

(poster credit: DENR)



Key Environmental Issues and Recent Developments in Environmental Law

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**Biodiversity Loss ,
Environmental Degradation
and Vulnerability to
Climate Change**


**Policy
and
"Development" Plans**

Environmental Issues

**Weak Enforcement
(Institutional)**

**Threats to
Environmental
Defenders**





**BIODIVERSITY LOSS,
ENVIRONMENTAL DEGRADATION,
VULNERABILITY TO CLIMATE
CHANGE**

Philippines' Biodiversity

- The Philippines is one of 17 mega-biodiverse countries of the world, containing two-thirds of the earth's biodiversity and between 70% and 80% of the world's plant and animal species.
- The Philippines ranks fifth in the number of plant species and maintains 5% of the world's flora
- The Philippines has 7.2 million has. of forest ecosystems, comprising approximately 24% of the total land area. It is however estimated that, between 2000 and 2005, the Philippines lost 2.1% of its forest cover annually, representing the second fastest rate of deforestation in Southeast Asia (second to Myanmar) and seventh in the world.

(Source: *Convention on Biological Diversity website*
<https://www.cbd.int/countries/profile/?country=ph>)



Luzon Ecoregion

- The ecoregion has been exploited for its trees and mineral resources in the past; shifting agriculture and mining are the greatest current threats.
- In the intervening decade, more forest has been cleared as a result of unsustainable shifting agricultural practices, legal logging, and illegal logging. These threats are still present and are the main future threats to biodiversity, followed by unsustainable hunting and collection for trade.
- The Luzon Rain Forests ecoregion has been greatly modified by human activities. This is probably unavoidable given the high rate of population increase and the size of the population as a whole. Three of the country's largest cities are in this ecoregion: Manila, Quezon City, and Caloocan City. Many of the lowland areas were converted into agriculture long ago, but recent forest clearing is a tremendous problem.

Source:

<https://www.worldwildlife.org/ecoregions/im0302#:~:text=The%20ecoregion%20has%20been%20exploited%20for%20its%20trees,at%20the%20northern%20end%20of%20the%20island%20group.>

Forest degradation in Sierra Madre due to illegal logging

Sierra Madre





FOREST WOUNDS - Pieces of lumber from logs illegally cut in Sierra Madre wash ashore in Quezon province. Date reported: February 18, 2019
Source: <https://newsinfo.inquirer.net/1086831/polls-illegal-logging-surge-linked>



(Photo by Philippine Tropical Forest Conservation Foundation or PTFCF)



(Photo by Philippine Tropical Forest Conservation Foundation or PTFCF)



*(Photo by
Philippine Tropical
Forest
Conservation
Foundation or
PTFCF)*



CRITICAL WATERSHED. Illegal logging and charcoal-making are fueling deforestation in Ipo Watershed in Bulacan and Rizal.
Date reported: February 14, 2018

Source: <https://www.rappler.com/nation/duterte-illegal-logging-ipo-watershed>

Tanbarking/Debarking refers to the removal of the bark (skin) of “*ceriops tangal*” mangroves. The bark (also called *cascalotes*) are smuggled to Zamboanga or Malaysia, powderized and then used for dyeing cloth.



- Mangrove Tanbarking in Southern Palawan



Iwahig, Bataraza





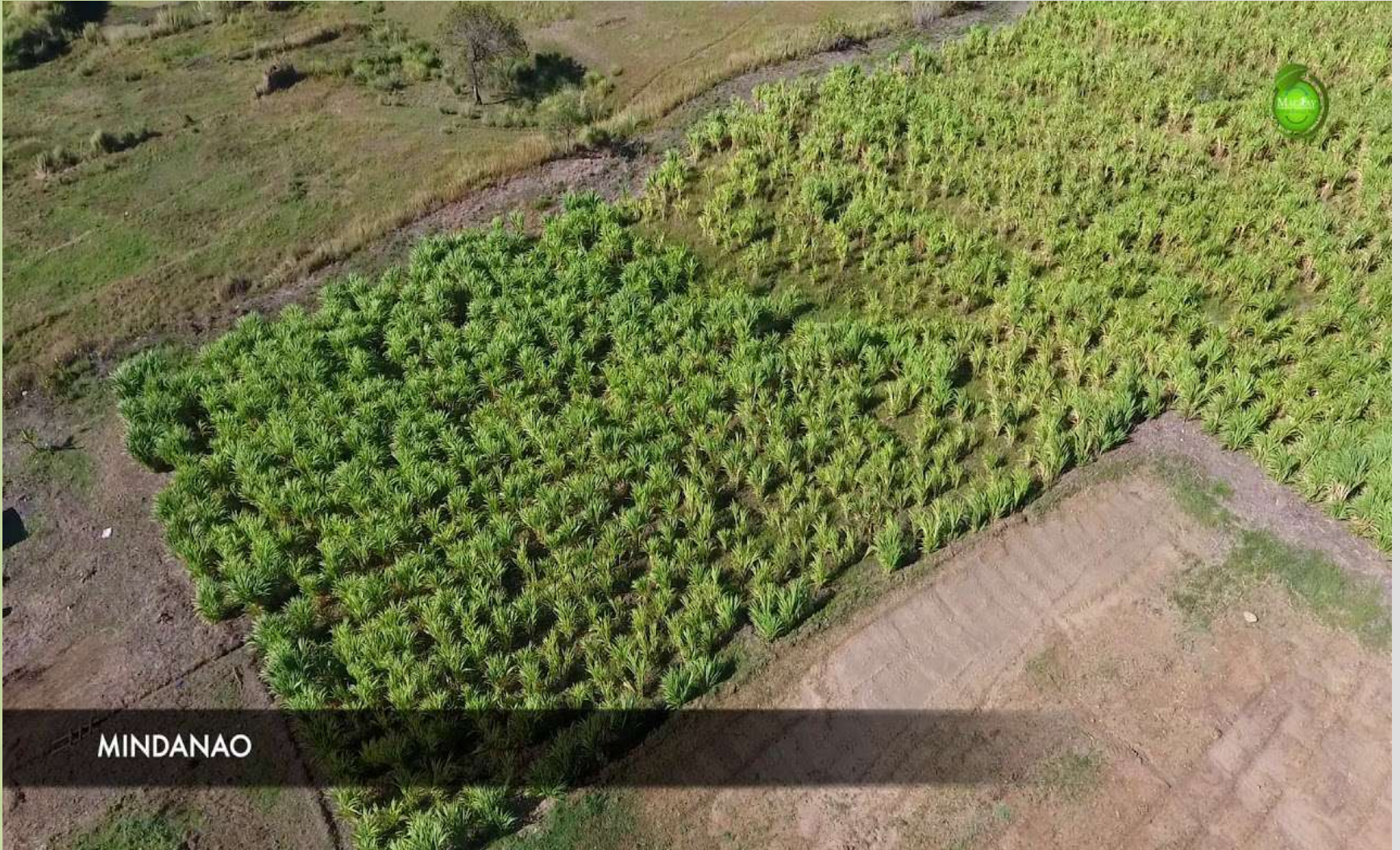
Massive Mangrove Tanbarking of *ceriops tangal* in
Balabac, Southern Palawan

Environmental challenges in Mindanao

- Large plantations are a big driver of deforestation and forced displacements of indigenous communities.
- Once lands are opened to big corporations there are also environmental concerns like logging, mega-dams and destructive mining.

(Source: <https://www.unep.org/news-and-stories/story/us-land>)

Plantation in Mindanao



MINDANAO

Mining operations in Sta. Cruz, Zambales



DENR's aerial survey of Claver, Surigao del Norte. At least 4 nickel mining firms operate here. (Photo taken last 2017; Photo credit – Atom Araullo)

