

## REFLECTIONS ON EDSA AND ACCESS RIGHTS IN ENVIRONMENTAL LAW

Cecilia Therese "Niner" Guiao<sup>\*</sup> & Jurella Guiahara D. Santos<sup>\*\*</sup>

EDSA was a turning point for democratic environmental governance in the Philippines. The People Power Revolution, creating an alliance between anti-Marcos elites, NGOs, religious organizations, and labor groups, ushered in a new government and constitution.

The movement was part of the global push for democratization across Latin America, Asia, and Africa from the mid-1970s to the 1990s.<sup>606</sup> In this period, post-authoritarian constitutions sought to make the state more accountable, representative, and participatory. Through an expanded declaration of principles and state policies and provisions on social justice and human rights, the 1987 Constitution aimed to restructure political, social, and economic relations.

Most notably, EDSA and the 1987 Constitution have a long-lasting effect on access rights in international and domestic environmental law.

### Principle 10 of the Rio Declaration

Access rights in international environmental law are defined in Principle 10 of the Rio Declaration on Environment and Development.<sup>607</sup> Adopted in 1992, this soft law instrument states that:

Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information

---

<sup>\*</sup> Head Legal Officer, Institute of International Legal Studies, UP Law Center; Operations Director and Co-Founder, Parabukas

<sup>\*\*</sup> Law Reform Specialist III, Institute of International Legal Studies, UP Law Center; Environmental Law Consultant, Asian Research Institute for Environmental Law; Lecturer, Ateneo de Manila University.

<sup>606</sup> Surabhi Chopra, *The Constitution of the Philippines and Transformative Constitutionalism*, 10 GLOB. CON. 307 (2021), <https://doi.org/10.1017/S2045381721000174>.

<sup>607</sup> UN Environment Programme, *UNEP - Principle 10 and the Bali Guideline*, <https://www.unep.org/civil-society-engagement/partnerships/principle-10>.

concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided.

From this Principle, the three fundamental access rights are laid out: access to information, access to public participation, and access to justice. These rights are deemed important in promoting “transparent, inclusive and accountable environmental governance.”

Although Principle 10 was promulgated five years after the adoption of the 1987 Constitution, the Philippine Constitution had already provided for these procedural rights.

### **The 1987 Constitution and Access Rights**

Article II of the 1987 Constitution was significantly expanded from the previous iterations in the 1935 and 1973 Constitutions. In contrast to earlier charters, the 1987 Constitution more firmly embedded access rights within the constitutional framework.

From a single mention of the right to information under Article III in the 1973 Constitution and none at all in the 1935 Constitution, the right of the people to information and its vital role in nation-building were reiterated under Section 7 of Article III and Section 24 of Article II.

Likewise, the people’s right to organize and to form unions, associations, or societies, which was heavily controlled during the martial law period, is recognized under Section 23 of Article II and Section 8 of Article III of the 1987 Constitution.

Most significant is the new provision on the right of the people to a balanced and healthful ecology under Article II, Section 16. As stated by the Court

in *Oposa v. Factoran*,<sup>608</sup> the right to a balanced and healthful ecology carries with it the correlative duty to refrain from impairing the environment. Coupled with the Bill of Rights, this provision has empowered and continues to empower the right of access of people to environmental justice. In 2010, the Rules of Procedure for Environmental Cases<sup>609</sup> was promulgated by the Supreme Court in order “to protect and advance the constitutional right of the people to a balanced and healthful ecology.”

### Importance of Access Rights to Environmental Governance

The importance of these access rights for environmental governance cannot be understated. In her article “*Objectives of Public Participation in International Environmental Decision-Making*”<sup>610</sup> (2023), Sharman notes the multi-functional purpose of public participation and indicates that observance of these rights fulfills substantive, instrumental, and normative objectives.

Through its substantive objective, proponents have noted that public participation improves the quality of decision-making through the integration of additional knowledge and perspectives in deliberation. Environmental interests, which would otherwise be neglected, could be addressed.

The instrumental objective is achieved by obtaining stakeholder buy-in through public participation. Through the exercise of these access rights, public trust in institutions is sustained, and a sense of stakeholder ownership over environmental policies is fostered.

Lastly, the normative objective states that public participation fulfills fundamental democratic rights or principles based on notions of fairness and justice. Citizen empowerment is considered an ideological end in itself regardless of outcome.

<sup>608</sup> *Oposa v. Factoran*, G.R. No.101083, 224 SCRA 792 (1993).

