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Environmental Adjudication in Southeast Asia:

Human Rights Responsibilities and Regional Judicial Learning

A Discussion Brief

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Executive summary

This brief discusses the evolving landscape of environmental adjudication in Southeast Asia, specifically how it increasingly functions as a mechanism for the interpretation and enforcement of human rights. It identifies how this evolution generates shared procedural challenges and explores how structured regional judicial exchange can support institutional strengthening without compromising judicial independence.

Core Propositions

- Environmental disputes in Southeast Asia increasingly engage constitutional and human rights protections, with courts acting as key sites for their interpretation and enforcement. Courts are no longer merely reviewing regulatory compliance; they are becoming essential arbiters of climate-related grievances and intergenerational equity.
- The functional protection of environmental rights depends significantly on procedural rules that enable effective access to justice. The transition from abstract legal principles to substantive justice occurs through the rules of standing, scientific evidence, and interim relief.
- Southeast Asian judiciaries exhibit a wealth of procedural innovations. From specialized "Green Benches" to environmental judicial certification systems, the region's varied legal traditions offer a robust range of models for peer learning.
- These developments create a unique space for structured regional judicial dialogue. By leveraging the upcoming RWI-ICJ Guidebook on Rules of Procedure for Environmental Cases and the CACJ WG-JET Strategic Work Plan, the judiciary can enhance its collective capacity to manage the scientific and social complexities of the ever-evolving environmental law.

This brief is intended as a framing for high-level reflection. It does not propose formal harmonization or prescriptive reform; rather, it seeks to facilitate informed dialogue on how different legal systems navigate common procedural hurdles in an era of rapid environmental change.

The Changing Nature of Environmental Adjudication in Southeast Asia

Increasing Complexity of Environmental Disputes in Southeast Asia

Environmental adjudication in Southeast Asia is evolving in response to increasingly complex environmental disputes before courts. These disputes extend beyond regulatory compliance,[1] and often raise constitutional, human rights, and intergenerational concerns. This development reflects broader global trends, where courts and specialized institutions have advanced environmental adjudication through dedicated forums and evolving jurisprudence[2].

One important dimension of this evolving landscape is the rise of climate-related litigation, which has seen a dramatic global increase from 884 cases in 2017 to over 3,000 by mid-2025.[3] In this context, courts increasingly help shape and clarify legal and institutional responses to climate change.[4] Climate litigation is also being used to enforce and strengthen commitments by governments and corporations,[5] including transboundary efforts. A notable example is the *Asmania v. Holcim* case in Switzerland, where Indonesian islanders seek redress from a European multinational for its global emissions footprint.[6]

Environmental and climate disputes are also more frequently brought as public interest litigation, creating a dual challenge for the judiciary. While such litigations expand access to justice, it also raises procedural questions concerning standing, access to justice, and the scope of judicial remedies.[7] For example, across Southeast Asian jurisdictions, there is significant variation in who may bring a case.

At the same time, this shift has heightened risks for human rights defenders, who often face threats and attacks when challenging commercial activities.[8] Consequently, courts are increasingly confronted with Strategic Litigation Against Public Participation (SLAPP), prompting some jurisdictions to introduce procedural safeguards to protect public participation.[9]

Environmental Harm as Foreseeable and Measurable

The February 2026 Regional Consultation on the Guidebook for the Rules of Procedure for Environmental Cases (RPEC) reaffirmed the growing complexity of environmental adjudication in the region, particularly in relation to scientific uncertainty, procedural accessibility, enforcement of judgments, and the interpretative role of regional instruments.

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[1] United Nations Environment Programme (UNEP), Environmental Rule of Law: First Global Report (Nairobi: UNEP, 2019), p. 185.

[2] For example, the recognition of environmental dimensions of fundamental rights, as seen in M.K. Ranjitsinh and Others v. Union of India, where the SC recognised the right to be free from the adverse impacts of climate change.

[3] Maria Antonia Tigre & Margaret Barry, Climate Litigation Report 2025 — Climate Change in the Courtroom: Trends, Impacts and Emerging Lessons (Sabin Center for Climate Change Law, Columbia Law School & United Nations Environment Programme, 2025). Available at: https://scholarship.law.columbia.edu/sabin_climate_change/257.

[4] Tigre, Maria Antonia & Barry, Margaret, Climate Litigation Report 2025 — Climate Change in the Courtroom: Trends, Impacts and Emerging Lessons (Sabin Center for Climate Change Law, Columbia Law School & United Nations Environment Programme, 2025), 53.