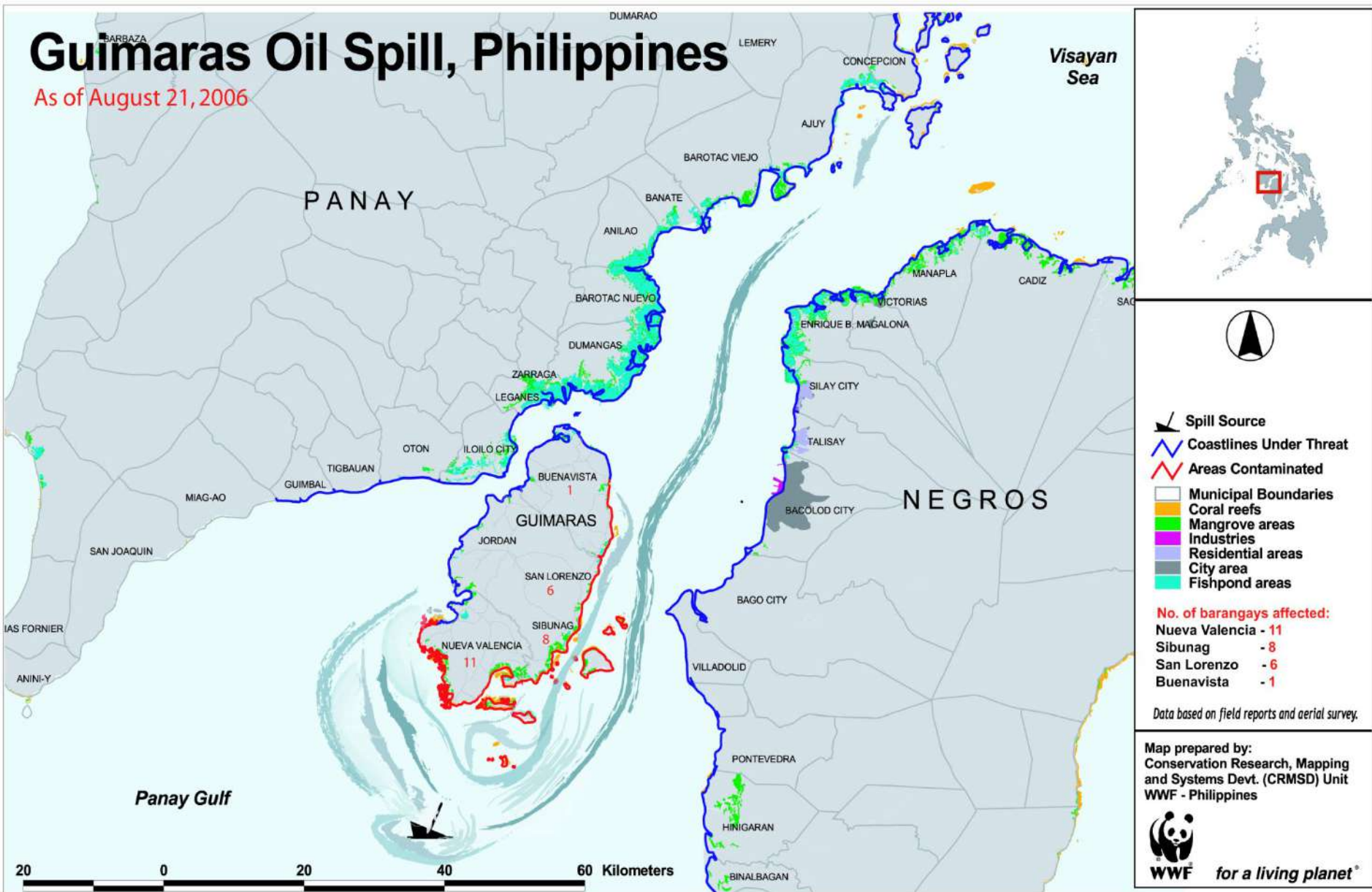


Mining in Manicani province in Eastern Samar



Guimaras Oil Spill, Philippines

As of August 21, 2006



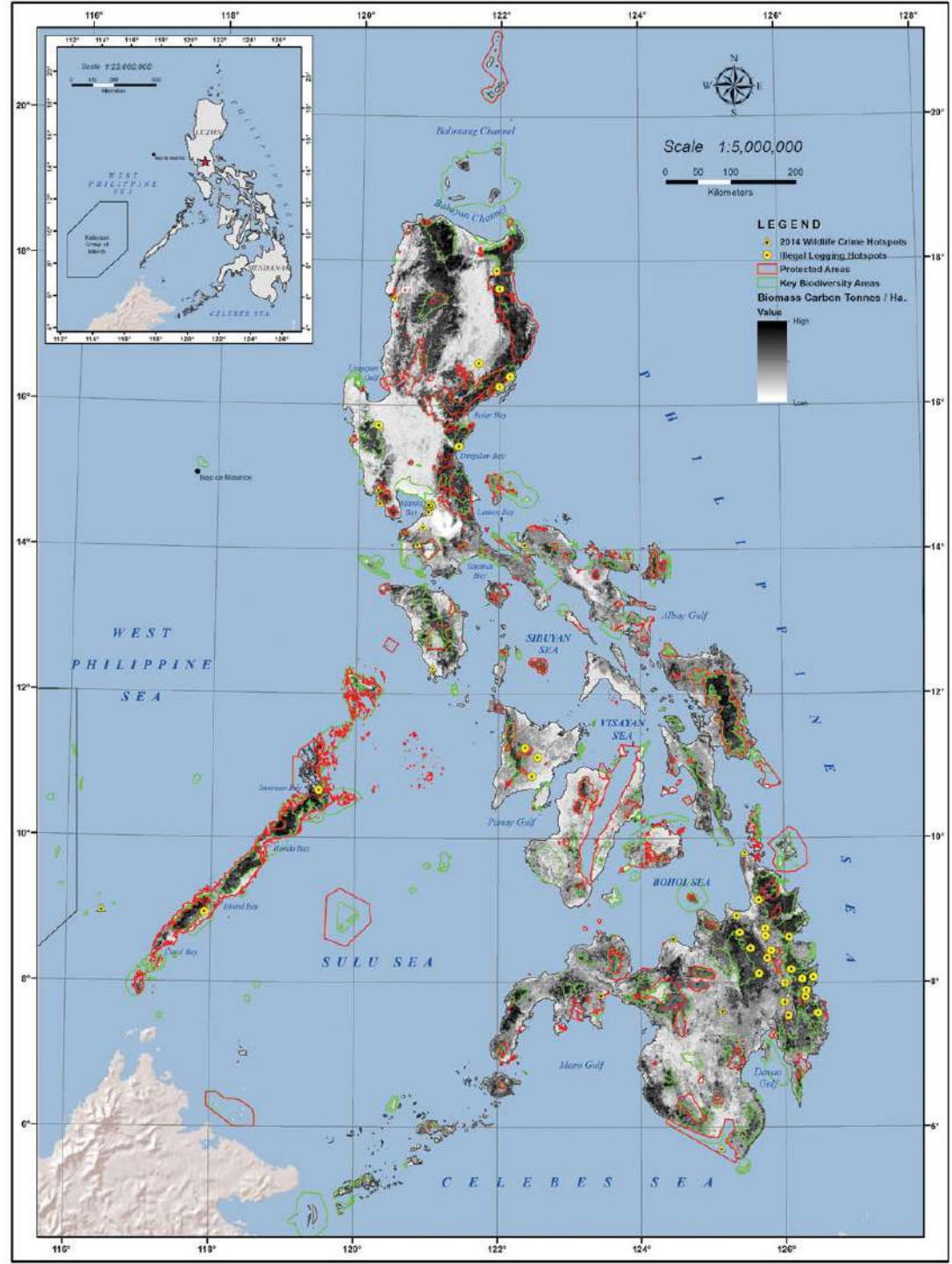
A tanker carrying a cargo of at least two million liters or 13,000 barrels of industrial oil, sank in the southwestern portion of Guimaras Island on August 11, 2006.

The Guimaras oil spill in 2006 is considered the most environmentally destructive sea accident in Philippine history.



Above and below-ground biomass, key biodiversity areas, and illegal logging and wildlife hotspots in the Philippines

Data sources: Biomass- Saatchi, et al., 2011 as cited in Osti, et al., 2014; Illegal logging hotspots- DENR-FMB; Wildlife crime hotspots - DENR-BMB



Mining tenements, coal and geothermal power plants, and protected areas in the Philippines

Data sources: Mining tenements- MGB-DENR; PAs- BMB-DENR; Coal and geothermal plants - DOE

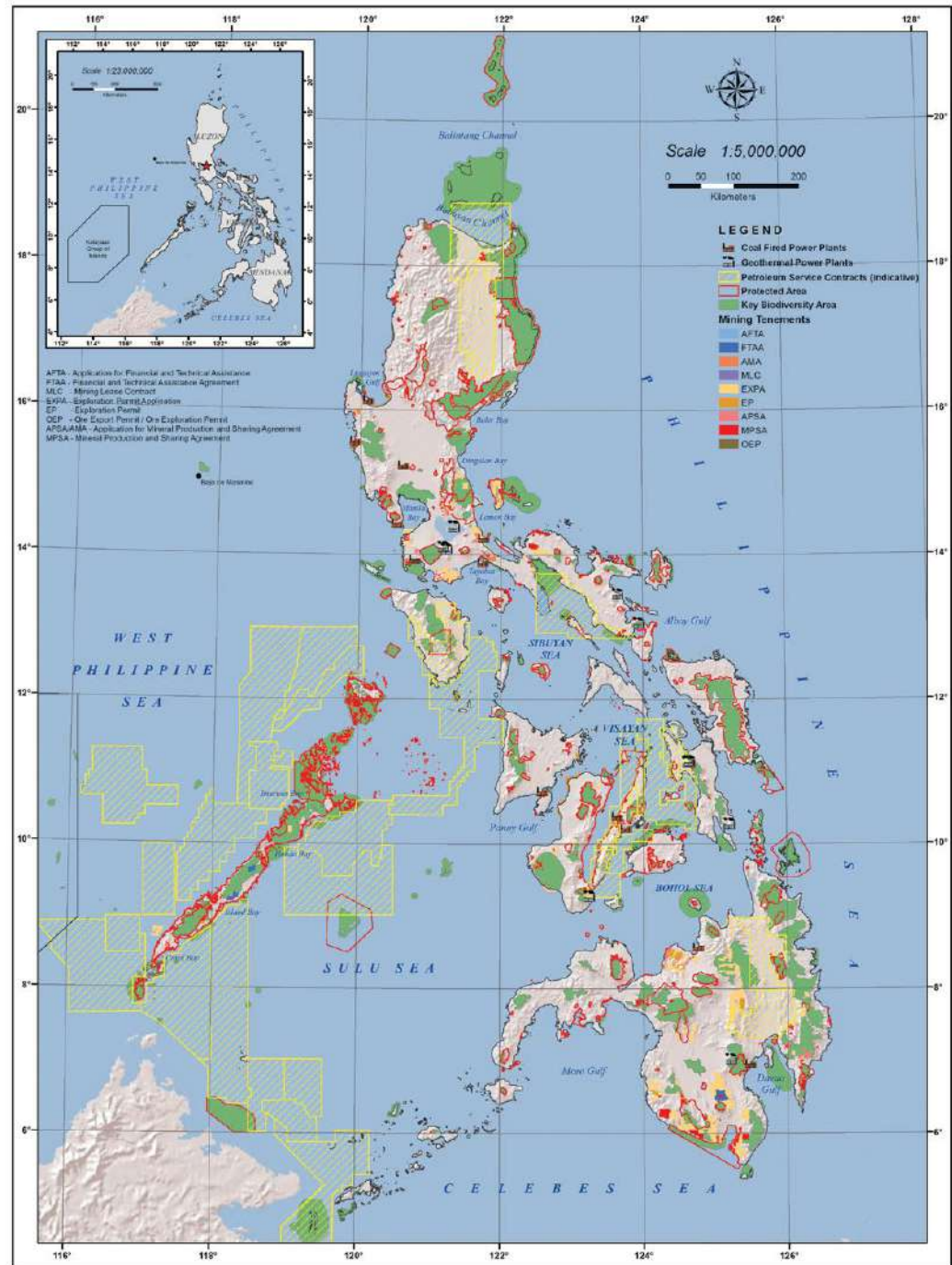


Table 7. Other Contributing Factors to Biodiversity Loss

Contributing Factors	Proposed Supporting Actions*
Lack of awareness (example is the need for a consolidated inventory of biodiversity resources)	<ul style="list-style-type: none"> • Orientation on Biodiversity Basics and Communication Skills • Incorporation of biodiversity information series in Family Development Sessions of the 4Ps program • Use of spokespersons/champions/personalities • Popularization of biodiversity concepts as understood within IP context • Advocacy and constituents' mobilization through IEC, multimedia campaigns, and citizen science initiative
Good governance issues due to lack of enforcement and political will	<ul style="list-style-type: none"> • Incorporation of biodiversity into CLUP • Creation of multi-sectoral committees for monitoring • Formulation of model settlement plan for informal settlers • Implementation of policy on reversion, income diversification, and marine conservation agreements • Replication of population-health-environment programs
Research and knowledge management gaps due to lack or expertise in the field of biodiversity	<ul style="list-style-type: none"> • Updating of information on species • Formulation of a National Research Agenda • Determination of carrying capacities • Operationalization of the Bioweb • Conduct of studies on hydrologic behavior of exotics

