



**REGIONAL CAPACITY DEVELOPMENT TECHNICAL ASSISTANCE  
STRENGTHENING CAPACITY FOR ENVIRONMENTAL LAW IN THE  
ASIA-PACIFIC: DEVELOPING ENVIRONMENTAL CHAMPIONS  
TRAIN-THE-TEACHERS PROGRAM**



**KATHMANDU, NEPAL  
23 – 26 November 2018**

**SESSION 7: ROLE PLAY EXERCISE**

**Introduction**

This role play exercise has been designed to encourage participants to examine different aspects of the same fact situation, applying the law from their own jurisdiction, and to outline possible course of action to resolve the dispute. The fact reflects a real-life crisis.

This role play exercise will be conducted in two parts. The first part is an introduction with respect to the role-play scenario, together with instructions on how to conduct the exercise. This part will be conducted during session 7 on Day 2, Saturday, 24 November between 2.30 and 3.30 pm. In this session, the participants will be divided into groups, and given time to read and discuss the fact situation and to prepare their negotiating positions and options.

The second part of the exercise is the role-play exercise itself. This will be conducted in the same session after the tea break between 3.30 and 4.30pm.

After the role play, there will be an opportunity for presentation, reflection and feedback on the role play and a discussion on whether and how the participants might incorporate a role play into an environmental law course.

**Instructions**

1. The participants will be divided into 5 groups, each of which will be allocated a particular role that they will assume in the role-playing exercise.
2. Each group should choose a reporter who will take notes on behalf of the group, and be prepared to summarize discussions on a white board or on a computer.
3. Each group should choose two participants to lead the discussions and represent them.
4. Each other member of the group is expected to support their leaders in the discussions and negotiations.
5. The trainers will be available for clarifications and inputs during the preparations by each group.

## **Facts**

A total 139,700 hectares of a mangrove forest have been declared as a World Heritage Site by UNESCO in 1997. The Forest and its wetlands are habitats of the globally endangered Royal Bengal Tigers, the Ganges and Irawadi dolphins, estuarine crocodiles and the critically endangered endemic terrapin. A wide range of flora, 334 plant species belonging to 245 genera and 75 families, 165 algae, 13 orchids, 693 species of wildlife which includes, 49 mammals, 59 reptiles, 8 amphibians, 210 fishes, 24 shrimps, 14 crabs and 43 mollusks species, 315 species including birds, waterfowl, raptors and many forest birds make the eco-system of the Forest unique and irreplaceable. Approximately 6 million people directly or indirectly depend on its timber, pulpwood, fish, thatching materials, honey, bees wax shells, and so on for their livelihood. The Forest acts as a natural barrier to cyclones, tidal bores and salinity ingression and protects the densely populated agricultural areas to its north.

It was in 2010 that Governments of two South Asian countries that share the Forest decided to develop, in one of the countries, a two phased (second phase abandoned following public protest) thermal power plant just 14 kilometers from the boundary of the Forest. The site chosen for the Plant is only 4 kilometers from the declared Ecologically Critical Area (ECA) of the Forest. Under the national law of the country where the plant will be set up, no industrial activities can take place within an ECA. Under the national law of the other country funding the plant, there can be no thermal power plants within 25 kilometers of protected forest. The plant will be implemented by a 50:50 ownership joint venture of the power supply agencies of both the Governments.

Although the Forest Department of the host country first rejected to give approval to the plant, it subsequently agreed and the EIA for the plant has been approved by the Department of Environment. The national law of the host country legally requires public consultation but the process for the same has not been laid down in details in by-laws. Hence, the Government does not have to follow any given procedure in conducting public hearings and does not proactively disclose the EIA report. The draft EIA report was made available after submission of applications under the Right to Information Act. It was found faulty by the environmental justice groups as the source of coal was not mentioned, the procedure for fly ash management was not best practice, the Company responsible for operating the plant has a poor track record in environmental management, and most importantly, there was no impact assessment of the proposed use of protected waterways (declared Ramsar Site in 1992) for transport of coal and for developing new port facilities.

For the plant, a total 1,483.20 acres of land has been acquired by the host Government two years before the EIA was approved (on 5 August, 2013). The land acquisition process is alleged to have been forced and full of irregularities. On the face of opposition against the plant, the reactive monitoring mission of the WHC recommended that the host country halts all expansion of activities until an independent, comprehensive, and scientifically sound EIA considers the impacts of the components of the Project on the Forest. It also recommended to place the Forest in the List of World Heritage in Danger.

The environmental justice groups and experts are continuing to oppose thermal Plant on the grounds that the same is (i) disrespectful of national and international laws, (ii) is proceeding on the basis of faulty and deficient EIA that has failed to do a cumulative impact assessment, disclose the source of coal, and consider a safer alternative site, (iv) has ignored genuine public and expert concerns, and (v) is being implemented by a Company with questionable track record. The flow of emitted and fly ash laden air from the power plant towards the mangrove forest and the

impact of dredging the river flowing through Forest for carrying coal for the Plant were particularly marked by the expert critics but whimsically ignored by the proponent Governments.

Based on the opposition report of its reactive monitoring mission, the World Heritage Committee reiterated its concerns about the impact of the Plant on the Forest, and has requested the host country to ensure that all impacts of the Plant are comprehensively assessed as part of Strategic Environmental Assessment (SEA) and are reviewed by IUCN-the World Conservation Union. The host country has to submit its report on implementation by 1 December, 2018 to be examined by the WHC in its upcoming meeting.

Meanwhile, the implementation of the Plant has not been halted but is slowly progressing.

**The five parties are:**

- 1) The forest dependent communities
- 2) The Ministry of Environment and Forest and the Department of Environment
- 3) The Joint Venture Committee (the Proponent)
- 4) Environmental Justice groups
- 5) International Agencies (UNESCO, WHC, IUCN)

**Statements for each of the parties**

Few points that can form the basis of arguments and statement for each of the five parties will be provided to each party in Session 7. The parties will not see the points provided to the other four parties.