

A PRIMER ON THE  
**ENVIRONMENTAL DEFENSE BILL**  
(HOUSE BILL 8170)



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# Introduction

The Philippines, being a megadiverse country rich in natural resources, is also considered a biodiversity hotspot since it is constantly faced with threats such as the exploitation of natural resources. This has led to the gradual destruction and degradation of the environment and also negatively affects the domestic economy and social fabric of countless communities. Environmental defenders, such as the indigenous people, small farmers, and environmental advocates, who work to protect the environment are met with grave reprisals instead of being provided support for their contributions to ensuring our constitutional right to a balanced and healthful ecology and our universal right to have access to a healthy and sustainable environment.

According to the monitoring of the Kalikasan People's Network for the Environment (Kalikasan PNE), a national network of environmental defenders in the Philippines, 272 environmental defenders were killed from 2001 to 2019 over a variety of environmental conflicts. Of this number, 58% or 157 victims perished under the administration of President Rodrigo Duterte, a far greater number compared to his predecessors. These were linked with the trends of economic policies on mining, agribusiness, forestry, and other industries that have provided guarantees, incentives, and rights to big businesses. This resulted in different kinds of violations of fundamental rights of individuals, organizations, and communities opposing the entry of these projects under these policies.

Behind these violations were the State's military and other internal security policies that functioned as 'investment guarantees' for big businesses and projects operating in environmental conflict areas. This repression of environmental defenders threatens around a total of PHP 1.04 trillion annually, which is estimated to be equivalent to 28% of the country's national budget in 2019, since it hampers their work in environmental protection.

It is for this reason that the Environmental Defense Bill is proposed to strengthen existing regulations and institute new mechanisms towards improving the vital work of environmental defense upholding our rights.

# General Information

## 1. WHAT IS THE ENVIRONMENTAL DEFENSE BILL?

The Environmental Defense Act is proposed to strengthen the protection of the environment from further destruction as well as the protection of the human rights of environmental defenders from any form of violence, threats, and harassment.

## 2. WHEN WAS THE BILL FILED AND WHAT IS ITS PRESENT STATUS?

The Environmental Defense Bill (EDB) was first filed on December 09, 2020, as House Bill 8170 (HB8170). It is currently referred to the Committee on Ecology since December 14, 2020.

## 3. WHAT IS THE LEGAL BASIS OF THE BILL?

The EDB is pursuant to Article 2, Section 16, of the 1987 Constitution obliging the State to protect and advance the right of the people to a balanced and healthful ecology. According to this article, the State shall institute the necessary mechanisms to protect the life and liberty of the individuals, groups, and organizations who are involved in enforcing the protection of the country's environment and national patrimony.

## 4. WHAT IS THE BILL'S DIFFERENCE WITH SIMILAR PROPOSALS LIKE THE RIGHTS OF NATURE BILL AND THE HUMAN RIGHTS DEFENDER PROTECTION BILL?

Most environmental laws in the Philippines are centered on people. The Rights on Nature bill, however, presents a different perspective where nature gets legal protection as it is recognized as a distinct legal entity that deserves legal representation. This means that legal action shall be executed for those who commit such violations towards the environment and its entities.

The Human Rights Defender Protection Bill defines the rights and fundamental freedoms of human rights defenders, declaring state responsibilities, and instituting effective mechanisms for the protection and promotion of these rights and freedom.

While the Rights of the Nature Bill and Human Rights Defender Protection bill do encompass the concerns covered by the EDB. The EDB focuses on violations against Environmental Defenders and Advocates who are victims of violence and harassment from state and non-state forces.

# Salient Provisions

## 5. WHAT ARE THE FUNDAMENTAL RIGHTS GRANTED BY THE BILL TO ENVIRONMENTAL DEFENDERS?

The EDB grants environmental defenders the right to promote Environmental Protection, Defense of National Patrimony, and Environmental Rights. These promotions are intended to educate the public's consciousness on environmental issues.

**Access Rights.** Environmental defenders have the right to freely access environmental information from government units such as ecological profiles, Environmental Impact Assessments (EIAs)<sup>1</sup> of projects, enterprises or activities, Comprehensive Land Use Plans (CLUPs)<sup>2</sup>, and Comprehensive Development Plans<sup>3</sup>, among others.

**Right to Resources.** Environmental defenders have the right to use natural resources and be free from interference and forced evictions.

