

From Pronouncement to Enforcement: Bridging the Gap in Law to Promote and Protect the Right to a Decent Environment

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The international right to a decent environment needs elaboration. Issues confronting the environment are never static. When a novel environmental issue, for which no international norm has yet been developed or no legislation has yet been crafted, confronts the judicial system, the courts may seize upon the opportunity to navigate the legal uncertainty and bridge the legal gap.

This Essay will discuss this dynamism in the light of the Philippine judicial experience. Emerging norms and nascent principles in international environmental law are given application either discretely or deliberately through domestication in judicial pronouncements.

This Essay will also tackle the concept of “intergenerational responsibility”, “intergenerational justice” and “sustainable development” in relation to the emerging norms of environmental law in the Philippines.

The Author mentions that the courts not only bridged some gaps in the law but created a process to cross the chasms between principle and policy, and between rhetoric and enforcement. It may be added that in certain situations, calculated judicial activism may be necessary to prompt the other branches of government to perform their crucial roles involving a common core right of the citizens of the Republic. It is only by elaboration that the international right to a decent environment is further clarified, better understood and appreciated. Elaboration breathes life, meaning, and color to this right.