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The Youth's Role in Reconciling Development and Environmental Sustainability

University of the East

KLIMAndirigma: Youth in Action on Climate Change

05 March 2022



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Outline of Lecture

- ❖ Environmental Rights: Legal and Institutional Framework
- ❖ Development and Environment Protection
- ❖ Energy Transition and Digital Transformation
- ❖ Environment, Social, and Governance
- ❖ Youth's Role in Environmental Protection
- ❖ Summary



ENVIRONMENTAL RIGHTS LEGAL AND INSTITUTIONAL FRAMEWORK

- Constitution
- Environmental laws
- Environmental jurisprudence
- DENR/EMB Issuances
- Environmental treaties
- Human rights treaties



CONSTITUTION

- The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature.
- Regalian doctrine - All lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, fisheries, forests or timber, wildlife, flora and fauna, and other natural resources are owned by the State. The exploration, development and utilization of these natural resources are under the full control and supervision of the State.

THE 1987 PHILIPPINE CONSTITUTION



IMPORTANT LAWS RELATED TO RESOURCES DEVELOPMENT

- Indigenous Peoples Rights Act (“IPRA”) <https://www.officialgazette.gov.ph/1997/10/29/republic-act-no-8371/>
- Environmental Impact Statement (“EIS”) System <http://eia.emb.gov.ph/wp-content/uploads/2016/06/PD-1586.pdf>
- Local Government Code of 1991 <https://www.officialgazette.gov.ph/downloads/1991/10oct/19911010-RA-7160-CCA.pdf>
- National Integrated Protected Areas System Act (“NIPAS”) <https://www.officialgazette.gov.ph/1992/06/01/republic-act-no-7586/>
- Forestry Code <https://www.informeia.org/en/legislation/forestry-reform-code-philippines-presidential-decree-no-705>
- Rules of Procedure for Environmental Cases https://philja.judiciary.gov.ph/files/learning_materials/A.m.No.09-6-8-SC_Rules_of_Procedure_for_Envi_Cases.pdf

INDIGENOUS PEOPLES RIGHTS ACT

- Free and prior informed consent
 - right to self determination, respect for IP decision-making process, right to accept or reject projects located in ancestral domains



LOCAL GOVERNMENT CODE

- Proponents applying for applications intended for development project activities are required to conduct consultation with all LGUs concerned, or the legislative councils (*sanggunian*) at the provincial, city/municipal, and barangay levels
- Issues: local taxation; wastes, emissions and pollution; loss of agricultural land and subsequent livelihood; threat to water resources; relocation and right of way; and health and safety of workers and communities.



ENVIRONMENTAL COMPLIANCE CERTIFICATE

- Project proponents of environmentally critical projects and projects within environmentally critical areas must obtain an environmental compliance certificate prior to commencement

THE BASICS OF ENVIRONMENTAL IMPACT ASSESSMENT
A PLANNING TOOL FOR ENVIRONMENTALLY SOUND DEVELOPMENT

What's an EIA?
An **ENVIRONMENTAL IMPACT ASSESSMENT** is a process that involves predicting and evaluating the likely impacts of a project (including cumulative impacts) on the environment throughout the length of the project life from construction, commissioning, operation, to abandonment.

Is your project required to have an ECC?
All persons, partnerships, or corporations planning to undertake or operate a project or area should refer to the Project Thresholds for Coverage Screening and Categorization in Annex A of EMB Memorandum Circular 2014-005. It has a compiled version of the required document types (CNC, IEE Checklist, or EIS) required by specific project categories and their corresponding parameters.
As mandated by Section 4 of RA 10174

GOVERNING POLICY
PD 1586
The Philippine Environmental Impact Statement System

who are involved in EIA?

