

The human right to a healthy environment in Southeast Asia

National Courts

Discussion Brief No. 2

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The Raoul Wallenberg Institute of Human Rights and Humanitarian Law (RWI) discussion brief series “The human right to a healthy environment in Southeast Asia” aims to be a tool to trigger constructive dialogue on how to implement the right to a healthy environment in the region.¹ It also aims to facilitate opportunities for co-creation of strategies between various groups based on shared understandings on the interdependency between human rights and a healthy environment. This discussion brief series presents key findings and lessons learned that emerged from the RWI thematic study: [Prosperous and Green in the Anthropocene: The human right to a healthy environment in Southeast Asia.](#)²

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1. In the discussion briefs, Southeast Asia is restricted to the ten member states of the Association of Southeast Asian Nations and does not include Timor-Leste.
 2. Ituarte-Lima, C; Bernard, V; Paul, D; San, S; Aung, MM; Dany, C; Chavisschindha, T; Paramita, D; Aung, TM and Saenphit, N (2020) Prosperous and Green in the Anthropocene: The human right to a healthy environment in Southeast Asia, The Raoul Wallenberg Institute of Human Rights and Humanitarian Law. This discussion brief is intended to support national judges.

About this Discussion Brief

The Discussion Brief No. 2 titled: 'The Human Right to a Healthy Environment in Southeast Asia: National Courts' was prepared for the RWI Asia and the Pacific Office by Christopher Sidoti. The overall conceptualisation, project terms, guidance, and editing were led by RWI consisting of Claudia Ituarte-Lima, Senior Researcher (RWI); and Victor Bernard, Human Rights and the Environment Program Officer (RWI). An advisory committee provided substantive comments to the discussion brief series. The external contributors to this specific discussion brief were Ms. Emerlynne Gil, Senior Advisor (International Commission for Jurists); Ms. Boram Jang, Legal adviser (International Commission for Jurists) and Dr. Sumudu Atapattu, Senior Lecturer (University of Wisconsin-Madison Law School).

The Raoul Wallenberg Institute of Human Rights and Humanitarian Law (RWI) is a research and academic institution committed to human rights education and development across the world. Informed by over 30 years of research and direct engagement experience, our current organisational strategies focus on four interrelated themes: People on the Move, Inclusive Societies, Fair and Efficient Justice, and Economic Globalisation and Human Rights. Headquartered in Lund, Sweden, RWI works through a network of offices in six international locations, and in Stockholm.

This discussion brief synthesises analysis from the above-mentioned thematic report and further elaborates entry points particularly relevant to national courts for contributing to the realisation of the human right to a healthy environment.

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1. Introduction

The right to a healthy environment

Climate change, biodiversity loss, and the destruction and degradation of ecosystems have significant impacts on people's lives, affecting our ability to work, have leisure activities, and enjoy good health. Human rights and environmental protection are interdependent. A healthy environment enables people to fully enjoy their human rights. At the same time, the exercise of human rights helps promote environmental protection.³

Many countries—more than 80 per cent of UN Member States—already recognise the right to a healthy environment in their constitutions, laws, and policies.⁴ Regional instruments also recognise this right in various ways.⁵ The ASEAN Human Rights Declaration (AHRD) affirms that everyone has the right to a safe, clean, and sustainable environment (Art. 28f). The substantive elements of the right to a healthy environment are: a safe climate; clean air; clean water and adequate sanitation; healthy and sustainably produced food; non-toxic environments in which to live, work, study and play; and healthy biodiversity and ecosystems. The procedural elements of this right include: access to information, public participation in environmental decision making, and access to justice and effective remedies.⁶

In all countries, the judiciary is the main institution with the authority to administer justice in accordance with the rule of law. Some courts have a role in interpreting, applying and enforcing the constitution to the extent of overturning laws, policies and actions that are inconsistent with the As an arm of the State, courts share the State obligation to implement international human rights law.⁷ How they do that varies from country to country.