(Source: *Philippine Biodiversity Strategy and Action Plan 2015-2018*)

Lack of effective policies

- Enactment of the National Land Use Act
- PES policy that provides appropriate sharing for host communities
- Unification of rules and regulations on fishing
- Mandatory creation of environment and natural resources officers (ENRO) at the LGU level
- Promotion of rainforestation/use of indigenous species in the NGP

Financing requirements due to low budget allotment to biodiversity programs

- Amendment of the internal revenue allotment formula to reflect land use (ex. absorptive capacity of forest cover)
- Effective and sustainable tapping of volunteerism
- Timely release of LGU share of national wealth
- Conduct of economic valuation
- Allocation of specific amounts for biodiversity conservation

Lack of capacity

- Strengthening of POs, Bantay Gubats, Bantay Dagats
- Capacity building for rescue workers, DENR, academe, and other stakeholders in handling wildlife
- Provision of scholarships particularly in the fields related to biodiversity conservation
- Capacity building on data management
- Strengthening of PAMBs

(Source: Philippine Biodiversity Strategy and Action Plan 2015-2018)

Socio-economic factors (e.g., the need for scaling up sustainable livelihood programs, growing population increases utilization of biodiversity resources leading to higher demand for livelihood)

- Establishment of eco-friendly social enterprises
- Intensive community organization
- Establishment of production/communal forests
- Provision of incentives to forest maintenance
- Identification of other sources of fuelwood

** Responses from the regional and national consultations*

Source: Philippine Biodiversity Strategy and Action Plan 2015-2018

Coastal and Marine Ecosystem Destruction

- 1. Depletion and degradation of resources**
 - illegal and destructive fishing methods
 - rapid coastal population growth
 - lack of alternative livelihood and employment opportunities
 - indiscriminate collection
- 2. Pollution**
 - waste dumping from both industrial & domestic
- 3. Siltation**
 - deforestation
 - mine tailings
 - mangrove conversion into fishpond
 - reclamation & building of infrastructure

Continuing threats to coral reefs

- **Only 29% of coral reefs is in good condition, and only 5.1% remain in excellent condition in 1991; 4.3% in 2000; 0.24% in excellent condition reported in 2004**
- **Thousands of hectares of coral reefs have been damaged by blast fishing and muro-ami**



Muro-ami fishing vessels employ minor children and also contribute to the destruction of mangroves

Authorities impounded the M/BCA Leonor, a fishing boat, after it has been caught allegedly engaging in illegal fishing waters of Negros Oriental on March 18, 2020. -- PCG-Negros Oriental
(Photo credit: <https://cebudailynews.inquirer.net/>)



Mangroves

- 5% of our mangroves are old or primary growth (found in Palawan)
- Fishponds cover about 289,000 hectares
- More than 80 to 90% of which were once covered with mangroves

Seagrass loss

- estimated loss at 30 – 50% over the last 50 years
- 2004 survey of 96 sites identified a total of 978 km² of seagrass beds



Green sea turtles



Hawksbill turtles





Source: PCSDS/Atty. Adel Villena



Chinese-Filipino Trader Tagged in the Smuggling of Black Corals

*Source: Philippine Daily, Philip Tubeza (May 31, 2011)
Inquirer <http://newsinfo.inquirer.net/10681/chinese-filipino-trader-tagged-in-smuggling-of-black-coral>*

“A Chinese-Filipino businesswoman has been identified as the financier in the foiled attempt to smuggle P35 million worth of marine life that exposed the massive destruction of a black coral network off Cotabato province reportedly five times the size of Manila.

Exequiel Navarro, consignee of the illegal shipment, identified the woman and two accomplices, but their names were withheld pending investigation, Customs Police Director Nestorio Gualberto told reporters on Monday.

“The businesswoman is supposed to be the financier of the project. She exports marine products to Taiwan,” Gualberto said. “(Navarro) is claiming he was only used by the Chinese businesswoman.”

Navarro is under investigation after customs officials intercepted two large container vans containing cargo declared as rubber and consigned to him earlier this month. The shipment revealed more than 21,000 pieces of black corals, 161 dead turtles and other marine life.

Coral expert Gary Williams of the California Academy of Sciences estimated that the area damaged or destroyed due to the harvesting of the black corals could reach up to 190.8 square kilometers, or five times the size of Manila, which has a land area of 38.55 square km.

Gualberto said Navarro also implicated two men—one in charge of the harvesting, and the other the shipper. “ (PDI)



BLACK CORALS being smuggled
from the Philippines





SMMC ischarges
girl, 13

File
Meeting
Ms. Mandaue
Steph Senires

Lifestyle
Recognizing
a good
dive center

SUN STAR
NO. 1 IN READERSHIP
SUNDAY

April 25, 2003 Cebu City, Philippines Vol. XXI, No. 177 98 Pages P. 1

Giant clams seized in 3 cities, 1 town

multi-agency teams wage drive; seafood restaurants to lose menu

Giant clams, worth 80,000 seized in 3 cities, 1 town; seafood restaurants to lose menu

Multi-agency teams seized 80,000 giant clams worth P120,000 in 3 cities and 1 town. The clams were found in the streets of Mandaue, Cebu, and in the town of Talambuhai, Cebu. The clams were found in the streets of Mandaue, Cebu, and in the town of Talambuhai, Cebu. The clams were found in the streets of Mandaue, Cebu, and in the town of Talambuhai, Cebu.

GIANT CLAMS Locally known as *hulog*, giant clams are popular in local markets that serve seafood lovers. But they are an endangered species and should not be consumed from their habitat, said one source. Fisheries department official *Rita Dalaj* Corrales shows the empty mollusk shells seized from a market in Mandaue, Cebu.

Mandaue won't bully PLDT on tax debt

Wildlife Trade



Trends (PDP)

- Major urban centers are polluted; solid wastes remain a major source of pollutants
- Water is becoming scarcer (although water is still abundant in certain areas, the country faces the threat of emerging water scarcity)
- Quality of farm land is deteriorating and forested lands are shrinking
- Country's unique biodiversity is under severe pressure

Other trends

- Despite the Ecological Solid Waste Management Act of 2000 (RA 9003), the country's average daily waste generation rose from some 37,000 tons in 2012 to around 40,000 tons in 201
- At the close of 2020, the country has generated some 21.5 million metric tons of garbage," he also said in his RA 9003 anniversary message earlier this week.

Source: <https://www.pna.gov.ph/articles/1128836>



**THE MANUFACTURE, DISTRIBUTION OR USE OF
NON-ENVIRONMENTALLY
ACCEPTABLE PACKAGING (NEAP) MATERIALS**



Photo by: Health Care Without Harm



The Vanishing E-wastes

(slide credit: Atty. Richard Gutierrez, Ban Toxics)

Photos by Gigie Cruz-Sy



Photo © BAN.org



EXTREME VULNERABILITY TO ENVIRONMENTAL HAZARDS AND CLIMATE-RELATED RISKS...

Trends

1. 70 percent of cities in the Philippines are already dealing with the effects of climate change.
2. 90 percent of urban areas are in coastal regions, making them more at risk from sea-level rise and other climate-related threats than others.

(Source: Reports from the Risk Resiliency Program-Program Convergence Budgeting (RRP-PCB) virtual meeting <https://www.pna.gov.ph/articles/1137546>)

Current Trends

There has been an increase in annual mean temperature by 0.57 °C.

In terms of maximum and minimum temperatures, the increases have been 0.35 °C and 0.94 °C.

Results of analysis of trends of tropical cyclone occurrence/passage within the so-called Philippine Area of Responsibility (PAR) show that an average of 20 tropical cyclones form and/or cross the PAR per year with strong multi-decadal variability, with maximum sustained winds of greater than 150 km per hour and above (typhoon category) being exhibited during El Niño years.

Projected Trends

All areas of the Philippines will get warmer, more so in the relatively warmer summer months.

Annual mean temperatures (average of maximum and minimum temperatures) in all areas in the country are expected to rise by 0.9 °C to 1.1 °C in 2020 and by 1.8 °C to 2.2 °C in 2050.

In terms of seasonal rainfall change, there is a substantial spatial difference in the projected changes in rainfall in 2020 and 2050 in most parts of the Philippines, with reduction in rainfall in most provinces during the summer season making the usually dry season drier, while rainfall increases are likely in most areas of Luzon and Visayas during the southwest monsoon.

Philippine Vulnerabilities to Climate Change

LANDSLIDES



MUD FLOWS



(Credit: Dr. Rolu Encarnacion, PAGASA-DOST)

Devastation of Typhoon Yolanda (Haiyan)



Devastating Impacts



A wooden gavel is shown resting on a wooden surface. The gavel has a dark wooden head with a curved, ribbed design and a lighter wooden handle. The background is a soft, out-of-focus wooden texture. The text "WEAK ENFORCEMENT" is overlaid in the center in a bold, black, sans-serif font.

WEAK ENFORCEMENT

Weak environmental enforcement

- **Forest Crimes come with**
 - **means (capital, financial institutions, corrupt government systems)**
 - **motive (need, greed, power) and**
 - **opportunity (weak forest management, inadequate domestic regulatory capacity, lack of trade controls).**
- There are different roles for different players – national governments, forestry agencies, regional/international criminal justice regime, civil society, importing country governments and industry, and donor governments and international organizations – to reduce means, reduce motive and foreclose opportunity for forest crimes.