- Project Proponent (Owner/ EIA Consultant/ EIA Preparer/ Developer)
- EMB Staff
- Review Committee
- Affected communities

Our issued documents

ECC AN ENVIRONMENTAL COMPLIANCE CERTIFICATE

- Is a decision document issued by EMB after a positive review of an ECC Application
- Is a certification that the proponent has complied with the requirements of the EIS System
- Serves as the proponent's commitment to implement the Environmental Management Plan
- Contains specific measures and conditions the proponent has to comply with
- Is issued after submission of the requirements for IEE Checklist or EIS Document

CNC A CERTIFICATE OF NON-COVERAGE

- Certifies that the project is not covered by the EIS System and is NOT required to secure an ECC
- Is not required by EMB but proponents may secure one, if they are required by other government agencies

Where can you start?
You can go to www.emb2-dnr.com to apply online or give us a visit at the DENR-EMB7

Department of Environment and Natural Resources
ENVIRONMENTAL MANAGEMENT BUREAU 7

RULES OF PROCEDURE FOR ENVIRONMENTAL CASES

- Introduced new remedies for the “alleged” violation of environmental laws (April 13, 2010):
 - temporary environmental protection order;
 - writ of continuing mandamus; and
 - Writ of Kalikasan.
- Until the new policies and institutional safeguards are fully in place, the government should strictly apply the **precautionary principle**. The principle is public policy under the Climate Change Act of 2009, and was enunciated by the Supreme Court in issuing the Writ of Kalikasan.



Milestone Environment Cases

- In 1993, Atty. Antonio Oposa Jr. represented 43 Filipino children who initiated an action against the Philippine Government for the misappropriation of the country's forest resources. The SC in *Oposa vs. Factoran* upheld the legal standing and the right of the children to initiate the action on behalf of generations yet unborn - establishing the "Oposa Doctrine" (intergenerational doctrine).
- In *MMDA vs. Concerned Residents of Manila Bay*, the SC ordered eleven government agencies to clean up Manila Bay. The SC held that cleaning or rehabilitation of Manila Bay can be compelled by mandamus.
- Environmentalists defended the rights of marine mammals to a healthful ecology in Tanon Strait preventing a mining company from oil exploration in the Strait in a precedent setting SC decision in 2015. (Resident Marine Mammals of the Protected Seascape Tañon Strait case).
- Environmental advocates also gained (and later extended) a Temporary Environmental Protection Order (TEPO) to stop a local coal power plant from transporting toxic coal combustion residuals outside premises.



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- ❖ **Development and Environment Protection**
- ❖ Energy Transition and Digital Transformation
- ❖ Environment, Social, and Governance
- ❖ Youth's Role in Environmental Protection
- ❖ Conclusion





Development and Environment Protection

- Poverty and development have contributed to environmental degradation in several ways.
- The pursuit of developmental objectives by developing countries usually comes into conflict with the ideals of environmental protection. The relationship that exists between development issues and environmental protection is such that one tends to be achieved at the expense of the other and it is usually the environment that becomes the hapless victim.
- Sustainable development is an approach to economic planning that attempts to foster economic growth while preserving the quality of the environment for future generations.
- Is sustainable development, sustainable economic growth, sustainable communities and a sustainable society compatible with resource extractive industries?



LEGAL REQUIREMENTS FOR DEVELOPMENT PROJECTS

- **Technical and financial qualifications** to engage in development projects;
- **The area being applied for is open and available for development activities** and is not located within any of the areas where operations prohibited;
- **An approved ECC**, showing that the impacts in the area can be mitigated and/or remediated through proper environmental protection measures;
- **An approved Project Feasibility Study**, showing that the project can operate profitably, and can give government a fair share in revenues.
- **The endorsement/approval of the local government units** (Province, Municipality/City, and Barangays) that will be impacted by the proposed activity;
- **The endorsement/approval of the indigenous peoples**, if the area being applied for is within their ancestral domains.



OTHER LAWS RELATED TO RESOURCES DEVELOPMENT

- Ecological Solid Waste Management Act <https://www.officialgazette.gov.ph/2001/01/26/republic-act-no-9003-s-2001/>
- Toxic Substances and Hazardous and Nuclear Wastes Control Act <https://www.officialgazette.gov.ph/1990/10/26/republic-act-no-6969/>
- Clean Air Act <https://emb.gov.ph/wp-content/uploads/2015/09/RA-8749.pdf>
- Clean Water Act <https://emb.gov.ph/wp-content/uploads/2015/09/RA-9275.pdf>
- 1976 Philippine Water Code defines the extent of the rights and obligations of water users <https://www.officialgazette.gov.ph/1976/12/31/presidential-decree-no-1067-s-1976/>
- 1998 Philippine Fisheries Code provides for the sustainable development of fishery and aquatic resources <https://www.officialgazette.gov.ph/1998/02/25/republic-act-no-8550/>
- Pollution Control Law <http://r12.emb.gov.ph/wp-content/uploads/2016/04/presidential-decree-no984.pdf>
- National Environmental User's Fee of 2002 https://mgb.gov.ph/images/stories/DAO_2002-16.pdf
- Palawan Council for Sustainable Development <http://extwprlegs1.fao.org/docs/html/phi19797.htm>
- Incentives granted by the Board of Investments (BOI) pursuant to Executive Order No. 226, otherwise known as the Omnibus Investments Code of 1987 <https://boi.gov.ph/wp-content/uploads/2018/02/EO-226-omnibus-investments-code.pdf>



