



Developing Environmental
Law Champions

Strengthening the Capacity For Environmental and Climate Change Laws
in Asia and the Pacific



The Quest for Environmental Justice in the Last Frontier

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Outline

- I. Legal Framework for Environmental and Natural Resources Management (ENRM) in the Province of Palawan
- II. Environmental Justice Issues and Challenges in the Palawan landscape
- III. Advocacy and other Initiatives
- IV. Integrating Initiatives in the Teaching of Natural Resources and Environmental Law

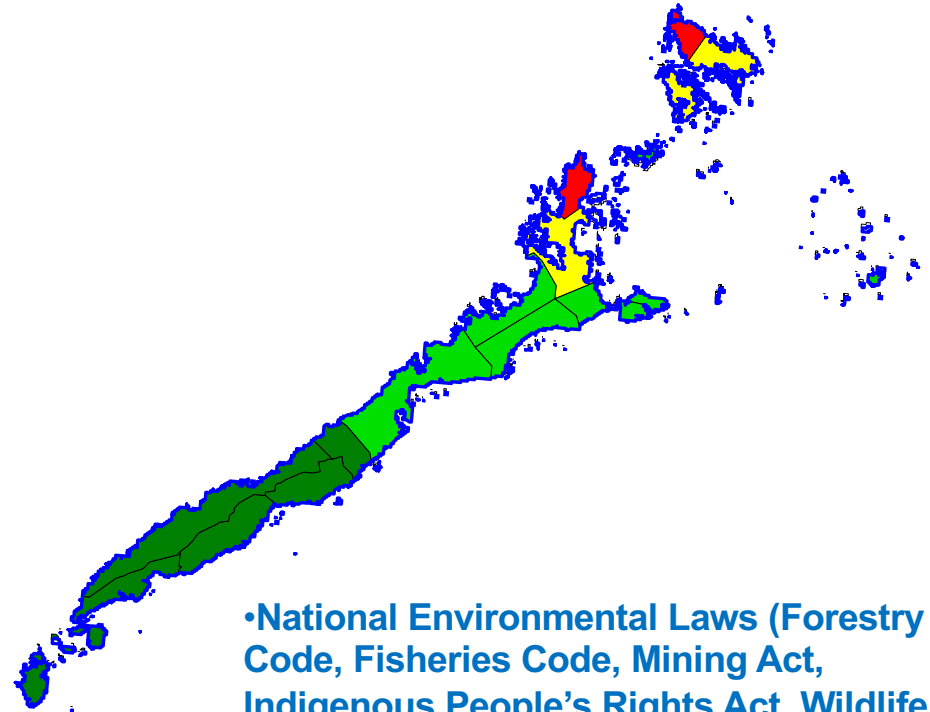


Distinctive Palawan laws and policies on environmental and Natural Resources Management



Palawan's ENRM Framework

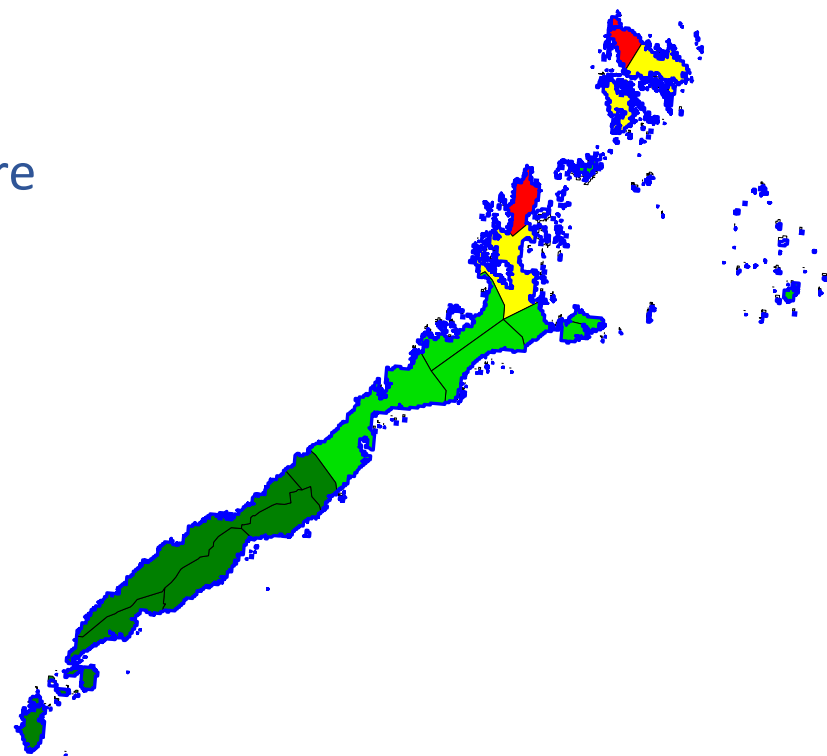
- Proclamation No. 2152 (1981) – Declaring the whole of Palawan as a Mangrove Reserve and Sanctuary
- Proclamation No. 219 (1967) – Establishing Palawan as a Game and Wildlife Reserve
- Strategic Environmental Plan for Palawan (RA 7611, [1992])
- UNESCO Man and Biosphere Reserve



- National Environmental Laws (Forestry Code, Fisheries Code, Mining Act, Indigenous People's Rights Act, Wildlife Act, Cave Resources Act, Clean Water Act, Philippine EIS system, Local Government Code, Expanded National Integrated Protected Areas System [ENIPAS])



- Largest island province in the Philippines (1,489,655 hectares)
- Declared by UNESCO as Man and Biosphere Reserve
- Home to two (2) World Heritage Sites, 26 key biodiversity areas (KBAs) and 6 protected areas
- 30% of Philippines' mangrove cover
- 40% of country's coral reef cover
- 40% of Philippine endemics
- Only province with its own special framework called the Strategic Environmental Plan for Palawan (SEP)



PALAWAN'S BIODIVERSITY...

- 13 species of seagrass recorded in Palawan (81% of the known seagrass species in the country)
- 31 species of mangroves in Palawan (90% of the known mangrove species in the country)
- 44,500 hectares of mangrove forests in Palawan (40% of the remaining mangroves in the country)
- 379 species of corals (82% of the total coral species recorded in the entire country)
- 89% of total reef fish recorded in the country is found in the corridor
- 4 of the 5 marine turtles are found in Palawan
- 15 of the 25 recorded marine mammals are reported from Palawan

(Credit: Conservation International)



PALAWAN'S BIODIVERSITY...

- 18 species of freshwater fish is found in Palawan (50% endemic to the province)
- 26 species of amphibians (25% endemic to the country, majority are confined to the corridor)
- 69 species of reptiles found in the corridor (29% are endemic to the country)
- 279 species of birds (10% are endemic to the country)
- 34% of bird species are migratory, making the region a vital flyway for migratory birds
- 58 species of terrestrial mammals are recorded, 19 or 33% are endemic to the country, 16 are restricted to the corridor

(Credit: Conservation International)



Palawan as an Island Ecosystem

- “Palawan is composed of a long main island lying in a northeast to southwest axis and surrounding it are clusters of lesser islands.....The main island has a tall steep mountain spine running down its length fringed by narrow coastal plains protected from storm waves by fringing coral reefs and mangrove swamps. Although seemingly lush and bountiful, the environment of Palawan is fragile and its topsoils are relatively thin, poor and prone to erosion.”

(Source: Strategic Environmental Plan for Palawan, Towards Sustainable Development, Prepared by the Palawan Integrated Area Development Project Office with the assistance of Hunting Technical Services Limited England in association with the Orient Integrated Development Consultants, Inc., Philippines and Sir Mac Donald and Partners, England, 1983-85)



Palawan as an Island Ecosystem

- **Physiography and Soils**

- Landscape is dominated by mountain and foothills which cover about 940,450 hectares or 82% of the total area.
- Foothill and mountain landscapes are characterized by soils of variable depth, more often quite deep, and with excessive external drainage and high erodibility.
- Its steep topography will render wide areas prone to erosion should their forest cover be removed.
- The narrow shape of the mainland and the smallness of surrounding islands, will mean that erosion on the upper slopes will immediately and directly silt the coastal areas.

