
A SOCIO-CULTURAL APPROACH TO ENVIRONMENTAL LAW COMPLIANCE: A PHILIPPINE SCENARIO

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SUMMARY

This paper examines the social and cultural traits that hinder compliance. It then attempts to transform these hindrances into the very moving forces that will promote compliance with environmental law. It also incorporates a study on ecological covenants or environmental agreements, a mode of environmental law implementation that may serve to supplement or reinforce enforcement methods in a country where enforcement capabilities are inadequate.

1 INTRODUCTION

1.1 Focus on Industry

Industry contributes about 30-40 percent of air and water pollution in the Philippines.¹ In water pollution, 60-70 percent is caused by domestic sewage and agricultural run-offs while in air pollution a like percentage is caused by vehicular sources. In order to delimit the scope of this study, it will focus on water pollution from industrial sources. Being point sources, industrial establishments are easy to identify. They generally have some financial wherewithal to address their pollution issues, and they are also highly sensitive to economic “candies and needles” (incentives and disincentives) and, as a last resort, their officers and owners are vulnerable to legal sanction.

Law does not exist in a vacuum. It must survive and operate within a social and cultural milieu that either hinders or prompts compliance. It is easy to promulgate a set of voluminous environmental laws. However, without a social conviction or resolution that the law is necessary and/or beneficial to all concerned, the “target market” of the law will either ignore it altogether or use various means, fair and foul, to avoid and evade it. This is especially true in the case of environmental laws where the non-human victims are treated as things incapable of legal rights. Thus, where a waterway or the air is heavily polluted but with no humans suffer direct harm and injury, the person or entity causing the harm does so with relative impunity. For, after all, the waterway and the air are incapable of *locus standi* to initiate a legal action or claim for damages.

With the increasingly active Philippines economy and its status as a developing country, it is in a situation typical of other developing countries hastily seeking an industrialized economy. True, there are philosophical questions which may be raised as to the wisdom of every country becoming industrialized, whether the global resources can accommodate all the countries’ need for raw materials, whether a totally industrial world will result in better trading efficiency and whether the waste sinks will be able to handle the industrial refuse resulting therefrom. But these are not questions to be here addressed. Rather, it seeks to focus on industry for the reason that

it is by far easier to address industrial pollution issues with fewer resources and with maximum impact. It is also in the industrial sector that the techniques of legal marketing and the insights of law enforcement and compliance can be better tested with greater efficiency.

2 THE PROBLEMS OF ENFORCEMENT

2.1 A Philosophical Paradox

The constant enforcement of environmental law is almost a paradox. This statement finds support in the following philosophical arguments.

The *raison d'etre* of law is to modify behavior. It is either positive or negative, i.e. positive when it seeks to promote a manner of conduct or negative when it seeks to discourage a mode of human behavior. To promote conduct, it dangles the candies of economic incentives; and to discourage a manner of deportment, it imposes sanctions by the legal deprivation of liberty or property.²

An ideal method of law formulation is when the *ratio legis* — the reason for and the social good that the law seeks to promote — has been fully understood by and ingrained in the minds of the body politic. This body politic is both the source of legal authority — the sovereign will of the people — as well as the target market of the law, i.e. the group of people whose conduct is sought to be modified. “What a law means depends on the social purposes the law is intended to serve, and the purposes come down to questions of what is good and right.”³ If a law is fully understood and appreciated as a “right” by the target market, compliance becomes the norm. Compliance then becomes a question not of the legal target market⁴ willingness, rather it becomes a question of capability. Admittedly, the first is an issue of enforcement; the latter is a question of management. In the first, the law has failed to positively alter behavior. If the use of force becomes regularly necessary as a reaction to the disobedience of the law, it can only mean that target market is either unaware of or unconvinced of the *ratio legis*. A re-examination of the mode of marketing is therefore necessary. If, on the other hand, there is a general willingness to comply with the social good which the law seeks to sell, it is the function of government as *bonus parens familia*⁵ to provide the opportunity to access the resources and enable its “children” (citizens) to reach the behavioral goal set forth by the law.

In sum, a good law does not need to be enforced. Conversely put, if a law must always be enforced, it is a failed law.

This is especially true in environmental law. On the one hand, it seeks to enjoin a positive mode of conduct by declaring lofty policy declarations for anthropocentrically-safe and sound environmental conditions. On the other, it seeks to punish deviant conduct that threatens to or damages the environment. Environmental resources however being fragile, the repair or remediation of which takes a long period of time and/or the expenditure of substantial resources, a violation of the injunction against damage must be avoided as much as possible. If damage is constantly and regularly inflicted, and the law is constantly and regularly enforced against the malefactors, the affirmative purpose of the law has failed.

2.2 Practical Considerations

On the practical level, the adequacy and sophistication of countries' environmental laws vary. For this paper, we shall examine the setting of a country that has a relatively adequate environmental regulatory framework such as the Philippines, perhaps among the most

sophisticated in Asia. Like all growing economies in Asia it has been recently faced with the specious policy dilemma of economics development and environmental protection, and on the question of the appropriate level of environmental law enforcement.

To be sure, environmental awareness in the Philippines is of very recent vintage. While there have been grumblings of environmental abuse by a handful of citizens in the 80's, it was not until the occurrence of forest-degradation-related tragedies of the early 90's that caused the increased momentum of awareness.⁶ Natural resources catastrophes and the resultant deaths have a certain drama that attracts attention, "nature's way of making herself heard." That is not to say that the problems are being resolved effectively. But that there already present the perception that a problem exists is by itself a movement of progress.

In the industrial environment however, no such major disaster has yet occurred. No thousands have died because of smoke or water pollution, neither has there been a Bhopal-like incident that creates the impetus for people and politicians to sit up and take serious cognizance of the industrial environment issues. So far, the slow and creeping eutrophication of water bodies and waterways such as the historic Manila Bay, Laguna de Bay and the Pasig River have killed off only fish and other marine life, life incapable of being represented for redress of grievance before a legal forum. Thus, their demise has been the subject of general neglect and indifference by the body politic. Furthermore, the imperatives of industrial development take precedence over the pollution of a river. Only to find out a little too late that it costs much more to clean up a river than to have prevented its sully in the first place.