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Paris, France



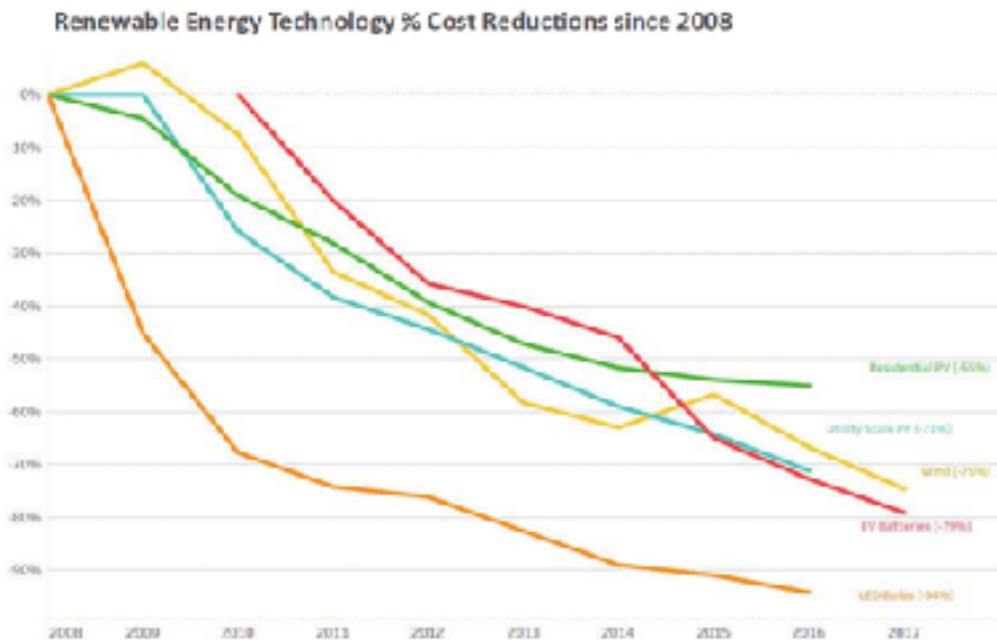
21st Conference of the Parties to the UN 1992 Framework Convention of Climate Change “Paris Agreement”