This Act emphasizes the right to establish sanctuaries for environmental defenders at risk and the right to provide legal and paralegal assistance under the Bill of Rights of the Constitution.

Environmental defenders have the right to communicate with other environmental defenders, organizations, and media. They also have the right to public affairs and communicating with government entities as well as access to legal services.

## 6. WHAT ARE THE BILL'S PRESUMPTIONS AND PROHIBITIONS TO GOVERNMENT ACTORS?

State forces are presumed responsible for any violations against environmental defenders until credible evidence is presented to prove that it has been committed by non-government forces. The immunity granted to state forces is also suspended concerning violations against state forces.

Any complaint about environmental and human rights violations is presumed to be valid unless proven otherwise. The government should not deny environmental defenders the right to necessary documentation.

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1 The Philippine Environmental Impact Statement System was established by virtue of Presidential Decree 1586 in 1978. This mandates the Environmental Management Bureau to review and evaluate Environmental Impact Statements.

2 Executive order 72 or the Comprehensive Land Use Plan empowers the local government unit to allocate available land resources to different sectors of its territory for various functions.

3 Section 106 of the Local Government Code of 1991 mandates each local government unit to prepare a comprehensive multi-sectoral development plan to be initiated by its local development council and approved by its sanggunian. The Comprehensive Development Plan is a medium-term sectoral plan of the local government.



## **7. WHAT ARE THE OBLIGATIONS MANDATED BY THE BILL TO GOVERNMENT ACTORS?**

The government must take all precautionary measures to ensure the protection of all environmental defenders against any violence, threats, harassment, discrimination, or any other arbitrary action as a consequence of the legitimate exercise of their rights and duties as environmental defenders. Government units must not commit human rights violations against environmental defenders.

The EDB enforces the responsibility of the government to prevent and penalize projects that can damage the ecology of an area that violates environmental and human rights regulations. The government must prevent enterprises, projects, programs, and activities that will damage the environment. The public is entitled to information about the environment on EIAs and records of environmental violators. Laws about indigenous persons are to be respected by government officials.

The Philippines government must also finance scientific-technical investigations on environmental information and make it accessible to the public. In addition, the use of science and technology for environmental protection, improvement, and rehabilitation shall be supported through programs, policies, and efforts such as funding researches and developing efforts preferred by local scientists.

## **8. HOW DOES THE BILL IMPROVE ENVIRONMENTAL DEFENDERS' ACCESS TO THE INFORMATION?**

The EDB would require government entities to ensure the accessibility of environmental information for the public. This involves ensuring that vulnerable groups and individuals affected or potentially affected have access to this information. This environmental information may entail ecological profiles, EIAs of projects, businesses or activities, CLUPs, comprehensive development plans, etc.

Environmental information should be used freely in promoting and promoting environmental protection. To obtain their consent to participate in particular activities, projects, programs, policies, or companies within their field, such as in the Free Prior Informed and Consent (FPIC)<sup>4</sup> process for indigenous peoples' communities.

The public may also have access to documentation of the military units and their activities such as orders of battle. These should not be considered or classified and are subject to public scrutiny.

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<sup>4</sup> The Indigenous Peoples Rights Act adopted the concept of FPIC as a means to protect indigenous rights and interests and give them a voice in matters that affect them. FPIC in this context requires that indigenous communities be provided with adequate and accessible information. Any form of consensus shall be determined in accordance with indigenous peoples' customary laws and practices and free from any external manipulation or coercion.



## **9. HOW DOES THE BILL IMPROVE JUDICIARY MECHANISMS?**

To accelerate the delivery of justice on the enforcement of environmental rights and environmental law, the Supreme Court may create new or designate already existing courts as a “green court”<sup>5</sup> with the sole purpose of hearing and trying cases related to violations of environmental rights and environmental laws and regulations.

The Commission on Human Rights (CHR) is to create a desk specifically focused on entertaining and investigating the human rights concerns of environmental defenders, as well as focused on cases of violations of environmental rights.

## **10. HOW DOES THE BILL STRENGTHEN THE ENVIRONMENTAL MANDATE OF THE COMMISSION ON HUMAN RIGHTS?**

The EDB assists the CHR’s mandate to raise the public’s awareness of environmental rights and the rights of environmental defenders. The CHR will tap the support of or partner with civil society organizations (CSOs), environmental organizations, and people’s organizations in the implementation of this mandate.

