn the research into practical tools and resources that organisers and activists (both young and old) from around the world can use.
Methodology

Identifying 43 countries

The country reports look at 43 countries which we chose in consultation with our partners. We aimed to achieve a broadly representative sample that reflected a regional balance as well as the different types of legal systems and legal traditions. We included countries that are established regional or global leaders on children’s rights and environmental law. We also chose some countries that are often excluded from comparative studies in this area.

Developing the questions

The first draft of the research questionnaire was developed based on gaps in our knowledge that we had identified during our previous work on this issue. We then consulted a number of individual experts and organisations working in the field of children’s rights and the environment. Based on their feedback, we amended the questions.

The questions were then passed on to a team of pro-bono lawyers who used these to guide their research and write the reports.

The review process

The country reports were then reviewed and edited by CRIN. The reports were then sent to at least one official state representative and one national expert for the opportunity to provide feedback and comments. The experts included relevant government ministries, State permanent missions to the United Nations, non-governmental organisations, children’s rights lawyers and advocates, environmental rights lawyers and advocates and individual lawyers specialising in the issues covered by the reports. The contributors to the country reports have been credited in the individual country reports, except where the reviewer asked to remain anonymous. To note, for some countries CRIN was unable to find an official state representative or national expert able to give feedback.
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I. NATIONAL LEGAL PROTECTIONS
A. Are environmental rights protected within the national constitution?

The Constitution of the Philippines requires the State to “protect the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.”¹

In addition, the Constitution provides for ownership, governmental control, and supervision of natural resources and lands of the public domain.²

“All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. With the exception of agricultural lands, all other natural resources shall not be alienated. The exploration, development, and utilization of natural resources shall be under the full control and supervision of the State. The State may directly undertake such activities, or it may enter into co-production, joint venture, or production-sharing agreements with Filipino citizens, or corporations or associations at least sixty per centum of whose capital is owned by such citizens. Such agreements may be for a period not exceeding twenty-five years, renewable for not more than twenty-five years, and under such terms and conditions as may be provided by law. In cases of water rights for irrigation, water supply, fisheries, or industrial uses other than the development of water power, beneficial use may be the measure and limit of the grant.

The State shall protect the nation’s marine wealth in its archipelagic waters, territorial sea, and exclusive economic zone, and reserve its use and enjoyment exclusively to Filipino citizens.

The Congress may, by law, allow small-scale utilization of natural resources by Filipino citizens, as well as cooperative fish farming, with priority to subsistence fishermen and fishworkers in rivers, lakes, bays, and lagoons.

The President may enter into agreements with foreign-owned corporations involving either technical or financial assistance for large-scale exploration, development, and utilization of minerals, petroleum, and other mineral oils according to the general terms and conditions provided by law, based on real contributions to the economic growth and general welfare of the country. In such agreements, the State shall promote the development and use of local scientific and technical resources.

¹ Article II, Section 16 of the Philippine Constitution, available at https://www.officialgazette.gov.ph/constitutions/1987-constitution/#article-vi
The President shall notify the Congress of every contract entered into in accordance with this provision, within thirty days from its execution.”

As further noted below, these constitutional protections serve as the basis for several pieces of legislation and case law in the Philippines.

**B. Have constitutional rights protections been applied by national courts with regards to environmental issues?**

Constitutional rights protections have been applied in the Philippines in a number of significant cases before national courts.

The most significant case is the 1993 landmark case of Oposa v. Factoran, Jr. The case stemmed from the, “widespread deforestation taking place in the country, and the petitioners’ prayer was that the respondent, … Department of Natural Resources… be ordered to: (1) [c]ancel all existing timber licenses agreements in the country; [and] (2) [c]ease and desist from receiving, accepting, processing, renewing[,] or approving new timber license agreements.” The petitioners included forty-three children acting on their own behalf, on behalf of the children in their generation and future generations. The children argued that at the rate at which the deforestation occurred, there would be nothing left for them and for future generations. While the trial court dismissed the case for lack of a cause of action, the Supreme Court of the Philippines (the “Supreme Court”) reversed this decision and held that there is a right to a balanced and healthful ecology which is self-executing; i.e. enabling legislation is not required to enforce this right. The Court also noted that the right to a balanced and healthful ecology is a fundamental part of law, and that legal standing to enforce this right is available both to children and to persons representing those who have not yet been conceived.

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8. Ibid.
After Oposa, in Metropolitan Manila Development Authority v. Concerned Residents of Manila Bay (2011), the Supreme Court continued to maintain the position that the right to a balanced and healthful ecology is a self-executing right. The Supreme Court stated in this case that, “even assuming the absence of a categorical legal provision specifically prodding petitioners to clean up [Manila Bay], they....cannot escape their obligation to future generations of Filipinos to keep the waters....clean....”. In its judgment in this case, the Supreme Court issued for the first time a “continuing mandamus” compelling the applicable authority to clean Manila Bay until satisfaction of the judgment subject to ongoing Court monitoring.

Thereafter, in Resident Marine Mammals of the Protected Seascape Tañon Strait vs. Reyes (2015), the plaintiffs, represented by NGOs, were the marine mammals which inhabit the waters of the Tañon Strait. The issue at hand was that oil exploration in the Tañon Strait caused disruption in the local flora and fauna and impaired the resident marine mammals’ ability to find food. Although the Supreme Court did not grant standing to the marine mammals, the Supreme Court ruled in this landmark judgment that every Filipino is entitled to act as a steward of nature and that the natural and juridical persons who filed the complaint had standing to sue. The Supreme Court used the doctrines from Oposa to reinforce the holding that every Filipino is entitled to act as stewards of nature and bring suit to enforce environmental laws.

In International Service for the Acquisition of Agri-Biotech Applications, Inc. v. Greenpeace Southeast Asia (2015), the Supreme Court applied the precautionary principle to the issue of whether the defendants may release biotechnological plants into the environment. The Supreme Court stated that the natural and unforeseen consequences of such an action could disastrous and irreversible. However, in Mosqueda v. Pilipino Banana Growers &
Exporters Association, Inc. (2016)\textsuperscript{15}, the Supreme Court specified that precautionary principle is applicable only where there is some scientific basis for precaution and cannot be based merely on emotional concern.

Further, in Maynilad Water Services, Inc. v. Secretary of the Department of Environment and Natural Resources, the Supreme Court applied the “Public Trust Doctrine” under which the public is regarded as the beneficial owner of resources such as water, and therefore, the courts can enforce the Public Trust Doctrine against the government itself.\textsuperscript{16}

C. Has the concept of intergenerational equity been applied within national courts? If yes, in what circumstances?

The Supreme Court applied the concept of intergenerational and intragenerational equity in the case of Oposa. As described above, the factual circumstances are that children all over the Philippines representing themselves and “generations yet unborn” filed a case compelling the Secretary of the Department of Environment and Natural Resources to cancel existing timber licensing agreements and prevent renewing or processing of any new applications. However, there is criticism that the use of intergenerational equity in Oposa is obiter dictum, and although persuasive, it is not binding as precedent, and that the real contribution of Oposa is the holding that the right to a balanced and healthful ecology is an actionable right.\textsuperscript{17}

We were not able to locate any further precedent from the Supreme Court or other national courts focusing on intergenerational equity although Oposa remains persuasive.

As quoted in another paper (Irekpitan Okukpon-Adesanya, 2012. Pushing the Frontiers of Equity as a Means for Environmental Justice in Africa, Nnamdi Azikiwe University Journal of Environmental Law and Jurisprudence - https://www.ajol.info/index.php/naujil/article/view/136355), Gatmaytan (footnote 17) further said that the Philippine Supreme Court would have decided Oposa exactly the same way had the children filed the case solely on their own behalf because in cases involving the protection of the environment, the distinction between present and future generations is inconsequential -we cannot protect the rights of future generations without protecting the rights of the present.


D. What legislation is in place to regulate environmental protection? Are there any proposals for legal reforms currently under review in the national legislature?