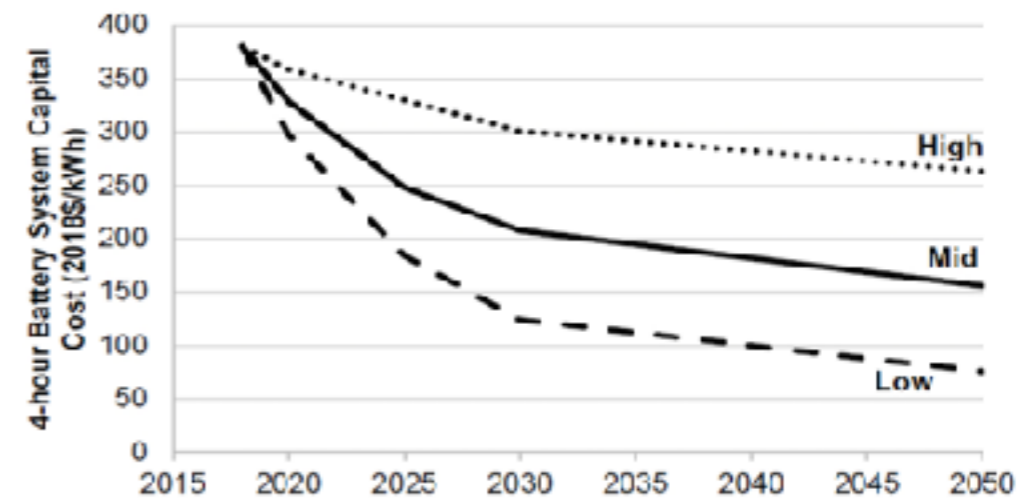


Energy Transition and Digital Transformation

Costs for RE Technologies are Falling



Projected Battery Storage Cost Declines

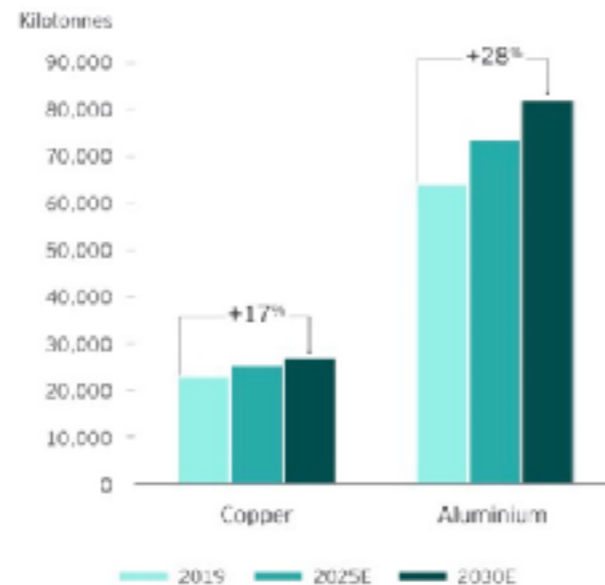


Source: NREL, 2019. Cost Projections for Utility-Scale Battery Storage

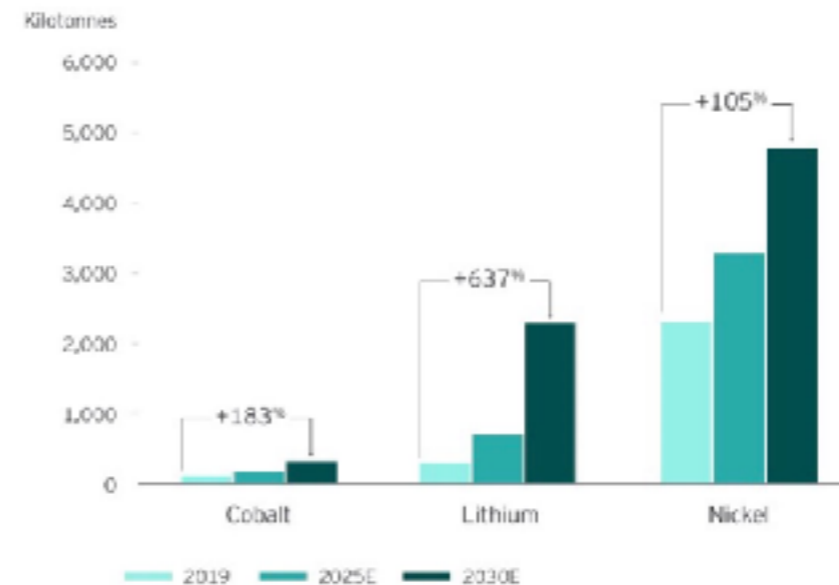
Cost of producing renewable energy has fallen dramatically

Rising commodity demand (kilotonnes)

Copper and aluminium



Battery minerals



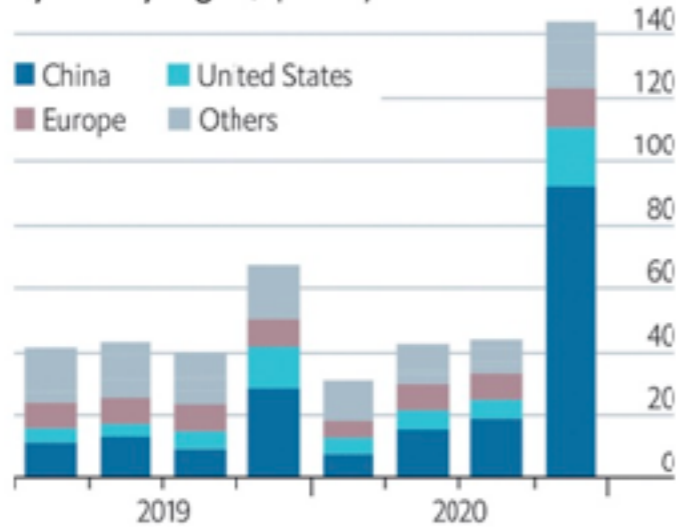
Source: Morgan Stanley; Cochilco; Canaccord Genuity; Perspectives on Cobalt Supply Through 2030 in the Face of Changing Demand (Xincai Fu, et al.)