That brings the discussion to the subject of post *hoc enforcement* of environmental laws. Small and medium scale industries, the back-bone of growing economies, have been allowed to sprout following *laissez faire* models of environmental management controls. On cost considerations, immediate achievement of environmental standards can mean very substantial investments, investments that have nebulous benefits to their bottom lines. On the part of the regulator, having to close down a factory presents difficulties in the narrowing of policy implementation options. The economic and employment dislocations, and their political ramifications, subject the regulators to intense social and political pressures. These pressures, when succumbed to, result in diminished credibility and morale on the part of the regulators. Cost considerations of enforcement are also critical. If the industrial environment is not high on the political agenda of the regulator, little budget is allocated for monitoring and enforcement support. With an incapacitated bureaucracy, little can be expected, motivation-wise and result-wise.

In the Philippines, there is also a systemic faultline. The Pollution Adjudication Board, the primary agency tasked to address industrial pollution issues and adjudicated controversies, is a part-time agency, with part-time staff. Consequently, it results in "part-time" environmental quality improvements.

There are also sociological, social and cultural characteristics that hinder even the most determined environmental law enforcement efforts. It must be recalled that environmental violations, like gambling and prostitution, are "victimless crimes." Sociologically, the theory of an entire society being the victim in a criminal offense is more theoretical than real. With no personally and privately-aggrieved warm bodies complaining to the media, following up with authorities, and giving testimony in a formal hearing, the regulators are more malleable with their enforcement options. This is not an indictment against the regulators, rather a mere statement of fact. Even the Philippine criminal justice system recognizes this weakness and thus allows for private prosecutors to actively assist (albeit formally under the direction of) the prosecutor in a criminal case in representation of the "private offended party."

There are social and cultural values that come into play in the game of undermining the adverse sanctions of the law. They are briefly examined here and portrayed how they affect enforcement efforts in victimless offenses such as environmental violations.

3 THE SOCIO-CULTURAL VALUES: PRESENT HINDRANCES, FUTURE OPPORTUNITIES

The following are some cultural values and characteristics of Filipinos that inter-play in enforcement efforts: “pakisama” (getting along, consensual), “pakiramdaman” (feeling one another’s feelings usually the result of person-to-person contact and the highly-personalized nature of social interaction), “utang na loob” (debt of gratitude), “hiya” (shame in the context of doing something that does not “go along”) and “galang” (respect, usually for authority), loss of face (also shame in the context of embarrassment, also referred to as the “face value”), and the “Bayanihan” system, a cooperative mode of working together such as when a house needs to be transferred and all the men in the community get together and physically lift the house and relocate it to its new site, while the women prepare food and drinks for the men. This list is not exclusive and exhaustive but is merely used as a sample of the suggested approach.

Let us depict a typical enforcement scene: A low-level and poorly paid environmental agency inspector goes to visit an industrial firm to conduct a spot-check inspection of its wastewater discharges. He is met by the general manager of the firm, a highly educated and more well-to-do person, and a social interaction takes place. Immediately, a certain level of respect for a social superior is created, i.e. respect for the General Manager who is superior in rank and substance. Personal “connections” are made, where the inspector is person is from, what province, what school did he go to, and the like. When a discharge sample is taken, the Manager continues to talk to the inspector, and if there is exceedance of standard, a “request” is made to “take it easy”, to “go slow” or “to give them a break” in the interest of “pakikisama” or getting along. The sample is then taken to the laboratory and analyzed. In the meantime, the firm, knowing that it has violated the standards, finds a personal “connection” to the inspector or to his superiors, and to seek the preemption of a notice of violation. Usually, the connection made is a good friend or a close relative of the inspector or his officer and a “favor” is requested to either minimize the damage of the report or to find ways and means by which the report is not released at all. In the interest of preserving relations (“pakikisama”) between the personal connection and the inspector or agency officials, the favor is granted. Thus an “utang na loob” (debt of gratitude) is created, which is goodwill capital that may be called upon one day when the need arises. In another scenario, the violator may be well-connected politically. A congressman or the Mayor of the town may intercede in behalf of violator to return a favor (bayad sa utang na loob — repayment of a debt of gratitude) and in turn seeks a favor and from the environmental agency official concerned. The environment official grants the favor. What often prompts this is a misapplied “pagagalang” (respect) and to avoid the Mayor or Congressman having to lose face (“mapahiya”). Unless the offense is egregious or the violator has been specifically targeted to set a high-profile example, or that there are complaining and aggrieved citizens, the polluter, more often than not, gets away with it.

4 COMMAND AND CONTROL DEFICIENCIES

Aside from social, cultural and political dimensions of enforcement, there are very real budgetary and manpower resource constraints. In the three regions of Metropolitan Manila, the Laguna Lake Development Authority area and Region IV where about 90 percent of the industrial facilities are located numbering not less than 3000 large, small and medium scale industries, there are no more than 15 poorly-paid industrial inspectors who are generally without land transportation vehicles. In addition, they are tasked to review documents and process environmental impact assessments and applications for a variety of environmental permits. The physical impossibility is at once made manifest. Moreover, poor record monitoring and verification capabilities disable an efficient review of industrial facilities' discharges. Indeed, for obvious reasons, most of the inspections are conducted only when an adverse report has been made or a complaint has been filed against an industrial facility. By force of circumstance therefore, the process of monitoring and enforcement is reactive.

The traditional enforcement approaches of constant inspections, prosecution, fines, etc. have not worked in this environment. Economically, it means government having to allocate substantial budgetary allocations for manpower, inspectors, laboratory and transportation equipment and the like. It is also socially inappropriate. It means adversarial confrontation, prosecution, fines, sentences, (if it ever reaches this point) and ultimately results in a society torn by unnecessary enmities. Thomas Church, citing Kagan and Scholtz, describes it as —

To treat every firm as an amoral calculator, whereby any deviation from specific regulatory rules is met by legal penalties, burdens the economy with unnecessary costs. It also breeds legal and political opposition on the part of good corporate citizens who are offended by being forced to meet unreasonable requirements and by the perceived injustice of punishment pursuant to legalistic application of rules.⁷

The command-and-control deficiencies in a growing economy must give us pause. For one, the governmental priority is economic development. Second and precisely because of the first, scarce governmental resources are hardly ever directed to environmental regulation. Third, as a necessary consequence of the second, it is then necessary to examine the possibility of tapping into private resources for self-or-collaborative regulation. Fourth, is that the socio-cultural make-up of both the regulators and the regulated community is inappropriate for pure enforcement techniques. Fifth, command-and-control is essentially a reactive and remediative response. For a growing economy that can ill-afford prohibitively costly clean-ups, it would be better off adopt preventive policies, and a proactive approach.

