



**REGIONAL CAPACITY DEVELOPMENT TECHNICAL ASSISTANCE
STRENGTHENING CAPACITY FOR ENVIRONMENTAL LAW IN THE
ASIA-PACIFIC: DEVELOPING ENVIRONMENTAL CHAMPIONS
TRAIN-THE-TRAINERS PROGRAM**

**1 – 6 June 2015
Manila, Philippines**



Alternative Approaches In Environmental Dispute Resolution

Role Play Exercise: Mediation

Session 7, Tuesday 2 June And Session 12, Wednesday 3 June

Introduction

Role playing allows students to practice legal representation of different interest groups concerning the same facts. Role plays can be designed for dispute resolution within formal settings such as courts and tribunals, as well as situations where alternative dispute resolution mechanisms are employed.

Role plays can be based on a fictitious scenario, with roles allocated according to assumed interest groups. They can also be based on actual cases. Further, they can be based on a mixture of fact combined with fiction. Professors can choose between these types, depending on what they are trying to achieve, and whatever is most appropriate in the circumstances.

The chosen fact situation here is a hypothetical scenario. The role play exercise has been designed to encourage students to examine different aspects of the same fact situation, applying the law from their own jurisdictions, and then to engage in a process of mediation as an exercise in alternative dispute resolution.

This role play exercise will be conducted in two parts. The first part is an introduction with respect to the role-play scenario, together with instructions on how to conduct the exercise. This part will be conducted during session 6 on Day 2, Tuesday 24 March between 11.45 and



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12.30. In this session, the participants will be divided into groups, and given time to read and discuss the fact situation. In this session, they are asked to prepare their negotiating positions and options.

The second part of the exercise is the role-play mediation itself. This will be conducted during session 12 on Day 3, Wednesday 25 March between 3.30 and 5.00pm.

After the role play, there will be an opportunity for reflection and feedback on the role play and a discussion on whether and how the participants might incorporate a role play into an environmental law course.

Instructions

1. The participants will be divided into 6 groups.
2. Each group should choose a reporter who will take notes on behalf of the group, and be prepared to summarize discussions on a white board or on a computer.
3. Each group should choose two participants to lead the discussions and represent them in the mediation.
4. Each participant is expected to take some part in the discussions and negotiations.
5. The role-play leaders will be available for clarifications and input during preparation of the arguments.
6. Two mediators will be appointed to lead the mediation.

Hypothetical facts:

In 2005, some land was set aside by the government (Department of Construction) for the purpose of being developed into a model of affordable housing. The Land and Housing authority had issued a construction permit to the real estate developers before the area had been evaluated by the local Environmental Protection authority (EPA).



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The real estate developers developed the land and sold all the blocks in 2010. Just three years after moving into their newly built apartments, residents were shocked to hear that their lives were at risk, as the complex had been built on lands that had been contaminated by heavy industry pollution. The land had been contaminated by the previous owners who operated a chemical plant and they had sold the land to the government in 2003.

Recent environmental assessments by the EPA show that the site has been contaminated with antimony, a metalloid that can cause irritation in the eyes, nose, throat and skin, and lead to heart attacks. Recently, due to a leak in the water tank underneath the building, rainwater contaminated with antimony was discovered in the drinking water of the residents. The case is by no means an isolated one, and highlights a worrying trend of residential projects being developed on land formerly used for heavy industry.

The current owners of the properties are now suffering health impacts which they regard as coming from living on the contaminated site, as they were all healthy before they moved to this development. Many have suffered from irritation in the eyes, nose, throat and skin, particularly older people, and younger children. Five residents have suffered heart attacks. Three men have recently died. The residents have tried approaching the Environmental Protection Authority which has the authority to remediate the contaminated land but have been told that the EPA does not have the resources to help in this matter.

The residents and owners would like to meet with the real estate developer, the Environmental Protection authority, the Land and Housing authority, the Department of Construction and the original owners of the chemical plant.

The parties have all agreed to come to mediation to try to resolve this dispute.

The six parties are:

- 1) The residents and owners of the housing
- 2) The real estate developers
- 3) The Environmental Protection authority
- 4) The Land and Housing authority, which is responsible for land planning and which sold the land to the developer
- 5) The Department of Construction
- 6) The original owners of the chemical plant