Production of minerals, such as nickel, lithium and cobalt, could increase by nearly 500% by 2050, to meet the growing demand for clean energy technologies.

Green shoots

World, renewable energy capacity additions, MW

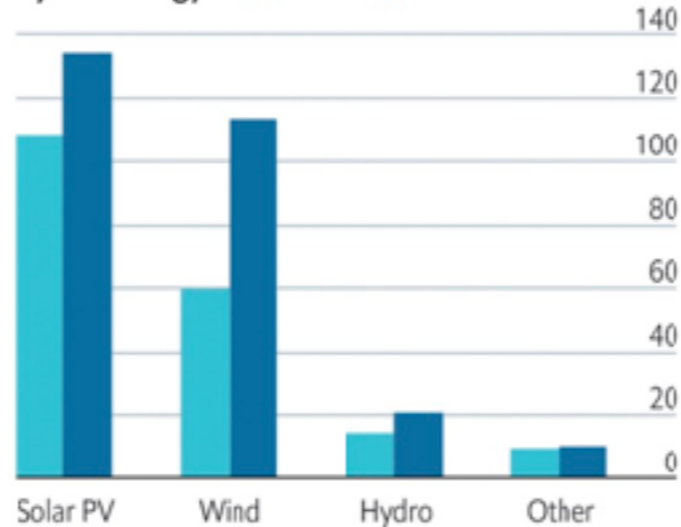
By country/region, quarterly



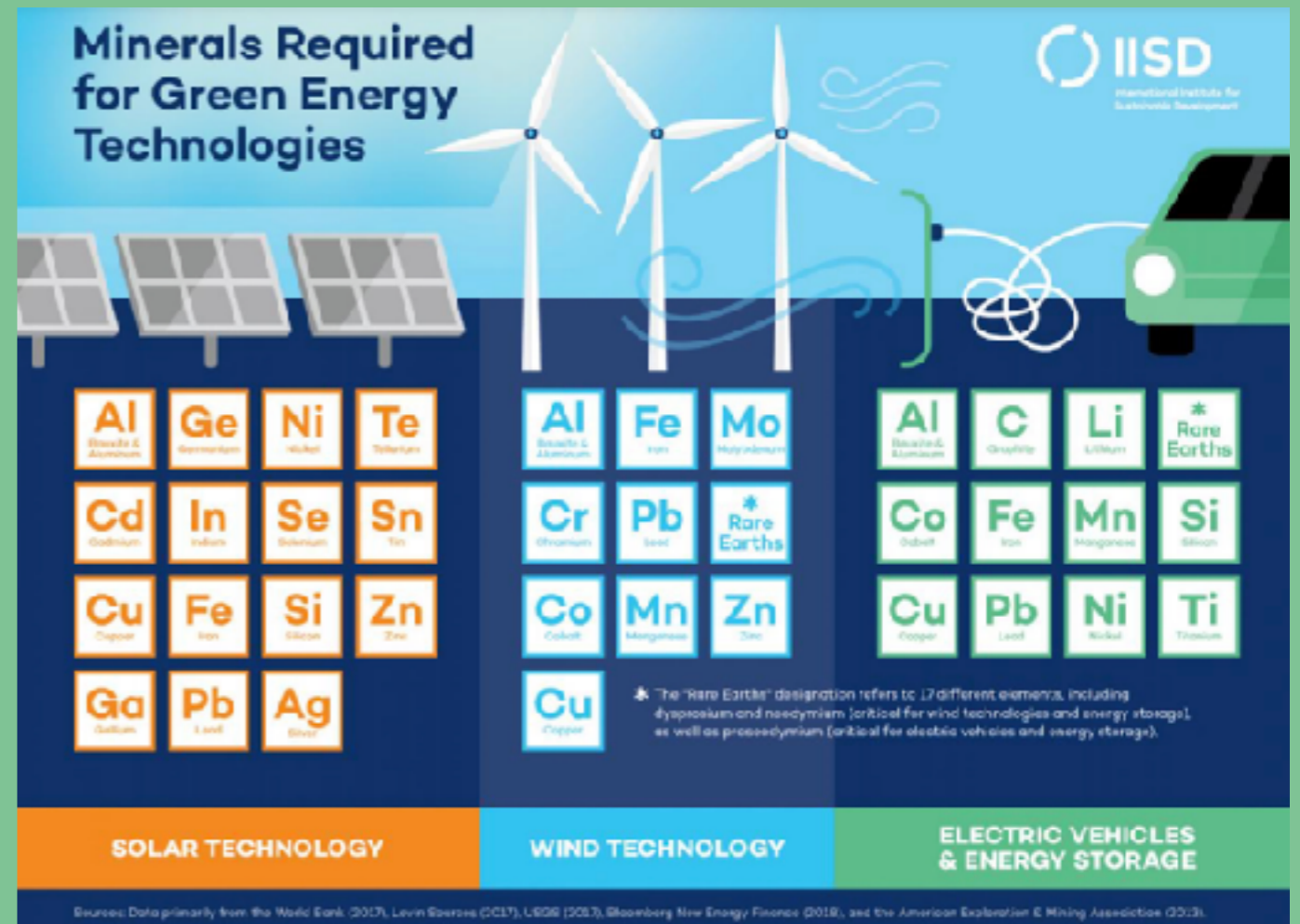
Source: IEA

The Economist

By technology



Over 3 billion tons of minerals and metals will be needed to deploy wind, solar and geothermal power, as well as energy storage, required for achieving a below 2°C future in accordance with Paris Agreement/COP21.



NEW ECONOMY MINERALS

- Digital technologies have resulted in a change in commodity demand for critical minerals such as cobalt, lithium and copper. These minerals are required to manufacture energy conversion and storage equipment needed to supply the renewable energy industry.
- The rise of electric vehicles and the production of an ever-growing variety of high tech and green technologies, from batteries, smart phones and laptops to advanced defense systems have also boosted demand and competition for new world commodities.

 Aircraft engines	 LCD screens
 Computer memory	 Magnets
 Electric car batteries	 Rechargeable batteries
 Fibre optic cables	 Satellite communications
 Fluorescent light	 Speakers
 Guidance systems	 X-Ray, MRI scanners

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- ESG is a set of standards or criteria for a company's operations that investors now use to screen potential investments. Whilst ESG is spoken about as a single concept, it is an amalgamation of three distinct but clearly overlapping disciplines - environmental, social, and governance.