5 GOAL AND STRATEGIES OF COMPLIANCE

The goal of compliance is not “merely to secure compliance with the rules per se, but to mobilize available resources to solve the particular social problem in the most efficient and least disruptive way. Its mission would be to affect the consciousness, organization, or culture of the regulated enterprise in order to make it sensitive to serious sources of harm.”⁸ A long-term program for compliance therefore involves changing the mind set and culture of the regulated enterprises in such a way as to inculcate in them the desire to comply with the environmental rules and standards because they understand the reason for it and the social goal that it seeks to achieve. Undoubtedly, this is a long-term acculturation program that must begin with the regulatory agency.

Approaches to compliance have been classified as prosecution, accommodation and public works. Under prosecution, the emphasis is on legal coercion and the heavy dependence on a legal system used by the government to compel responsible behavior on the part of the regulated community.⁹ Environmental law is then fully likened to criminal law where the goal is detection, apprehension, punishment and the role of the regulator is to “use its resources to create the perception in members of the regulated community that it is more risky to refuse to fulfill their obligations than to fulfill them.” The regulator must then be ready to pull out all stops to punish those who refuse to fulfill their obligations.¹⁰ It involves selecting high-profile sample cases that have the promise of victory for the regulator. This statement is almost an oxymoron.

High-profile violators are often the ones who can afford the best lawyers and experts to entangle the legal process interminably. More often than not, they also have enough political clout to hold off aggressive challenges. Given the weakness of government in its environmental prosecutorial capabilities and in situations where there is hardly any media coverage nor an aggrieved party of individuals, cases of this nature are likely swept under the rug of oblivion.

To be sure, there is an excellent opportunity to use this on occasion. It is, however, culturally inappropriate to use it at the first instance. Confrontation and adversarial processes only create unnecessary hostility, acrimony and delay. If all else fails however, and the legal ammunition must be discharged, it must be done with amazing alacrity, ruthless effectiveness and maximum publicity in order to create a bang louder than its burst. After all, deterrence and fear of the law are the ultimate goals of punishment. The strategy for the proper and effective use of this approach will be later discussed. It will essentially incorporate the bargain-and-bluff technique of negotiation.

“Accommodation” is another compliance strategy. It requires the environmental agency to assemble its discretionary powers, personnel and resources to create an atmosphere of trust and cooperation to elicit valuable information without which a standards monitoring program cannot be accurately implemented. Unlike the prosecutorial approach, this emphasizes on both the regulator and the regulated cooperating to solve a common problem. This problem-solving premise and attitude at once builds psychological alliances on being on the same side, and creates the functional and constructive working relationship. It has been noted that this cooperative and open process has accelerated decision-making and improved agency-industry relations in the long run.¹¹

Finally, the “Public Works” strategy seeks to utilize technical and engineering remedies to undertake clean up operations at the very outset. It seeks to achieve on-the-ground results quickly, an approach which is essential especially where there exists imminent danger to life and/or property.

6 TURNING THEORY INTO ACTION

6.1 Over-all Design

The general design of this practical compliance strategy adopts a mix of the approaches abovementioned which will also incorporate and capitalize on the socio-cultural characteristics of the body politic or concerned target group¹². On the one hand, it will espouse a consensual and accommodating approach to compliance by seeking to identify common interests and address common. These interests consist of, on the part of government and the public, achieving the environmental standards, and on the part of industry, to minimize unnecessary government intervention in their operations. Thus, the techniques of negotiated

compliance patterned after the Dutch model of Ecological Covenants will be examined and a draft agreement shall be formulated. Appreciating the fact that industry's willingness often revolves around the issue of financial capability, the public works strategy and possible financing options will be explored.

On the other hand, and in order not to be paralyzed by inutility in the event of non-compliance, a method of strengthening the prosecutorial capabilities of the Environment Agency will also be outlined. Existing, albeit infant structural mechanisms for environmental enforcement used in the field of natural resources enforcement shall be further developed by long-range developed institutionalization and capability-building.

6.2 Leadership and Determination

In order to maximize the value of "paggagalang", the leadership role must be initiated and prosecuted by the Department of Environment and Natural Resources (DENR) Secretary, or even the President of the Philippines. One scenario is for the President to deliver a policy speech before a plenary meeting of the Philippine Chamber of Commerce and Industry (PCCI) expressing the political determination (also known as political will) to address industrial pollution. On this occasion, he can outline the program that designed to accommodate the constraints of industry by allowing for a consultative phased-in approach to compliance as well as the availability of a financial incentive mechanism. The Secretaries of Environment, Agriculture, Finance, Health, Trade and Industry, Labor, should be in attendance in order to create the impression of an organized and holistic approach. This also plays on the "pakiramdaman" traits of Filipinos. When they personally feel that the Government leadership (many of whom are personally known to members of the PCCI anyway) is determined to pursue a reasonable campaign, only the truly obstinate will resist. It can also enunciate the policy of "reciprocal accommodation" whereby those who will cooperate will be requited with forbearance against closures and fines.

The leadership role must, however, be taken by the Secretary of Environment and a professional program staff (hereinafter "Environment Staff"). High-level meetings and workshops shall then be conducted between the Staff and the industry sector representatives (e.g. textiles, food processing, etc.) on their respective pollution loads and on the appropriate time frame with which they will seek to achieve compliance. The Philippine Business for the Environment¹³ can be tapped to facilitate these meetings as neutral mediators. Concerns and issues of industry can then be ventilated and addressed accordingly. Under the topic of Environmental Agreements below, the items that should be in the agenda will be identified. As much as possible, the Secretary¹⁴ must attend most of the meetings if only in its concluding stages. This is to maximize the value of personal contacts, Filipinos being very personalistically-oriented, and to again create the impression of determination and "hiya".

6.3 The Strategy

6.3.1 High-Level Personal Contacts

In order to establish high-level contact and personal contact with industry representatives, it is not enough that middle managers of the agency and the industry initiate and participate in the meetings. While they may exercise influence within their respective areas of competence, they do not have the plenipotentiary authority to commit the resources of the firm. It is therefore essential that the Secretary establish personal contact with the Chief Executive Officer or the Chairman of the Board (CEO/Chair). Not only are these the persons

who have the power to commit the firm to a certain course of action, they are also the most concerned with its financial welfare. This can be done in small dinner meetings between the Secretary and CEOs/Chairs of representative firms. The selection of who shall be invited to these dinner meetings can be based on the membership of the industry sector representatives in the Philippine Chamber of Commerce and Industry. For example, if the working committee membership of the textile sector is composed of managers of companies A, B, C, D and E, the Chief Executive Officers of these firms will be invited to this meeting.