There is extensive national environmental legislation in Philippines. The major environmental laws are as follows:

i. RA 8749 (Clean Air Act of 1999) – the purpose of the legislation is to achieve and maintain clean air that meets certain guideline values for certain pollutants while minimising impact to the economy. It relies on the polluter pays principle and other market-based instruments to promote self regulation. In addition, it sets emission standards for all motor vehicles and issued pollutant limitations for industry.

ii. RA 9275 (Philippine Clean Water Act) – the purpose of this law is to protect waterbodies from land-based pollution such as industries, commercial establishments, agriculture and community/household activities, and in addition, it lays down water quality standards and regulations. The Act mandates the Department of the Environment and Natural Resources (“DENR”) to coordinate with the National Water Resources Board in improving water bodies that are polluted and affected by improper waste disposal. Under the law, it is prohibited to discharge material of any kind to water bodies unless the person/entity discharging obtains certain discharge permits.

iii. PD 1586 (Environmental Impact Statement System) – the Environmental Impact Statement System is designed to facilitate balance between socio-economic development and environmental protection. The system requires every proposed environmentally critical project or project located in environmentally critical area to prepare an “Environmental Impact Statement” to justify why the specific project should proceed.

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be implemented, including the predicted impact which is most likely to occur and affect the environment and surrounding areas, and proper mitigation or environmental measures to minimise the negative impacts to the economy. In addition, the law also requires non-environmentally critical project or projects that are not located in environmentally critical areas to submit a project description.

iv. PD 1152 Philippine Environmental Code - the purpose of this code is to achieve and maintain such levels of air quality as to protect public health and to prevent to the greatest extent practicable, injury and damage to plant and animal life and property, and promote the social and economic development of the country. The code provides a comprehensive programme of environmental protection and management and established specific environment management policies and prescribes environmental quality standards.²⁵

v. RA 6969 (Toxic Substances and Hazardous Waste Control Act) – the purpose of this legislation is to regulate import, manufacture, processing, sale, distribution, use and disposal of chemical substances that pose unreasonable risk to human health. In addition, it prohibits entry into the Philippines of hazardous and nuclear wastes and disposal of such in Philippine territorial limits, and regulates research and studies on toxic chemicals.²⁶ In brief, the mechanism set out in the Act requires all manufacturers and importers of a new chemical or an existing chemical with new uses to submit a notification prior to manufacturing or importation. The substance is then identified, screened and evaluated with a view to ensure that chemicals that pose an unreasonable risk to human health or environment are well regulated.

vi. RA 9003 (Ecological Solid Waste Management Act) – the purpose of this legislation is to adopt a systematic and ecological solid waste management plan that ensures protection of public health and the environment and the proper segregation, collection, storage, treatment and disposal of solid waste. The Act creates the necessary institutional mechanisms and incentives, appropriates funds, declares certain acts prohibited, and provides for penalties.²⁷

vii. RA 9512 (Environmental Education Act of 2008) – the purpose of this Act is to promote national awareness of the importance of environmental education for sustainable national development in the Philippines. The policy requires that environmental education be integrated into school curricula at all levels, and students are provided with a core curricular foundation in environmental issues and laws, the state of international and local environmental policy, citizens’ responsibilities to participate in environmental behaviour and sustainable development. 28

viii. R.A. No. 7586, National Integrated Protected Areas System Act including all laws, decrees, orders, proclamations and issuances establishing protected areas. This act declares the policy of the State to secure for the Filipino people of present and future generations the perpetual existence of all native plants and animals through the establishment of a comprehensive system of integrated protected areas within the classification of national park as provided for in the Constitution. 29

ix. RA 7611 - Strategic Environmental Plan for Palawan Act; - this act provides for the adoption of a comprehensive framework for the sustainable development of Palawan (a province within the Philippines) compatible with protecting and enhancing the natural resources and endangered environment of the province. It created The Palawan Council for Sustainable Staff (PCSDS) to be responsible for the governance and implementation of and provision of policy direction to the Strategic Environmental Plan for Palawan Act. 30

x. RA 8371, Indigenous Peoples Rights Act; - An act to recognise, protect and promote the rights of indigenous cultural communities and indigenous peoples. Section 58 of the act refers to environmental considerations whereby ancestral domains or portions that are found to be necessary for critical watersheds, mangroves, wildlife sanctuaries, wilderness, protected areas, forest cover, or reforestation as determined by appropriate agencies with the full participation of the indiginoous cultural communities/indigenous peoples concerned shall be maintained, managed and developed for such purposes. 31

28 Global Environmental Educational Partnership, “Philippines”, available at: https://thegeep.org/learn/countries/philippines
xi. RA 9072, National Caves and Cave Resource Management Act; this Act declared the policy of the State to conserve, protect and manage caves and cave resources as part of the country’s natural wealth. Towards this end, the State shall strengthen cooperation and exchange of information between governmental authorities and people who utilize caves and cave resources for scientific, educational, recreational, tourism and other purposes.\(^{32}\)

There is a fuller list of environmental legislation that can be found in Sec 2, Rule 1 of the Rules of Procedure for Environmental Cases. \(^{33}\)

(vii) other laws

E. Is there any specific national policy addressing childhood exposure to toxic substances? If so, what is considered level of exposure and what is the process for determining safe levels of exposure?

We have been unable to identify any specific national policy addressing childhood exposure to toxic substances. The national legislation in the Philippines that generally deal with wastes are the Toxic Substances and Hazardous Wastes Management Act and the Ecological Solid Waste Management Act.

F. Is the country equipped with pollutant release and transfer registers? If yes, do these registers take into account child specific factors regarding the substances for which data is gathered and the type of data generated?

The Philippines does not have an active pollutant release and transfer register.\(^{34}\)

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G. Does the State assert extra-territorial jurisdiction for any environmental issues?

Research did not reveal any material instances of extra-territorial assertion by Philippines with respect to environmental issues. However, the Carbon Majors petition filed by Greenpeace South-East Asia and certain interest groups with the Philippines Commission for Human Rights asking to investigate the responsibility of 47 of the world’s largest fossil fuel firms (i.e. the Carbon Majors) in precipitating a series of record-breaking tropical cyclones and other climatic events that have adversely affected Philippines. The commission in its report issued at the end of 2019 concluded that the Carbon Majors played a key role in climate change and could be held responsible for its impacts, and the report went on to note that there is legislation available in the Philippines to take action against the Carbon Majors and hold them accountable. Although, the commission’s recommendations do not carry direct legal weight, it could pressure the Carbon Majors to cut their emissions in the Philippines and elsewhere.35

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II. **ACCESSING COURTS**
A. How can environmental cases be brought before national courts?

All environmental cases in the Philippines are required to be brought before designated environmental courts pursuant to the Rules of Procedure for Environmental Cases (the “Rules of Procedure”).

In 2008, the Supreme Court designated 117 first-level (i.e. municipal trial courts, municipal circuit trial courts and municipal trial courts in cities) and second-level (i.e. regional trial courts) courts as “environmental courts”, on the basis that these courts would hear and decide all environmental cases in addition to their regular case load. The rationale for this move was to ensure that environmental law violations are treated with equal consideration and importance to criminal and civil cases, which typically take priority. As of the date of this report, all 117 environmental courts remain active.

In order to assist with the speedy adjudication of these cases, the Supreme Court adopted the Rules of Procedure on 29 April 2010. This established a simplified and inexpensive procedure for litigating environmental cases with the primary objective to “protect and advance the constitutional right of the people to a balanced and healthful ecology”. As mentioned above, this constitutional right is enshrined in Section 16, Article II of the Constitution, which states 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.”

The Rules of Procedure cover civil, criminal and special civil actions before the environmental courts involving enforcement of various “environmental rights and duties recognized under the Constitution, existing laws, rules and regulations and international agreements”. The Rules of Procedure further stipulate that the relevant court must “prioritize the adjudication of environmental cases”, and that cases must be heard within 1 year from the filing of a complaint.