 - ✓ Environmental criteria consider how a company performs as a steward of nature.
 - ✓ Social criteria on the other hand examine how a company manages relationships with host communities, employees, suppliers, and customers.
 - ✓ Lastly, governance criteria deal with a company's leadership, executive pay, audits, accounting systems, internal controls, and shareholder rights. It also includes legal compliance, ethics, anti-bribery and corruption, anti-money laundering, transparency, corporate governance, ethics, compliance, diversity, lobbying, and approach to taxation.





- ESG investing is also referred to as sustainable (or responsible) investing or socially responsible investing. Sustainable investing incorporates ESG criteria in the investment decisions of investors in companies, organizations, or funds.
- Governments and regulators are obviously supportive of ESG criteria.
- Investors, lenders, shareholders, and other stakeholders in the financial industry look into the ESG credentials of companies.
- Financiers — export credit agencies, development finance institutions and commercial lenders, are making sure that borrowers have the appropriate ESG strategy in place for full implementation.
- Insurance providers are becoming more involved in the ESG movement by requiring companies to uphold ESG principles in order to be eligible for insurance policies.
- Stakeholders like government and financial regulators, ESG rating agencies, civil society and advocacy groups, employees, and host communities are increasingly demanding **transparency and performance on ESG** issues more than ever.