The importance of a dinner meeting sponsored by the Secretary cannot be over-emphasized. For one, it again creates the perception of seriousness of purpose. Lest it is forgotten, in the realm of politics and governance, perception is reality. Second, no CEO/Chair will dare to decline an invitation for dinner from the Secretary, especially when the firm is in violation of environmental law. On the contrary, the CEOs/Chairs will deem it a distinct honor. Third, it affords a more convivial ambience that quickly establishes the necessary personal relationships conducive to creating an atmosphere of trust. Fourth, more time is afforded for frank discussion than meetings done during so-called "power lunches." Fourth, the "galang" (respect) value is also activated. By inviting the CEO/Chairs to a meal together, the Secretary has shown the former a great measure of respect that will be most cherished and treasured. As an offshoot of this meeting, it is most likely that these Chief Executive Officers will be the "unofficial spokesmen" of the Secretary and of the program and, by the most effective means of propaganda (the word-of-mouth) positive word will quickly spread among the regulated community.

Subliminally, when top-level personal contact is made between the Secretary and the CEO/Chair, the cultural traits of "face value" (*hiya*) and "pakikisama" (getting along) comes into play. The Secretary can appeal to the CEO/Chair to "go along" with the program, which will be to the firm's ultimate benefit. The "favor" which the Secretary can grant is forbearance against closure and the imposition of fines, in addition to the financial incentives. This inculcates the sense of "utang na loob" (debt of gratitude) on the part of industry which, in Filipino culture, must be reciprocated if only to avoid being called a "balasubas" (ingrate and scoundrel).

After an agreement has been reached between the CEO and the Secretary, the mid-level managers can then proceed to discuss the details and work program with a sense of trust and confidence in the knowledge that the "big-bosses" already have an understanding in principle. The Environment officials can request information on the respective pollution discharges with the written assurance that this will not be used for incrimination during and after this negotiation stage. This written assurance is necessary to create a confidence level on the part of industry since the nature of bureaucracy is that it is transitory, i.e. the persons with whom one is dealing with at the moment may be transferred, replaced, or otherwise separated according to the exigencies of the service, or of the political climate.

During these meetings and workshops, which incidentally must be publicly transparent and where moderate an NGO representative can be invited, cooperative industry leaders and laggards in an industry sector can be identified. While it is anticipated that cooperation will be maximal, there is always the possibility of unreasonable resistance by certain mid-level managers of industry. For them, a special treatment may be accorded in the form of a reciprocal tightening of the administrative and regulatory screws.

First, the Secretary may call upon the CEO/Chair to report to the latter that his manager is giving the Environment people a hard time and that if this attitude persists, the regulatory system will be allowed to run its normal and more determined course. And, without having to say it, all bureaucratic and legal bedlam will thereafter ensue. This will constructively capitalize on the friendly relationship between the Secretary and the Chief Executive Officer. A report by a top level official to his 'friend' the Chief Executive Officer of the concerned company makes

for an extremely embarrassing situation for the mid-level manager especially if that report is coupled with a request for replacement in the negotiations. Secondly, a firm whose representatives display unreasonable resistance to the program can then be subjected to regular (and most bothersome) inspections accompanied by leaks to the mass media. Reports may be also made to environmental NGOs, consumer organizations (in case the firm markets consumer items). Thirdly, preparations can be made to utilize the prosecutorial approach with methods that will achieve maximum shock value. Always, these options shall be pursued and treated as a public relations campaign to capitalize on the “hiya” to which the firm and their owners and officials shall be exposed.

However, these pressure-tactic options shall be reserved only for extreme situations that call for such a drastic solution and only to deliver a message to the regulated community. They are very painful and severe remedies that can backfire if not properly managed.

6.4 Public Works Approach

6.4.1 Small and Medium Scale Industries – The Promise of Critical Mass

In a developing country such as the Philippines, the small and medium-scale enterprises with capitalizations ranging from 1-25 million pesos (US\$0.05 to \$1.0 Million) are the backbone of the economy. They are also usually the firms that have either not installed pollution control equipment, or only minimally so, because of capital constraints. Given the opportunity, however, these firms can create the critical mass that can quickly lead to a marked improvement in the environment. They must therefore be the object of special concern specifically in the area of financing options.

The public works approach seeks to address the technical and engineering issues. Given the fiscal constraints of Government, private resources must be tapped. The “Bayanihan” system of cooperation will be utilized in this effort, albeit in modern-day technological application. For example, where common waste streams are identified, the companies can put in their best engineers to design the most appropriate technology to significantly reduce or eliminate the waste stream and arrive at compliance over a period of time. Another area by which the “bayanihan” system can be utilized is in the proposed revolving door environmental fund (REFUND).

6.4.2 The Revolving Door Environmental Fund (REFUND)

Under this concept, firms that have common waste streams shall be grouped together in small geographically-compatible cooperative units. They may however choose to associate themselves in a bigger cooperative model. The polluter pays principle will then be applied whereby units in excess of standard will be levied a fixed or sliding-scale environmental user fee. Strictly, an environmental user fee must be assessed for even those discharges within the regulatory standards, for after all, the use of the environmental resource must be valued and priced accordingly and not be treated as an externality. However, without sufficient legal basis under the present framework of Philippine environmental law, it is possible that this may be the subject of an unnecessary legal complications.

Thus, the companies in excess of their discharges shall be levied the corresponding amount. By assessing this amount, the inherent market mechanism of firms wanting to reduce unnecessary costs will fall into place: the companies will seek ingenious ways and means to reduce their costs, perforce reducing the pollution discharges, or internalize them into the price of the products sold in the market.

The key to a politically-palatable and environment-friendly financial plan is to appropriate the amounts collected for environmental purposes. To this end, the charges should not be treated as a tax that must then be remitted to the Government and lost in the National Treasury's black hole of finances. Rather, these funds must be deposited in a special account to be managed by the small "waste-stream group" of (say) 5-10 geographically-compatible companies, with an environment official sitting as ex-officio member performing oversight functions. The funds thus built up over time shall then be used to build a common waste treatment facility (CWTF) for the concerned and cooperating enterprises. If the same shall not be sufficient, the Government's financial institution may extend outright subsidy in the form of grants or through long-term/soft loans.