Courts are important national actors in ensuring the respect, protection and fulfilment of obligations concerning a healthy environment in line with international standards and national law.⁸ Judiciaries in many countries have interpreted existing rights to include a right to a healthy environment and other related rights.⁹ They are the institutions to which ordinary people can turn when their right to a healthy environment is violated or at risk of violation.

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3. Knox, John H. and Pejan, Ramin (2018) 'Introduction to The Human Right to a Healthy Environment', *The Human Right to a Healthy Environment*, Cambridge University Press.
 4. Boyd, David (2019) *Right to a healthy environment: good practices: Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment*, Human Rights Council, 30 December 2019, A/HRC/43/53.
 5. Knox and Pejan, 2018.
 6. Boyd, D. Report of the UN Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment to the UN General Assembly (UNGA) (19 July 2018) A/73/188 13.
 7. See ICJ 'State Obligations Stemming from International Law', *Guide: ESC Litigation* section 2.3.1 2014 at <https://www.icj.org/chapter-2-esc-rights-under-international-law-and-the-role-of-judicial-and-quasi-judicial-bodies-2/2-3-identifying-breaches-of-international-obligations-of-states-pertaining-to-esc-rights/2-3-1-state-obligations-stemming-from-international-law/>.
 8. Ituarte-Lima, C. (ed.) *Prosperous and Green in the Anthropocene: The right to a healthy environment in Southeast Asia* (RWI 2020) 123.
 9. *Oposa v Factoran* (1993) Supreme Court of the Philippines G.R. No. 101083 at https://www.lawphil.net/judjuris/juri1993/jul1993/gr_101083_1993.html accessed 31 July 2020.

2. Challenges and opportunities for courts to contribute to realising the right to a healthy environment

Where the law recognises the right to a healthy environment specifically or implicitly, the courts can play a role in promoting and protecting that right. Through their decisions in individual cases, they can explain and interpret the right in the law and give it substantive content. In some legal systems, they can develop the

interpretation in past judicial decisions, building on precedent and establishing new jurisprudence. They can enforce compliance with the law and thus with the right itself. There are many examples of some Southeast Asian courts doing this.

Judicial protection of constitutional rights

In *Minors Oposa v Factoran* the Supreme Court of the Philippines considered the relevant provisions on the environment in the Constitution's Directive Principles.¹⁰ The Constitution provides:

'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.'¹¹

The case challenged the granting of commercial logging licenses over 3.89 million hectares of land. The Court ruled that the plaintiffs had a clear constitutional right to 'a balanced and healthful ecology', linked with the right to health, and so were entitled to protection by the State in its capacity as *parens patriae*. Under this principle, the State has the power of guardianship over persons who are unable to take care of or protect themselves.

International human rights obligations related a healthy environment also concern national courts. Depending on the legal system, they may be able to directly enforce

a treaty ratified by the country. They can also use the treaty as a guide to the interpretation of a domestic law or as a basis for the exercise of a judicial discretion.

The rights to life and a healthy environment

In *Tan Teck Seng v Suruhanjaya Perkhidmatan Pendidikan & Another*, the Court of Appeal of Malaysia considered the interpretation of the right to life and liberty in Article 5(1) of Malaysia's Federal Constitution.¹² It enunciated an important principle, consistently with international law:

'...the expression 'life' appearing in Art. 5 does not refer to mere existence. It incorporates all those facets that are an integral part of life itself and those matters that go to form the quality of life... It includes the right to live in a reasonably healthy and pollution-free environment.'

10. *Oposa v Factoran* (1993) Supreme Court of the Philippines G.R. No. 101083 at https://www.lawphil.net/judjuris/juri1993/jul1993/gr_101083_1993.html accessed 31 July 2020.

11. Constitution 1987 Article II Section 16.

12. *Tan Teck Seng v Suruhanjaya Perkhidmatan Pendidikan & Another* Court of Appeal of Malaysia [1996] 1 MLJ 26 at <https://www.scribd.com/doc/116180036/Tan-Tek-Seng-v-Suruhanjaya-Perkhidmatan-Pendidikan-Anor> accessed 29 July 2020.