Oil Palm Plantations in Palawan (no EIA and FPIC)



Oil Palm Plantations

- 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







(photo credit: Roger Garinga)



**CULION RESORT ESTABLISHED
WITHOUT APPROPRIATE
PERMITS, AND APPREHENDED
FOR FORESTRY AND OTHER
ENVIRONMENTAL LAW
VIOLATIONS**

























**ILL-PLANNED
INFRASTRUCTURE PROJECTS**

ILL-PLANNED INFRASTRUCTURE PROJECTS

- Reclamation (Manila Bay, Dumaguete, Palawan)
- Road expansion; Six-lane highway
- Kaliwa Dam
- Inter-Island Bridge in marine biodiversity areas
- Bulacan airport complex

Coron-Culion Inter-Island Bridges Project of the DPWH

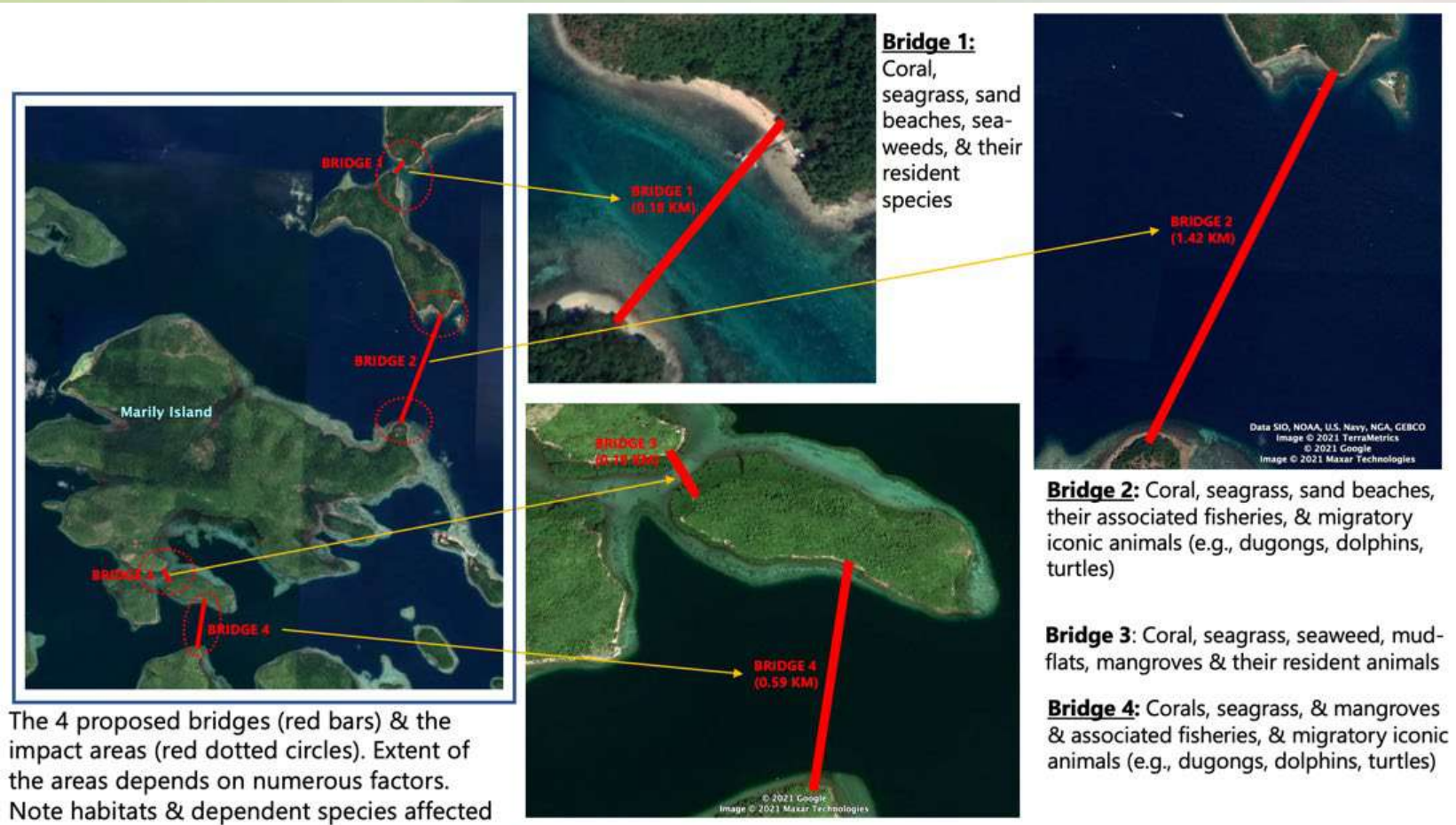
- No public consultations
- No Free and Prior Informed Consent from the Tagbanua Indigenous Peoples (IPs)
- No Environmental Compliance Certificate
- No Strategic Environmental Plan (SEP) Clearance
- No feasibility study and other details required as part of the Preliminary Detailed Engineering Activities



(slide credit: Buklod Calamianes group)

Likely environmental impacts of the project

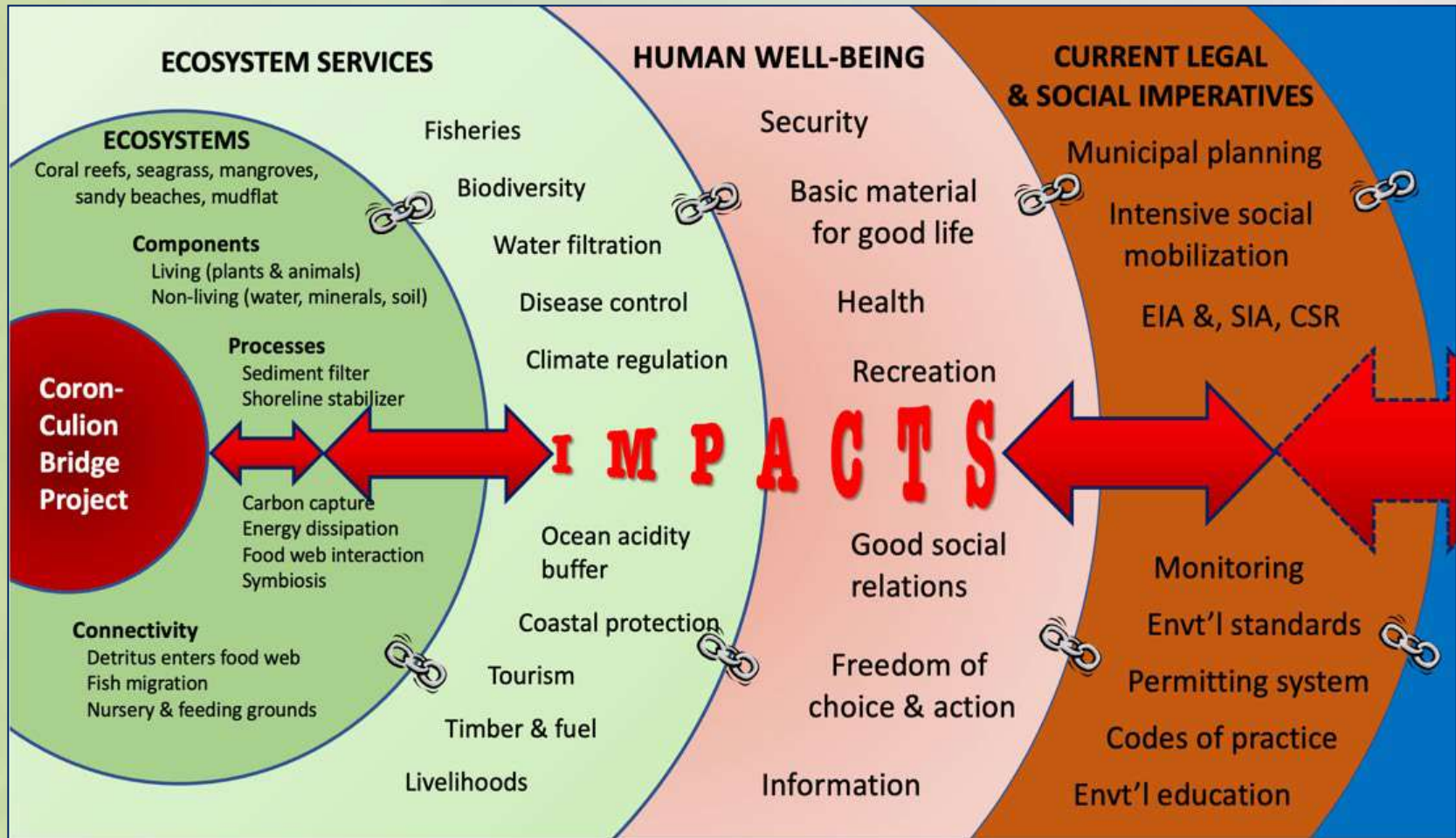
The smaller picture



(slide credit: Dr. Miguel Fortes)

Likely environmental impacts of the project

The bigger picture ...they are all connected



(slide credit: Dr. Miguel Fortes)



**POLICY ON ENERGY AND
MINING**



COAL IS DIRTY

- **Semirara coal is dirty as it is classified as “LOW quality” and having “low heating value.”**
- **This means that more coal needs to be burned for a given amount of electricity. Because the coal is “low quality”, more sulfur and CO₂ will be released into the air and more coal ash will be produced.**



**Coal ash in
Toledo, Cebu
from the coal
power plant**

(PEJC photo)

Mining under the Duterte Administration

- EO 130 (June 2021)
 - Lifted the moratorium in the processing of mining applications provided under EO 79
- Mining has been identified as a key industry for economic recovery from COVID

MINING IN THE PHILIPPINES

DENR to reopen mining firms closed by Gina Lopez

5 DAYS AGO
RALF RIVAS



MANILA, PHILIPPINES

Environment Secretary Roy Cimatu does not disclose the names of the mining firms, but assures the public that the companies have already

The Department of Environment and Natural Resources (DENR) will allow mining companies previously closed by the **late secretary Gina Lopez** to resume operations.

Lopez's successor, former army general Roy Cimatu, confirmed in a virtual briefing on Wednesday, July 22, that the DENR's audit teams already came out with recommendations upon inspecting the mining sites.

