

SESSION 1 DISCUSSANT: EXTENDING EPR'S REACH TO MEET ENVIRONMENTAL AND CLIMATE JUSTICE CHALLENGES IN A CIRCULAR ECONOMY WORLD

By: Atty. Gregorio Rafael P. Bueta

Adjunct Faculty Member, Ateneo de Manila University School of Law, Philippines

Resilient and Sustainable Future for All: Promoting Circular Economy through Responsible Consumption and Production

Asian Institute of Management and via Zoom

17 May 2023

Outline of Discussion

- PH Legal and Policy Frameworks on Circular Economy

- *From* Bueta, G.R.P. ***Circular Economy Policy Initiatives and Experiences in the Philippines: Lessons for Asia Pacific and Beyond***, in Prospects for Transitioning from a Linear to Circular Economy in Developing Asia, ADBI 2022 (<https://www.adb.org/sites/default/files/publication/774936/adbi-transitioning-linear-circular-economy-developing-asia-web.pdf>)

- EPR Options for Plastic Packaging

- *From* GIZ, EPR Options for Plastic Packaging in the Philippines, October 2022 (<https://rethinkingplastics.eu/downloads/200-philippines-epr-options-for-packaging-in-the-philippines-report>)

- Recommending a 4Ps Approach to Addressing Marine Pollution from an Environmental Justice Perspective

- *Forthcoming* ADBI paper (presented in February 2023, University of Wollongong, NSW, Australia)

- Conclusion: Will EPR bring a circular economy within reach in the Philippines?



PH Legal and Policy Frameworks on Circular Economy

Legal and Policy Frameworks in Circular Economy

- Currently *no integrated circular economy strategy or policy framework* in the Philippines
 - BUT: general waste management laws and policies directly and/or indirectly relate to circular economy concepts and approaches
- Since 2010, a total of 415 bills and resolutions have been filed in the Philippine Congress relating to various aspects of the circular economy (July 2010 to January 2022)
 - Only one of these measures have translated into a binding law or policy - the EPR Act of 2022

Analysis of Trends in Legal Frameworks

- Current and existing laws and policies provide adequate justification to push for specific circular economy policies
- Piecemeal and ad-hoc approach to addressing waste management issues and promoting a circular economy
- Proposals tend to be reactive to “flavor of the times”
- There is a lack of follow-through on proposals
- Save for EPR, no serious push for circular economy law and policy in the past decade

Lessons and Policy Recommendations

- Have a **plan, a blueprint, or strategy** in place – for the long run
- **Proper and effective enforcement of waste management** and other environmental laws is crucial
- Not just a whole of government, but **a whole of society approach** is needed
- A policy shift alongside **a cultural and societal shift**
- Take note of **other critical issues** that can bog down reforms
 - Other critical issues can derail CE efforts
 - Jobs and informal waste sector
 - Added costs to consumers - who shoulders CE cost? Impact on consumer prices

A hand wearing a black wristband points with a black pen at a colorful map spread on a table. To the right, a vintage-style camera with a black strap sits on the map. In the foreground, a person's hands are visible, one holding a white pen over an open notebook. The scene is dimly lit, suggesting an indoor setting like a travel agency or a study.

EPR Options for Plastic Packaging

Analysis of PH Legal and Policy Landscape

- Strengths

- Framework provides for the **policy and institutional “backbone” or foundation for an EPR system**
- **Increasing awareness and understanding of EPR among various stakeholders**
- **Different solutions being explored and offered – ranging from using new and innovative technologies to community-based schemes and programs**

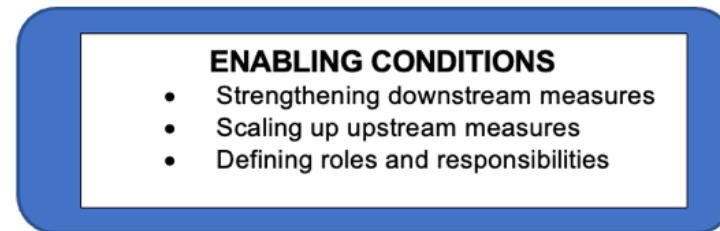
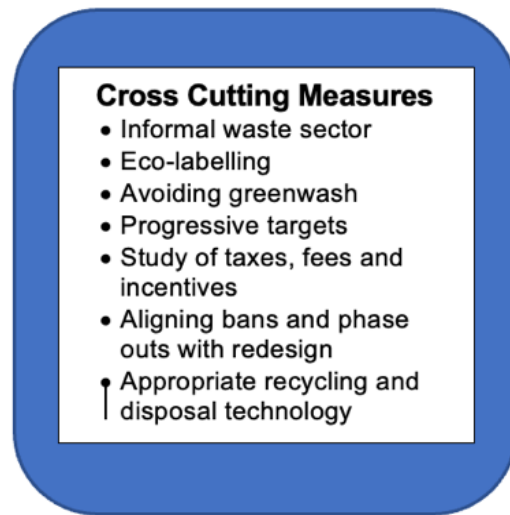
- Weaknesses

- **Poor implementation and enforcement of waste management laws**
- **Lack of coherence in national policies and programs** which impact the environment sector.