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36 Rules of Procedure for Environmental Cases, A.M No. 09-6-8-SC, available at http://www.lawphil.net/courts/supreme/am/am_09-6-8-sc_2010.html
39 Rules of Procedure, Part I, Rule 1, Section 3.
41 Rules of Procedure, Part I, Rule 1, Sections 2, 3.
42 Rules of Procedure, Part II, Rule 5, Section 5.
Since the introduction of the Rules of Procedure, the Philippines courts have seen a rise in public interest litigation because of the unique legal remedy provided under the Rules of Procedure: the Writ of Kalikasan. The Writ of Kalikasan has been described by retired Chief Justice Reynato Puno as “the first legal weapon in the world that empowers the man on the street to seek concrete actions for ecological protection from their government officials”.43

Further information regarding legal remedies (including the Writ of Kalikasan) is set out in Section III, below.

**B. What rules of standing apply in environmental cases?**

The Rules of Procedure prescribes broad rules for standing in environmental cases in both civil and criminal actions, because of its primary objective to uphold the Filipino people’s constitutional right to a “balanced and healthful ecology”.44 Therefore, standing applies to any Filipino citizen who can demonstrate that a relevant environmental law has been violated.45

A civil action may be filed by “any real party in interest, including the government and judicial entities authorized by law” for enforcement or violation in environmental law.46 Standing is also accorded to “any Filipino citizen in representation of others, including minors or generations yet unborn”, and therefore expressly includes children as well as the unborn child. 47

A criminal action may be filed by “any offended party, peace officer or any public officer charged with the enforcement of an environmental law”.48 In cases where there is no private offended party, a special prosecutor may be appointed under the control and supervision of the public prosecutor.49

Parties may institute a civil action together with the criminal action or separately.50

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44 Constitution, Article II, Section 16.
45 See Segovia v. Climate Change Commission. GR No.211010 (7 March 2017), Supreme Court of the Philippines. Available at https://lawphil.net/judjuris/juri2017/mar2017/gr_211010_2017.html In this case, the Supreme Court held that the petitioners had standing under the Rules of Procedure simply because they were Filipino citizens and taxpayers.
46 Rules of Procedure, Part II, Rule 2, Section 4
47 Rules of Procedure, Part II, Rule 2, Section 5.
48 Rules of Procedure, Part IV, Rule 9, Section 1.
49 Rules of Procedure, Part IV, Rule 9, Section 3.
50 Rules of Procedure, Part IV, Rule 10, Section 1.
C. Do these rules of standing differ when children are the complainants and if so in what way?

The rules of standing, as set out in Section II.B., above, do not apply differently to children given the constitutional right in Section 16 applies to all Filipinos.

In the Oposa case, as mentioned above, the Supreme Court addressed an important issue of how to value natural resources for both the present but also future generations in the Philippines. The case was filed by children against the Secretary of State for the Environment, calling for the cancellation of all Timber License Agreements (“TLA”s) with a view to preventing the introduction of new TLAs. The children claimed that they represented themselves as well as generations yet unborn in their entitlement to the full benefit and enjoyment of the Philippines’ rainforests. The Supreme Court determined that the children did have the requisite locus standi because of the fundamental legal right enshrined in Section 16 of the 1987 Constitution.

The Civil Procedure Rules and the Child Protection Act of 1992 both set forth guidelines for the participation of children in civil court proceedings. Section 5 of the Civil Procedure Rules provides that a child may sue with the assistance of his/her father, mother, guardian, or if he/she has none, a “guardian ad litem.” A guardian ad litem is defined as “a person appointed by the court where the case is pending for a child who is a victim of, accused of, or a witness to a crime to protect the best interests of the said child.”

D. What rules of standing apply in environmental cases?

In the Philippines, toxic exposure cases may be brought under various causes of action including for breach of employer’s obligations, personal injury or negligence. The burden and standard of proof for each of these bases of claim are set out below. To date, toxic exposure cases have most frequently been brought under the relevant employment compensation schemes, as further described below, however a claim in personal injury may also provide a useful basis.

i. Labor Code

Employee rights and benefits are largely codified in the Labor Code of the Philippines (the “Labor Code”)\(^\text{54}\). A breach of the rights, including for toxic exposure, will entitle an employee to compensation provided that the employee can demonstrate “substantial evidence”\(^\text{55}\).

The following is an indicative list of some such employment compensation cases relating to toxic exposure:

- Sarmiento v. Employees’ Compensation Commission (in which the claimant suffered from respiratory diseases and worked directly with pesticides and toxic materials);\(^\text{56}\)
- Cristobal v. Employees’ Compensation Commission (in which the claimant’s husband died of rectal cancer and was exposed at work to unhygienic working conditions, various chemicals and intense heat);\(^\text{57}\) and
- Matta v. Workmen’s Compensation Commission (in which the petitioner, employed as a chief guard, suffered injuries including blurred vision after his eyes were sprayed by a fire extinguisher with poisonous caustic soda when trying to put out a fire at his workplace).\(^\text{58}\)

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ii. Personal injury

A claim for personal injury may be brought under the general Civil Code of the Philippines (the “Civil Code”) and will entitle a claimant to damages under Article 33 of the Civil Code provided that “preponderance of evidence”\(^\text{59}\) can be demonstrated.\(^\text{60}\) This standard of proof is further set out in the Rules of Civil Procedure (the “Rules of Court”).\(^\text{61}\) In determining the weight of the preponderance of evidence, the court may consider:\(^\text{62}\)

- all the facts and circumstances of the case;
- the witnesses’ manner of testifying;
- the witnesses’ intelligence;
- the witnesses’ means and opportunity of knowing the facts to which they are testifying;
- the nature of the facts to which the witnesses testify;
- the probability or improbability of the witnesses’ testimony;
- the witnesses’ interest or want of interest;
- the personal credibility of the witnesses so far as the same may legitimately appear upon the trial; and
- the number of witnesses, though the preponderance is not necessarily in accordance with the greater number.

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59 Refers to the standard of proof in most civil cases which requires that the party bringing the claim must provide evidence which is more credible and convincing than the other party.


iii. Negligence

A claim in negligence can be brought under Article 2176 of the Civil Code, which sets out that:

“[w]hoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done. Such fault or negligence, if there is no pre-existing contractual relation between the parties, is called a quasi-delict and is governed by the provisions of this Chapter”. 63

Unless specified otherwise (for example see in relation to the possession of toxic substances, below) the standard and burden of proof are also governed by Article 33 of the Civil Code and Rule 133, Section 1 of the Rules of Court. The Civil Code imposes an obligation on employers to be liable for the damages caused by their employees. 64 However, such responsibility of the employer (or other person in a position of responsibility) ceases when that person “prove[s] that they observed all the diligence of a good father of a family to prevent damage”. 65

There is a prima facie assumption of negligence on the part of the defendant if the relevant death or injury results from the defendant’s possession of dangerous weapons or substances, such as firearms and poison, except when the possession or use thereof is indispensable in the defendant’s occupation or business. 66

Proprietors are also liable for damages caused by:

• “excessive smoke, which may be harmful to persons or property”; 67 and

• “emanations from tubes, canals, sewers or deposits of infectious matter, constructed without precautions suitable to the place”. 68

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E. What limitation periods apply in environmental cases?