Filing cases on the right to a healthy environment before a court may require review of the court's procedural rules to ensure that the victims are able to initiate legal action. Rules of procedure could affect the possibility to enjoy the right to a healthy environment: the right to be heard, the right to challenge the legality of decisions, the right to act to prevent harm, the right to a relief for harm suffered, the right to a remedy for unlawful or harmful actions. One procedural approach that has assisted victims of environmental degradation is provision for class action suits or relaxing rules on *locus standi*, which includes the right to appear before a court.

Rules of procedure to support environmental cases

The Supreme Court of the Philippines has developed special 'Rules of Procedure for Environmental Cases', effective from 2010. Under these special rules, minors and unborn generations can be represented by any Filipino citizen.¹³ The court is required to give priority to environmental cases and to decide them within one year from the filing of the complaint.¹⁴

In a case brought by a group of 14 young Filipinos, known as Concerned Residents of Manila Bay, the Supreme Court of the Philippines upheld the lower court's decisions granting them the right to file a lawsuit against ten government departments and agencies for their negligence in failing to protect Manila Bay. The Court directed the agencies to clean up the bay and protect it for the benefit of future generations. It also granted the citizens' request to the government to refrain from issuing any further permits for activities that would pollute the bay.¹⁵

In some countries where the right to a healthy environment is recognised in the national constitution or domestic legislation, specialist environment courts or green tribunals have been established, for example, in the Philippines, Thailand and Malaysia.¹⁶ Similar courts and tribunals could be established in other countries, even in the absence of a constitutional provision. They could also be established by legislation or by the courts themselves within the existing judicial structure. A system of specialist courts would enable complex scientific issues to be examined and resolved by judges with expertise in those areas. Specialist courts and tribunals encourage further interpretation or application of constitutional human rights provisions and improve the implementation of environmental legislation.

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13. Rules of Procedure for Environmental Cases Rule 2 Section 5 at https://lawphil.net/courts/supreme/am/am_09-6-8-sc_2010.html accessed 31 July 2020.
 14. Rules of Procedure for Environmental Cases Rule 4 Section 5 at https://lawphil.net/courts/supreme/am/am_09-6-8-sc_2010.html accessed 31 July 2020.
 15. *Metropolitan Manila Development Authority and Others v Concerned Residents of Manila Bay and Others* (2008) Supreme Court of the Philippines, 18 December 2008 G.R. Nos. 171947-48 at https://lawphil.net/judjuris/juri2008/dec2008/gr_171947_2008.html accessed 29 July 2020.
 16. Ituarte-Lima, C. (ed.) *Prosperous and Green in the Anthropocene: The right to a healthy environment in Southeast Asia* (RWI 2020) 37; Ben Boer and Alan Boyle, 'Human Rights and the Environment – 13th Informal ASEM Seminar on Human Rights' (2013) 49.

An expert court for environmental protection¹⁷

In 2005, the Thai judiciary body established a Division of Environmental Investigation in its Court of Appeal and Supreme Court, to oversee complex environmental cases. The Division eliminates the administrative burden on plaintiffs who file an environmental complaint and supports a more inquisitorial system in which the court itself performs the duties of fact finding and evidence collection.

The Division of Environmental Investigation has the jurisdiction to hear cases related to:

- climate change or the destruction of resources or ecosystems
- protection of natural resources or the environment of the community
- compensation for environmental damage and remediation through eliminating pollution or restoring the environment and
- compensation for damage to life, physical health or the rights of the plaintiff arising from environmental damage.

General legal aid programmes or specific environmental defence schemes can fund parties to enable cases to be brought to court to promote and protect the right to a healthy environment. These kinds of schemes are especially important and useful to enable poor and vulnerable groups to take claims to court even if they do not have the resources to support court action. They also enable test cases to be brought, establishing legal precedents of wider application beyond the individual cases. Legal aid schemes of different kinds already operate in many Southeast Asian countries.¹⁸ Non-governmental organisations may be willing to help litigants with environmental test cases.

