



**ADB Regional Capacity Development Technical Assistance
Strengthening Capacity for Environmental Law in the Asia-Pacific:
Developing Environmental Law Champions
Train-the-Trainers Program
November 27- December 1, 2017
Siem Reap, Cambodia**

**Alternative Approaches
In Environmental Dispute Resolution**

Role Play Exercise: Mediation

**Session 7, Tuesday 28 November and
Session 12, Wednesday 29 November**

Introduction

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

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 7 on Day 2, Tuesday 28 November between 2.25 and 3.15 pm. In this session, the participants will be divided into groups, and given time to read and discuss the fact situation and 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 29 November between 3.30 and 4.30pm.

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. Two mediators will be appointed to lead the mediation.
2. The rest of the participants will be divided into 5 groups, each of which will be allocated a particular role that they will assume in the mediation.
3. 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.
4. Each group should choose two participants to lead the discussions and represent them in the mediation.
5. Each other member of the group is expected to support their leaders in the discussions and negotiations.
6. The trainers will be available for clarifications and inputs during the preparations by each group.

Hypothetical facts:

In 2010, some land (state private property) was set aside by the Ministry of Land Management, Urban Planning and Construction (MoLMUPC) for the purpose of being developed into public housing for low-income and lower middle-income earners. The Housing Department, which is a part of the MoLMUPC, issued a construction permit to real estate developers to build a public housing estate on the land that was set aside. These actions were taken by the MoLMUPC before the land had been evaluated by the Ministry of Environment to determine that it is suitable for residential housing.

The real estate developers began construction of the residential buildings in 2011 and by 2010 had sold all of the houses properties they had constructed.

Six years after moving into their newly built houses, the owners were shocked to hear that their lives were at risk, as the complex had been built on lands that had been contaminated by textile industry pollution. The land had been contaminated by the previous owners who operated a garment factory that released textile dyeing effluent that was highly toxic. They had sold the land to the government in 2009.

Recent environmental assessments by the Ministry of Environment show that the site has been contaminated with various chemical pollutants from textile dyes 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 heavy metals was discovered in the drinking water of the residents.

The current owners of the properties are now suffering health impacts which they regard as resulting 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 Ministry of Environment which has the authority to remediate the contaminated land by removing the chemical pollutants from the soil and groundwater, but have been told that the MoE does not have the resources to help in this way. There are also significant practical difficulties in accessing the soil under the residents' houses while they are continuing to live in their houses.

The residents and owners would like to meet with the real estate developers, the MoE, the Ministry of Land Management, Urban Planning and Construction and the original owners of the garment factory. The parties have all agreed to come to a mediation to try to resolve this dispute.

The five parties are:

- 1) The residents and owners of the housing
- 2) The real estate developers
- 3) The Ministry of Environment
- 4) The Ministry of Land Management, Urban Planning and Construction
- 5) The original owners of the garment factory

Statements for each of the parties

A short statement of the arguments that each of the five parties may wish to present at the mediation will be provided to each party in Session 7. The parties will not see the statements provided to the other four parties.