(Source: Strategic Environmental Plan for Palawan, Towards Sustainable Development, Prepared by the Palawan Integrated Area Development Project Office with the assistance of Hunting Technical Services Limited England in association with the Orient Integrated Development Consultants, Inc., Philippines and Sir Mac Donald and Partners, England, 1983-85)



Palawan as an Island Ecosystem

- “Palawan’s forests support a unique and highly diverse flora and fauna...Many of Palawan’s fauna are unique and are considered rare, threatened or endangered.”
 - With few botanical expeditions in the past, many botanists feel that there are more undiscovered species of plants.
 - Such diversity serve as basis for declaring Palawan as a “Game Refuge and Bird Sanctuary” in 1967, as Mangrove Reserve in 1981 and as part of UNESCO’s “Man and Biosphere Reserve”.
- “Last Frontier” description signifies abundant and untapped resources, relatively unravaged by resource overexploitation.

(Source: SEP document, 1985)

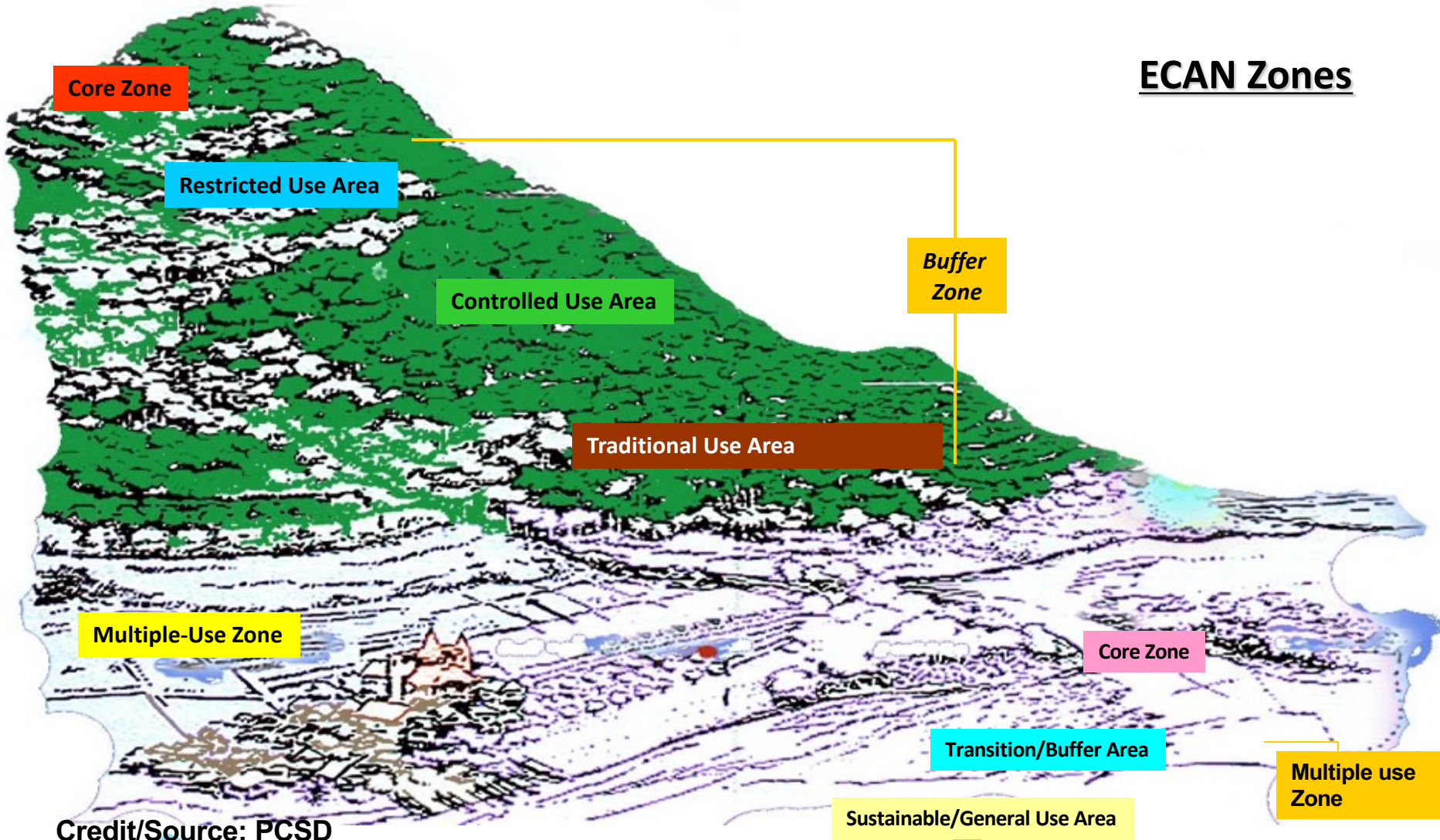


Special Law for Palawan: RA 7611

- Strategic Environmental Plan (SEP) for Palawan is an unprecedented and landmark legislation especially dedicated to the province of Palawan, which seeks to provide a policy framework for the sustainable development of Palawan.
- A multipartite body called the Palawan Council for Sustainable Development (PCSD) is mandated to provide policy direction to, and implement, the SEP.
- The SEP legislation provides for a zonation strategy called the Environmentally Critical Areas Network (ECAN). ECAN prescribes specific uses for each designated zone.



ECAN Zones



Credit/Source: PCSD



Governance of SEP

- Palawan Council for Sustainable Development (PCSD) as the governing body that governs, implements and provides policy direction (Sec. 16, RA 7611)
- PCSD's powers include
 - adoption and amendment of rules and regulations
 - imposition of penalties for the effective implementation of the SEP law
 - enforcement of the provisions of the SEP law and other existing laws, rules and regulations similar to or complementary with the SEP
 - performing related functions which shall promote the development, conservation, **management, protection, and utilization of the natural resources of Palawan**, and such other powers and functions as may be necessary in carrying out its functions, powers, and the provisions of the SEP law (Sec. 19)



Significance of the SEP law

- Total Commercial Logging Ban (Sec 2, RA 7611)
- All natural forests are areas of maximum protection or core zones, with the exception of tribal ancestral zones where traditional practices are allowed (Sec. 9, RA 7611)
- Tribal Ancestral Zones cover land and water (Sec. 9, RA 7611)



13 Palawan Sustainable Development Agenda



Ecological stability and continuous formation of natural capital

Economic wealth created and equitably distributed



Social and cultural capital protected, developed, and enhanced

Rights-based governance in place to facilitate sustainable development



Other specific laws that PCSD is mandated to implement

- RA 9147, Philippine Wildlife Resources Conservation and Protection Act
 - Joint DENR-DA-PCSD Administrative Order No. 01, Implementing Rules and Regulations (IRR) prescribing the procedures and guidelines for the implementation of the Wildlife Resources Conservation and Protection Act
- RA 9175, Philippine Chainsaw Act
- RA 9072, Caves and Cave Resources Management and Protection Act



PCSD's implementing regulations

- Administrative Order No. 05, which provides for a quota mechanism to ensure the sustainability of live reef food fish industry
- Administrative Order No. 06 or the Revised Guidelines in the Implementation of SEP Clearance System
- Administrative Order No. 07 or the implementing regulations on the Chainsaw Act in Palawan



PCSD's implementing regulations

- Administrative Order No. 08 or the implementing regulations on the Caves law in Palawan
- Administrative Order No. 11 or the Rules and Regulations Governing the Conservation and Protection of Mangrove Areas



Environmental ISSUES and CHALLENGES



Issues

Overarching Issue: **Environmental Governance**

1. Revision of ECAN zones
2. Mining in natural forests, key biodiversity areas, protected areas and watersheds
3. Emergence of monocrop agro-plantations
4. Infrastructure Projects (six-lane superhighway, reclamation) in ecologically sensitive areas
5. Land Conversion (forest and agricultural lands)
6. Coal and Waste-to-Energy
7. Division of Palawan into 3 provinces