The legal profession can take up the challenge of supporting environmental litigation, especially by poor and disadvantaged people. Many legal professional associations, individual lawyers and legal firms have *pro bono* programs to provide legal services at little

or no cost to clients who cannot cover the costs.¹⁹ Legal professionals can contribute to the enjoyment of the right to a healthy environment through *pro bono* advice and representation to those suffering or at risk of suffering environmental harm.

An important means of informing courts of the nature and scope of rights, including the right to a healthy environment, is the ability of the courts to permit friend of court (*amicus curiae*) submissions in cases. Many courts already have the procedural power to permit *amicus* submissions by persons and organisations in addition to the parties to the case.²⁰ Courts that do not have this power could amend their rules of procedure to permit this. *Amicus* submissions inform the courts of perspectives that the parties' lawyers may not know or may not be prepared to present. In this way, they can increase the understanding of both the judiciary and the legal profession.

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17. Narong Kiettikunwong, 'The Green Bench: Can an Environmental Court Protect Natural Resources in Thailand?' (2019) *Environment, Development and Sustainability*, 21, 385-404, 390.
 18. For example, in the Philippines the Public Attorney's Office provides free legal representation for poor people and many university law schools provide free legal aid. For Public Attorney's Office, see <https://pao.gov.ph/> accessed 31 July 2020; for an example of university law school legal aid, see University of the Philippines Office of Legal Aid at <https://law.upd.edu.ph/office-of-legal-aid/> accessed 31 July 2020. Other examples are found in Malaysia (see <http://www.jbg.gov.my/index.php/en/> accessed 31 July 2020) and Singapore (see <https://singaporelegaladvice.com/law-articles/free-legal-clinics/> accessed 31 July 2020).
 19. In Malaysia, for example, lawyers provide *pro bono* legal aid through the Bar Association. See <https://www.malaysianbar.org.my/> accessed 31 July 2020.
 20. Among Southeast Asian countries, there are some provisions for *amicus curiae* submissions in at least Indonesia, the Philippines and Thailand.

3. Nurturing cross-institutional collaboration between courts and NHRIs

National Human Rights Institutions (NHRI) complement the courts.²¹ Both NHRIs and courts are independent institutions established by law but they are different types of institution, with distinct roles and functions, and with a formal relationship.²² For example, while NHRIs can make procedural orders, the courts are needed to enforce those orders.²³ While courts have responsibility for the law generally, NHRIs have expertise in human rights law and often have significant experience working with poor and disadvantaged people.

Courts and NHRIs in Southeast Asia often work separately from each other on issues relating to the right to a healthy environment. There are untapped opportunities for them to cooperate and to support, build on and add to each other's work, each from its own areas of expertise and experience, to the mutual benefit of both.

A mutually supportive relationship between courts and NHRIs can be a very significant means of advancing legal protection of the right to a healthy environment, while at the same time respecting the distinct roles of courts and NHRIs and not intruding on the independence of the judiciary generally, individual judges or NHRIs.²⁴ There are many ways in which this collaboration is possible.

For example, an NHRI could initiate cases in the courts on the right to a healthy environment. Some NHRIs have the function of taking cases to court where they consider it appropriate, especially on behalf of poor and disadvantaged parties.²⁵ An NHRI could initiate proceedings in its own name or on behalf of those who have suffered or are at risk of suffering environmental harm. The NHRI could seek to protect both the substantive and the procedural elements of the right to a healthy environment.²⁶

An NHRI could also seek to join other cases before the courts as a friend of the court (*amicus curiae*). Some NHRIs have this power explicitly in their legislation and others have it implicitly.²⁷ Procedural rules of courts can facilitate these interventions. As an *amicus*, the NHRI would not argue the case for either party but act as a disinterested intervenor that brings relevant human rights law and issues to the court's attention.

An NHRI can also advise, support and assist victims to take cases to court.²⁸ In these situations, it would not be acting in its own name or as an *amicus* but as a legal adviser and perhaps advocate. The victims themselves are the parties and the NHRI is merely their supporter or representative.