[5] Tigre & Barry, 2025. The report documented that as of 30 June 2025 there were 3,099 climate change litigation cases worldwide filed in 55 jurisdictions and 24 international or regional courts, tribunals, quasi-judicial bodies or other adjudicatory bodies, a sharp increase from 884 cases in 2017, filled in 25 jurisdictions and 3 international and regional courts.

[6] For more information: https://www.foei.org/pari-island-against-holcim/#:~:text=The%20complainants%20are%20demanding%20proportional,to%20the%20company's%202019%20emissions.

[7] George Pring & Catherine Pring, Environmental Courts and Tribunals: A Guide for Policy Makers (UNEP, 2016).

[8] Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises, Human Right Council, A/HRC/47/39/Add.2.

[9] UN Human Rights Council, Environmental Human Rights Defenders, Report of the Special Rapporteur (2019). Other example, standing frameworks vary significantly across ASEAN jurisdictions. While some jurisdictions maintain strict direct injury requirements, others recognize broader forms of standing based on public interest and constitutional rights.

Courts increasingly rely on scientific evidence to assess causation, impacts, and appropriate responses.[10] As a result, courts are required to engage with principles of precaution, foreseeability, and prevention.[11] The consultation also highlights that courts must assess complex, often conflicting scientific evidence under technical and resource constraints, which will be further elaborated in the following section.

Recent landmark cases in the region demonstrate how courts are successfully utilizing scientifically measurable data to demand government accountability. In Indonesia, the Jakarta air pollution case used environmental and public health data to challenge systemic failures in air quality management.[12] In Thailand, litigation in Chiang Mai highlighted the foreseeable and recurrent nature and health risks of PM2.5 pollution.[13]

This highlights the critical intersection of science and law. Beyond basic scientific literacy for judges, adopting structured management tools—such as joint expert statements and court-appointed experts—is essential to minimize adversarial distortion and ensure a balanced presentation of technical data.

This reinforces the need for courts to act as critical evaluators of evidence, rather than passive recipients of expert opinion.

Environmental Adjudication as an Institutional Judicial Function

The shifting landscape has transformed environmental adjudication from a specialized niche into a core institutional judicial function. Environmental harm often affects communities collectively and over time, thereby elevating the importance of standing, public interest litigation, and access to courts. In this context, courts are increasingly required to ensure access to justice in environmental matters as part of their institutional role.

While the right to a healthy environment is gaining global and regional recognition, the specific obligations of states to ensure this right remain underdeveloped.[14] The February 2026 Regional Consultation highlighted that "access to justice" is not a single gateway but a multi-dimensional challenge. For a court to fulfill its institutional role, it must address, for instance, the prohibitive court fees, physical distances to specialized benches, digital filing, evidence management systems, and court rules that are responsive to vulnerable groups, including Indigenous peoples and women, who are disproportionately impacted by environmental degradation.

Taken together, these developments illustrate that environmental adjudication in Southeast Asia is no longer a static application of law. Instead, it is an evolving practice where courts are adapting their procedural approaches to meet the scientific and social significance of modern disputes. By refining rules of procedure (such as the Philippines' RPEC), the judiciary is moving toward a model that prioritizes substantive justice over procedural rigidity.

[10] McCormick, et al. (2017) Science in litigation, the third branch of U.S. climate policy. Science, 357(6355), 979–980.

[11] Particularly in the Philippines, where courts have accepted credible environmental threats as a sufficient basis for standing.

[12] Jakarta District Court, Citizen Lawsuit on Air Pollution (Jakarta Air Pollution Case), Decision No. 374/PDT.G/LH/2019/PN.JKT.PST.

[13] "Chiang Mai court gives govt 90 days for plan to combat smog," Bangkok Post, 19 January 2024, About 1,700 people, including activists, academics from Chiang Mai University and local residents, brought a lawsuit in the Administrative Court against the prime minister and the National Environment Commission for failing to tackle the annual dense smog over the region, available at https://www.bangkokpost.com/thailand/general/2727070/chiang-mai-court-gives-govt-90-days-for-plan-to-combat-smog accessed 22 March 2026.

[14] Brian J. Preston, The Nature, Content and Realisation of the Right to a Clean, Healthy and Sustainable Environment, Journal of Environmental Law, 2024, 36, 185.