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Revision of ECAN (A look at the proposed updating of the narra ECAN)



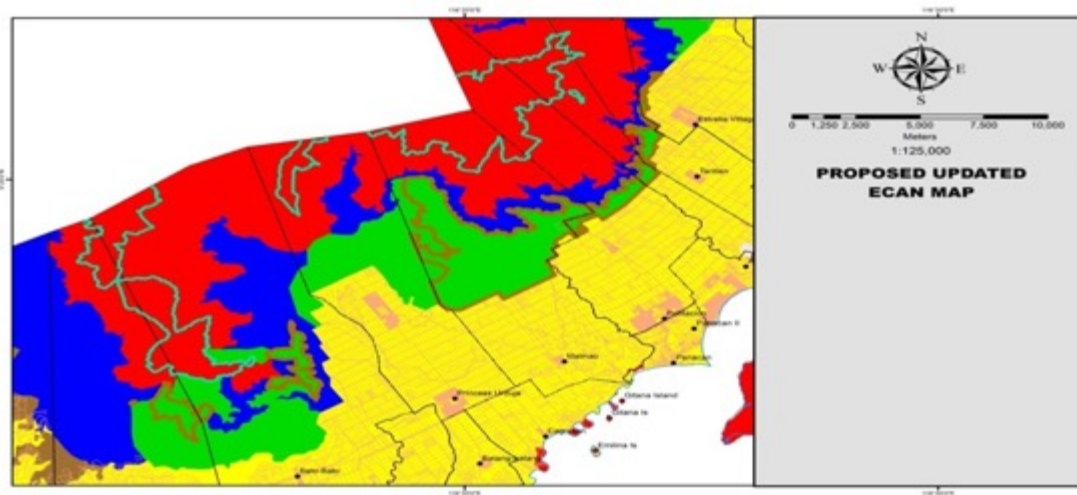
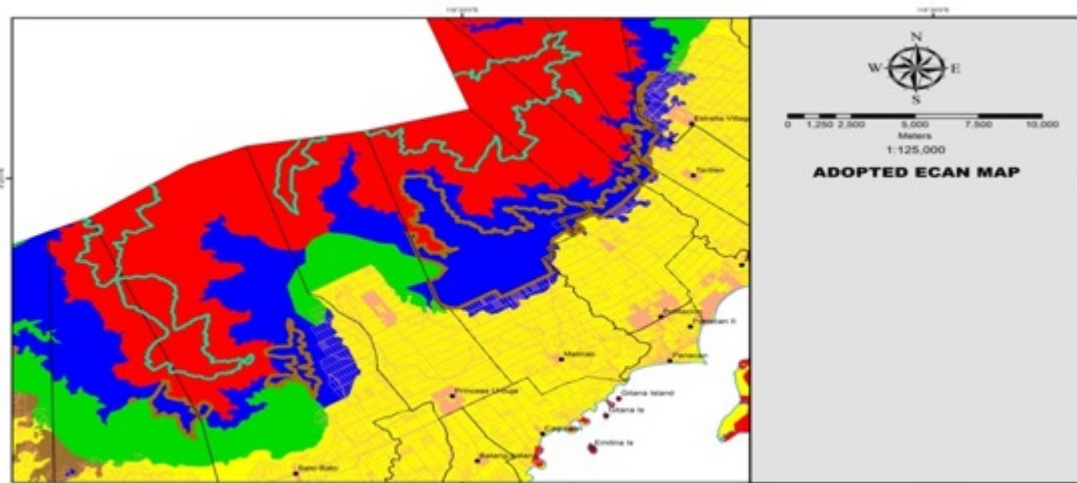
Restricted Use Zone to Controlled Use Zone

The areas are currently zoned as Restricted Use Zone located at Barangay Estrella Village, Taritien, Elvita, Poblacion, Malinao, Princess Urduja, Bato-Bato and Calategas.

However, the elevation of the areas is within 50-700 meters and per CLWUP they are within community-based forest management (CBFM) and IFM areas. Areas in Malinao, Princess Urduja, Bato-Bato and Calategas are **suitable for Palm Oil Plantation**.

Thus, it is proposed to be re-zoned as Controlled Use Zone.

It has a total area of 3,520.104 has.



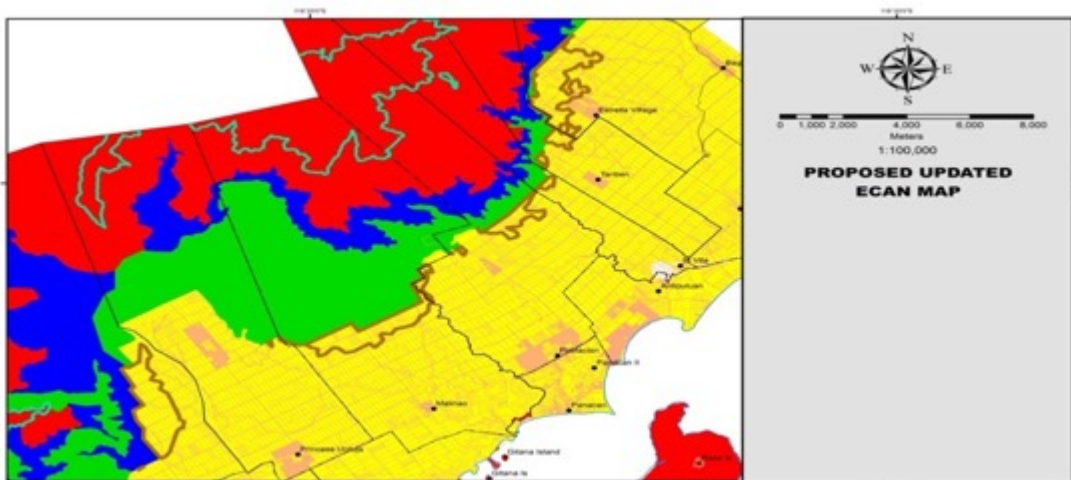
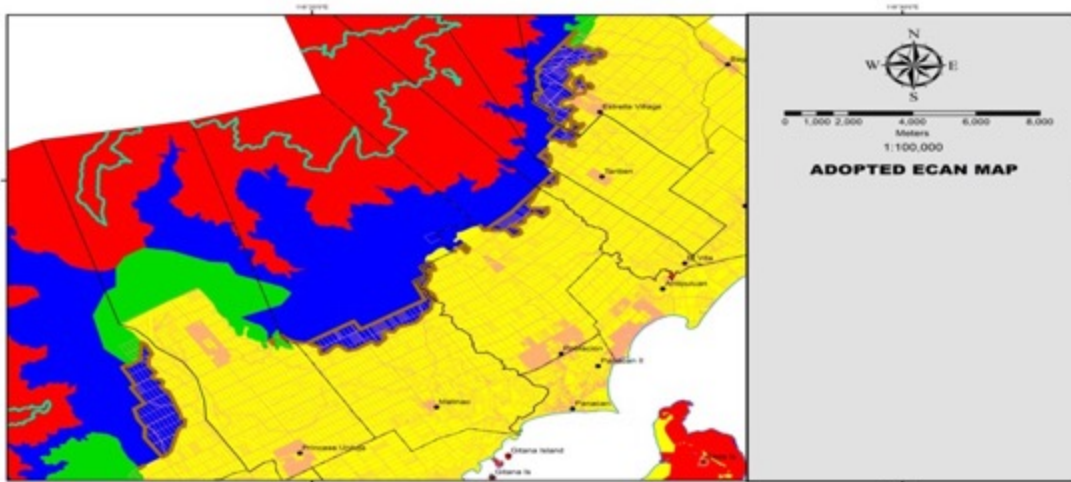
Restricted Use Zone to Multiple Use Zone

The areas are currently zoned as Restricted Use Zone located at Barangay Estrella Village, Taritien, Elvita, Poblacion, Malinao, Princess Urduja and Bato-Bato.