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21. Asia Pacific Forum National Human Rights Institutions *Manual on national human rights institutions* (APF 2019) 13 at <https://www.asiapacificforum.net/resources/manual-on-nhris/> accessed 30 July 2020. Globally, NHRIs have described their relationship with the judiciary in the Nairobi Declaration of the Ninth International Conference of National Institutions for the Promotion and Protection of Human Rights Nairobi, Kenya, 21-24 October 2008 paragraph 33, at <https://www.ohchr.org/Documents/Countries/NairobiDeclarationEn.pdf> accessed 30 July 2020.
 22. Andrew Wolman, 'National Human Rights Institutions and the Courts in the Asia-Pacific Region' (2011) *Asia Pacific Law Review* 19:2, 237-251, DOI:10.1080/10192557.2011.11788250.
 23. Power to make procedural orders in relation to investigations are found in NHRI organic laws: Indonesia (Law 39/1999 Art 89(3) and Art 94); Malaysia (Human Rights Commission of Malaysia Act 1999 Section 14); Myanmar (Myanmar National Human Rights Commission Law No 21/2014 Section 35 and 36); Philippines (Constitution 1987 Article XIII Section 18(2)); Thailand (Organic Act on the National Human Rights Commission BE 2560 (2017) Section 41). The laws do not provide for direct enforcement of these orders by the NHRIs themselves. The role of the court in enforcing procedural orders of the NHRI is specifically included in the Indonesian law: Law 39/1999 Art 95.
 24. *Basic Principles on the Independence of the Judiciary* 1985 at <https://www.ohchr.org/EN/ProfessionalInterest/Pages/IndependenceJudiciary.aspx> accessed 31 July 2020. See also APF <https://www.asiapacificforum.net/support/what-are-nhris/fact-sheet-9-cooperation/>.
 25. See Footnote 8.
 26. For the two elements of the right see Ituarte-Lima, C. (ed.) *Prosperous and Green in the Anthropocene: The right to a healthy environment in Southeast Asia* (RWI 2020) chapter 2 and 3.
 27. See Footnote 8.
 28. The Philippines Commission on Human Rights has the function to 'provide ... legal aid services to the underprivileged whose human rights have been violated or need protection' (Constitution 1987 Article XIII Section 18(3) and Executive Order No 164 1987 Section 3). The Indonesian National Commission on Human Rights has specific authority to 'give recommendations to the zperties for resolving conflict through the courts' (Law 39/1999 Article 89(4)(c)).

Courts can note and use NHRI investigations and reports in deciding cases. The investigations and reports could be public documents of which the courts are aware or they could be ad hoc reports that a court specifically requests from an NHRI. If a court wishes and if an NHRI agrees, the court can use the NHRI as a key independent resource available to it to support its decision making.

An NHRI can promote public awareness and understanding of judicial decisions on the right to a healthy environment and contribute to expert discussion of those decisions in relation to human rights law and legal development on the right to a healthy environment. The NHRI can also make jurisprudence from other jurisdictions available and discuss the relevance and applicability of this jurisprudence in its own country. NHRIs have a role in making judicial decisions more widely known.

Judges and NHRI leaders can cooperate in promoting the right to a healthy environment in public forums, to build knowledge of the right and procedures to protect that right.

Courts and an NHRI could join in providing training for judges and NHRI leaders and their staff on environmental rights. Joint training would permit both courts and the NHRI to learn about environmental rights together and from each other, with the contribution of relevant experts. RWI has arranged and contributed to these kinds of training opportunities, including through The Raoul Wallenberg Institute's Blended Learning Course on Human Rights, Gender and the Environment targeting judges and national human rights institutions.

4. Strengthening courts' capacities on the human right to a healthy environment

Dialogue on challenges, opportunities and ways forward in the respect, protection and fulfilment of the right to a healthy environment can be facilitated by a number of guiding questions for courts. The questions in the next section aim to support courts in reinforcing common understandings among peers on the connections between human rights law and the environment. They also aim to help elicit dialogue among peers working in the judiciary, and other groups on how to strengthen their roles in contributing to the enjoyment of the right to a healthy environment, leaving no one behind.