Environmental Rights in the Southeast Asian Legal Landscape

Constitutional and Legislative Recognition

In Southeast Asia, several nations have explicitly codified the right to a healthy environment within their Constitutions[15] well before the UN General Assembly Resolution 76/300 in 2022.

Country	National Constitution	National Legislation
Brunei Darussalam	No	No
Cambodia	No	No
Indonesia	Yes	Yes
Lao PDR	No	No
Malaysia	Yes (implicit)	No
Myanmar	No	No
Philippines	Yes	Yes
Singapore	No	No
Thailand	Yes	Yes
Viet Nam	Yes	Yes

Source: C. Ituarte-Lima et al., *Prosperous and Green in the Anthropocene: The Human Right to a Healthy Environment in Southeast Asia*, RWI (2020), p. 27.

In jurisdictions where an explicit "right to a healthy environment" is absent, such as Malaysia, the courts and litigants have bridged this gap through interpretation. The Malaysian Court of Appeal has interpreted Article 5(1) of the Federal Constitution - which protects the right to life and liberty - to include the right to live in a reasonably healthy and pollution-free environment.[16]

The transition from constitutional principles to daily enforcement is managed through comprehensive statutory frameworks. Indonesia's Law No. 32/2009 on Environmental Protection and Management, and the Philippines Clean Water Act, act as the procedural engines of the right to a healthy environment. These laws and procedures translate broad rights into specific requirements for Environmental Impact Assessment (EIA) and community standing in environmental cases.

[15] Ituarte-Lima, C; Bernard, V; Paul, D; San, S; Aung, MM; Dany, C; Chavisschindha, T; Paramita, D; Aung, MT and Saenphit, N (2020) Prosperous and green in the Anthropocene: The human right to a healthy environment in Southeast Asia, Raoul Wallenberg Institute of Human Rights and Humanitarian Law, Lund, Sweden, p. 27. Available at ,https://rwi.lu.se/wp-content/uploads/2024/06/Right-to-a-Healthy-Environment-in-SEA.pdf accessed 22 March 2026.

[16] Tan Teck Seng v Suruhanjaya Perkhidmatan Pendidikan & Another Court of Appeal of Malaysia [1996] 1 MLJ 26.

The Philippines RPEC also provides specialized judicial remedies that further operationalize the right to a healthy environment. The Writ of Kalikasan is an extraordinary legal remedy enacted by the Philippines Supreme Court in 2010 to protect the constitutional right to a balanced and healthful ecology. It applies to environmental damage of such magnitude that it prejudices the life, health, or property of inhabitants in two or more cities or provinces.

While international instruments provide the legal basis for environmental and human rights protection, the actual protection of communities, individuals, and the environment in Southeast Asia relies on the strength of domestic legal architecture. Ultimately, whether the right is explicit or interpretive, its effectiveness depends on being woven into the domestic fabric. This domestic "anchoring" is what allows environmental principles to move from abstract international resolutions to enforceable legal duties.

Regional Normative Context

The right to a healthy environment was first recognized regionally under the ASEAN Human Rights Declaration (AHRD)[17] in 2012. Article 28(f) of the AHRD explicitly recognizes the right to a safe, clean, and sustainable environment as part of the right to an adequate standard of living. This inclusion marked the initial regional consensus on the interdependence of human rights and environmental quality long before subsequent global and regional instruments.

Building on the AHRD, the ASEAN Declaration on the Right to a Safe, Clean, Healthy, and Sustainable Environment (ADER) was adopted in October 2025. As a soft law instrument, the Declaration reflects a refined regional consensus, providing more specific language and principles regarding environmental governance and the procedural rights necessary to protect the environment. A consequential feature of ADER is its mandate for the ASEAN Intergovernmental Commission on Human Rights (AICHR) to develop a Regional Plan of Action (RPA).

REFLECTIVE QUESTIONS

As the ASEAN Declaration on the Right to a Safe, Clean, Healthy, and Sustainable Environment (ADER) becomes the new regional commitment, how can judicial training academies move beyond purely domestic laws to incorporate ADER and AHRD as primary interpretive tools? What specific guidance do judges need to effectively cite regional 'soft law' when clarifying the scope of constitutional rights like the 'right to life'?

