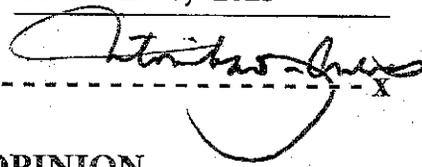


EN BANC

G.R. No. 277730 — VERONICA R. BATAN, ELMOR A. BORDA AND ALFREO B. PASCUAL, Petitioners, v. MINES AND GEOSCIENCES BUREAU, DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND ALTAI PHILIPPINES MINING CORPORATION, Respondents.

Promulgated:
November 4, 2025



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SEPARATE CONCURRING OPINION

ZALAMEDA, J.:

I concur with the *ponencia* that the Petition¹ should be denied in light of A.M. No. 09-6-8-SC or the current Rules of Procedure for Environmental Cases (RPEC). Part III, Rule 7, Section 2(c) of the RPEC requires the verified petition to state “[t]he environmental law, rule, or regulation violated or threatened to be violated, the act or omission complained of, and the environmental damage of such magnitude as to prejudice the life, health or property of inhabitants in two or more cities or provinces.” A judicious review of the present Petition for Writ of *Kalikasan* (with Prayer for the Issuance of a Temporary Environmental Protection Order reveals that it fell short of this mandatory requirement.

The Petition merely advanced broad assertions of an impending environmental catastrophe that purports to threaten incalculable destruction of our natural heritage, viz.:

5. Petitioners seek recourse to this extraordinary remedy to stop this looming environmental catastrophe of such a magnitude and scale, it will not just affect the municipality of San Fernando, Romblon in Sibuyan Island or the surrounding waters of adjacent provinces, cities and municipalities where this illegal shipment will traverse if not enjoined, but one that will tragically reverberate across the globe from the unquantifiable loss of natural heritage and global environmental patrimony that this illegal activity will wreak if allowed to continue. This ongoing unbridled and wanton destruction will adversely affect the endemic species of Sibuyan Island which—lest it be lost in the jargon—can only be found nowhere else in the world but in this pristine

¹ Rollo (G.R. No. 277730), pp. 9–44.



environmental paradise.

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7. An equally frightening environmental and safety threat from this brazen attempt at commercial mineral export is the danger of this cargo vessel capsizing within Philippine waters as nickel ore has the potential for liquefaction that can instantly and catastrophically cause a cargo ship to capsize within a matter of minutes. This occurs when the moisture content of the nickel ore exceeds the allowable content which at the moment, is undetermined, having been exposed for weeks on end to constant rains in Sibuyan. As the sinking is unpredictable, it can strike anywhere en route from Sibuyan Island to its destination in Hong Kong, putting at risk from massive pollution the marine ecosystems in various parts of the country where the cargo vessel will traverse, as well as place in danger the lives and safety of its crew.

 58. The fact that many of these species, both flora and fauna, are endemic only serve to underscore the magnitude of the environmental damage of the activities sought to be enjoined by this petition. It is not just two or more cities or provinces being affected, it is the whole world—both present and future generations—because the Philippines is the steward of the global environmental patrimony. When they disappear, the whole world bears the brunt of their extinction.² (Underscoring in the original)

In an attempt to support their environmental damage claim, petitioners belatedly submitted judicial affidavits of alleged experts in the environmental field, such as Professor Glenn C. Miller³ (Prof. Miller) and Dr. Melissa Garren⁴ (Dr. Garren). Prof. Miller claims that recovery from damages may take centuries if mining is permitted in Sibuyan Island due to the high erosion potential that would result in sediment washing into waters, likely to contaminate systems effectively permanently.⁵ Dr. Garren, on the other hand, claims that a shipwreck of a vessel carrying nickel ore on a reef would cause immediate damage to the habitat (from the impact of the vessel and oil spills that occur in the process), as well as have negative effects on human activities in the area.⁶

Strikingly, however, these submissions failed to concretely demonstrate the *predicted* damage which *may* be caused by the questioned mining activities in this case. The prediction lacked empirical grounding to merit deliberative attention as required under the RPEC. Official actions

² *Rollo* (G.R. No. 265146), vol. 1, pp. 4-5, 20-21.

³ Prof. Miller is Professor Emeritus and Interim Co-Chair of the Department of Natural Resources and Environmental Science at the University of Nevada, Reno. He holds a doctorate in Agricultural and Environmental Chemistry from the University of California-Davis and a Bachelor of Science degree in Chemistry from the University of California-Santa Barbara.