No express limitation periods for environmental cases, but the relevant statute of limitations are set out below:

i. **Civil limitation period**

<table>
<thead>
<tr>
<th>Cause of Action</th>
<th>Period</th>
<th>Source</th>
</tr>
</thead>
<tbody>
<tr>
<td>Immovable property</td>
<td>30 years</td>
<td>Article 1141, Civil Code</td>
</tr>
<tr>
<td>Movable property</td>
<td>8 years</td>
<td>Article 1140, Civil Code</td>
</tr>
<tr>
<td>Oral contracts/quasi-contracts</td>
<td>6 years</td>
<td>Article 1145, Civil Code</td>
</tr>
<tr>
<td>Personal Injury</td>
<td>4 years from time action accrues</td>
<td>Article 1146, Civil Code</td>
</tr>
<tr>
<td>All other actions (i.e. not fixed by law)</td>
<td>5 years from time action accrues</td>
<td>Article 1149, Civil Code</td>
</tr>
</tbody>
</table>

69 Marcelo, Simeon V, Cruz, Marcelo & Tenefrancia. “Litigation and Enforcement in the Philippines: Overview”. Thomson Reuters PracticalLaw, 1 December 2015.
### ii. Criminal limitation periods

The prescriptive period for the prosecution of a crime or violation of city ordinances and special laws depends on the duration of the penalty prescribed under the Revised Penal Code of the Philippines. These periods are set out in the table below:

<table>
<thead>
<tr>
<th>Name</th>
<th>Type</th>
<th>Penalty Period (Imprisonment)</th>
<th>Prescriptive Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reclusión perpetua</td>
<td></td>
<td>20 years and 1 day to 40 years(^{71})</td>
<td>20 years</td>
</tr>
<tr>
<td>Reclusión temporal</td>
<td>Afflictive</td>
<td>12 years and 1 day to 20 years</td>
<td>20 years</td>
</tr>
<tr>
<td>Other Afflictive crimes</td>
<td></td>
<td>6 years and 1 day to 12 years</td>
<td>15 years</td>
</tr>
<tr>
<td>Prisión correctional</td>
<td>Correctional</td>
<td>6 years and 1 day to 12 years</td>
<td>10 years</td>
</tr>
<tr>
<td>Arresto mayor</td>
<td></td>
<td>1 month and 1 day to 6 months</td>
<td>5 years</td>
</tr>
</tbody>
</table>

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F. Is legal aid available in environmental cases? If so, under what circumstances?

Legal aid is available in the Philippines, including for some environmental cases. Philippine legislation incentivizes lawyers to provide free legal services, and a large number of organisations provide such free legal services, including on environmental matters.

i. Legislative regime for the provision free legal services

The Constitution provides in Section 11 of Article III that “[f]ree access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty”.72

In addition, the Free Legal Assistance Act of 2010 (the “FLA Act”) sets out a series of incentives to lawyers for rendering free legal services.73 For the purposes of the FLA Act, the term “free legal services” is broadly defined to include the all application of the law, including “appearance before administrative and quasi-judicial offices, bodies and tribunals handling cases in court, and other similar services as may be defined by the Supreme Court”.74 The FLA Act is directed to incentivising legal practitioners to provide free legal services, and does not define when such free legal services may be supplied, and to whom. However, Section 2 of the FLA Act, entitled ‘Declaration of Policy’, sets out that the policy of the State is to “value the dignity of every human person and guarantee the rights of every individual, particularly those who cannot afford the services of legal counsel”.75 It further states that “the State shall guarantee free legal assistance to the poor and ensure that every person who cannot afford the services of a counsel is provided with a competent and independent counsel”.76 Consequently, although the FLA Act does not expressly suggest in Section 2 that it is the intention of the Congress of the Philippines that free legal services be available for environmental matters, it does suggest it is available to ensure the rights of individuals. Such rights include, pursuant to the Constitution, the right to a balanced and healthy ecology.77

Practising lawyers are required to render a maximum of 60 hours of free legal aid services a year (whether in civil, criminal or administrative cases) involving litigants who may not be able to ordinarily afford legal assistance.78

72 Constitution, Article III, Section 11.
74 Free Legal Assistance Act of 2010, Section 3.
75 Free Legal Assistance Act of 2010, Section 2.
76 Free Legal Assistance Act of 2010, Section 2.
77 Constitution, Article II, Section 16.
78 B.M No. 2012 February 10, 2009
ii. Legislative regime for the provision free legal services

The Public Attorney’s Office (the “PAO”) is an agency under the Department of Justice, established to provide free legal assistance to indigent persons in criminal, civil, labor, administrative and other quasi-judicial cases.\(^{79}\)

The mandate of the PAO is:

“to render, free of charge, legal representation, assistance, and counselling to indigent persons in criminal, civil, labor, administrative and other quasi-judicial cases.”\(^{80}\)

The PAO’s merit test for whether it will take on a case is a broad one. Article II, Section 2 of Memorandum Circular No. 18, 2002, dated 9 May 2002, sets out the merit test for legal representation by the PAO. As a baseline, for representation individuals must meet the indigency test, which goes to the question of their means and income.\(^{81}\) In addition to this baseline, the merits test is that:

“A case shall be considered meritorious if an assessment of the law and evidence on hand discloses that the legal services of the office will assist, or be in aid of or in the furtherance of justice, taking into consideration the interests of the party and those of society.”\(^{82}\)

For any given environmental matter, provided that the relevant legal question goes to “the furtherance of justice”, and that the relevant individual meets the “indigency test”\(^{83}\), it is likely that the PAO could provide free legal services on the matter.


\(^{80}\) Republic Act No. 9406, Section 3.


\(^{82}\) Memorandum Circular No. 18, section 3.

\(^{83}\) The indigency test relates to an individual’s means. A person will be found to be an “indigent person” if (1) they reside in Metro Manila and their net income does not exceed Php14,000 a month, (2) they reside in another city and their net income does not exceed Php13,000 a month, or (3) they reside in another place, and their net income does not exceed Php12,000 a month. See Public Attorney’s Office. “Person’s Qualified for Legal Assistance” (9 June 2020). Available at https://pao.gov.ph/43/page.php?id=28
iii. Legal assistance by other organisations

Other
Additionally, a number of other organisations provide free legal services, including on environmental matters. Members of a coalition of organisations, called the Alternative Law Groups, provide legal services to individuals in situations of economic or other disadvantage. These member organisations’ provision of legal services extends to involvement in environmental matters. A number of legal aid offices in law schools are also active in the provision of legal aid on environmental matters.

The Environmental Legal Assistance Center is an example of one organisation that provides legal aid specifically in relation to environmental matters. The Environmental Legal Assistance Center is a non-governmental organisation, which has as one of its institutional goals assisting communities to uphold their constitutional right to a healthful and balanced ecology. It provides legal representation in environmental court cases, as part of its broader program dedicated to legal advocacy.

A list of relevant NGOs, Civil Society Organisations and Legal Aid Centers is set out in the table below:

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85 Environmental Legal Assistance Center. “About ELAC”. Available at https://elac.wordpress.com/about-elac/.
<table>
<thead>
<tr>
<th>Name</th>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>ABS-CBN Foundation, Inc. Bantay Kalikasan</td>
<td>Legal Rights and Natural Resources Center</td>
</tr>
<tr>
<td></td>
<td>– KasamasKaikalikasan/Friends of the Earth Philippines</td>
</tr>
<tr>
<td>Alternative Law Groups (ALG)*</td>
<td>Manila Observatory</td>
</tr>
<tr>
<td>Alyansa Tigil Mina</td>
<td>Miriam College Environmental Studies Institute</td>
</tr>
<tr>
<td>Ateneo Human Rights Center*</td>
<td>NGOs for Fisheries Reform</td>
</tr>
<tr>
<td>Ateneo School of Government*</td>
<td>Philippine Misereor Partnership</td>
</tr>
<tr>
<td>Ban Toxics!</td>
<td>Philippine Partnership for the Development of Human Resources in Rural Areas</td>
</tr>
<tr>
<td>Catholic Bishops’ Conference of the Philippines-Episcopal Commission on Indigenous Peoples</td>
<td>Philippine Rural Reconstruction Movement</td>
</tr>
<tr>
<td>Center for Empowerment and Resource Development</td>
<td>SALIGAN*</td>
</tr>
<tr>
<td>EcoWaste Coalition</td>
<td>Silliman University College of Law</td>
</tr>
<tr>
<td>Environmental Legal Assistance Center, Inc.</td>
<td>Tambuyog Development Center</td>
</tr>
<tr>
<td>Greenpeace Philippines</td>
<td>Tanggol Kalikasan*</td>
</tr>
<tr>
<td>Haribon Foundation</td>
<td>The Samdhana Institute</td>
</tr>
<tr>
<td>Kalikasan-People’s Network for the Environment</td>
<td>Upholding Life and Nature (ULAN)</td>
</tr>
</tbody>
</table>

*denotes organizations that are particularly active in pursuing environmental cases.
III. REMEDIES
A. What remedies are courts empowered to impose in environmental cases?