Analysis of PH Legal and Policy Landscape

- Opportunities
 - **Broad awareness and consciousness of the plastic crisis, along with EPR as one of the viable solutions**
 - **Rising private sector support can also be harnessed towards EPR success**
- Threats
 - **Lack of, or waning political will to push for the system despite the mandatory law**
 - **Gaps in the current waste management system, and some specifics for the EPR system will need to be identified by policy makers**

EPR Options for Packaging Recommendations



EPR OPTIONS						
Taxes and Municipal Fees	Incentives	Product Redesign	Bans and Phase Outs	Collection, Reduction and Recycling Targets	Processing and Disposal Facilities and Technology	Voluntary Mechanisms

Recommending a 4Ps Approach to Addressing Marine Pollution from an Environmental Justice Perspective



Analysis and Observations

- Across APAC, there is **near unanimous agreement that marine pollution is a critical issue that needs to be urgently addressed**
- **The 3Ps – policy, processes, and pricing – are evident in the legal frameworks** which have been surveyed
- Relevant to a rights-based approach, in general **the main duty-bearers are states and governments, with some strong emphasis on the role of business and private sector stakeholders**
- **A clear lack of consideration or emphasis on the environmental justice aspect of marine pollution**, and even in discussions of the blue economy
- **Lack of any specific target or goal** which directly benefit the vulnerable and marginalized segments of society

Recommending a 4Ps Approach to Addressing Marine Pollution from an Environmental Justice Perspective

- a 4Ps approach – that is policies, processes, pricing, and **people**
 - achieve a synergistic intersection between marine pollution and environmental justice considerations
 - to re-focus the blue economy and marine pollution efforts to ensure that environmental justice goals are also achieved alongside the blue economy and ocean equity
 - ensuring the protection and promotion of the right to a clean and healthy environment for all peoples, especially those at the margins.

Recommending a 4Ps Approach to Addressing Marine Pollution from an Environmental Justice Perspective

- Explicitly **include the concept, language, and terminologies** relevant to environmental justice in laws, policies, plans and programs.
- Ensure **greater representation** of the vulnerable and marginalized sectors in treaty negotiations, drafting laws and policies; and including them in the implementation, review and evaluation processes.
 - in a meaningful and inclusive participatory process and approach.
- Elaborate and identify **specific goals and targets** which benefit the vulnerable and marginalized members of society.

Recommending a 4Ps Approach to Addressing Marine Pollution from an Environmental Justice Perspective

- Ensure a **rights-based approach** in the implementation of processes and pricing
 - Consider sectoral impacts of sea-based litter
- Provide the **needed technical, financial support** for environmental justice-related initiatives; ensure access to justice, information, and participation in decision-making processes.
 - Capacity building activities and support for environmental-justice sensitivity of duty bearers



Conclusion: Will EPR bring a circular economy within reach in the Philippines?

EPR One of the Tools in the “Arsenal” To Achieve a Circular Economy

- A positive step in the right direction
 - A **starting point** – for a cultural and societal shift on waste management
 - An **opportunity** – for producers to be more responsible and sustainable, and for technological innovation and ingenuity to shine through
 - A **challenge** – to improve overall waste management
- BUT - **EPR is not a “magic bullet”** to solve our waste management problems
 - One of the many tools which need to be used together with other options



What needs to be done?

- Improve overall waste management
 - Enforcement and implementation of RA 9003 – segregate, collect, proper transport, MRFs, SLFs, and penalize violators
 - Identification of more NEAPs under RA 9003
- A whole-of-society approach
 - EPR makes producers primarily responsible (i.e., schemes and programs), but citizens/customers and even the government has a role to play
- Clear implementation guidelines for EPR
 - Data collection on obliged entities
 - IEC campaigns for compliance of OEs and general public
 - Rules for certification, audits, appropriate technologies
 - Develop market strategies and mechanisms for recycling – putting value on waste

What needs to be done?

- Not simply diversion – but recycling targets
 - Collecting and landfilling is not enough
 - Need for mandatory recycling targets
- Equal effort at reduction of consumption
 - SUP bans and regulating/limiting plastics in use
 - Change in consumption patterns to influence production, vice-versa
 - Mandatory upstream measures?
- Ensure a 4Ps approach to reflect environmental justice
 - Informal waste workers must be considered into the schemes and programs
 - Support community-based organizations and social enterprises
 - Support for the Global Plastics Treaty

Maraming Salamat!
Thank you!

gbueta@ateneo.edu

grpb@magtibaylaw.com