However, the elevation of the areas is within 30-200 meters. They are covered by released CLOA and per CLWUP they are within agricultural area. Areas in Malinao, Princess Urduja and Bato-Bato are **suitable for Palm Oil Plantation**.

Thus, it is proposed to be re-zoned as Multiple Use Zone.

It has a total area of 1,261.166 has.



Issue

Areas identified form part of the ancestral domain of the indigenous peoples.

Revision of the ECAN did not undergo the Free and Prior Informed Consent (FPIC) process



The Continuing Threat of Mining in Palawan



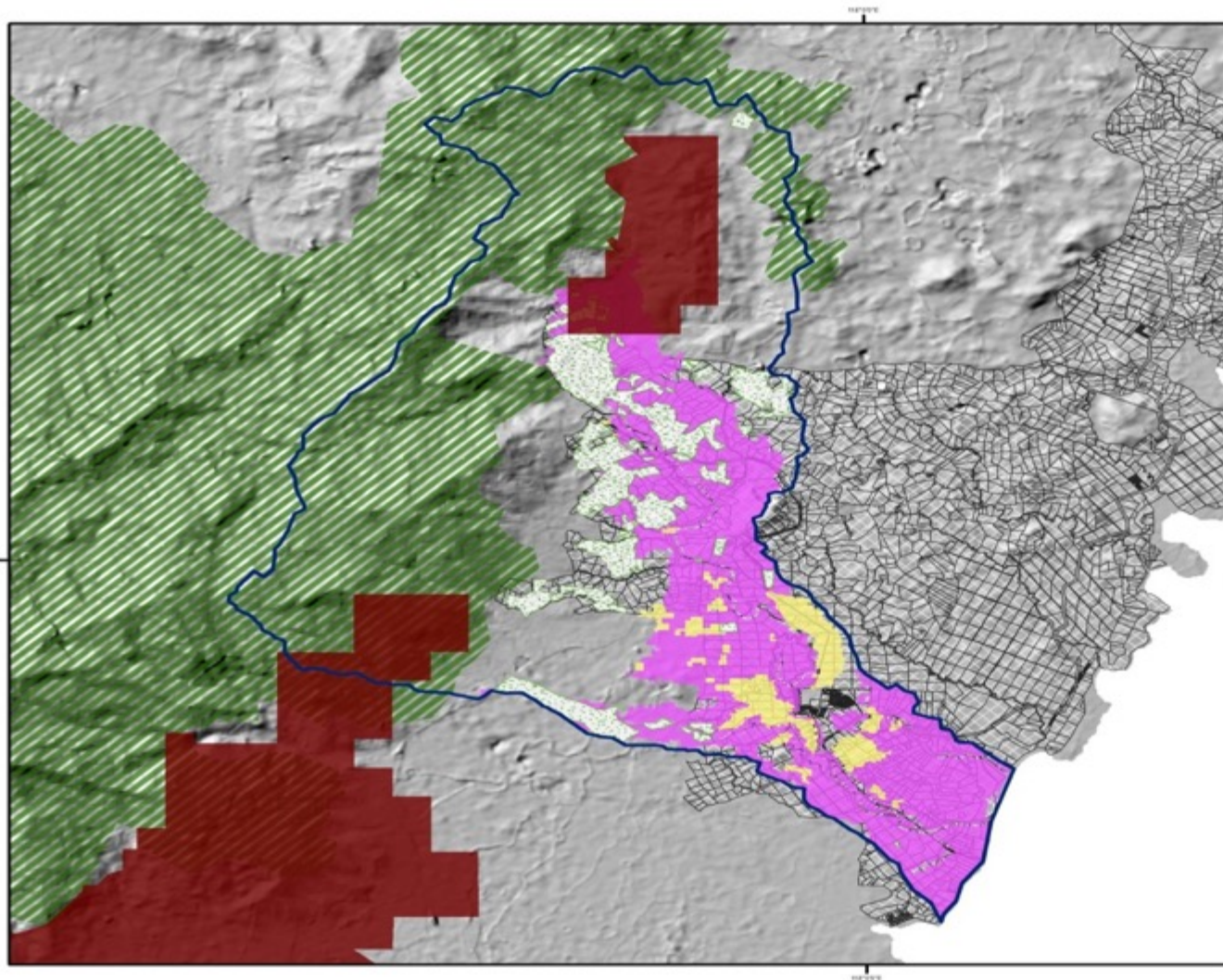
Palawan Mineral Agreements

- 2011 ---- 429 mining applications (exploration, mineral agreements, industrial quarrying)
- 2012 ---- MGB cancelled more than 400 applications
- 2013 ---- 19 Mineral Production Sharing Agreements (MPSAs) and Exploration Permits (EP);
- 2019 ----- 18 MPSAs (with one expired in 2018); one “Authority to Verify Minerals” (exploration) despite the identification of Palawan as a no-go zone for mining



Palawan





PHILIPPINES



SOUTHERN PALAWAN

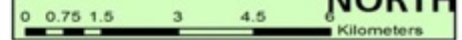
**CROPS 2014 + OWNERSHIP
PULOT WATERSHED**

Legend

- Pulot Watershed
- Oil Palm
- Perennial Crop (Coconut-based)
- Annual Crop (Rice)
- MMPL
- Cadastre/CLOA
- MPSA

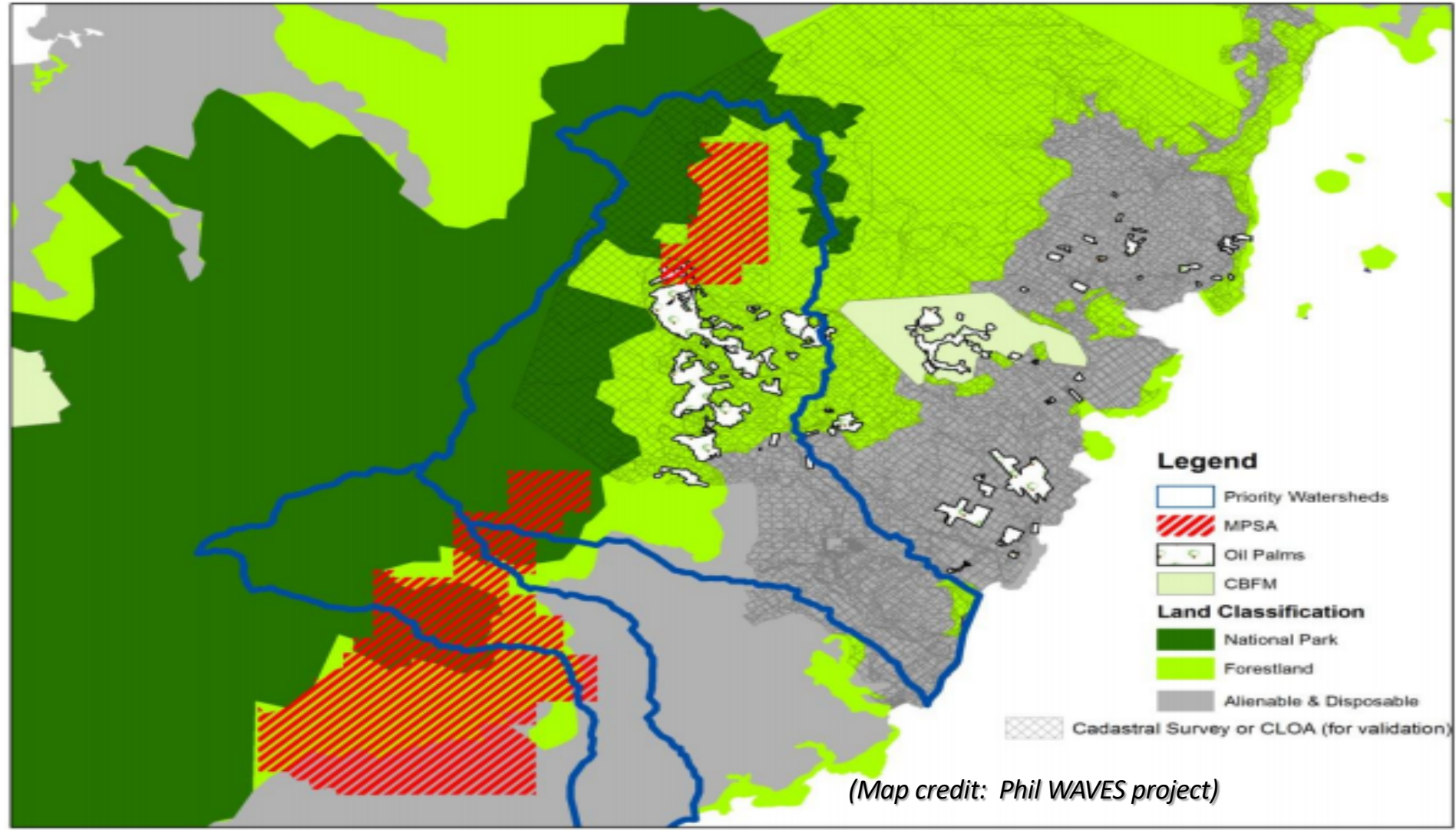
METADATA:

data sources: NAMRIA, PCSD
 processing: integration of oil palm to Lcover14
 datum: Luzon 1911
 projection: UTM Zone 50
 mapper: ABA
 mapped for: PhilWAVES Project



(Map credit: Phil WAVES project)







© 2007 Europa Technologies
Image © 2007 TerraMetrics

© 2007 Google™

Pointer 8°35'26.95" N 117°23'42.05" E elev 904 ft Streaming 100% Eye alt 26625 ft



Video played during the presentation
can be viewed on
<https://youtu.be/gaom8nVV6IA>



Mining Issues

- Legal and Policy Issues (eg. RA 7942 is foreign capital-dependent and export-oriented, overgenerous fiscal incentives and other benefits to mining companies, weak regulatory mechanisms, social acceptability and consent issues)
- Adverse Environmental, Social and Economic Impacts



Weak Implementation

- Mining activities have been allowed in watersheds, protected areas and core zones
 - Violation of RA 7611 or Strategic Environmental Plan for Palawan (SEP), which provides that all natural forests (old-growth or residual forests) are areas of maximum protection (Section 9, RA 7611)
- Large-scale corporations were allowed to apply for small-scale mining permits while their large-scale mining permits or MPSAs (mineral production sharing agreements) were being processed
- Small scale mining has been allowed in areas where no small-scale mining reservations (*minahang bayan*) were established



ADB

Stopping Mining in Key Biodiversity Areas



ADB

Gotoc Limestone Quarry Site of Rio Tuba Nickel Mining Corporation (RTNMC) for its Hydrometallurgical Processing Plant (HPP) operations

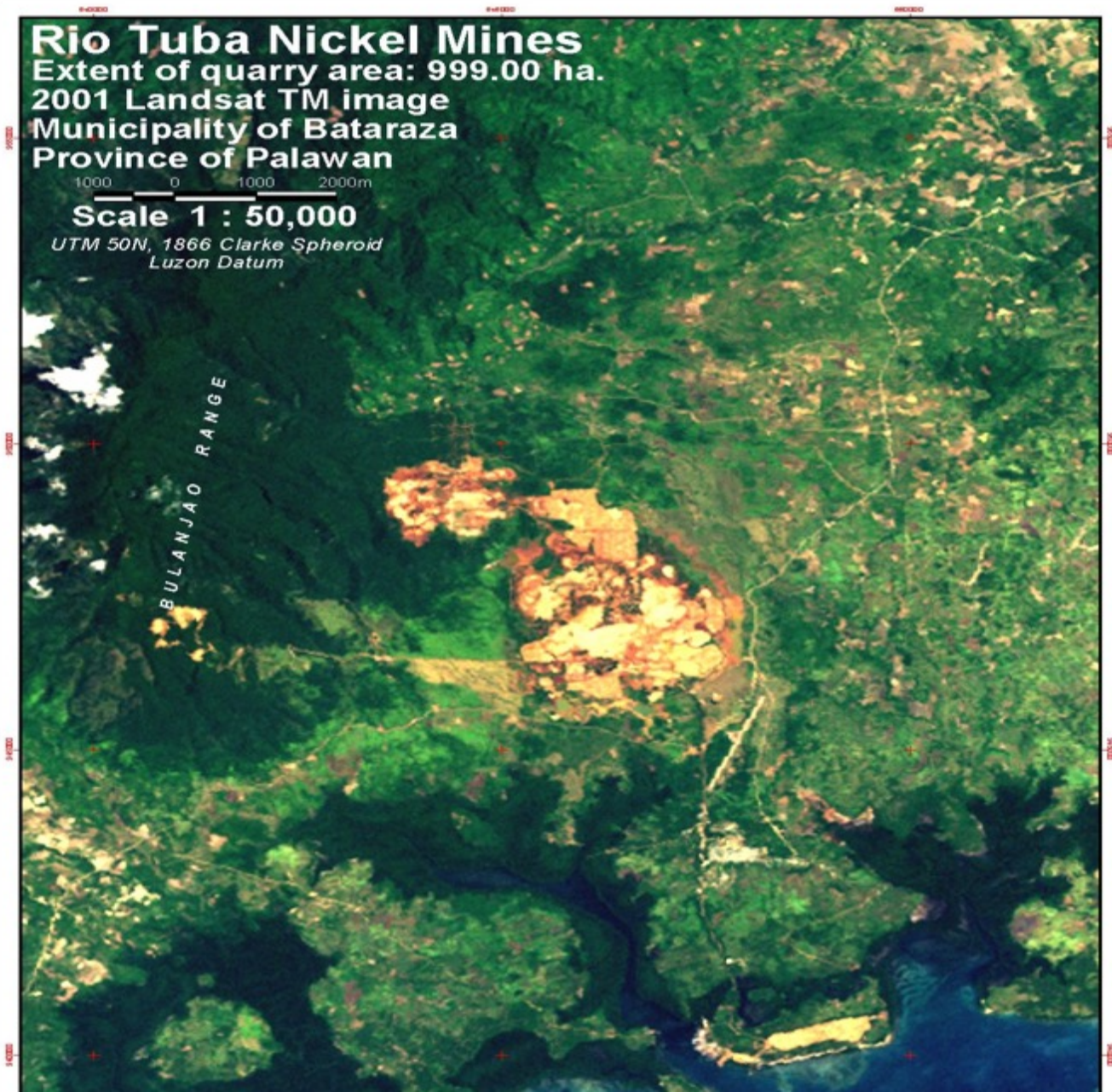


Rio Tuba Nickel Mines
Extent of quarry area: 999.00 ha.
2001 Landsat TM image
Municipality of Bataraza
Province of Palawan

1000 0 1000 2000m

Scale 1 : 50,000

*UTM 50N, 1866 Clarke Spheroid
Luzon Datum*



Landsat Image

Prepared by:

Conservation International-Phils



Monocrop agro-plantations



Social

Displacement of Indigenous peoples

Aldaw report: members of indigenous communities maintained that there is a direct relationship between oil palm expansion and the impoverishment of their diet, the drastic decline of medicinal plants traditionally used by them for curing common ailments, as well as the depletion of non-timber forest products (NTFP), animal species and fresh water resources on which they depend upon for their livelihood.





(slide credit: Dante Dalabajan)



Oil Palm Plantations: No FPIC and EIA



Social

- Several farmers' cooperatives which have entered into contracts with Agumil Corporation have complained about the lack of economic benefits and transparency in the management of the cooperatives.
- Plantation workers, both local indigenous people and migrants, have complained about unfair working conditions, delayed payments, unfair computation of working days and absence of benefits (eg. insurance).