The adoption of ADER reflects a powerful regional message for the protection of human rights in the face of defining challenges like climate change. The Declaration's impact depends largely on the willingness of AICHR, ASEAN Member States, and relevant ASEAN Sectoral Bodies/Entities to move beyond political rhetoric toward technical implementation and regional monitoring.[18]

Despite these regional frameworks, domestic courts remain the primary venues where environmental rights are operationalized. While ASEAN instruments are not directly justiciable, they act as essential interpretive tools. For example, in the Chiang Mai PM 2.5 case (2024), the plaintiffs specifically relied on the AHRD to support

[17] ASEAN, ASEAN Human Rights Declaration (Phnom Penh, Cambodia, 18 November 2012), available at https://asean.org/wp-content/uploads/images/resources/ASEAN%20Publication/2013%20(7.%20Jul)%20-%20ASEAN%20Human%20Rights%20Declaration%20(AHRD)%20and%20Its%20Translation.pdf accessed 16 March 2026.

[18] Arini, Windi and Hanung D., Cornelius, 'Can AICHR Turn ASEAN's Environmental Rights Promise into Reality?' (SDG Knowledge Hub, IISD, 13 November 2025), available at https://sdg.iisd.org/commentary/guest-articles/can-aichr-turn-aseans-environmental-rights-promise-into-reality/accessed 16 March 2026.

their claims regarding the government's failure to mitigate air pollution.[19] This example shows that the power of the regional frameworks lies in their ability to provide a "normative horizon" that domestic judges and litigators can use to give weight to constitutional or statutory claims.

Procedural Dimensions of Environmental Adjudication as a Human Rights Function

While over 80% of UN Member States now recognize the right to a healthy environment in some legal form, these substantive recognitions alone do not guarantee effective protection[20]. In the context of environmental adjudication, the transition from theory to practice occurs within the procedural realm.

The three procedural rights are significant in transforming environmental adjudication into a functional human rights safeguard:

a | Right to information: the right of individuals to seek, receive, and impart environmental information. This includes, for example, access to information held by public authorities concerning hazardous materials and activities, as well as the results of environmental impact assessment.[21]

b | Right to participation: the right of all concerned citizens to participate in environmental decision-making processes at the relevant level. This is considered an essential tool for exercising other rights, such as the right to life and health, and involves genuine consultation with affected stakeholders.[22]

c | Access to justice and effective remedy: the right of individuals to have access to an effective remedy by competent tribunals for acts violating their human rights. This includes effective access to judicial and administrative proceedings, as well as redress and remedy for environmental harm.[23]

While these rights provide the foundational architecture for environmental human rights, their judicial application requires specific procedural adaptations. The following four dimensions were highlighted by the participants of the Regional Consultation in February 2026 as the critical aspects for the functional protection of environmental rights in the region.

1. Standing and Access to Courts

The ability of individuals, communities, and organizations to bring environmental claims before a court is foundational to the rule of law. Standing (or locus standi) serves as a jurisdictional "gatekeeper," determining who may be heard and which interests are represented in judicial decisions.

As detailed in the upcoming RWI-ICJ Guidebook on Rules of Procedure for Environmental cases, across the region, procedural rules reflect a spectrum of legal traditions, from restrictive to open standing frameworks. For example, the Philippines represents the most expansive approach to standing through its 2010 Rules of Proce-

[19] To read the case analysis: https://rwi.lu.se/case-repository-thailand/ , accessed 16 March 2026.

[20] David R. Boyd, Right to a Healthy Environment: Good Practices, Report of the Special Rapporteur on human rights and the environment, UN Doc. A/HRC/43/53 (30 December 2019). Available at https://docs.un.org/en/A/HRC/43/53?utm_source=chatgpt.com accessed 16 March 2026.

[21] Universal Rights Group, EHRD Resource Paper: What are my rights? The right to environmental information,available at https://docs.wixstatic.com/ugd/80f01c_751ca12a36424f328aed4f37e8e76f74.pdf, accessed 16 March 2026.

[22] Universal Rights Group (2017), EHRD Resource Paper: What are my rights? The right to participate in environmental decision-making, https://docs.wixstatic.com/ugd/80f01c_36111bfa393a434294a67c86df518279.pdf

[23] Universal Rights Group (2017).

dure for Environmental Cases (RPEC).[24] This includes "intergenerational standing," allowing suits on behalf of "generations yet unborn" and even "stewards of nature" for non-human entities. Conversely, Thailand maintains a more traditional and narrow interpretation of standing. According to Section 55 of the Thai Civil Procedure Code, legal standing is limited strictly to "the injured party".