1. Remedies under the Rules of Procedure for Environmental Cases

The Rules of Procedure set out a number of specific remedies available in environmental matters. Part 1, Rule 1, Section 2 of the Rules states that the scope of the Rules extends to 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”\(^\text{86}\).

i Civil Remedies:

Part II, Rule 5, entitled “Judgment and Execution”, sets out the forms of relief available under the Rules of Procedure for civil cases. Such relief seeks to “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”\(^\text{87}\).

Writ of Continuing Mandamus

In providing a judgment, a court under the Rules of Procedure may issue a writ of continuing mandamus directing the performance of acts, which shall be effective until the judgment is fully satisfied\(^\text{88}\). The Writ of Continuing Mandamus is available when any agency or instrumentality of the government, or officer thereof, unlawfully neglects the performance of an act that the law specifically requires as a duty relating to the enforcement or violation of an environmental rule or regulation\(^\text{89}\). Should the Writ of Continuing Mandamus be granted in judgment, the respondent will be required to perform an act or series of acts until the judgment is fully satisfied, and the court may grant other relief as may be warranted resulting from the wrongful or illegal acts of the respondent\(^\text{90}\). Such other relief may also encompass the payment of damages\(^\text{91}\).

\(^{86}\) Rules of Procedure, Part 1, Rule 1, Section 2.
\(^{87}\) Rules of Procedure, Part II, Rule 5, Section 1.
\(^{88}\) Rules of Procedure, Part II, Rule 5, Section 3.
\(^{89}\) Rules of Procedure, Part III, Rule 8, Section 1.
\(^{90}\) Rules of Procedure, Part III, Rule 8, Section 7.
\(^{91}\) Rules of Procedure, Part II, Rule 8, Section 1.
Writ of Kalikasan

The Writ of Kalikasan is a remedy available 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\(^2\).

Provisional relief provided under the Writ of Kalikasan may include a Temporary Environmental Protection Order ("TEPO")\(^3\) and discovery measures (including an order for an inspection and an order of production or inspection of documents or things)\(^4\).

Permanent relief that may be granted under the Writ of Kalikasan encompasses:

- “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;
- Directing the respondent public official, government agency, private person or entity to protect, preserve, rehabilitate or restore the environment;
- Directing the respondent public official, government agency, private person or entity to monitor strict compliance with the decision and orders of the court;
- Directing the respondent public official, government agency, or private person or entity to make periodic reports on the execution of the final judgment; and
- 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"\(^5\).

In the case of Segovia, et.al. v. Climate Change Commission (G.R. No. 211010, March 7, 2017), the Supreme Court reiterated the following requirements for the writ of kalikasan to be issued:

- There is an actual or threatened violation of the constitutional right to a balanced and healthful ecology;
- The actual or threatened violation arises from an unlawful act or omission of a public official or employee, or private individual or entity; and
- The actual or threatened violation involves or will lead to an environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces.

\(^2\) Rules of Procedure, Part III, Rule 7, Section 1.
\(^3\) Rules of Procedure, Part III, Rules 7, Section 2(f).
\(^5\) Rules of Procedure, Part III, Rules 7, Section 15.
The case of Osmeña v. Garganera, G.R. No. 231164, March 20, 2018, clarified what kind of environmental damage would be sufficient for the writ to issue, saying:

“Expectedly, the Rules do not define the exact nature or degree of environmental damage but only that it must be sufficiently grave, in terms of the territorial scope of such damage, so as to call for the grant of this extraordinary remedy. The gravity of environmental damage sufficient to grant the writ is, thus, to be decided on a case-to-case basis.”

**Temporary Environmental Protection Order**

A court may also under the Rules of Procedure issue a TEPO. A TEPO may be may be issued where 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 should the TEPO not be granted. In such a case, the executive or presiding judge may issue a TEPO for seventy two (72) hours, after which that judge must conduct a summary hearing to determine whether the TEPO may be extended until the termination of the case.96

**Environmental Protection Order**

In a judgment, a court under the Rules may convert a TEPO to a permanent Environmental Protection Order.97

**Strategic Lawsuit Against Public Participation Defence**

Strategic Lawsuits Against Public Participation (‘SLAPP’) is a term used to refer to legal actions filed to harass, vex, exert undue pressure, or stifle legal recourse that a 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.98 The Rules of Procedure provide that a SLAPP defence may be used against a person who has made such a vexatious filing.99 SLAPP suits often relate to environmental matters because of conflicts over natural resources, particularly where proponents of the exploitation of such resources might opt for SLAPP actions when community opposition to exploitation is strong.100

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96 Rules of Procedure, Part II, Rule 2, Section 8.
97 Rules of Procedure, Part II, Rules 5, Section 3.
99 Rules of procedure, Part II, Rule 6, Section 2.
ii. Criminal remedies

Under the Rules of Procedure, in addition to traditional criminal sanctions arising out of criminal liability the Court may provide provisional remedies in the form of ‘Attachment in environmental cases’ and ‘Environmental Protection Orders’ or ‘Temporary Environmental Protection Orders’.

Attachment

The Rules of Procedure state that the remedy of attachment is available in environmental cases. Attachment may be sought where a civil action for the recovery of civil liability (i.e. damages or compensation) arising from the offence has been instituted. Under attachment, the offended party may have the property of the accused attached as security for the satisfaction of any judgment that may be recovered from the accused in particular cases, including where the accused is about to abscond from the Philippines, in cases of embezzlement or similar financial crimes, or where the accused has concealed, removed or disposed of property (or is about to do so) and resides outside the Philippines.

Temporary Environmental Protection Order

The Rules of procedure also provides that a TEPO may be issued in criminal cases relating to environmental matters.

2. Exemplary damages

In addition to the aforementioned remedies available under the Rules of Procedure, exemplary damages are one remedy of particular note that may be available in environmental cases under Article 2229 of the Philippines Civil Code. Exemplary damages are available “by way of example or correction for the public”, and it may be foreseeable that they might be available in cases where there has been a blatant or intentional disregard, or gross negligence, in relation to the environment or rights related to the environment, for example relating to environmental pollution.

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101 Rules of Procedure, Part IV, Rule 13, Section 1.
104 Rules of Procedure, Part IV, Rule 13, Section 2.
B. What remedies have courts ordered in environmental cases to date?

A number of Philippine cases have seen remedies ordered in environmental matters, including in the period following the introduction of the Rules of Procedure in 2009. The cases listed in the sections below are examples of a number of remedies given by Philippine courts both before and after the introduction of the Rules of Procedure. Notably, these examples includes instances where the courts have granted remedies under the Writ of Kalikasan and the Write of Continuing Mandamus.

1. West Tower Condominium Corporation v. First Philippine Industrial Corporation

The first case whereby a Writ of Kalikasan was issued is the West Tower Condominium Corporation v. First Philippine Industrial Corporation case. In that case, the Supreme Court stopped the defendant pipeline company from operating its leaking fuel pipeline until ordered otherwise, acting on a petition by residents of Makati City who invoked health and environmental concerns.¹⁰⁶

2. MMDA v. Concerned Residents of Manila Bay

Another high-profile case where a Philippine court has granted the writ of ongoing mandamus is Metropolitan Manila Development Authority v. Concerned Residents of Manila Bay. This case was brought by a group calling itself the Concerned Residents of Manila Bay against a number of government agencies, for those agencies’ alleged failure to take notice of the danger to public health and the depletion and contamination of the marine life of Manila Bay. The court ordered that the relevant authorities “clean up, rehabilitate, and preserve Manila Bay, and restore and maintain its water ... to make them fit for swimming, skin-diving, and other forms of contact recreation.”¹⁰⁷ Though this case pre-dated the issuance of the Rules, the Court issued a writ of continuing mandamus, which is now also expressly available under the Rules for similar cases.