Lopez ordered the closure of around 26 mining companies during her short stint as environment secretary, citing various violations.

Cimatu did not disclose the names of the mining firms, but assured the public that the companies have already corrected lapses.

Lopez was hailed by environmental groups for her firm stand against mining. (READ: **Why miners are not ready for Gina Lopez**)

Alyansa Tigil Mina, an anti-mining group, even went on to praise her, saying that "it's rare to have an oligarch wage a battle against her own class."

21 Abandoned Mines



FIGURE 1-1. LOCATION OF THE 21 ABANDONED MINE SITES

“Abandoned mine sites pose environmental and health risks” – TetraTech for MGB

Bagacay, Samar

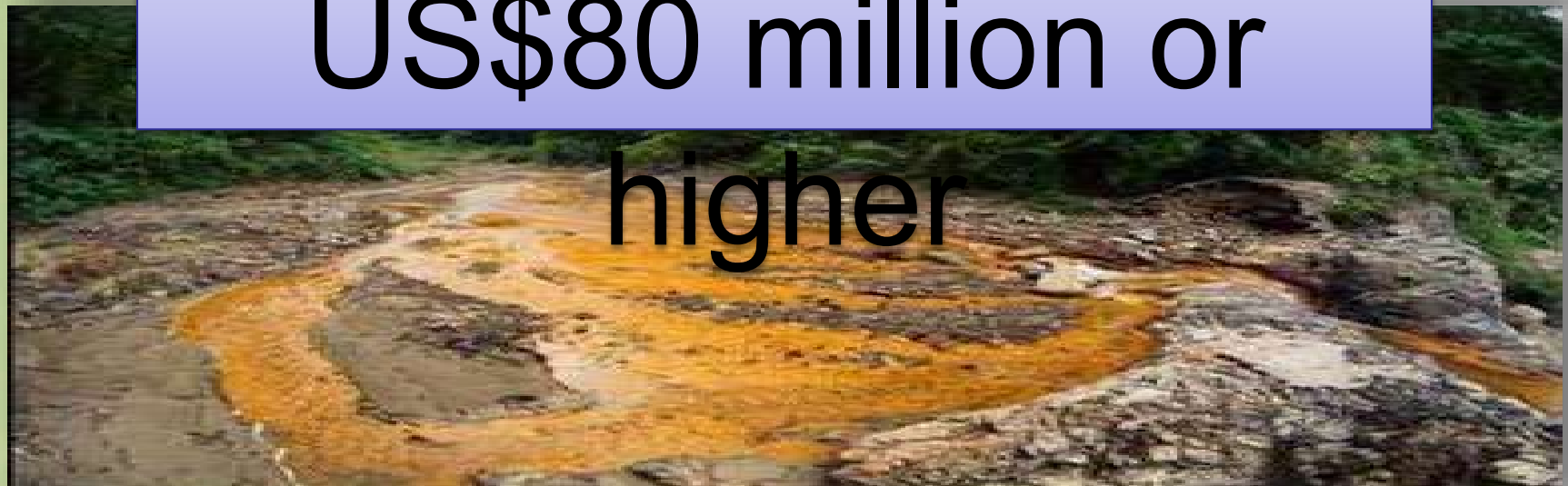


Loan from World Bank for Rehabilitation of Bagacay Mines:
P34.7 million

Marinduque



**DAMAGES:
US\$80 million or
higher**



Acid Mine Drainage: Dead Boac and Mogpog Rivers



Sarimog

Mt. Bulanjao Range

Elevation, 700 ft.



Elevation, 400 ft.

RTN Mine Site 2002



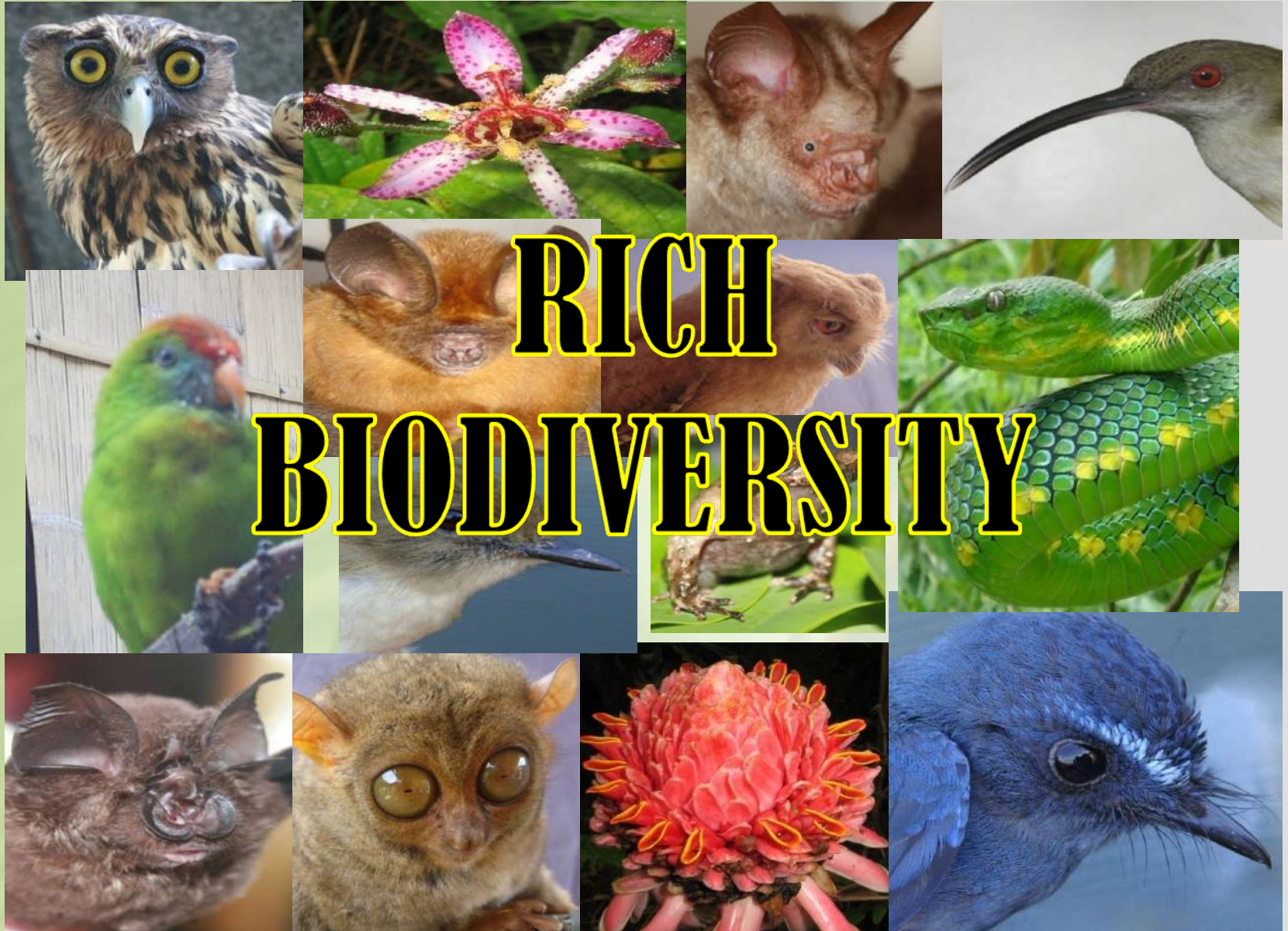
© 2007 Europa Technologies

Image © 2007 TerraMetrics

© 2007 Google™

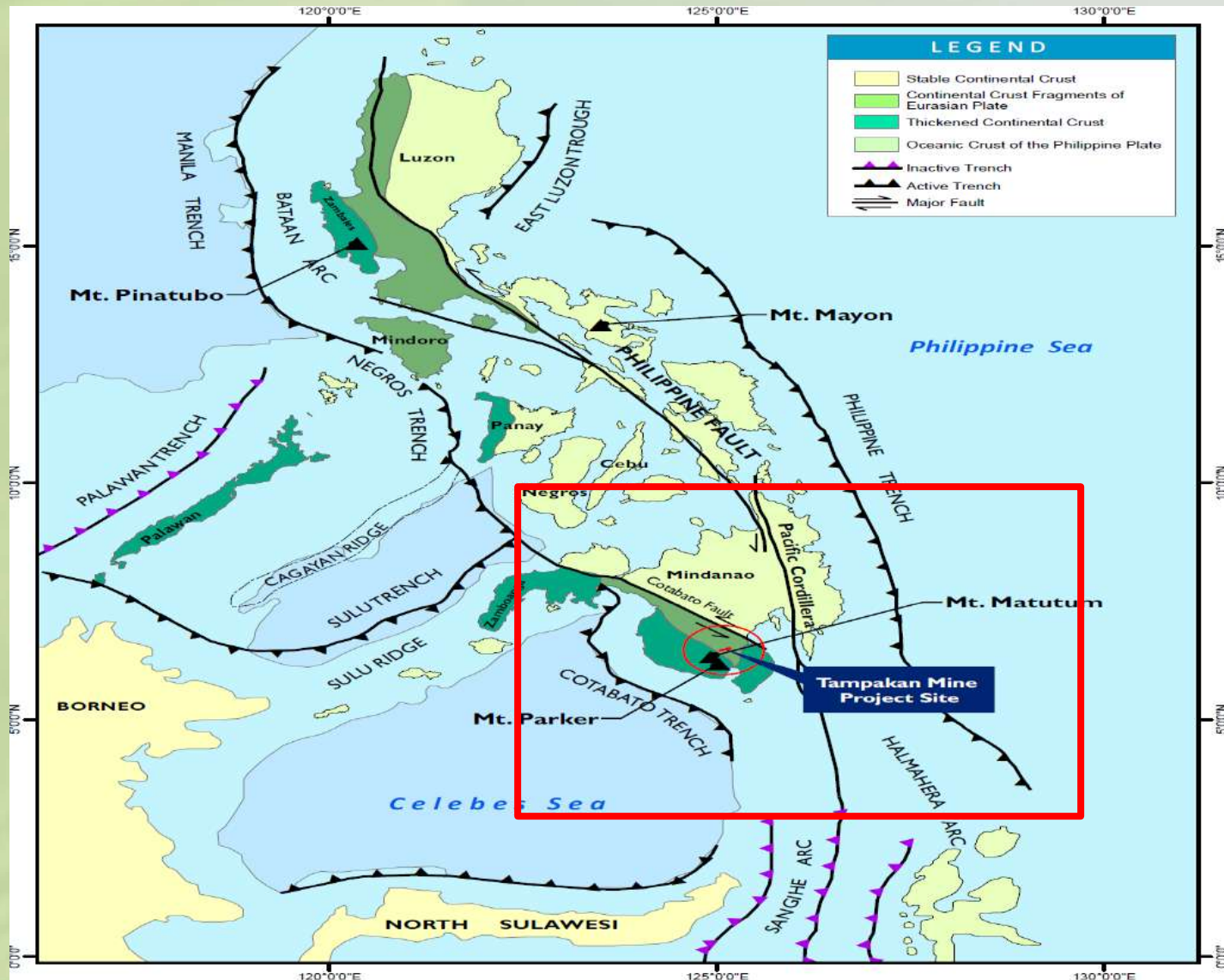
Sumbiling

Tampakan, South Cotabato



Tampakan

FAULTLINES



Tampakan



Water supply for the nearby villages and agricultural lands of the four provinces will be compromised