The "bayanihan" and the "pakisama" values can be productively exploited in applying the REFUND mechanism. When a project, such as a common waste treatment facility, is too large for one entity to accomplish, the REFUND mechanism allows people to collaborate to achieve the desired objective. Where the firms are geographically situated near one another, there is a "neighborly" sense of community ("kapit-bahayan"). The refusal of one to join ("ayaw makisama") in an undertaking for common benefit is a social *faux pas* that can lead to social and even economic ostracism.

A necessary corollary to "pakisama" and "bayanihan" is the characteristic of "walang lamangan". Transliterated, it means "no advantage". This means that where people are placed in a similar situation working for a common end, one does not seek to gain undue advantage over the other. Thus, in the practice of lifting houses, it is anathema for an able-bodied male to join the bayanihan but then just sit around and simply watch while the others are working. It is the behavior of the shameless ("walang-hiya"). In the context of the REFUND, when the firms agree to the concept, they should also institute a self-policing mechanism whereby a neutral representative of industry, perhaps with the ex-officio participation of an environmental agency functionary, can conduct spot-checking to verify the discharges and the corresponding deposits made. In the spirit of "walang lamangan", and especially considering the fact that they will be the ultimate beneficiaries inasmuch as the funds they have contributed will serve as their equity in CWTFs or other environmental management enterprise, self-regulation will be the norm. To be discharging pollutant plentifully and be caught by one's peers for not paying correspondingly according to the agreement is extremely "nakakahiya" (shameful, causing one to "lose face").

7 FINANCING OPTIONS

Money is the fuel that powers — and the oil that lubricates — the machinery of human society. This truism has many facets. From a negative perspective, money is used to buy one's way out of non-compliance. The most vulnerable are the lowly-paid environmental officials who, in the spirit of "pakisama" would rather play along, or look the other way, than play hero in a time and under circumstances where bureaucratic heroes are either transferred, demoted or sued with harassment suits. Similarly, an otherwise attractive program that is without a viable and sustainable means of funding will be met with resistance both from the bureaucracy, the target group/beneficiary, and even from the public. Conversely, where financing can be readily secured on beneficial or concessionary terms, the serious ground for objection is removed.

The general options available to government are as follows:

- a) Government-financed: Government extends all the funds for outright grants to small and medium scale industries. While allowed by section 57 of the Philippine Environment Code, this is not practically feasible.

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- b) BOT: Government allows private industry to establish under the Build-Operate-and-Transfer modalities (including build-own-operate, build-transfer-operate, etc.) and require industrial entities to use them.
 - c) REFUND: Government only supervises and creates the condition for industry to cooperate with one another to address their environmental load. The caveat on this is the initial costs of training professional environmental staff to launch and supervise this program, as well as the high and time-consuming initial transaction costs of meetings between industry representatives and environment officials.
 - d) Others: Self-financed individual environmental management systems, foreign soft loans, foreign grants, etc.

The foregoing are not mutually exclusive. A combination or the options may be formulated and a sound financial package developed to suit the needs of a particular industry sector. Thus, in the case of a toxic and hazardous waste facility, a highly capital-intensive facility, an outright Build-Operate-and-Transfer mode of financing and operation. Adopting the socio-culturally sensitive approach, the cooperation of the waste generators, transporters, and disposers will be secured to ensure proper compliance. They can even undertake the construction and operation of the waste facility on their own through the Build-Operate-and-Own mode. With piggery operators, for example, a REFUND concept may be appropriate to finance a waste treatment/bio-gas facility with minimal outright grants from government for technical assistance. With all the waste from piggeries for example flowing into the Bulacan River (near Metro Manila) and ultimately into Manila Bay, they can form a cooperative whereby the septage can be stored in a common facility and its methane discharges be converted to electrical power. Parenthetically, this method is particularly suitable to "night soil" collectors which presently indiscriminately and surreptitiously dump said "soil" into open canals and waterways. Because methane is a greenhouse gas, the availability of foreign grants from sources such as the Global Environmental Facility cannot be discounted. In sum, waste stream groups must be closely examined for appropriate/case-specific financial packaging.

8 PREPARATORY GROUNDWORK

Various legal, administrative, political and enforcement preparations need to be undertaken to lay the groundwork for this compliance program. These are conditions precedent to:

- a) Build internal capacity of the Department of Environment and Natural Resources to undertake a proactive and unprecedented system of environmental governance;
- b) Ease the path of possible political misunderstandings;
- c) Provide legal and fiscal authority in the absence of specific legal enactments allowing the same;
- d) Strengthen the enforcement and prosecutorial team for the residual power to deliver swift, picture-perfect, painful and public justice.

8.1 Legal

The Philippine environmental laws are of 1970's vintage. While broad in scope, it does not reflect the current thinking on market-based incentives, environmental tax/user fees, etc. and relies on strictly command-and-control approaches. Relying on Congress to amend, revise or recodify these laws has, over the last 10 years of Congress' existence, proven to be a singularly elusive. Other priorities take precedence. It is the challenge of policy-makers and implementors, however, to "satisfice" — to be satisfied with the present sacrifice of inadequate legal authority. Law begins with desire. If the desire to achieve a particular goal exists, it is the role of creative lawyering to provide the legal basis.

Providing for the legal basis gives some level of comfort to all concerned parties — the Secretary, the staff, industry players, and other actors — against legal challenges to the program, personal harassment suits, partisan political investigations, and reckless criticism.

Two particular activities need legal justification: a) The REFUND Mechanism; b) Phased-in Compliance Approach.

With respect to the REFUND mechanism, points that need to be clarified with the Departments of Justice and of Finance are, among others, a) the levy or imposition of an environmental user fee. While this can be justified as a form of penalty, the use of the term and concept of penalty is to be avoided because it connotes punishment (thus immediately creating an adversarial atmosphere), and because penalties are remitted to government coffers and goes into a general fund; b) allowing industry to hold the funds collected under the scheme and self-appropriating it for earmarked environmental management objectives.

Fortunately, there is a one-sentence provision in Section 57 of the Environment Code that allows government to provide for grants and incentives for small and medium scale enterprises and local government units. Imaginatively interpreting this provision, its meaning can be extended to justify the REFUND scheme as a way by which incentives can be afforded to the small and medium scale enterprises given the fact that Government is not in a position to dispense outright grants. It can therefore be argued that this is a mode of self-help incentive mechanism pursuant to the Constitutional principle of "people empowerment." Procedurally, this legal "cover" can be facilitated by a top-level discussion between the President and the Secretaries of Environment, Justice and Finance, followed by a request for an opinion from the Secretary of the Department of Environment and Natural Resources. To further expedite and provide the necessary parameters for the opinion, the Department of Environment and Natural Resources can provide for a draft of the requested legal opinion. In order not to isolate the legal counsel of government agencies, i.e. the Office of the Solicitor General (OSG), said office can also be brought on board. In this manner they will know the legal justification in case a judicial challenge is brought against the scheme.