Environmental

- Forest and agricultural land conversion
 - Deforestation leading to biodiversity loss
 - Extensive use of water
-
- Aldaw's geotagged report showed that considerable portions of the last remaining Philippine lowland forest (primary and secondary) of Southern Palawan have been clear-cut to allow the entry of oil palm plantations
 - Palawan NGO Network, Inc. (PNNI)'s documentation and enforcement efforts showed forest conversion activities for oil palm plantations





Hybrid Coconut Plantation Site in Ransang, Rizal, Palawan of Lionheart Agro-Farm Corporation which was issued a Joint Venture Agreement (JVA) by the DENR





ADB



(photo credit: Roger Garinga)



Infrastructure development





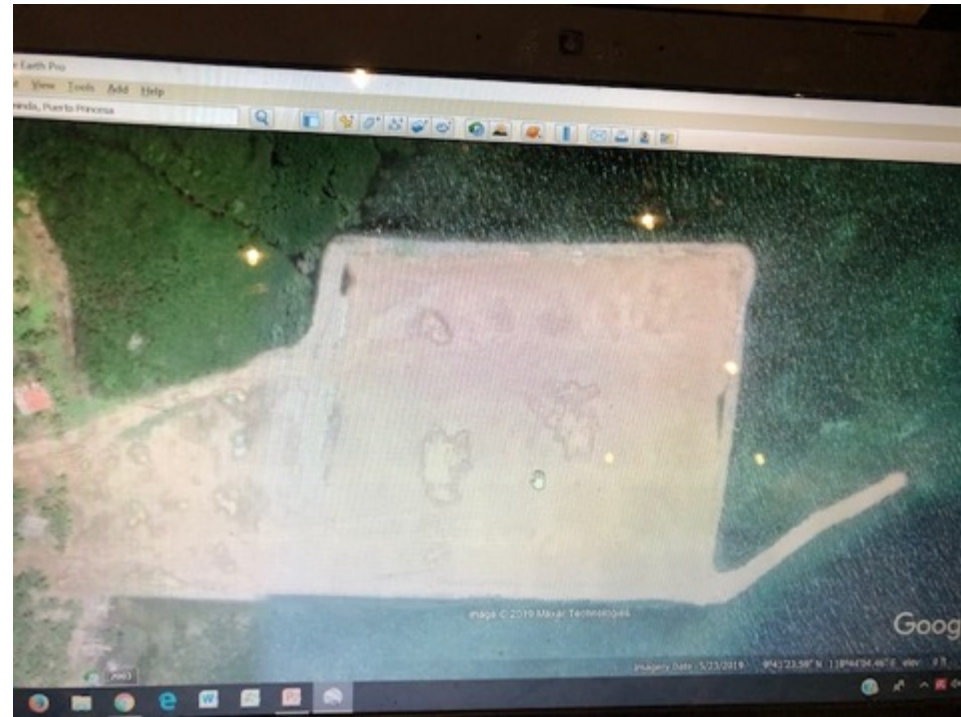
(Ulugan Bay Road Project)



Illegal reclamation and port development



Illegal Reclamation near Puerto Bay



Megadam in Aborlan



Roger Garinga

18 FEBRUARY



1

2 Comments



Culion Resort established without appropriate permits, and apprehended for forestry and other environmental law violations





ADB



ADB





ADB



Initiatives



ADB

Advocacy efforts to fight coal

- Signature campaigns and mobilizations by students and local community members
- Engaged DOE and LGUs in the development of a Palawan Island Power Development Plan (PIPDP)
- Local ordinance
 - Barangay ordinance banning coal in their area
 - Barangay ordinance prohibiting the conversion of agricultural lands into industrial uses



Local: Palawan Island Power Development Plan (2014-2034)

Palawan is the first province to have a power development plan prepared through participative planning by a multi-sectoral group.

- Planning process involved forecasting of power demand for the next 20 years
- followed by assessing the current power supply situation and identifying the gap between supply and demand
- crafting of the generation plan using least-cost option addresses the gap between supply and demand