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- The participation of youth in environmental protection can be sought at levels and locations ranging from **grass-roots activism and participation in conservation projects to policy-making bodies and NGOs**.
- As more youth grow up in a world characterized by advanced technologies and information sharing, many are harnessing this opportunity to create innovative, sustainable environmental solutions. They are also **taking advantage of the availability and accessibility of information and technology** to engage in all levels of environmental governance.
- Youth have already begun mobilizing their peers on **social media and other online interactions** to discuss, debate and advocate for better environmental protection.

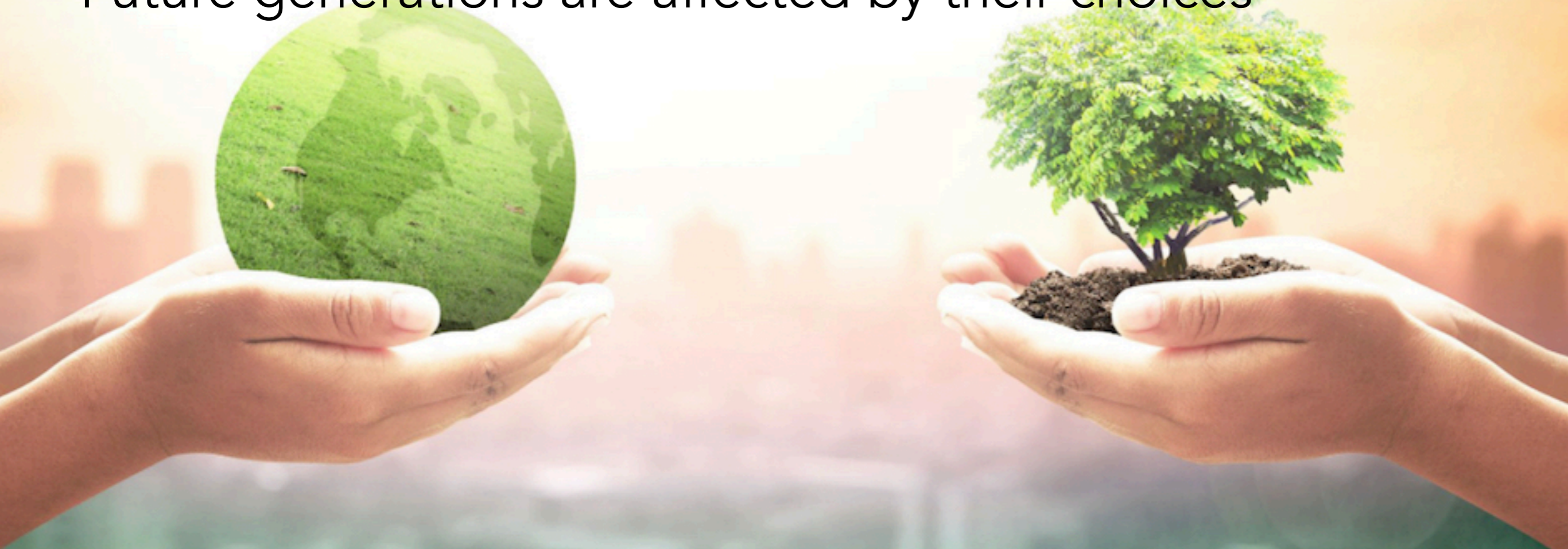
Areas Where Environmental Lawyers Can Practice

- ❖ Environmental Advocacy
- ❖ Policy Making
- ❖ Indigenous People's Rights
- ❖ Mining and Energy
- ❖ Litigation



Lessons for the Youth

- Youth must realize that they are equal partners and torchbearers toward environmental sustainability
- As major component of the world's population, they are the most affected with environmental issues
- Future generations are affected by their choices



For more references on the topic and a copy of the presentation materials, visit my website

penarroyo.com

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I'm a lawyer
experienced in risk
mitigation and
business development.

Look around and learn more about my professional blog. Take a moment to comment or we can sit down to discuss mutually interesting matters.

Conclusion

- ❖ There is no single path that will prepare you for a legal education. Students who are successful in law school, and who become accomplished professionals, come from many walks of life and educational backgrounds.
- ❖ For progress, growth, and success in the future, every lawyer should prepare themselves and learn to adopt technology and become future-ready.