Under the rubric of "incentives-provision", the justification for phased-in/staggered compliance can be made. It can also be justified on broader grounds of public policy, i.e. avoiding employment dislocations, economic disruption and provide for a participative form of democratic governance. It is also justified on the ground of the economic realities in the country. The legal mechanism of "variances" can thus be adopted. An Executive Order declaring this as a public policy may be promulgated.

8.2 Political Backstopping

Even absent a legal challenge, Congressional representatives who are not in the loop of information can misunderstand the program and subject it to numerous and paralyzing investigations under the cover of its being "in-aid-of-legislation." It is therefore necessary for the Secretary to make personal contact with the Chairs, Vice-Chairs and influential members of the

Congressional Committees on Environment, Natural Resources, and Good Government in both chambers of Congress, i.e. the House of Representatives and the Senate. Two items can be discussed with them a) a suggested provision for amendment to the present Philippine Environment Code providing in more specific terms for the authority of the Department of Environment and Natural Resources to develop market-based instruments, which amendments can be jointly “authored by them” (thus giving them political credit and mileage); and b) to enlist their preliminary support for the program pending its “legalization” by legislative enactment.

The due importance accorded to the legislators in this consultation process will pay back manyfold in political goodwill, increased budgets, understanding and non-criticizing legislators, and general cooperation by the concerned members of Congress. It may be noted that the Committee on Good Government is included. This Committee often conducts investigations of graft and corruption for even the flimsy and baseless allegations. It is “powerful” precisely because of this discretion to investigate. Well-built careers have often been destroyed because a member of the Committee on Good Government caused the investigation of a certain issue, under the glare of media spotlights and the protective mantle of parliamentary privilege. Ultimately these investigations show nothing, and after the spotlights are gone, no report nor recommendation is prepared for the simple reason that the accusation was unfounded in the first place. In the meantime, the program has been paralyzed by wanton subpoenas and good people exposed to the media as having been “investigated for graft and corruption”.

The importance of bi-partisan political alliances must therefore be properly addressed.

8.3 Administrative

Underlying this effort is the assumption that a well-trained staff within the Department of Environment and Natural Resources can carry it out. Various matters need to be addressed, among them that a full-time staff is sufficiently skilled in negotiations to consummate the environmental agreements, to coordinate and work with mid-level industry sector representatives, to liaise with mid-level congressional staffers, NGOs and media, to provide transitory leadership or oversight *ex-officio* in the REFUND scheme, and other similar activities. This needs a full complement of about 22 persons consisting of 12 professionals, 8 technical and support staff.

In the theory of professionalization of inspectors, these people must be “professionalized” with training in negotiations and on the other aspects of program requirements. Their principal task is to provide a detailed management program.

It is also important to utilize all present resources for the technical requirements of monitoring and verification. The laboratory equipment necessary at the outset of the project will need only those required by the identified waste streams to be addressed, e.g. BOD.

8.4 Enforcement and Prosecutorial Capability

Lest forbearance be misconstrued for softness and the project fall into the pit of negotiated non-compliance, the monitoring, enforcement and prosecutorial capabilities must be strengthened. While this can be done quietly in order not to create an adversarial attitude in the negotiations, the effort must be taken to sufficiently create a well-placed leak of the information, with hyperbolic amplifications if necessary, to create a sense among the regulated of the seriousness of the effort and of the readiness and willingness of the Government (the Secretary) to pursue the goal. The perception of determination is necessary to strike a strong sense of fear of the consequences of serious behavioral deviation.

In the natural resources protection effort, specifically in the intensive anti-illegal logging campaign executed between 1992-1995, very productive institutional linkages were created between the Department of Environment and Natural Resources on the one hand and the DOJ, NBI, OSG, and the Philippine National Police on the other. These linkages developed a corps of incorruptible and dedicated high-level officials who waged daring battles against powerful adversaries. Maintaining and improving institutional and personal linkages as well as further exposure to training and detection of industrial environmental law violations will sufficiently sensitize them to the legal and factual issues in this operational area.

While the Philippine pollution control law (Pres. Decree 984) presently provides for a criminal sanction, its efficacy has not been fully tested. If at all the hammer of law enforcement must be used, however residually, the blow should be directed to the highest-ranking responsible officials in a manner that is swift, painful and public. This is to maximize the deterrence value of the enforcement action.

9 ENVIRONMENTAL AGREEMENTS

The regulatory structure of Environmental Law always followed the vertical flow. An order is issued by the Environmental Agency and disseminated to the regulated. While there is some consultation in the preparation of these regulations, it ends right there after promulgation of the order. Hardly any consultation and discussion is held on the most important part of legislation — the implementation. The movement to “horizontalize” implementation is growing. This is in the form of Environmental Agreements.

Environmental agreements have been increasingly used by governments and industry in the spirit of cooperation. Also called covenants or declarations of intent depending upon the binding effect of these agreements, they are used either as a stop-gap measure pending legislation or as a mode of compliance by which industry and government arrive at an agreement for staggered or phased-in implementation program. They also serve to reduce the volume of regulatory requirements and allow industry to adopt a proactive attitude of ecological self-organization to customize cost-effective technological solutions for their respective sectors. In addition, it creates a transparent process by which industry can be effectively monitored, by others and by themselves. It seeks to involve and engage the concerned levels of industrial society in the spirit of shared responsibility and enlarge social support for policy measures.¹⁵ On the part of industry, their incentive to join and actively participate in this process is the prospect of reduced bureaucratic interference. Furthermore, industry is allowed to prescribe for itself the most appropriate technology to address their waste streams within a realistic time frame and given their available resources.