Questions about each country's law and human rights

1. What human rights obligations does your country have?

Each country has human rights obligations under domestic and international law. Under domestic law, the obligations may be contained in:

- the national constitution
- national laws dealing specifically with human rights
- enabling legislation incorporating treaty provisions
- other national laws that may directly or indirectly concern human rights matters, such as a health care law or an education law and
- the jurisprudence of courts.

In relation to international law, a country's human rights obligations are contained in the human rights treaties to which it is a party and in the customary international law that binds all States.²⁹

2. What laws protect the right to a healthy environment in your country?

This will vary from country to country. Four Southeast Asian countries explicitly recognise the right to a healthy environment in their national constitutions.³⁰ Another implicitly recognises this right.³¹ Five others recognise certain substantive and procedural dimensions of the right in their domestic laws and court decisions.³²

3. How does international human rights law apply in your country?

National courts can take some account of international law, including that dealing with the right to a healthy environment, to varying degrees in different legal systems. They may be able to enforce a treaty ratified by the country directly. At the very least they should use the treaties as guides to interpreting domestic laws or as a basis for exercising judicial discretions.

Questions about courts in Southeast Asia

4. What roles do the courts have in protecting the right to a healthy environment?

The courts are responsible for the interpretation and application of the law. They generally proceed on the basis of cases brought before them, initiated by a person or organisation seeking to enforce legal rights or to recover a remedy for a violation of legal rights. They generally do not initiate cases themselves. They have power to make binding, enforceable orders.

29. The status of human rights treaties for each country is available on the website of the UN Office of the High Commissioner for Human Rights. See <https://www.ohchr.org/en/pages/home.aspx>. A table setting out this information is in Ituarte-Lima, C. (ed.) *Prosperous and Green in the Anthropocene: The right to a healthy environment in Southeast Asia* (RWI 2020) 20.

30. Indonesia, the Philippines, Thailand, and Viet Nam

31. Malaysia

32. Brunei Darussalam, Cambodia, Lao PDR, Myanmar and Singapore

5. What initiatives can the courts in your country take to provide better protection of the right to a healthy environment?

Although courts generally cannot initiate cases, they can take some initiatives consistently with their proper roles and functions.³³ They can seek to develop the law through their interpretation of laws and application of laws. Each court generally has some ability to make and amend procedural rules and to determine its own internal organisation, including in establishing specialist panels within the court. While staying within their proper scope, courts can still take initiatives to strengthen protection of the right to a healthy environment.

6. How can courts in your country provide better access to expert advice from communities and NHRIs about the right to a healthy environment?

Environmental rights and challenges posed by environmental degradation and climate change are constantly evolving and being on top of these developments is difficult for busy professionals, including judges and lawyers. Up to date knowledge can be promoted within the courts, for example, by establishing specialist courts and tribunals to hear environmental cases. However, courts also need to acquire expert advice from outside. They can do this by providing procedural rules for specialist environmental organisations to initiate cases through public interest litigation and by enabling expert environmental and human rights organisations, particularly NHRIs, to provide amicus submissions in cases raising issues relating to the right to a healthy environment.

33. Some courts, such as the Environmental Tribunal in India, have jurisdiction to proceed *suo motu*, a south Asian legal term relating to an action taken by a court of its own accord, without any request by the parties involved See <https://www.cambridge.org/core/journals/transnational-environmental-law/article/environmental-justice-in-india-the-national-green-tribunal-and-expert-members/2E26B50742FFB8BB743557132DC7DD66/core-reader>.

5. Recommendations

To courts

1. Encourage judges to adopt and refer to the RWI-ICJ reference manual for judges, entitled Women's Human Rights and the Right to a Clean, Safe, Healthy and Sustainable Environment (2019)³⁴
2. Encourage judges to attend training on human rights and the environment to enhance their knowledge of the right to a healthy environment, including through innovative interpretations of environmental law
3. Explore ways in which international human rights law can have more influence on court decisions, especially those pertaining to environmental protection, in your country
4. Arrange cross-regional dialogues among judges in Southeast Asia to share challenges, lessons learned, tools and innovations to make access to justice and remedy a reality in environmental cases
5. Encourage judges working on environmental and climate change cases to transfer and build in-house expertise in interpreting and applying human rights law in environmental protection cases
6. Review the court's rules of procedure to ensure
 - the rules' suitability for environmental cases, including in relation to the receipt of expert scientific evidence