3. Resident marine Mammals of the Tañon Strait Protected Seascape v. Reyes

The Resident marine Mammals of the Tañon Strait Protected Seascape v. Reyes case was brought by human petitioners on behalf of the “Resident marine Mammals of the Tañon Strait Protected Seascape”. The petitioners sought certiorari, mandamus and injunction to enjoin the Department from Energy (and associated parties) from implementing a service contract that allowed the exploration, development, and exploitation of petroleum resources in the Tañon Strait. These activities included a seismic survey and oil drilling. A key question in the case related to whether the animals of the Tañon had legal standing. The Supreme Court held, including by reference to the Rules of Procedure, that the animals had the requisite standing, and declared the contract null and void under the Constitution, Republic Act No. 7586, and Presidential Decree No. 1586108.

4. Genetically modified aubergines case

The ISAAA v. Greenpeace Southeast Asia (Philippines) case is an example where the petitioner in a case sought both the Writ of Continuing Mandamus and the Writ of Kalikasan, under the Rules of Procedure. This case concerned the application of the precautionary principle to genetically modified aubergines. The respondents, Greenpeace Southeast Asia (Philippines) had filed for the Writ of Continuing Mandamus and the Writ of Kalikasan, with a prayer for the issuance of a TEPO, alleging that trials on modified eggplants violated their constitutional right to health and a balanced ecology. In a decision of 17 May 2013, the Court of Appeal ruled in favour of Greenpeace, directing the permanent cease and desist of the conduct of field trials on the genetically modified aubergines109. On review, the Supreme Court set aside the earlier decision, and dismissed the petition for Writ of Continuing Mandamus and Writ of Kalikasan with prayer for the issuance of a TEPO110.

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5. Maynilad Water Services, Inc. v. Secretary of the Department of Environment and Natural Resources

Maynilad Water Services, Inc. v. Secretary of the Department of Environment and Natural Resources is an example of a very recent decision on the enforcement of environmental standards that was not decided squarely under the Rules of Procedure. In this case, the Supreme Court introduced the Public Trust Doctrine, on the basis of the tenet that water is a vital part of human existence. Under this Doctrine, the public is regarded as the beneficial owner of trust resources. In this case, applying this Doctrine, the Court found that the government agency in question was jointly liable with a number of companies for violating the Clean Water Act, and consequently required to pay fines of PhP 921,464,184111.

6. Cases relating to nuisance in the form of pollution

A number of earlier cases illustrate the ways in which the Philippine courts provided remedies relating to nuisance in the form of pollution before the implementation of the Rules of Procedure in 2009. In particular, of note are the following cases:

- Rodriguez, Jr. v. Intermediate Appellate Court, in which the Supreme Court reinstated the trial court’s decision declaring the operation of a cement hatching plant as a nuisance and ordering its permanent closure; and112
- Canlas v. Aquino, in which the Supreme Court upheld an injunction against a sawmill for reason of the pollution that it would cause, which would ultimately result in the closure of a nearby healthcare clinic113.

C. Are there any administrative authorities empowered to act on environmental complaints and if so, how are they empowered to respond to complaints?

A number of administrative authorities and other governmental bodies are empowered to act on environmental complaints in the Philippines. A list of particularly relevant agencies are set out in the table in the next page. Of particular note is the Department of Environment and Natural Resources, the Environmental Team within the Office of the Ombudsman, and the Philippines Commission on Human Rights, which are empowered to hear, and investigate, complaints relating to the environment. Notably, for the Commission on Human Rights to investigate a complaint relating to the environment, the complaint would need to fall within the scope of civil and political rights.

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114 On the nature and powers of these agencies, see Philippine Judicial Academy, “Citizen’s Handbook on Environmental Justice”, pages 39–48.
<table>
<thead>
<tr>
<th>Agency</th>
<th>Area of operation</th>
<th>Ability to hear complaints</th>
<th>Enforcement powers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Environment and Natural Resources</td>
<td>General environmental management, including conservation, management, development and proper use of natural resources and pollution</td>
<td>The Department’s regional offices accept reports and complaints of environmental violations</td>
<td>General enforcement powers covering all environmental laws\textsuperscript{115}</td>
</tr>
<tr>
<td>Environmental Team within the Office of the Ombudsman</td>
<td>Actions by governments authorities in relation to protection of the environment and conservation of natural resources</td>
<td>May receive complaints on acts or omissions by government authorities, or associated parties, in relation to the protection of the environment or conservation of natural resources\textsuperscript{116}</td>
<td>Punitive measures taken by the ombudsman may include fact-finding, preliminary investigations, administrative adjudication and prosecution\textsuperscript{117}</td>
</tr>
<tr>
<td>Commission on Human Rights</td>
<td>Civil and political rights</td>
<td>May receive complaints on violations of civil and political rights\textsuperscript{118}</td>
<td>Powers include investigating, on its own or on complaint by any party, all forms of human rights violations involving civil and political rights\textsuperscript{119}</td>
</tr>
</tbody>
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\textsuperscript{118} Constitution, Article XIII, Section 18(1).

\textsuperscript{119} Constitution, Article XIII, Section 18(1).
<table>
<thead>
<tr>
<th>Agency</th>
<th>Area of operation</th>
<th>Ability to hear complaints</th>
<th>Enforcement powers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bureau of Fisheries and Aquatic Resources</td>
<td>Responsible for the development, improvement, management and conservation of fisheries and aquatic resources</td>
<td>Unclear</td>
<td>Powers include investigations and enforcement of all laws governing the conservation and management of fishery resources, except in municipal waters.</td>
</tr>
<tr>
<td>National Bureau of Investigation — Environmental and Wildlife Protection Investigation Division</td>
<td>Investigation and research for the purposes of enforcement of the law, particularly in relation to the environment</td>
<td>Unclear</td>
<td>Powers include investigating crimes and other offenses against environmental laws, and providing support to all prosecuting and law enforcement offices, agencies, and courts.</td>
</tr>
</tbody>
</table>

Section 23 of the Clean Water Act also states that any person who owns or operates any pollution source or who is subject to any requirement of this act to submit reports and other written information as may be required by the Department of Environment and Natural Resources.122

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IV. CIVIL AND POLITICAL RIGHTS
Freedom of peaceful assembly

A. How is children’s right to engage in peaceful assembly, including protests, protected in national law?

Constitution

Children’s right to freedom of peaceful assembly is enshrined in the 1987 Constitution, which states “No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances.” The constitution does not differentiate the rights of a child from those of an adult i.e. children enjoy the same freedoms as adults.

Public Assembly Act

The Public Assembly Act of 1985 (the “1985 PAA”) promulgated on 22 October 1985, is currently effective and although attempts have been made to repeal this Act, to this date the constitutional rights of the people to assemble and petition the government for redress of grievances continue to be preserved under the 1985 PAA. The numerous house bills seeking to repeal the 1985 PAA also reiterated that it is a policy of the state to “ensure the people can freely exercise their rights to free speech, of expression, to peaceably assemble, and petition the Government for redress of grievances, without prejudice to the rights of others to life, liberty, property, and to equal protection of laws.” As with the constitution, the 1985 PAA makes no distinction between adults and children in their right to engage in public assemblies, therefore children enjoy a right to engage in public assemblies under the 1985 PAA.

Child and Youth Welfare Code

Children’s right to assembly, especially in a peaceful manner, is provided for under the Child and Youth Welfare Code (Presidential Decree No. 603) (the “Child and Youth Welfare Code”), which refers to children’s right to peaceful assembly. Under the Child and Youth Welfare Code, “civic associations”, defined as “any club, organization or association of individuals twenty-one years of age or over, which is directly or indirectly involved in...
carrying out child welfare programs and activities\textsuperscript{126}, have the obligation to ensure any demonstrations sponsored by them and youth associations shall be conducted in a peaceful and lawful manner\textsuperscript{127}.