In the context of the proposed socio-cultural approach to compliance, it opens up the avenue whereby problems are discussed openly and consultations held between the regulated and the regulator and mutually acceptable solutions are arrived at (“pinag-uusapan”). Furthermore, the face-to-face discussions afford the opportunity for the personalistic and the “face” value traditions to play out extensively. The occasion for informal discussions between government and industry representatives, and even NGOs, makes for the establishment of personal ties, a cherished value in Filipino, and in Asian culture for that matter (‘tayo-tayo’). This is an established technique even in the negotiation of the most difficult international environmental conventions. The informality breeds trust and confidence among the actors. Unlike in formal negotiations where “positions” are negotiated, informal discussions facilitates the communication of interests which interests are definitely easier to address than often

inflexible positions. Yet, because of the transparency, and the preparatory agreement in principle between the CEO/Chairs and the Department of Environment and Natural Resources Secretary, each side of mid-level managers and environmental staff that they are being monitored on the outcomes of the negotiation. “Regulatory capture”, i.e. of the regulator captured in its sentiments and attitude by the regulated, is therefore remote.

A word need be said about the face value being allowed to come into play. Once an agreement is reached by mid-level management, and ratified by the top-level officialdom, renegeing on commitments becomes a social anathema. Especially when the agreement is multi-party as in members of an industry sub-sector, the “pakisama” and “hiya” values become the over-riding considerations. In Asia, to lose one’s face is a sanction of a higher order and of more painful consequences than of legal sanction. It may also be noted that the shame attendant to losing one’s face affects not only one’s personal self but also to members of his family.

Environmental agreements have become a major policy instrument in the Netherlands and Japan.¹⁶ Even in the Unites States and Germany, known for their strict environmental standards and copious environmental regulations, environmental agreements have increasingly played a role as an instrument of dispute settlement between industry on the one hand and the surrounding community or the central state agencies on the other.¹⁷

9.1 Guidelines for the Preparation of Environmental Agreements¹⁸

The following will outline and discuss the different indicative components that an environmental agreement must contain:

9.1.1 Preamble of Principles

The general objectives of the agreement are here stated, *inter alia*:

- Expression of the mutual desire for cooperation between industry and government in reducing the environmental load of the industrial sector concerned.
- Industry takes responsibility for, and assuming a proactive role in, reducing its environmental load in the spirit of stakeholder empowerment
- Government’s expression of trust that industry will be a socially responsible corporate citizen and fulfill its role for the sustainable development of the country
- Need to set definite and verifiable reduction targets and transparent monitoring verifiable standards.
- Industry’s expression of confidence that Government will take all efforts to achieve a consistent environmental policy.

9.1.2 Parties

The First Party

The parties must be clearly identified. The First Party would be the government, specifically the Department of Environment and Natural Resources represented by its incumbent Secretary. Where however, there are other agencies involved, it is appropriate that they too be made party to the Agreement. Where involvement is tangential, attenuated or symbolic, they may be made witnesses to the Agreement. When, for example, the Agreement relates to the reduction of agro-industrial wastes discharged into the Laguna de Bay from piggeries, the Laguna Lake Development Authority (LLDA) is a necessary party to the agreement. Another necessary party or parties are the local government units (LGUs) where the industry is located.

Its proximity to the industrial concern, coupled with its inherent constitutional police powers, makes it in the best position to monitor the progress of the industry's commitments. Indeed, to by-pass them would be a serious political blunder. With the changes in the person occupying the office of the town's chief executive, it is necessary to monitor political developments in order to create the necessary linkage with whomever shall later be elected to said office.

In the case of a piggery, the Department of Agriculture, specifically the Bureau of Animal Industry and the Department of Health, are tangentially involved. For the purpose of establishing participative political perceptions, their respective Bureau Directors may be included as witnesses. However, where the design for collection of environmental charges are directly linked to the water use of the industry, the waterworks/ water supply authority is a necessary party.

Permutations of agency involvement can be multiplied. The general guideline may be summarized as "inclusion", if only symbolically, and "not exclusion and isolation."

The Second Party

Depending upon the level of the sector's integration, an industry sector or sub-sector association may already be in existence and functioning. It is best to discuss, negotiate, transact and conclude an agreement directly with them to minimize the transaction costs. Again, this will depend upon the level of unity and sophistication of the industry association. However, even if the industry association is the negotiating party, all the individual industrial firms must be duly represented and must execute for and in behalf of their respective companies. This will institute individual accountability.

Other Parties

As appropriate and to promote transparency, it may be possible to include responsible community organizations and NGOs, with an established track record, in the agreement as a witness. While the agreement will not unduly saddle it with any monitoring function, the mere presence and knowledge that an NGO may be looking over the shoulders of the parties is sufficient to promote the purpose of oversight and create transparency, in addition to lending credibility to the exercise.

9.1.3 Declarations and Covenants

The agreement, being in the form of a contract, must provide for a sections concerning

- a. Definition of terms — this avoids misunderstanding, confusions and ambiguities on the meanings of terms that can give rise to contentious interpretations and counter-interpretations
- b. Quantified Objectives — not only facilitates monitoring and verification, it also presents a measure of certainty as to the contribution a sector or an establishment is making toward the overall target for environmental quality improvement. Great care must be taken to avoid unclear quantification measures. Both the baseline and goal must be established, e.g. present rate of discharge and objective rate of discharge after (say) 3 years with intermediate goals.
- c. Staged Approach — Realizing that industry may not be in a position to immediately comply with the regulatory standards, a staged approach may be adopted whereby industry establishes intermediate and quantifiable objectives ("milestones"), which on the one hand compels it to undertake the measures agreed upon, and on the other, facilitates the monitoring of the environmental improvements.

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- d. **Monitoring Mechanism** — Self-monitoring may be allowed whereby industry submits to the Parties the periodic results of its self-testing. On the part of government however, it should begin to take serious efforts to verify self-monitored reports and strengthen prosecutorial capabilities for deliberate and fraudulent reports.
 - e. **Transparency** — the monitoring reports must be available to the public. For which reason these reports must be reliable and faithful as they will be the bedrock of the implementation system. From the perspective both the company and the government, this can be viewed positively. From the point of view of the company, it can allow the public to perceive its compliance of the phased/staged implementation as being socially and environmentally responsible. For the government, it monitoring much easier. Moreover, the public scrutiny to which these reports may be subjected creates an additional incentive for industry to endeavor best efforts.
 - f. **Independent Verification of Results** — A system for independent verification may be instituted. This is especially necessary in consideration of the other firms that may need to prevent the undue disclosure of business secrets or manufacturing processes. An institution of higher learning, such as university laboratories, may be tapped to assist in the independent verification of results. The government must however take the lead in these verification inspections.
 - g. **Financing Options**. A menu of financing options may be outlined in the agreement, e.g. self-financed, Build Operate and Transfer (BOT) modalities, government subsidy/joint venture, foreign funding or a cooperative model of the Revolving Door Environmental Fund (REFUND) Mechanism.
 - h. **Consultative/Working Group**. This small working group, consisting of representatives from the Government and the industry sector concerned, shall be the continuing nexus of the two parties and implement the terms of the agreement. It shall also be responsible for the necessary policy or regulatory recommendations and adjustments. In order to prevent cultural/fraternal “capture” of the government representative, the design must be such that the balance is equal, i.e. the number of government representatives must be equal to the number of industry representatives, and the total number of persons comprising the Consultative Group be preferably small so as to facilitate the convening of meetings and exchange of information. The group may also include ex-officio membership by a responsible non-government organization.
 - i. **Guarantees of Compliance**. While the phased-in compliance approach may be adopted and assistance may be rendered in the facilitation of permits, this is not to be construed that government relinquishes its enforcement powers. A serious and unjustified deviation (e.g. beyond 20% variance) can justify the deployment of the enforcement apparatus against the industrial entity concerned.