⁴ Dr. Garren holds a doctorate and master's degree in marine biology from the Scripps Institution of Oceanography, University of California San Diego, as well as a Bachelor of Science degree in Molecular Biology from Yale University.

⁵ *Rollo* (G.R. No. 265146), vol. 1, p. 341.

⁶ *Id.* at 347.

should be based on actual data and credible forecasts. Contrary to petitioners' assertion, this requirement of specificity is *not* an evidentiary matter to be considered only during trial. Rather, the RPEC categorically requires the verified petition to contain a statement of the environmental damage sought to be prevented and "[a]ll relevant and material evidence consisting of the affidavits of witnesses, documentary evidence, scientific or other expert studies, and if possible, object evidence."⁷ To be sure, demonstrating the anticipated or measurable impacts would have posed no difficulty had the Sibuyan Island mining venture genuinely imperiled our shared global environmental legacy or posed tangible risks to the welfare, health, and assets of populations spanning two or more cities or provinces. Regrettably, petitioners' submissions rest upon broad generalizations and speculative assertions, which cannot be used as basis for the grant of the extraordinary remedy sought.

In fine, I concur with the denial of the Petition. The power of the state should not be used haphazardly in the name of environmental protection when there is no concrete basis for interrupting administrative processes and affecting private individuals' rights. There should be proper basis in both law and fact.

I submit this separate opinion, however, to underscore two matters.

First, the magnitude requirement under Part III, Rule 7, Section 1 and 2(c) of the RPEC fosters an anthropocentric orientation—considering human beings as the most significant entity in the universe.⁸ "In the context of anthropocentric law[,] '[t]he image of nature that emerges ... is that of a lifeless, inert machine that exists to satisfy the needs, desires (and greed) of human beings.' Such imaging also perpetuates a deeply unequal—and structurally divided-global human societal vision."⁹

To stress, the magnitude requirement under the RPEC limits access to the writ of *kalikasan* to instances that could prejudice the life, health, or property of *inhabitants in two or more cities or provinces*. Provinces and cities are political subdivisions which are created based on mere income and either population or land area.¹⁰ Further, the provision contains an express condition that the potential harm involves the interests of inhabitants in particular. It

⁷ A.M. No. 09-6-8-SC, Part III, Rule 7, Section 2(d).

⁸ Merriam-Webster Dictionary, "anthropocentric," available at <https://www.merriam-webster.com/dictionary/anthropocentric> (last accessed on November 26, 2025).

⁹ Louis J. Kotzé and Duncan French, *The Anthropocentric Ontology of International Environmental Law and the Sustainable Development Goals: Towards an Ecocentric Rule of Law in the Anthropocene*, 7 *Global Journal of Comparative Law* 5, 12 (2018).

¹⁰ Republic Act No. 7160 (1991), (Local Government Code of 1991), secs. 450 and 461.

confirms the observation of Professor Philippe Sands¹¹ (Prof. Sands), a notable expert in environmental law, that “*environmental resources . . . are rarely seen . . . as being worthy of protection in themselves . . . [and] that technical and scientific arguments are more likely to resonate and be effective if it can be shown that their protection will in some way have a discernible benefit for a defined human population.*”¹² Notably, anthropocentrism has been blamed for the “perceived failures of . . . environmental law”¹³ as it does not adequately protect the environment on its own from “[unsustainable] growth-without-limits development”.¹⁴

Second, there is a need for both litigants and the courts to engage with science in dealing with environmental cases to prevent such convenient dismissal of cases only because the petition was unsubstantiated or our courts have no expertise in the subject matter.

Proper factual bases should be referenced and demonstrated before the courts when judicial remedies are sought. The RPEC was crafted to facilitate, not frustrate, access to judicial relief in situations where environmental degradation may result in irreversible harm. The scientific basis should show the necessity for full judicial inquiry.

In the same way, while judicial deference to administrative expertise remains appropriate in technical matters, such deference cannot shield agencies from scrutiny when they stand accused of transgressing fundamental rights. The doctrine of agency expertise presupposes regulatory actors operating within their lawful bounds; it cannot immunize those same actors when they allegedly exceed their authority to the detriment of constitutional protections. When administrative bodies are themselves the alleged rights violators, courts must exercise independent judgment rather than reflexively deferring to the very expertise invoked to justify the challenged conduct.

Science may not have been a part of our legal education and training but justice in this day and age demands that we confront it for the fair administration of justice. In *Paje v. Casiño*,¹⁵ this Court emphasized that the RPEC was created to allow liberality in gathering and even compelling information, thus:

¹¹ Professor of Public Understanding of Law at University College London; Samuel and Judith Pisar Visiting Professor of Law at Harvard Law School; co-author of “Principles of International Environmental Law” published by Cambridge University Press, among others.