Tampakan



Proposed Open Pit Mine

Tampakan

Human Rights Impact Assessment of the Tampakan Copper-Gold Project

Brigitte Hamm - Anne Schax - Christian Schepers



Institute for Development and Peace (INEP), commissioned by MISEREOR (German Catholic Bishops' Organization for Development Cooperation) and Fastenopfer (Swiss Catholic Lenten Fund), in collaboration with Bread for All.



MISEREOR
MISEREOR

FASTENOPFER

BRÖT FÜR ALLE

“...this brings about a situation in which a responsible open-pit mine of this magnitude does not seem feasible.”

Didipio, Nueva Vizcaya

OCEANA GOLD Mining

2007



Didipio, Nueva Vizcaya

2013



Padcal, Benguet



Damaged Tailings Pond No. 3 discharged more than 20 million metric tons of solids

Padcal, Benguet



Gray sandy sediment build up on river bank.

This build up is **NOT natural** to the Balog creek.

Padcal, Benguet



Murky waters of the Balog River

Funds

CLRF

Contingent Liability Rehabilitation Fund

FMR/DF

Final Mine Rehabilitation
and Decommissioning
Fund

*Full cost of final
rehabilitation
including
maintenance
and monitoring
for 10 years
after closure*

MRF

Mine Rehabilitation Fund

MTF

Monitoring Trust Fund

P150,000

MWTFRF

Mine Waste Tailings Fee
Reserve Fund

*(P0.05/MT of
mine waste) x
(assessed
volume)*

RCF

Rehabilitation Cash Fund

*10% of the total amount
needed to implement the
Environmental Protection
and Enhancement Program
(EPEP) or P5 million,
whichever is lower*

Padcal, Benguet

MRF Database 2013

File Home Insert Page Layout Formulas Data Review View

Clipboard Font Alignment

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B13 fx 6. Philex Mng Corp

REGION	COMPANY	LOCATION	PERMIT	Depo
	MINE REHABILITATION FUND As of May 2013			
	1. Abra Mng & Ind'l Corp			
	2. Benguet Corp-Acupan Contract Mining Project			
	3. Benguet Corp -Benguet Antamok Gold Operation	Balatoc, Itogon,		
	4. Itogon-Sujoc Resources, Inc			
	5. Lepanto Cons Mng Co	Mankayan, Benguet		
	6. Philex Mng Corp	Tuba, Itogon, Benguet	MPSA-276-2009-CAR, MPSA-156-2000-CAR, MPSA-157-2000	5,512,302.47 LBP-02211908-82 176,095.77 LBP-02211908-74 (Performance fund) 12/31/12
	7. ML Carantes Dev & Gen Const Enterprises			49,767.00 DBP 0-00427-510-9 27,506.00 DBP 0-00428-510-5 N.A. 12/31/12

Philex Mining Corp. MPSA-276-2009-CAR
Tuba, Itogon, Benguet MPSA-156-2000-CAR
MPSA-157-2000

Rehabilitation Cash Fund: 5,512,302.47
Monitoring Trust Fund: 176,095.77
Environmental Trust Fund: 507,840.12
(Performance fund)

As of 31 Dec 12

FINE: P 1B - tailings fee
P 92M - for three violations
of the Clean Water Act



THREATS TO ENVIRONMENTAL DEFENDERS

- Environmental defenders continue to be exposed to threats and physical harm, despite the laws and policies providing for environmental justice.
- Passage of the Anti-Terrorism Act creates an uncertain legal and security environment.
- SLAPP suits



RECENT DEVELOPMENTS IN ENVIRONMENTAL LAW

Recent Developments

- Climate Change Litigation
- Sustaining Public Interest Environmental Litigation
- Public Trust Doctrine
- Mainstreaming Ecosystem Values
- UN Human Rights Council on the Human Right to a Safe, Clean, Healthy and Sustainable Environment
- Environmental Law and SDGs

A wooden gavel with a dark handle and a light-colored head, resting on a stack of papers. The background is a soft, out-of-focus green and white. The text "CLIMATE CHANGE LITIGATION" is overlaid in the lower-left quadrant.

CLIMATE CHANGE LITIGATION

Climate Justice and Human Rights Petition in the Philippines

An investigation on the responsibility of 47 Fossil Fuel and Cement Companies for human rights violations or threats of violations resulting from the impacts of climate change

THE CHR PETITION

Petition requesting for investigation of the responsibility of the Carbon Majors for human rights violations or threats of violations resulting from the impacts of climate change

Petitioners: Greenpeace, Philippine Rural Reconstruction Movement, 12 other non-profit groups, 20 individuals [*supported by more than 132,000 people around the globe*]



Respondents: Chevron, Exxon, Shell, BHP Billiton, and 43 other investor-owned coal, oil, gas, and cement transnational corporations

FACTS



Source: Will Elder, National Park Service

The emissions from the products sold by the Carbon Majors contributed to the lion's share of GHGs that caused climate change – failed to act despite knowledge of harm

Climate change is a factor in extreme weather, sea level rise, others, and ocean acidification

That brought harms on top of, in addition to harms from natural disasters

That constitute human rights infringements

(slide credit: Greenpeace)

Preliminary Findings

COP 25 in Madrid, Webinar in July 2020, Rappler Podcast, and UN BHR talk

- Carbon Majors played a clear role in anthropogenic climate change and its attendant impacts
- Carbon Majors have an obligation to respect human rights as set out under the U.N. Guiding Principles
- Climate change: Human rights, existential, business, and justice issues
- International human rights law provides appropriate standards (cases can be brought in domestic courts under appropriate national laws)
- Carbon Majors' obligation to lead the transition towards clean energy

(slide credit: Greenpeace)

Preliminary Findings

- Responsibility to conduct climate change and human rights impacts assessments
- Other bases for liability: willful obfuscation of climate science/derail transition, possible violation of fiduciary duty towards shareholders, fraud against investors, civil liability under tort law
- States: No tax breaks for fossil fuel extraction; incentives for renewable energy production
- States: Promote and enforce the principle of transparency in terms of entities' carbon footprint
(slide credit: Greenpeace)

Preliminary Findings

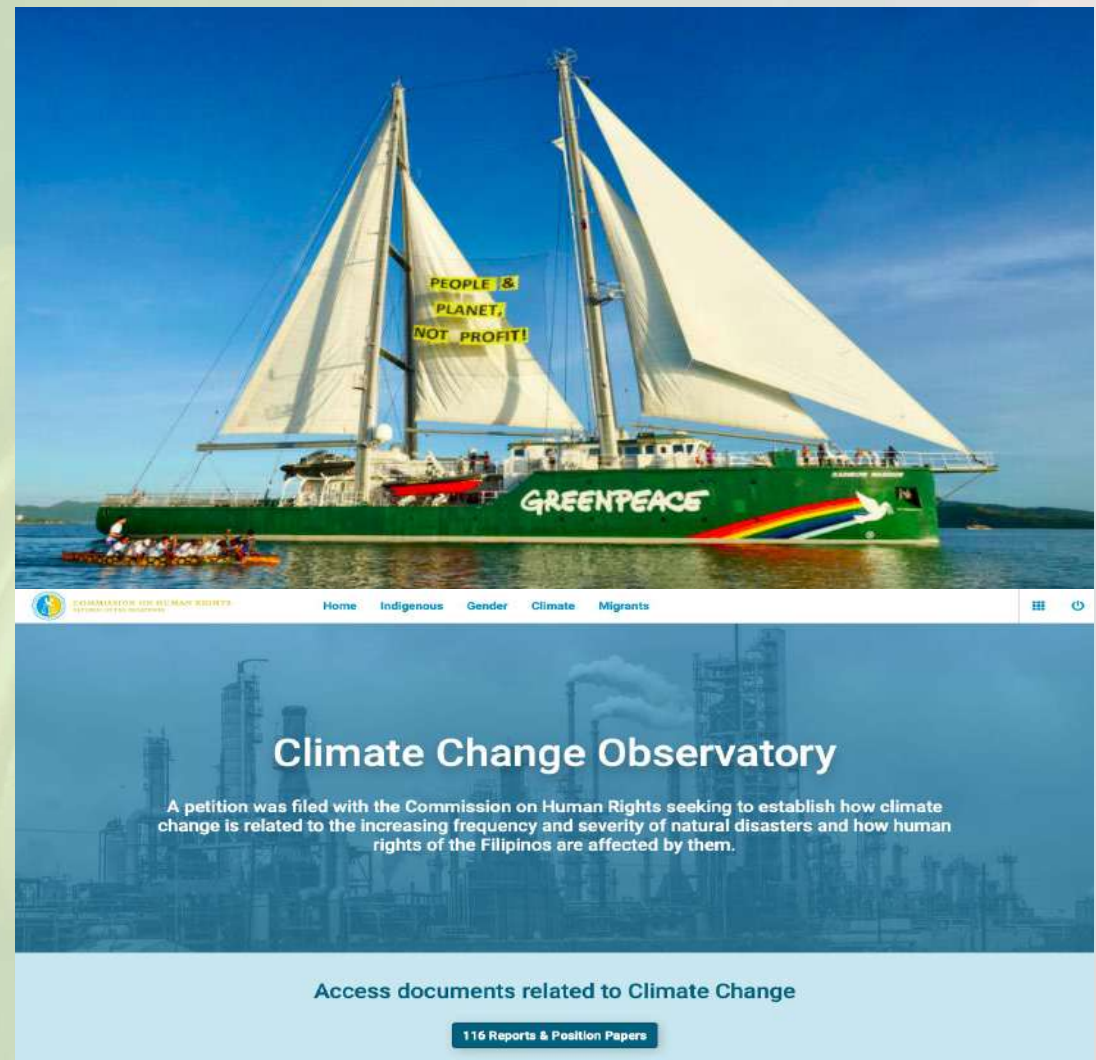
- Efforts to derail or obstruct transition to renewable energy is immoral, if not illegal
- Criminal liability in some instances
- Development of an International Treaty (Business & Human Rights); some corporations are too strong such that they operate in virtual impunity
- Civil society: continue to explore evidence-based strategic litigation
- **CLIMATE CHANGE OBSERVATORY**

(slide credit: Greenpeace)



No one can silence the clamor for human rights, for people power, for climate justice.