10 CONCLUSION

Developing countries, struggling with the dual imperatives of economics and environmental need not emulate at the first instance the highly regulatory and legalistic approaches used by the more industrialized and less culturally-homogenous societies. Realizing that law is only one of the tools for behavioral change, a student of environmental compliance should examine other social and cultural influences that strongly affect the conduct of the law's target market (a.k.a. consumers of the law). Often these socio-cultural characteristics are used to subvert and undermine legal enforcement. It is then the ultimate challenge of creative enforcement to identify them, and imaginatively utilize them in and under culturally-appropriate conditions and circumstances.

Among the powerful motivating factors in Filipino culture is the "pakisama" (personalism/getting along with others) and the "hiya" (shame). This study sketches the environmental dimensions of these cultural traits, and seeks transform them into influences that will prompt and maintain compliance with environmental law. It is the premise of this narrative that while this approach may have high up-front transaction costs, it will ultimately be much more cost-efficient in the long run, and will promote a more harmonious relationship between the regulator and the regulated.

The use of Ecological Agreements as a policy instrument for compliance is also explored. It may be said that this is an attempt to de-legalize environmental regulation in that it is a form of promoting "compliance without enforcement" by affording industry to adopt a staged/phased-in achievement of the standard. At the same time however, it is a form of "legalized delegalization"¹⁹ in that the agreements are binding and may be judicially enforceable. To recall, the use of these ecological contracts are as tools of compliance or as bridges to voluntary standards where there are as yet none.

In the end, environmental enforcement and compliance is not a simple question reducible into the Dostoyevskian equation of crime and punishment. Rather, it proceeds from the assumption of good faith on the part of industry, i.e. if given the chance between complying and not complying with the law, industry will, pursuant to the dictates of "enlightened self-interest" will exert its utmost best to comply. True, industry may be an amoral calculator and profit-maximizing actor. But when faced with the choice of expensive non-compliance versus cost-efficient compliance, the absence of alternatives begins to clear the mind marvelously. The principal role of government is therefore not as a policeman lurking in the bushes to spring in ambush only when sight of a jaywalking pedestrian emerges. Not only is this expensive, it also does not promote social and political maturity. Rather, government's role is as a *bonus paterfamilias*. Seeing some of his children-citizens fall out of line, he calls them to a meeting to guide them on the proper conduct, and thereafter provide oversight.

Human psychology is reciprocally anticipative. When measured trust is given, especially to an intelligent sector, one may reasonably anticipate a reciprocal fulfillment of that trust, by most of the actors most of the time. However, lest trust be abused and mistaken for weakness, the good father of the family should, of course, always retain and be ready to use the residual power of the rod.

ENDNOTES

1. Citation from Industrial Environment Management Project — World Bank Study in the Philippines.

2. The imposition of a fine is a deprivation of property in the form of money.
3. Hazard, Geoffrey Jr., *Ethics is the Practice of Law*, 137 (1978).
4. By "Legal Target Market" is meant the sector of people whose behavior the law seeks to positively adjust. It will be used in varying contexts in this paper.
5. "Good parents of the family" of citizens.
6. In November 1991, a flashflood in the City of Ormoc in the mid-eastern part of the Philippines, resulted in the deaths of about 5,000 people in a matter of minutes. Constant floods in other parts of the country brought about by the regular typhoons repeatedly bring the issue of deforestation and consequential flooding to the public attention of the public.
7. Church, Thomas, Nakamura, Robert, Cooper, Phillip, *What Works? Alternatives Strategies for Superfund Cleanups*, Rockefeller College of Public Affairs and Policy, State University of New York at Albany, 110 (1991).
8. Bardach, Eugene and Kagan, Robert, *Going by the Book, the Problem of Unreasonableness*, 123-124 (1982).
9. Church, *supra*, note at 7, 75-77.
10. *Id* at 76.
11. *Id* at 81.
12. The term "Target Group" shall mean the concerned sector of industry which behavior is sought to be modified.
13. The PBE is a young and credible non-profit Foundation composed of environmentally-conscious industry representatives.
14. Unless otherwise indicated, Secretary shall mean the Secretary of the Department of Environment.
15. *Ecological Covenants: Regulatory Informality in Dutch Waste Reduction Policy*, in *Environmental Law and Ecological Responsibility: The Concept of Practice and Ecological Self-Organization*, Gunther Teubner, Lindsay Farmer and Declan Murphy, (eds), 1994, 186.
16. Yamaouchi, Kazuo and Otsubo, Kiyoharu, *Agreements on Pollution Prevention: Overview and One Example*, In *Environmental Policy in Japan*, 1987, 221; cited by Eckard Reh binder, *Ecological Contracts: Agreements between Polluters and Local Communities*, in *Environmental Law and Ecological Responsibility*, *id* (1994) at 151
17. Reh binder, Eckard, *id.* at 148 and 156.(1994)
18. These guidelines have been distilled from the materials of the Ministry of Housing, Spatial Planning and Environment (VROM) of the Government of Netherlands in part prepared by Kees Bastmeijer, Senior Legal Officer in the Legal Policy Affairs Division of the Directorate-General, April 1996.
19. Reh binder, Eckard, *Ecological Contract: Agreements between Polluters and Local Communities*, *Environmental Law and Ecological Responsibility: The Concept and Practice of Ecological Self-Organization*, G. Teubner, L. Farmer and D. Murphy, eds., 149 (1994).