¹² Philippe Sands, *Water and international litigation: science and evidence in international litigation*, *Environmental Law & Management* 151, 159 (2010). Emphasis supplied.

¹³ Louis J. Kotzé and Duncan French, *The Anthropocentric Ontology of International Environmental Law and the Sustainable Development Goals: Towards an Ecocentric Rule of Law in the Anthropocene*, 7 *Global Journal of Comparative Law* 5, 7 (2018).

¹⁴ *Id.* at 35.

¹⁵ *Hon. Paje v. Hon. Casiño*, 752 Phil. 498 (2015) [Per J. Del Castillo, *En Banc*].

The Rules of Procedure for Environmental Cases liberally provide the courts with means and methods to obtain sufficient information in order to adequately protect or safeguard the right to a healthful and balanced ecology. In Section 6(1) of Rule 3 (Pre-Trial), where there is failure to settle, the judge shall, among others, determine the necessity of engaging the services of a qualified expert as a friend of the court (*amicus curiae*). While, in Section 12 of Rule 7 (Writ of [K]alikasan), a party may avail of discovery measures: (1) ocular inspection[;] and (2) production or inspection of documents or things. The liberality of the Rules in gathering and even compelling information, specifically with regard to the Writ of [K]alikasan, is explained in this wise:

[T]he [W]rit of [K]alikasan was refashioned as a tool to bridge the gap between allegation and proof by providing a remedy for would-be environmental litigants to compel the production of information within the custody of the government. The writ would effectively serve as a remedy for the enforcement of the right to information about the environment. The scope of the fact-finding power could be: (1) anything related to the issuance, grant of government permit issued or information controlled by the government or private entity[;] and (2) [i]nformation contained in documents such as environmental compliance certificate (ECC) and other government records. In addition, the writ may also be employed to compel the production of information, subject to constitutional limitations. This function is analogous to a discovery measure and may be availed of upon application for the writ.

Clearly, in environmental cases, the power to appoint friends of the court in order to shed light on matters requiring special technical expertise as well as the power to order ocular inspections and production of documents or things evince the main thrust of, and the spirit behind, the Rules to allow the court sufficient leeway in acquiring the necessary information to rule on the issues presented for its resolution, to the end that the right to a healthful and balanced ecology may be adequately protected. To draw a parallel, in protection of the constitutional rights of an accused, when life or liberty is at stake, the testimonies of witnesses may be compelled as an attribute of the Due Process Clause. Here, where the right to a balanced and healthful ecology of a substantial magnitude is at stake, should we not tread the path of caution and prudence by compelling the testimonies of these alleged experts?¹⁶ (Emphasis supplied)

Philippine courts are not alone in this. In Ecuador, the judges of a Provincial Court ordered *in situ* visits relative to a case on the protection of the *Los Cedros* forest.¹⁷ For the *South China Sea Arbitration*,¹⁸ the arbitral

¹⁶ *Id.* at 577-579.

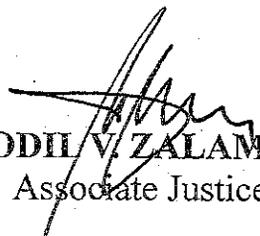
¹⁷ *Revisión de Sentencia de Acción de Protección Bosque Protector Los Cedros*, Case No. 1149-19-JP/21 (2021) [Ecuador].

¹⁸ *South China Sea Arbitration* (Republic of the Philippines v. People's Republic of China), PCA Case No. 2013-09, Arbitral Tribunal constituted under Annex VII to the 1982 United Nations Convention on the Law of the Sea (2016).

tribunal, after seeking the views of the parties, appointed independent scientific experts to assess potential environmental consequences of construction activities on seven reefs in the Spratly Islands. Prof. Sands even suggests to “devote a part of the hearings to a session held in conference during which both parties’ experts could sit together and engage in a dialogue under questioning from the [c]ourt and counsel with a view to teasing out key points of convergence and difference.”¹⁹ After all, we cannot claim fidelity to the truth while willfully ignoring science.

Nonetheless, we are guided by the existing RPEC to proceed in this manner.

ACCORDINGLY, I join the *ponencia* in denying the Petition.



RODIL V. ZALAMEDA
Associate Justice

¹⁹ Philippe Sands, *Water and international litigation: science and evidence in international litigation*, *Environmental Law & Management* 151, 159 (2010).