Dahil ang tao, ang bayan, nananatiling lumalaban.



(slide credit: Greenpeace)



**SUSTAINING
ENVIRONMENTAL PUBLIC
INTEREST LITIGATION**

Public Interest Litigation

- Protect our natural resources and environment
- Compel concerned government agencies to perform their mandates
- Push for the effective implementation of environmental laws
- Seek damages, rehabilitation and/or stoppage of destructive projects/programs
- Assert right to a healthy environment and other human rights

Resident Marine Mammals of the Protected Seascape Tanon Strait, et al. v. DOE Secretary Angelo Reyes, et al.

- Tañon Strait is a protected seascape between the islands of Negros and Cebu, Philippines
- Resident marine mammals are the “toothed whales, dolphins, porpoises and other cetacean species.”



- Resident Marine Mammals of Tanon Strait represented by NGOs
- Case for certiorari, mandamus and injunction was filed to enjoin the Department of Energy, et al., from implementing a service contract involving the exploration, development, and exploitation of the country's petroleum resources in and around the Tañon Strait. Among the activities allowed in 2005 were the conduct of a seismic survey and oil drilling.

Resident Marine Mammals of Tanon Strait

- Supreme Court noted that Service Contract 46 failed to comply with the safeguards required under Paragraph 4, Section 2, Article XII of the 1987 Constitution which required that the service contract be (a) authorized by a general law; (b) signed by the President, and, (c) reported to Congress.

Resident Marine Mammals of Tanon Strait

- Violation of the National Integrated Protected Areas System (NIPAS) Act of 1992 because Tañon Strait is, by virtue of Proclamation No. 2146, an environmentally critical area.
- Environmental Compliance Certificate (ECC) must be secured after undergoing an Environmental Impact Assessment (EIA) to determine the effects of such activity on its ecological system

BORACAY FOUNDATION, INC. V. PROVINCE OF AKLAN,

- The Boracay Foundation, Inc. prayed for the issuance of an Environmental Protection Order (EPO) in the nature of a *continuing mandamus* against the Province of Aklan to stop its land reclamation of 2.64 hectares by way of beach enhancement of the old Caticlan coastline for the rehabilitation and expansion of the existing jetty port.
- The petitioner NGO cited a preliminary geohazard assessment study about the vulnerability of the coastal zone within the proposed project site and the nearby coastal area due to the effects of sea level rise and climate change which will affect the social, economic, and environmental situation of Caticlan and nearby communities.

- The Court held that the reclamation is classified as a national project that affects the environmental and ecological balance of local communities, and requires prior consultation with the affected local communities, and prior approval of the project by the appropriate *sanggunian* – which were not complied with. The Court required the provincial government to
 - cooperate with the DENR in its review of the reclamation project proposal
 - secure approvals from local government units and hold proper consultations with other stakeholders
 - immediately cease and desist from continuing the implementation of the project covered by ECC-R6-1003-096-7100 until further orders from the Court.

INTERNATIONAL SERVICE V. GREENPEACE SOUTHEAST ASIA (PHILIPPINES)

Greenpeace with several individuals and groups filed a petition for a writ of kalikasan and continuing mandamus alleging that the field trials of the *Bt Talong* (a type of eggplant bio-engineered to develop resistance to *lepidopteran larvae*) violated their constitutional right to a healthful and balanced ecology, there being no independent study on its safety for human consumption.

INTERNATIONAL SERVICE V. GREENPEACE SOUTHEAST ASIA (PHILIPPINES)

- Should the field testing of *BT* (*bacillus thuringensis*) talong be temporarily enjoined for propagation and commercialization until its safety for food consumption is fully determined?



- Applying the precautionary principle, the Court held that the three features of uncertainty, the possibility of irreversible harm, and the possibility of serious harm all coincide which justifies the application of that principle.
- There exists a preponderance of evidence that the release of GMOs (genetically modified organisms) into the environment threatens to damage our ecosystems and not just the field trial sites, and eventually the health of our people once the Bt eggplants are consumed as food.

- The Court thus:
 - PERMANENTLY ENJOINED the conduct of the assailed field testing for *Bt talong*;
 - Declared NULL AND VOID Department of Agriculture Administrative Order No. 08, series of 2002; and
 - TEMPORARILY ENJOINED any application for contained use, field testing, propagation and commercialization, and importation of genetically modified organisms until a new administrative order is promulgated in accordance with law.

- Note:

- However, on July 29, 2016, the Supreme Court, through Perlas-Bernaba, *J.*, *set aside* its decision which stopped the field testing of the genetically modified product, favoring the petition filed by the environmental group Greenpeace.
- The SC unanimously ruled to instead dismiss the Greenpeace petition on the ground of mootness.
- It agreed with the argument in the motions for reconsideration that the petition of Greenpeace should have been dismissed following the *completion and termination of the BT talong field trials and the expiration of the biosafety permits.*



PUBLIC TRUST DOCTRINE

Public Trust Doctrine


- In *Maynilad Water Services, Inc. v Secretary of the Department of Environment and Natural Resources*, G.R. No 202897 (6 August 2019), the Public Trust Doctrine was introduced by the Supreme Court. The High Court emphasized that water is a vital part of human existence.
- Under the Public Trust Doctrine, the public is regarded as the beneficial owner of trust resources, and courts can enforce the Public Trust Doctrine even against the government itself.

Public Trust Doctrine

- DENR and Environmental Management Bureau (EMB) filed a complaint before the DENR's Pollution Adjudication Board (PAB) charging Metropolitan Waterworks and Sewerage System (MWSS) and its concessionaires, Maynilad and Manila Water, with failure to provide, install, operate, and maintain adequate Wastewater Treatment Facilities (WWTFs) for sewerage system resulting in the degraded quality and beneficial use of the receiving bodies of water leading to Manila Bay. Such failure prevented DENR from implementing its operational plan for the rehabilitation and restoration of Manila Bay and its river tributaries.

Public Trust Doctrine

- The DENR found MWSS, Maynilad, and Manila Water liable for violation of the Clean Water Act and its Implementing Rules and Regulations (IRR), and imposed fines against them.
- Applying the Public Trust Doctrine, the Supreme Court held the government agency Metropolitan Waterworks and Sewerage System to be jointly liable with the private concessionaires Maynilad Water Services, Inc. and Manila Water Company, Inc. in the amount of approximately USD40 million for violating the Clean Water Act.

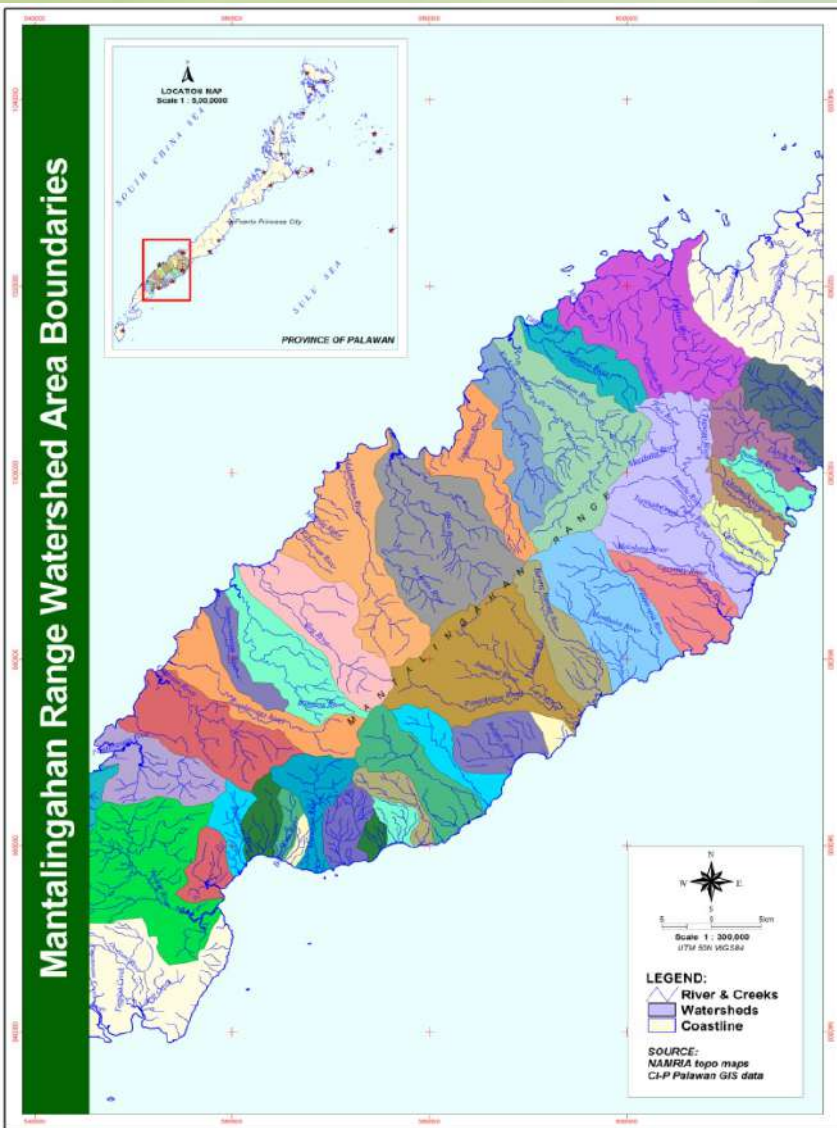


MAINSTREAMING ECOSYSTEM VALUES

Mt. Mantalingahan, Palawan



Mt. Mantalingahan Protected Landscape (MMPL) Watersheds



2 micro watersheds (<1000 hectares)

21 small watersheds (1000 to 10,000 hectares)

10 medium-sized watersheds (>10,000 to 50,000 has.): Pulot, Tigaplan, Mambalot-Pilantropia, Iwahig, Ilog, Malambunga, Iraan, Culasian, Lamikan, Panitian)

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
<hr/>		
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

Initiatives

- Wealth Accounting and Valuation of Ecosystem Services (WAVES)
- Orientation seminars on TEV and cost-benefit analysis
- Incorporated in legal and advocacy interventions ---- local energy development plan, administrative hearings on environmental clearances

RIGHT TO A HEALTHY ENVIRONMENT

Access to a healthy environment, declared a human right by UN rights council



© UNICEF/Josue Mulala | Trees are being planted in the Democratic Republic of the Congo to help fight climate change.