ADB

DIESEL
BUNKER FUEL
COAL-DIESEL MIX (DMCI)
SOLAR
MINI HYDRO-POWER

P14.30/kwh

P11.90/kwh

P10.51/kwh

P 9.68/kwh

P 6.60/kwh

Comparing Options



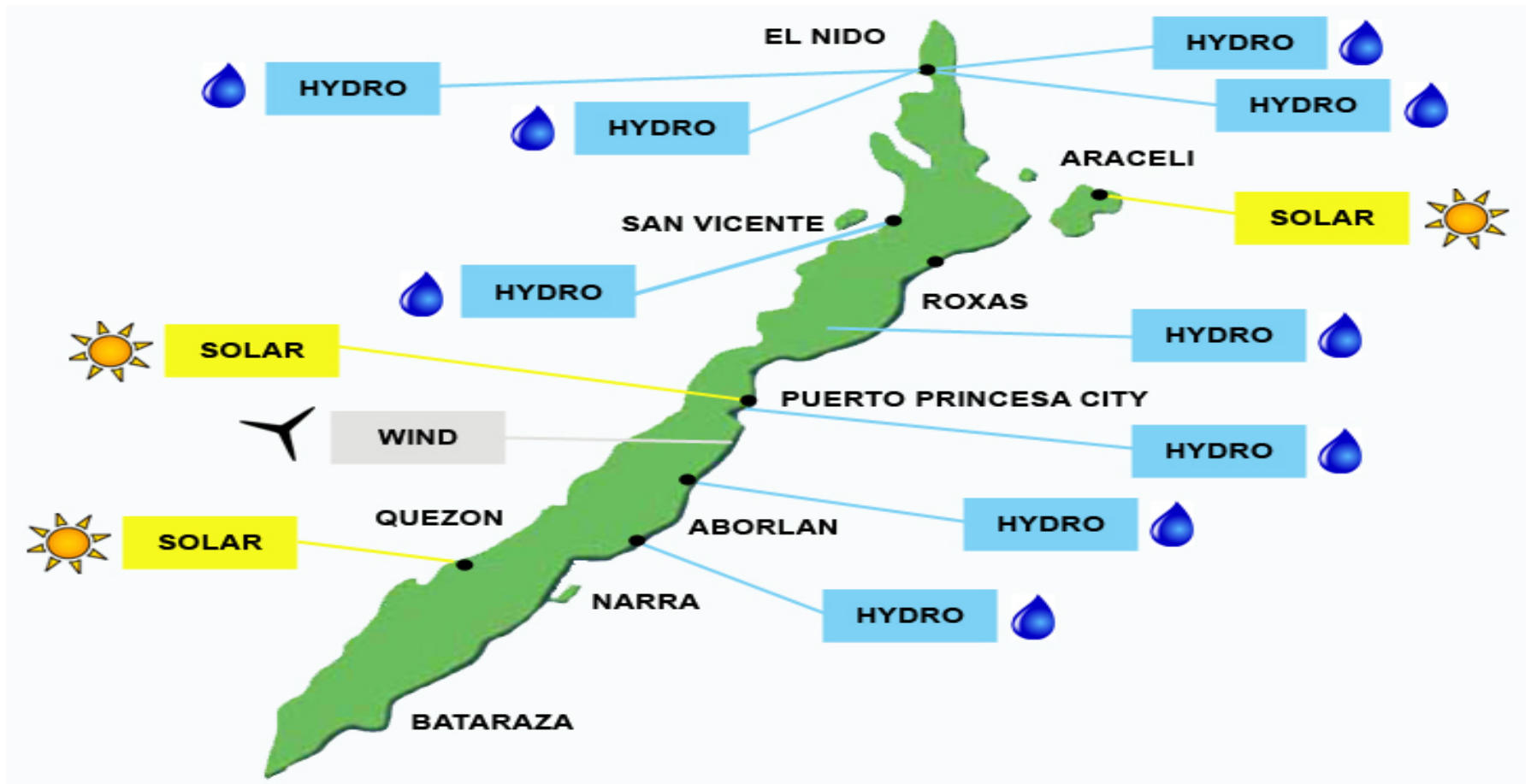
**Coal + Diesel:
P10.5056/kW-hr**



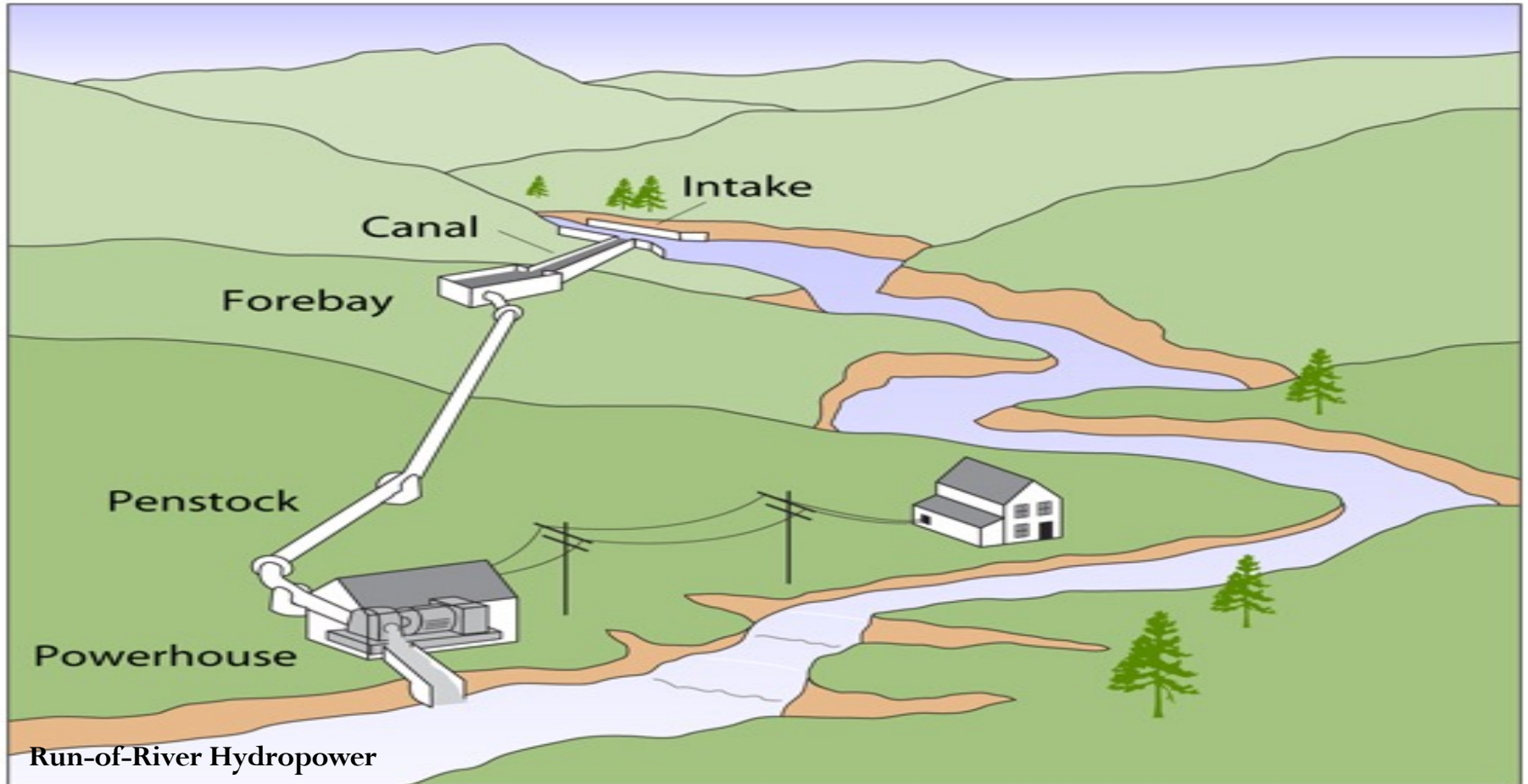
**Mini-Hydro
P6.5896/kW-hr**



Renewable Energy Available in Palawan



Run-of-River Hydropower



Advocacy and Enforcement Engagements

- Signature campaigns; petition letters
 - 10 million NO2MININGINPALAWAN and other KEY BIODIVERSITY AREAS (KBAs) campaign
 - Moratorium on oil palm expansion
- Engagement with key government agencies through dialogues, petitions and meetings, and specific environmental enforcement actions
- Conduct of studies, research and documentation



Mt. Mantalingahan, Palawan



Mt. Mantalingahan, Palawan

Potential Sand and Gravel and Nickel Reserves

	Amount	Value
Sand and Gravel*	11,044,104 m ³	2.2 billion pesos
Nickel**	268,010 mt	12.8 billion pesos
TOTAL		15.0 billion pesos

*The volume of sand and gravel reserve was estimated on the assumption that the total mineable length is 10% of the total length of all the rivers in the watersheds and at a price of P200/m³

** The value for nickel was computed at P47,810/mt



Mt. Mantalingahan

Total Economic Value (TEV)

Direct Use

(timber, farming, livestock production, non-timber forest products gathering, river-based livelihood, water and mining)

93.9 billion pesos

Indirect Use

(carbon stock, soil, conservation, watershed and biodiversity functions, and protection of marine biodiversity)

172.1 billion pesos

Total Economic Value

(2% discount rate)

266.0 billion pesos

THE VALUE OF ENVIRONMENTAL GOODS AND SERVICES PRODUCED FAR EXCEEDS THE NET BENEFIT FROM MINING



Engagements with Law Enforcement Agencies

- Illegal occupation of mangrove areas

(almost 6 hectares of mangroves in San Manuel, PPC)



Case of Brgy San Manuel

- Brgy, DENR and city officials were harassed with suits
- Use of SLAPP (Strategic Lawsuit Against Public Participation) under the new Supreme Court Rules for the Prosecution of Environmental Cases to counter harassment cases
- Engaging with government so they can be in the Offensive (eg. Seizing the illegally occupied area, demolishing structures, apprehending illegal occupants and filing cases vs illegal occupants)



Case of Brgy San Manuel

- DENR's key officials and the National Anti-Environmental Crime Task Force (NAECTAF) played a critical role in the successful recovery of the illegally occupied area.
- After Feb 1, 2017, the area has been the object of reforestation efforts.