- greater accessibility for disadvantaged people, including through class action litigation
- easier access to enable friends of the court (*amici curiae*) to make human rights submissions
- provision for an NHRI to initiate cases or intervene as a friend of the court (*amicus curiae*) to make human rights submissions
- relax rules on standing and consider adopting *suo moto*, a south Asian legal term relating to an action taken by a court of its own accord, without any request by the parties involved

To professional legal associations and law firms

1. Promote legal education, both in law schools and as continuing legal education, on the right to a healthy environment and on actions lawyers can take to promote and protect that right, through both the courts and NHRIs
2. Establish an environmental defence fund to assist disadvantaged people to seek and obtain remedies in courts and through NHRIs for actual and potential violations of the right to a healthy environment
3. Promote *pro bono* legal advice and representation by lawyers for disadvantaged people seeking a remedy in relation to environmental rights in courts and NHRIs
4. Encourage exchanges among lawyers from Southeast Asian countries on promoting the right to a healthy environment, including through courts and NHRIs

34. <https://www.icj.org/wp-content/uploads/2019/12/Women%E2%80%99s-Human-RigHts-and-tHe-RigHt-to-a-Clean-safe-HealtHy-and-sustainable-enviRonment-Reference-Manual-for-Judges-2019.pdf>

6. References

Primary sources

National law

Indonesia	Constitution 1949 as amended Section XA Law 39/1999 concerning human rights
Malaysia	Constitution 1957 as amended Part II Human Rights Commission of Malaysia Act 999
Myanmar	Constitution 2008 Chapter VIII Myanmar National Human Rights Commission Law No 21/2014
Philippines	Constitution 1987 Articles III and XIII Executive Order No 164 1987
Thailand	Constitution of the Kingdom of Thailand BE 2560 (2017) Chapter III Organic Act on the National Human Rights Commission BE 2560 (2017)

International standards

International Covenant on Economic, Social and Cultural Rights 1966
International Covenant on Civil and Political Rights 1966
Basic Principles on the Independence of the Judiciary 1985

Cases

Metropolitan Manila Development Authority and Others v Concerned Residents of Manila Bay and Others (2008) Supreme Court of the Philippines, 18 December 2008 G.R. Nos. 171947-48 at https://lawphil.net/judjuris/juri2008/dec2008/gr_171947_2008.html accessed 29 July 2020

Oposa v Factoran (1993) Supreme Court of the Philippines G.R. No. 101083 at https://www.lawphil.net/judjuris/juri1993/jul1993/gr_101083_1993.html accessed 31 July 2020

Tan Teck Seng v Suruhanjaya Perkhidmatan Pendidikan & Another Court of Appeal of Malaysia [1996] 1 MLJ 26 at <https://www.scribd.com/doc/116180036/Tan-Tek-Seng-v-Suruhanjaya-Perkhidmatan-Pendidikan-Anor> accessed 29 July 2020

Secondary sources

Books

Ituarte-Lima, C; Bernard, V; Paul, D; San, S; Aung, MM; Dany, C; Chavisschindha, T; Paramita, D; Aung, TM and Saenphit, N (2020) *Prosperous and Green in the Anthropocene: The human right to a healthy environment in Southeast Asia*, The Raoul Wallenberg Institute of Human Rights and Humanitarian Law

Manuals

Asia Pacific Forum of National Human Rights Institutions: A manual on national human rights institutions (APF 2018) 146-7 at <https://www.asiapacificforum.net/resources/manual-on-nhris/>

Journal articles

Andrew Wolman, 'National Human Rights Institutions and the Courts in the Asia-Pacific Region' (2011) *Asia Pacific Law Review* 19:2, 237-251, DOI:10.1080/10192557.2011.11788250

Websites

Asia Pacific Forum of National Human Rights Institutions
<https://www.asiapacificforum.net>

Global Alliance of National Human Rights Institutions
<https://ganhri.org/membership>