Human Right to a Safe, Clean, Healthy and Sustainable Environment

Human Rights Council

Forty-eighth session

13 September–8 October 2021

Agenda item 3

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Albania,* Armenia,* Bhutan,* Bosnia and Herzegovina,* Cabo Verde,* Chile,* Costa Rica,* Croatia,* Cyprus,* Dominican Republic,* Ecuador,* Fiji, Finland,* Germany, Greece,* Haiti,* Honduras,* Italy, Luxembourg,* Maldives,* Marshall Islands, Mexico, Monaco,* Montenegro,* Morocco,* Namibia, North Macedonia,* Panama,* Portugal,* San Marino* Slovakia,* Slovenia,* Spain,* Switzerland,* Tunisia,* Uruguay and Vanuatu*: draft resolution

48/... The human right to a safe, clean, healthy and sustainable environment

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Reaffirming the Universal Declaration of Human Rights and the Vienna Declaration and Programme of Action, and recalling the Declaration on the Right to Development, relevant international human rights treaties and other relevant regional human rights instruments,

(d) To continue to take into account human rights obligations and commitments relating to the enjoyment of a safe, clean, healthy and sustainable environment; implementation of and follow-up to the Sustainable Development Goals, bearing in mind the integrated and multisectoral nature of the latter;

4. *Invites the General Assembly to consider the matter;*

for Gender Equality and the Empowerment of Women (UN-Women), the United Nations Educational, Scientific and Cultural Organization, the United Nations Children's Fund and the World Health Organization, and the letter dated 10 September 2020 and signed by more than 1,100 civil society, child, youth and indigenous peoples' organizations, urgently calling for global recognition, implementation and protection of the human right to a safe, clean, healthy and sustainable environment,

1. *Recognizes* the right to a safe, clean, healthy and sustainable environment as a human right that is important for the enjoyment of human rights;

2. *Notes* that the right to a safe, clean, healthy and sustainable environment is related to other rights that are in accordance with existing international law;

3. *Encourages* States:

(a) To build capacities for the efforts to protect the environment in order to fulfil their human rights obligations and commitments, and to enhance cooperation with other States, the Office of the United Nations High Commissioner for Human Rights, the rest of the United Nations system and other relevant international and regional organizations, agencies, convention secretariats and programmes, and relevant non-State stakeholders, including civil society, national human rights institutions and business, on the implementation of the right to a safe, clean, healthy and sustainable environment, in accordance with their respective mandates;

(b) To continue to share good practices in fulfilling human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, including by exchanging knowledge and ideas, building synergies between the protection of human rights and the protection of the environment, bearing in mind an integrated and multisectoral approach and considering that efforts to protect the environment must fully respect other human rights obligations, including those related to gender equality;

(c) To adopt policies for the enjoyment of the right to a safe, clean, healthy and sustainable environment as appropriate, including with respect to biodiversity and ecosystems;

(d) To continue to take into account human rights obligations and commitments relating to the enjoyment of a safe, clean, healthy and sustainable environment in the implementation of and follow-up to the Sustainable Development Goals, bearing in mind the integrated and multisectoral nature of the latter;

4. *Invites the General Assembly to consider the matter;*



**ENVIRONMENTAL LAW AND
SUSTAINABLE
DEVELOPMENT GOALS**

1 NO POVERTY



2 ZERO HUNGER



3 GOOD HEALTH AND WELL-BEING



4 QUALITY EDUCATION



5 GENDER EQUALITY



6 CLEAN WATER AND SANITATION



THE GLOBAL GOALS

For Sustainable Development

7 AFFORDABLE AND CLEAN ENERGY



8 DECENT WORK AND ECONOMIC GROWTH



9 INDUSTRY, INNOVATION AND INFRASTRUCTURE



10 REDUCED INEQUALITIES



11 SUSTAINABLE CITIES AND COMMUNITIES



12 RESPONSIBLE CONSUMPTION AND PRODUCTION



13 CLIMATE ACTION



14 LIFE BELOW WATER



15 LIFE ON LAND



16 PEACE AND JUSTICE STRONG INSTITUTIONS



17 PARTNERSHIPS FOR THE GOALS



Environmental law vis-à-vis SD

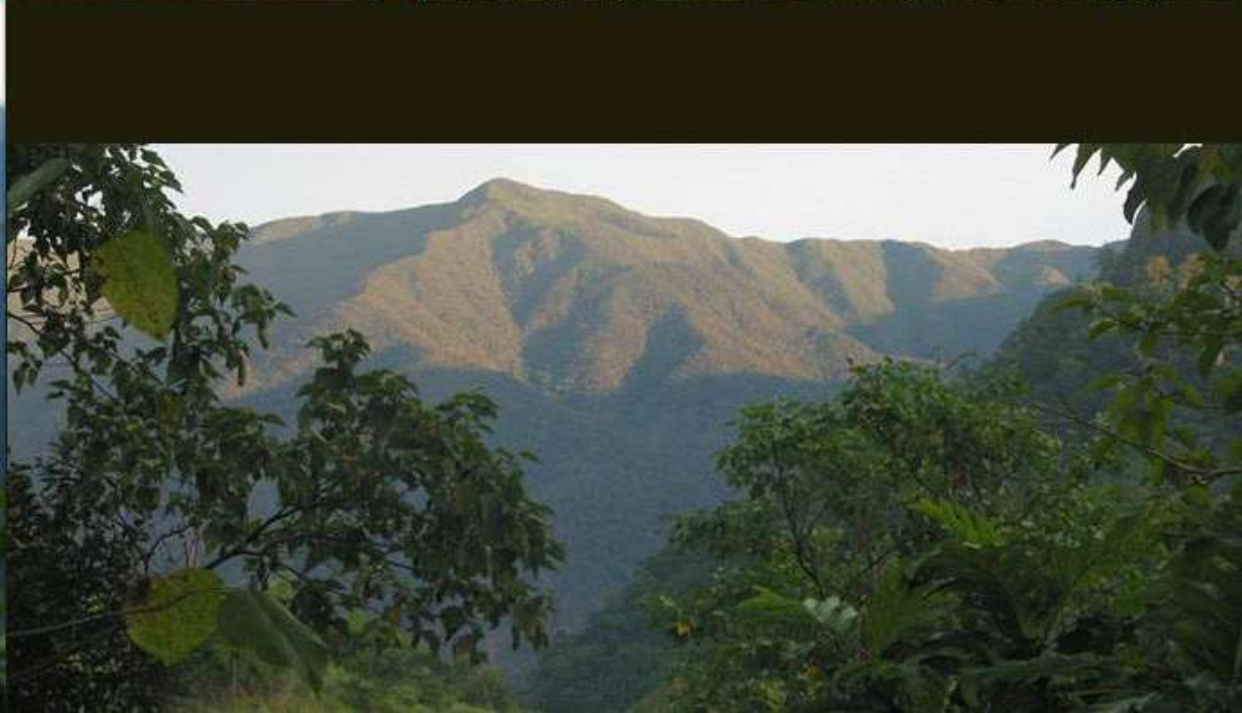
- crystallization of environmental issues in constitutional and policy documents (e.g., right to a healthy environment)
- sustainable use of natural resources
- more comprehensive coverage of environmental issues (e.g., biodiversity conservation; management of hazardous wastes)
- establishment of environmental standards (e.g., air, water and noise quality standards; maximum level of emission of air-borne pollutants)
- use of economic instruments (e.g., tax incentives, polluter-pays-principle, environment funds)
- recognition of international environmental norms (e.g., institutional arrangements to give effect to multilateral environmental agreements)
- financial obligations required by treaties
- environmental impact assessment

<https://www.manilatimes.net/2021/03/06/opinion/columnists/new-way-forward-sustainable-development-and-environmental-law/847772>

Environmental law and SDG

- effective coordination of environmental management (e.g., ministries responsible for the environment)
- inter-agency committees for cross-sectoral coordination
- measures for effective environmental law implementation and enforcement (e.g., environmental law compliance guidelines; enforcement procedures).

Protecting our Environment and Conserving our Natural Resources is a Responsibility.



*“Only when the last tree has died,
the last river has been poisoned
and the last fish has been caught,
only then will man realize that **money cannot be eaten**”*

--- from a native Indian

(photo credit: Conservation International)

Other References

1. Greenpeace, slides on the National Inquiry on Climate Change
2. <https://pdp.neda.gov.ph/philippine-development-plan-2017-2022>
3. UNEP *Judicial Handbook on Environmental Law*, paragraph 1.2
4. [Access to Environmental Justice: A Sourcebook on Environmental Rights and Legal Remedies \(Supreme Court Philippine Judicial Academy\)](#)

Other References

5.

<https://www.manilatimes.net/2021/03/06/opinion/columnists/new-way-forward-sustainable-development-and-environmental-law/847772>