Legal Actions

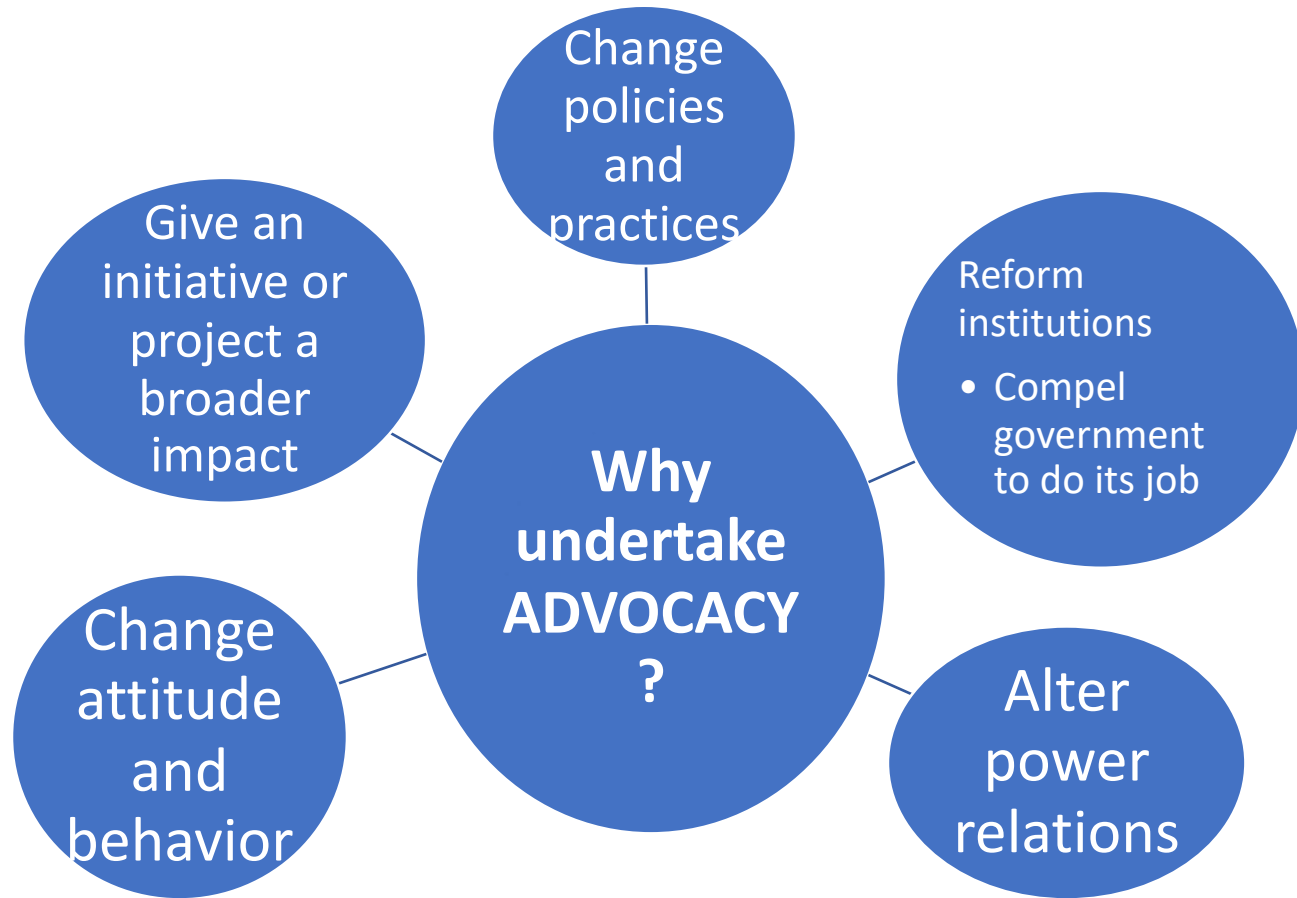
- Environmental Protection Orders (EPOs) to seek damages and rehabilitation
- Administrative actions seeking the cancellation of mineral agreements, exploration permits, environmental compliance certificates (ECCs), other clearances and joint venture agreements
- Defending barangay officials and local community leaders in SLAPP (strategic lawsuit against public participation) suits



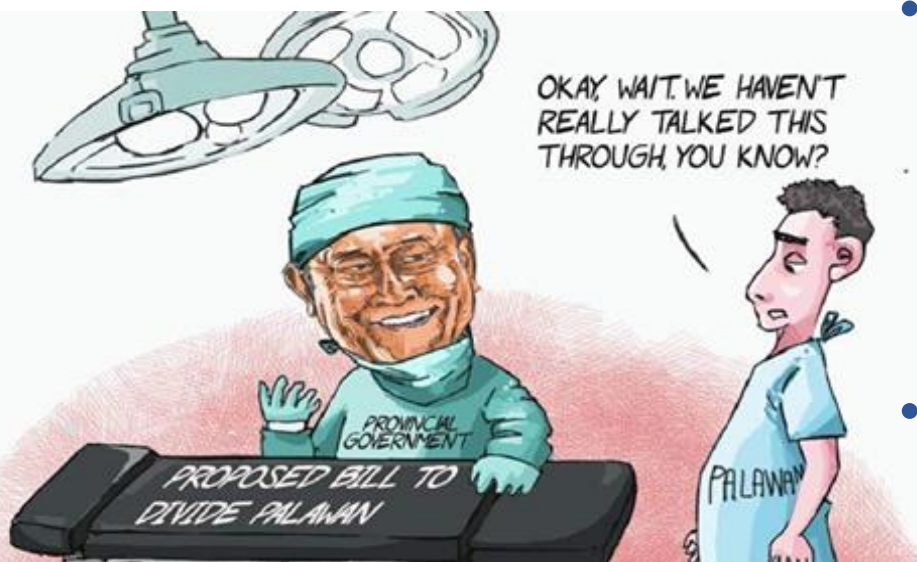
Initiative – Reviving the Save Palawan Movement (SPM)

Issues

1. Mining
2. Monocrop plantations and land conversion
3. Infrastructure Development
4. Coal and Dirty Energy
5. Waste management
6. Overall governance



Law to Create 3 Provinces (RA 11259)



- Create three new provinces from today's singular Palawan provincial entity, with the administrative boundaries drawn across the north, central and south Palawan.
- City of Puerto Princesa is to remain an administratively independent local government unit, classified as a highly urbanized city.



RA 11259 - Law to Create 3 Provinces

- Initiative driven by the provincial government, an agenda pushed personally by Governor Jose Alvarez, on the premise that Palawan has grown to be difficult to administer and challenging to develop.
- Little to no public debate on the issue, save for random discussions it had generated in social media and several news platforms like Palawan News.
- No consolidated report from the so-called consultations conducted that could have gauged the majority sentiment and documented the issues raised on the ground. *(Lifted from the Palawan News editorial, October 7, 2018)*
- Signed by President Duterte on April 5, 2019



Key Arguments

1. The division of Palawan is **NOT A DEVELOPMENT AGENDA** but a **POLITICAL AGENDA**.
 - No genuine consultations (Section 2, RA 7160)
 - No clamor or demand from citizens, villages/brgys
 - No indication that this is a need in the last 5 to 10 years in every annual development planning conference
 - Not a development priority
2. As a **GLOBALLY-SIGNIFICANT ISLAND ECOSYSTEM** (footnote: UNESCO description) rich in biodiversity, any development strategy or plan by government must be subjected to thorough studies (cost-benefit analysis, feasibility studies)
 - Did they look into scientific studies that served as basis for the Strategic Environmental Plan (SEP; RA 7611)?



Other Key arguments

3. The desire to have “new politicians” does not guarantee genuine development. It may even be a masquerade for “gerrymandering”. In the absence of an “anti-political dynasty” law, the possibility of traditional political families dominating the governance of Palawan is there.

4. Existing laws (Local Government Code) provide that the provision of basic services is the mandate of barangays and municipalities and not the province.

5. The law, RA 11259, violates the Constitution. It changes the sharing of LGUs in natural wealth and prevents the residents of Puerto Princesa from voting in the plebiscite.

- it will result in centralization of power in the provincial government rather than enhancing decentralization



Sharing in National Wealth	Section 292 LGC	RA 11259
Province	20%	60%
Municipality	45%	24%
Brgy	35%	16%



Proposals to strengthen implementation of the SEP law

(a) review of existing land and resource use plans as well as development plans, including the Palawan Sustainable Development Strategy and Action Plan (PSDSAP), taking into account scientific studies of various institutions; and integrate all plans into one comprehensive planning and assessment document

(b) conduct of strategic environmental assessment (SEA) that would look into comprehensive impacts of proposed infrastructure development projects



Proposals to strengthen implementation of the SEP law

(c) use of valuation studies and cost-benefit analysis as methodologies in revising ECAN zones and in assessing infrastructure development plans

(d) conduct of regular dialogues or “townhall meetings” between the PCSD, DENR, provincial and municipal officials in order to discuss key issues affecting the local communities and their natural resources

(e) conduct of an impact assessment of the SEP law and its implementation every five years, involving a broad range of stakeholders.



Other Initiatives

- Building a Constituency to Promote Environmental Justice
 - Network of environmental lawyers (ELAC legal pool) and advocates
 - Environmental Justice Fellowship
 - Linkage building with scientists and researches (scientific advisory team) of universities and conservation groups



ADB

Integrating issues and initiatives in the teaching of environmental law



Methodologies and Approaches

- Summer internships
- Field trips (visit protected areas, watersheds, sanitary land fill)
- Organizing seminars where students are assigned to report on specific environmental laws and issues
- Role plays to demonstrate environmental enforcement cases