## **11. HOW DOES THE BILL STRENGTHEN THE ROLE OF ENVIRONMENTAL DEFENDERS IN THE GOVERNANCE OF ENVIRONMENTALLY CRITICAL AREAS?**

Right to be protected from damage to the environment and ecology that is brought about by illegal and unsustainable exploitation of natural resources and operation of enterprises. Environmental defenders have the right to seek and obtain the writ of Kalikasan and other protective measures in response to activities that damage the environment. This is most especially important in protected areas to prevent environmental destruction or halt environmental destruction that is already happening.

## **12. HOW DOES THE BILL ENSURE HUMAN RIGHTS DUE DILIGENCE IN THE COUNTRY’S ENVIRONMENTAL IMPACT STATEMENT SYSTEM?**

The CHR shall establish a desk focused on investigating the human rights concerns of environmental defenders, as well as focused on cases of violations of environmental rights. The government would also allocate annual appropriations to the CHR to extend legal assistance to environmental defenders who have been victims or are experiencing human rights violations

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<sup>5</sup> Green Courts specialize in the administration of environmental cases. Article VIII, Section 5 of the Philippines Constitution provides that the Court may promulgate any rules it deems necessary for the protection of constitutional rights. The Supreme Court of the Philippines has enacted Rules of Procedure for Environmental Cases that include many mechanisms to facilitate petitioners to bring cases before the Court. The Rules, which list as an objective “to protect and advance the constitutional right of the people to a balanced and healthful ecology,” include a broad standing provision for citizens to bring cases before the Court.

and their families, such as for the conduct of fact-finding investigations.

Environmental organizations have the right to file legal actions against environmental and human rights violations as complainants. Environmental defenders are not to be prevented from filing complaints or petitions against environmental or human rights violations brought that is brought about by a particular or set of activities, projects, programs, and policies.

### **13. HOW DOES THE BILL ENSURE THERE ARE FUNDS TO ENABLE THE REDRESS OF HUMAN RIGHTS VIOLATIONS AGAINST ENVIRONMENTAL DEFENDERS?**

Business enterprises will be required to allocate one-twelfth of their annual gross income intended for insurance against environmental disasters and human rights impacts that could stem from their operations. These funds are also intended for calamity prevention and response, environmental rehabilitation, and human rights protection respectively.

These allocations shall be deposited in an escrow fund with the Land Bank of the Philippines. These funds shall be utilized if the operations of the said enterprise have caused environmental degradation or have caused the violation of environmental rights.

The government shall provide an annual appropriation to support indigent environmental defenders and members of vulnerable groups who are going to enter into litigation processes concerning the violation of their environmental rights. Such an appropriation will go towards supporting travel, accommodation, and subsistence costs of the accused as well as vulnerable litigators. Under the Environmental Affirmative Action Goals and Legal Assistance (EAGLE) Program, accused persons who are indigents and members of vulnerable groups are to be provided free services of lawyers from the PAO.

The government shall also incentivize new lawyers covered by the Community Legal Aid Service Rule to provide their 120-hour free legal services to environmental defenders.<sup>6</sup>

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<sup>6</sup> In September 2019, the Supreme Court, in A.M. No. 17-03-09-SC requires new lawyers to offer pro bono legal service to those who cannot afford lawyers by reason of indigency. The Community Legal Aid Service (CLAS) Rule requires those who have passed the bar and signed the Roll of Attorneys to render 120 hours of legal service as defined in the Rule.



## About the Center for Environmental Concerns - Philippines Inc.

The Center for Environmental Concerns - Philippines Inc. (CEC) is a non-government, non-stock and non-profit organization based in the Philippines. It was founded in 1989 through the initiatives of organizations representing the fisherfolk, farmers, indigenous people, women, urban poor, and professional sectors.

Its area of work covers the entire country from different ecological contexts. At the grassroots, the Center works closely with local communities and organizations nationwide, supporting their initiatives to nurture their ecosystems, defend their common access to natural resources, and eventually improve their living and working conditions in the context of a balanced and healthy environment.

At the national level, CEC advocates for people-oriented, patriotic, sustainable, and scientific policies and programs for the protection of the Philippine environment.

At the global level, CEC engages in information sharing, international networking, cross-cultural exchanges, and solidarity initiatives on common environmental issues and concerns.