<sup>609</sup> RULES OF PROCEDURE FOR ENVIRONMENTAL CASES, A.M. No. 09-6-8-SC, [https://sc.judiciary.gov.ph/wp-content/uploads/2023/05/A.m.No.\\_09-6-8-SC\\_Rules\\_of\\_Procedure\\_for\\_Envi\\_Cases.pdf](https://sc.judiciary.gov.ph/wp-content/uploads/2023/05/A.m.No._09-6-8-SC_Rules_of_Procedure_for_Envi_Cases.pdf).

<sup>610</sup> Nicola Sharman, *Objectives of Public Participation in International Environmental Decision-Making*, 72 ICLQ 333 (2023), <https://doi.org/10.1017/S0020589323000088>.

## The Access Rights Post-EDSA

The environmental laws passed after the People Power Revolution reflected the reforms aspired to in the 1987 Constitution. Laws such as the *Philippine Clean Air Act of 1999*,<sup>611</sup> the *Ecological Solid Waste Management Act of 2000*,<sup>612</sup> and the *Indigenous Peoples' Rights Act of 1997*<sup>613</sup> provided for provisions on access to justice. The *Procedural Manual for the Philippine Environmental Impact Statement System*,<sup>614</sup> a Marcos-era Presidential Decree, includes the participation of the public in the process of undertaking environmental impact assessments. Not least of all, the Constitution granted the Supreme Court rule-making powers, allowing the Court to promulgate the Rules of Procedure on Environmental Cases. It is clear that access rights are heavily considered in domestic environmental governance.

In the international sphere, the Philippines, through government and civil society representatives, plays an active part in several multilateral environmental negotiations. The recently passed *ASEAN Declaration on the Right to a Safe, Clean, Healthy and Sustainable Environment*<sup>615</sup> “promotes and fosters access to information, meaningful public participation and access to justice, in the implementation of the right to a safe, clean, healthy and sustainable environment, including for people in vulnerable situations.” Other significant instruments on

---

<sup>611</sup> An Act Providing for a Comprehensive Air Pollution Control Policy and for Other Purposes, Rep. Act No. 8749 (1999) (Phil.), <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/2/6028>.

<sup>612</sup> An Act Providing for an Ecological Solid Waste Management Program, Creating the Necessary Institutional Mechanisms and Incentives, Declaring Certain Acts Prohibited and Providing Penalties, Appropriating Funds Therefor, and for Other Purposes, Rep. Act No. 9003 (Jan. 26, 2001) (Phil.), available at: <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/2/4800>.

<sup>613</sup> An Act to Recognize, Protect and Promote the Rights of Indigenous Cultural Communities/Indigenous Peoples, Creating a National Commission on Indigenous Peoples, Establishing Implementing Mechanisms, Appropriating Funds Therefor, and for Other Purposes, Republic Act No. 8371 (Oct. 29, 1997) (Phil.), <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/2/2562>.

<sup>614</sup> Environmental Management Bureau – Department of Environment and Natural Resources, Revised Procedural Manual for DENR Administrative Order No. 30 Series of 2003 (DAO 03-30), (Aug. 2007) (Phil.), <https://eia.emb.gov.ph/wp-content/uploads/2016/06/Revised-Procedural-Manual-DAO-03-30.pdf>.

<sup>615</sup> Association of Southeast Asian Nations, *ASEAN Declaration on the Right to a Safe, Clean, Healthy and Sustainable Environment*, ASSOCIATION OF SOUTHEAST ASIAN NATIONS, 28 October 2025, <https://asean.org/asean-declaration-on-the-right-to-a-safe-clean-healthy-and-sustainable-environment/>.

access rights include the *Aarhus Convention* (1998) and the *Escazú Agreement* (2018). Though the Philippines is not a party to these, the legal instruments have been influential in shaping regional and domestic policies.

### Forty Years On

25 February 2026 marks forty years since EDSA. Much has changed in environmental governance, with access to information, access to public participation, and access to justice now firmly embedded in law. Yet the deeper struggle remains the same: access rights are meaningful only if those who exercise them are safe. The Philippines has recently been declared the worst in Asia<sup>616</sup> for killings of environmental human rights defenders. Practices such as red-tagging, harassment of community leaders, and attacks against journalists further shrink civic space and undermine meaningful participation. At the same time, new avenues are being explored to attain environmental justice. Climate litigation is reshaping courts into arenas of democratic accountability, offering communities another path to demand transparency and state responsibility. Four decades after People Power, the enduring lesson is clear: environmental democracy depends not only on rights written on paper, but on ensuring the safe and peaceful observance of these rights.

---

<sup>616</sup> Human Rights Watch, *Philippines: Worst in Asia for Killings of Environmental Defenders*, 12 September 2024, <https://www.hrw.org/news/2024/09/12/philippines-worst-asia-killings-environmental-defenders>.