Further, under the Child and Youth Welfare Code, “parents shall give the child every opportunity to form or join social, cultural, educational, recreational, civic or religious organizations or movements and other useful community activities\textsuperscript{128}”. Children’s participation in peaceful assemblies that represent social, cultural, educational, civic or religious movements should therefore be promoted.

\textbf{International Law}

Children’s rights to peaceful assembly and freedom of expression, including in peaceful protest, are enshrined in the UN Convention on the Rights of the Child ("\textbf{CRC}\textsuperscript{129}"). The Philippines ratified the UN Convention on the Rights of the Child on 21 August 1990 but as of the date of this paper, has not incorporated the CRC into national law. Nonetheless, the CRC can and has been cited in national case law\textsuperscript{130}.

\textbf{B. Are there any legal limitations on the right of children to engage in peaceful assemblies?}

Under the 1985 PAA, although there are no specific legal limitations on the right of children to engage in peaceful assemblies, international human rights organisations have criticised the 1985 PAA as a written permit by the city or municipal major is required for anyone to organise and hold a public place. This is seen by some to be undue fettering of the freedom of people to assemble, which should not require prior permission.

Any person has the right to participate in any public assembly. House Bill 6834, a bill passed by the House of Representatives to repeal the 1985 PAA\textsuperscript{131}, suggested, among other changes, changes that will limit children’s rights to organise a public assembly, specifically, only children of fifteen (15) years of age may organise a public assembly\textsuperscript{132}. This bill however created controversy and attracted criticism from the International Commission of Jurists (the

\textsuperscript{126} Child and Youth Welfare Code, art 91.
\textsuperscript{127} Child and Youth Welfare Code, art 93.
\textsuperscript{128} Child and Youth Welfare Code, art 53.
\textsuperscript{129} Convention on the Rights of the Child, Article 15.
\textsuperscript{131} House Bill No. 6834, s 2.
\textsuperscript{132} House Bill No. 6834, s 4.
“ICJ”) among other international human rights organizations. Although passed by the House of Representatives and the bill was transmitted to and received by the Senate, there appears to have been no further action at the Senate since February 2018.

In 2019 another bill at the Eighteenth Congress was introduced to replace the 1985 PAA. In this bill, the section in relation to children’s age limit for organisation of public assemblies was removed. As of the date of this paper, the bill is pending at the Committee on People’s Participation since 19 February 2020. If this bill is passed, then the status quo in relation to children’s right to organise and participate in public assemblies shall remain, i.e. there will be no age limit.

C. What penalties can be imposed on children for engaging in school strikes?

There are no specific penalties imposed on children engaging in school strikes, unless such school strikes are violent. In September 2019, a youth group organised the “Global Climate Strike”, calling for governments and the private sector to prioritise climate justice. The Global Climate Strike was endorsed and encouraged by the government. In fact, on 17 September 2019 and on 25 November 2019, respectively, the Undersecretary for Administration, Department of Education issued a memorandum asking school heads and teachers in public and private elementary and secondary schools to specifically allow and excuse students who wish to join the climate strike as long as there is parental or legal guardian consent.

Participation in school strikes in defiance of police’s requests for dispersal by the police may, however, draw criminal liability pursuant to the Revised Penal Code. Under the Juvenile Justice and Welfare Act, the current minimum age for criminal liability is 15 years.
Freedom of expression

A. How is children’s right to freedom of expression protected in national law? Are there any protections within the national constitution, legislation or developed through case law?

Constitution

Children’s right to freedom of expression is enshrined in the 1987 Constitution, which states “No law shall be passed abridging the freedom of speech, of expression, or of the press...” Constitution of the Republic of the Philippines, art III, s 4.

Furthermore, children are entitled to intellectual expression in accordance with the constitution, “the State shall foster the preservation, enrichment, and dynamic evolution of a Filipino national culture based on the principle of unity in diversity in a climate of free artistic and intellectual expression.” Constitution of the Republic of the Philippines, art XIV, s 14.

In January 2018, proposals have been made by a subcommittee of the House of Representatives for amending Article III, Section 4 of the 1987 Constitution, which states “No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances”. President Duterte proposed such provision to be amended to “No law shall be passed abridging the responsible exercise of the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances.” This amendment however has not been passed.

Local Legislation

In 1997, “An Act Declaring Every Second Sunday of December as the National Children’s Broadcasting Day” (Republic Act No. 8296) was passed requiring all television and radio stations nationwide to broadcast programmes that are child-friendly, promote positive values, and enable children to exercise their rights to freedom of thought and expression. Similarly in 2002, the President of the Philippines declared the second week of December every year as “Responsible Television for Children Week” to honor children and emphasise television networks should be aware of their responsibilities by virtue of their influence on the social, intellectual, moral and cultural behaviour and development of the citizens, especially children.

140 Constitution of the Republic of the Philippines, art XIV, s 14.
141 An Act Declaring Every Second Sunday of December as the National Children’s Broadcasting Day (Republic Act No. 8296), available at https://www.chanrobles.com/republicactno8296.htm#.XwMQJSgzaUk
142 Declaring The Second Week of December of Every Year as “Responsible Television For Children Week” (Proclamation No. 300, s 2002), available at https://www.officialgazette.gov.ph/2002/12/09/proclamation-no-300-s-2002/
Under the “An Act Providing For The Establishment And Maintenance Of An Integrated System Of Education”, known as the “Education Act of 1982”\(^{143}\), it is provided that the right to free expression of opinions and suggestions, and to effective channels of communication with appropriate academic channels and administrative bodies of the school or institution shall be safeguarded or promoted.

On 3 July 2020, President Rodrigo Duterte signed into law the Anti-Terrorism Law which was passed by both the House of Representatives and the Senate\(^{144}\). The Anti-Terrorism Law covers persons who, while not participating in terrorist activities, express opinions in favour of the potential terrorists\(^{145}\). Under the Anti-Terrorism Law, “terrorism” is defined broadly and the law gives enforcement authorities the power to arrest a person without a warrant and to detain suspects for up to 24 days before a due process with the court\(^{146}\). Therefore, numerous groups have expressed concerns that the Anti-Terrorism Law may compromise the people’s freedom of expression as the government may use this law to suppress dissenters’ views\(^{147}\). As of the date of this paper, there are no reports of any children arrested or charged for violation of the Anti-Terrorism Law. As of 7 July 2020, eight petitions were made to the Supreme Court seeking to declare either the whole or a part of the Anti-Terrorism Law as unconstitutional\(^{148}\).

**Case Law**

In the case of Chavez v Gonzales\(^{149}\), the Supreme Court upheld the freedom of expression and freedom of press as of the utmost importance and affirmed that any act that wishes to restrict these fundamental rights must be examined closely and allowed only in the face of a clear and present danger. The court cited the cases of Adiong v. COMELEC\(^{150}\), Burgos v.

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145 ibid, s 9.

146 Anti-Terrorism Act of 2020, s 29.


Chief of Staff\textsuperscript{151}, Social Weather Stations v. COMELEC\textsuperscript{152}, and Bayan v. Executive Secretary Ermita\textsuperscript{153}, as illustrations of how the court struck down governmental acts that are “nothing more than a naked means to prevent the free exercise of speech”.

**B. Are there any legal limits or restrictions on the right to freedom of expression that specifically apply to children?**

While there are no specific age limits or restrictions on children’s right of expression, it should be noted that the Cybercrime Prevention Act of 2012\textsuperscript{154} has been touted to restrict and threaten to free expression in the Philippines. Several legal cases have been filed in the Philippines Supreme Court, including for the law to be declared unconstitutional because it violates guarantees to free expression contained in the Philippines constitution and human rights treaties ratified by the Philippines. Children, upon reaching the age of criminal responsibility of 15 years old, can potentially be found in breach of the Cybercrime Prevention Act of 2012.

**Freedom of association**

**A. How is children’s right to freedom of association protected in national law? Are there any protections within the national constitution, legislation or developed through case law?**

Children’s right to freedom of association is enshrined in the constitution of the Philippines, which states “the right of the people, including those employed in the public and private sectors, to form unions, associations, or societies for purposes not contrary to law shall not be abridged.”\textsuperscript{155}

Under the Education Act of 1982\textsuperscript{156}, it is provided that students and pupils in all schools shall enjoy “the right to form, establish, join and participate in organizations and societies


\textsuperscript{153} Bayan, Karapatan, Kilusang Magbubukid Ng Pilipinas (Kmp), Gabriela, Fr. Jose Dizon, Renato Constantino, Jr., Froyel Yaneza, and Fahima Tajar, V Eduardo Ermita, in His Capacity as Executive Secretary, Manila City Mayor Lito Atienza, Chief of The Philippine National Police, Gen. Arturo M. Lomibao, Ncrpo Chief Maj. Gen. Vidal Querol, and Western Police District Chief Gen. Pedro Bulaong (2016) G.R. No. 169838.


\textsuperscript{155} Cybercrime Prevention Act of 2012, s 8.

recognized by the school to foster their intellectual, cultural, spiritual and physical growth and development, or to form, establish, join and maintain organizations and societies for purposes not contrary to law.\textsuperscript{157}

Under the Child and Youth Welfare Code, it is in fact, encouraged for children to associate with “...other children of his own age with whom he can develop common interests of useful and salutary nature...\textsuperscript{158}” However it should also be noted that such freedom of association is not without restrictions, for example, in the same article under the Child and Youth Welfare Code, “...The child should not be allowed to stay out late at night to the detriment of his health, studies or morals.”

**B. Are there any legal limits or restrictions on the right to association that specifically apply to children?**

As of the date of this document, there are no specific legal limits or restrictions on children’s right to association. In the context of joining a collective bargaining union however, such right is specifically given to “working children” under the Child and Youth Welfare Code. Under Republic Act No. 7658, children below 15 years of age cannot be employed unless specific conditions set out in Republic Act No. 7658 are met.

**Access to information**

**A. How is children’s right to access information protected in national law? Are there any protections within the national constitution, legislation or developed through case law?**

**Constitution**

Children’s right to freedom of expression is enshrined in the 1987 Constitution, which states “The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.\textsuperscript{159}”

Under the Child and Youth Welfare Code, each child has the right “to grow up as a free individual, in an atmosphere of peace, understanding, tolerance and universal brotherhood,

\textsuperscript{157} ibid, s 9.
\textsuperscript{158} Education Act of 1982, art 52.
\textsuperscript{159} Education Act of 1982, s 7.
and with the determination to contribute his share in the building of a better world. Furthermore, each child has the right “to live in a community and a society that can offer him an environment free from pernicious influences and conducive to the promotion of his health and the cultivation of his desirable traits and attributes” and the right to “an efficient and honest government that will deepen his faith in democracy and inspire him with the morality of the constituted authorities both in their public and private lives.”

The Child and Youth Welfare Code also imposes an obligation on the state and society on the child’s civic conscience, “the civic conscience of the child shall not be overlooked. He shall be brought up in an atmosphere of universal understanding, tolerance, friendship, and helpfulness and in full consciousness of his responsibilities as a member of society.” Under the Child and Youth Welfare Code, the community should carry out its duty to “organize or encourage movements and activities, for the furtherance of the interests of children and youth.”

**Child and Youth Welfare Code**

Further, each child has the right “to an education commensurate with his abilities and to the development of his skills for the improvement of his capacity for service to himself and to his fellowmen.” The Child and Youth Welfare Code also provides that “Every child has the right to protection against exploitation, improper influences, hazards, and other conditions or circumstances prejudicial to his physical, mental, emotional, social and moral development.” Access to information is paramount to development of a child’s skills and a child’s mental, emotional, social and moral development.

**B. Are there any legal limits or restrictions on the right to access information that apply specifically to children?**

House Bill HB5307 was introduced in November 2019 at the House of Representatives to pass legislation named “Social Media Regulation and Protection Act of 2019” which would require social media companies to provide age restrictions and limitations. Children under 13 years of age will be restricted from accessing social media. Social media companies will also

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161 Education Act of 1982, art 3(9).
162 Education Act of 1982, art 3(11).
164 Education Act of 1982, art 85(3).
166 Child and Youth Welfare Code (Presidential Decree No. 603), art. 8.
be prohibited from collecting personal and location information from children under 13 years of age without parental consent, and children from 13 to 17 years of age without the child’s consent. The bill has been submitted since 12 November 2019 and is pending the approval of the Committee on Welfare of Children.168

C. Does the national curriculum for schools include environmental education?

The national curriculum for schools in the Philippines includes environmental education.169 This is provided for by the National Environmental Awareness and Education Act of 2008 (Republic Act 9512) – the government departments Department of Education, the Commission on Higher Education (CHED), the Technical Education and Skills Development Authority (TESDA), the Department of Social Welfare and Development (DSWD), in coordination with the DENR, the Department of Science and Technology (DOST) and other relevant agencies, should integrate environmental education in its school curricula at all levels, whether public or private, including in barangay daycare, preschool, non-formal, technical vocational, professional level, indigenous learning and out-of-school youth courses or programmes.

Environmental education encompasses environmental concepts and principles, environmental laws, the state of international and local environment, local environmental best practices, the threats of environmental degradation and its impact on human well-being, the responsibility of the citizenry to the environment and the value of conservation, protection and rehabilitation of natural resources and the environment in the context of sustainable development. It must cover theoretical and practical modules comprising activities, projects, programmes including, but not limited to, tree planting; waste minimisation, segregation, recycling and composting; freshwater and marine conservation; forest management and conservation; relevant livelihood opportunities and economic benefits and other such programmes and undertakings to aid the implementation of the different environmental protection law.

The National Environmental Education Action Plan (2005-2014), implemented by the Department of Environment and Natural Resources is the main instrument driving environment education in the education sector and the backbone of the country’s national framework for environment education.171

168 http://www.congress.gov.ph/legisdocs/?v=billsresults#18; the bill also provides that an automatic restriction on user’s access of 30 minutes be imposed (subject to the user changing such settings every week). This restriction, if passed, would also apply to children.
171 Action Plan (n 141).
The environmental education curricula differ for different education stages in both emphasis and coverage.

For example, at kindergarten, the curriculum included “an understanding of the physical and natural environment”\(^{172}\), specifically children are expected to have an understanding of concepts such as living and non-living things including weather.

At elementary, secondary schools and teachers’ trainings, the emphasis is on “environmental literacy”, to orient and develop students’ perceptions and values as well as encourage their active participation toward environmental protection and conservation. At teachers’ trainings, teaching modules prepared by the Department of Environment and Natural Resources include:

- Sustainable Development
- Basic Ecological Concepts and Principles
- Air Pollution Prevention
- Water Resources Management
- Solid Waste Management
- Toxic Chemicals and Hazardous Waste Management
- Biodiversity Conservation
- Urban Forestry

At the higher education level, bachelor and graduate programmes specialising in the environment are offered which aim to deepen graduates’ knowledge, to develop graduates’ skills necessary for the management and improvement of environmental quality that is conducive to the welfare/well-being of the Filipino people and ultimately produce graduates who can improve the welfare of people and communities by creating an ecologically sustainable environment\(^{173}\).

At the non-formal sector, environment education aims to inculcate awareness and understanding, as well as promote skills, commitments and actions among individuals and social groups for the protection and improvement of environmental quality for the benefit of present and future generations. The curriculum should be designed to, among others, enable Filipino people “to appreciate the diverse values of their natural heritage and to realize the importance of each individual in protecting and restoring ecosystems (i.e., promote awareness) and provide information about environmental problems and foster in people a desire to improve the quality of their local environment (i.e., be informing)”\(^{174}\).

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173 CMO No. 60, s. 2017: Policies, Standards, and Guidelines for the Bachelor of Science in Environmental Planning (BSEP) Program.
174 Action Plan (n 141).
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