2. Scientific and Technical Evidence

Environmental adjudication requires courts to manage profound scientific complexity within a framework of procedural fairness. They often turn on sophisticated technical data, predictive modeling, and the assessment of long-term ecological risks. As highlighted in the upcoming RWI-ICJ Guidebook, across the region, the judicial handling of scientific evidence reflects varied methodologies. For example, through Supreme Court Regulation No. 1 Year 2023, Indonesia provides a specific legal definition for "scientific evidence" (bukti ilmiah) as a written expert explanation, based on research or scientific knowledge, that establishes relationships between environmental components, with or without oral testimony in court. The Supreme Court regulation also categorizes everything from wildlife forensics to laboratory samples as distinct forms of proof.[25]

The February 2026 Regional Consultation emphasized that the objective is not to turn judges into scientists, but to equip them with the necessary tools to assess scientific evidence critically. To manage conflicting expert opinions, several Southeast Asian judiciaries utilize innovative procedural tools, such as court-appointed independent experts. “Hot-tubbing” was also discussed as an emerging approach where experts from both sides testify together to refine points of agreement and disagreement. Further, in Indonesia, advanced training under the environmental certification system focuses on providing judges with a framework to evaluate the methodological rigor and peer-review status of evidence as stipulated under the Supreme Court Regulation No. 1 Year 2023.

Participants at the consultation also identified significant structural barriers that often create an “information gap” between parties. For example, the substantial expense of scientific testing, modeling, and access to accredited laboratories often disadvantages marginalized plaintiffs.

Reflective Question

Reflecting on recent environmental cases, where does your court encounter the most significant 'information gaps'—is it in evaluating laboratory accreditation, interpreting predictive climate modeling, or managing conflicting expert testimony? Based on this, what specific technical modules (e.g., environmental forensics, toxicology, or peer-review standards) should be integrated into a training module for judges?

3. Interim Measures and Preventive Relief

As discussed during the February 2026 Regional Consultation, obtaining interim relief remains procedurally challenging due to high evidentiary thresholds. Despite their necessity, emergency measures—particularly ex parte orders issued without notifying the defendant—are often perceived by the judiciary as "harsh measures." In practice, requirements for substantial security bonds often render these tools inaccessible to affected communities and marginalized litigants.

[24] Available at: https://lawphil.net/courts/supreme/am/am_09-6-8-sc_2010.html accessed 16 March 2026.

[25] Article 1, Point 16, Supreme Court of the Republic of Indonesia, Supreme Court Regulation No. 1 of 2023 on Guidelines for Adjudicating Environmental Cases (2023). Available in Indonesian language only. Available at https://jdih.mahkamahagung.go.id/legal-product/perma-nomor-1-tahun-2023/detail accessed 16 March 2026.

The consultation underscored a recurring theme: the gap between progressive procedural frameworks and weak post-judgment implementation. Even when interim measures are granted, enforcement against corporate defendants remains structurally difficult. Participants noted that restoration orders are frequently undermined by a lack of monitoring or the diversion of environmental compensation into general state revenue rather than dedicated remediation funds.

4. Procedural Sensitivity to Vulnerable Groups

Inclusiveness within procedural design shapes whose claims are heard and how they are assessed. Environmental disputes do not occur in a vacuum; they often fall disproportionately on Indigenous Peoples, rural communities, women, and environmental human rights defenders. For these groups, formal legal neutrality is often insufficient to overcome systemic barriers. As the February 2026 Regional Consultation emphasized, true procedural equality requires substantive accommodations that account for legal pluralism and the lived realities of marginalized litigants.

Vulnerable groups face challenges due to the high cost of expert witnesses, travel expenses, and a lack of recognized land tenure. To bridge this gap, some jurisdictions have introduced mobile courts and in situ hearings. For example, Malaysia allows for "open court" sessions held directly in forests or disputed lands to enhance the bench's contextual understanding.

A rising threat to environmental adjudication is the use of Strategic Lawsuits Against Public Participation (SLAPP). The region shows a varied landscape of anti-SLAPP protection. For example, in Indonesia, protection is explicitly guaranteed under Article 66 of Law 32/2009.[26] The Philippines RPEC provides a comprehensive definition of SLAPPs as actions intended to "harass, vex, or exert undue pressure" on those asserting environmental rights.[27] Defendants can raise "SLAPP as a defense," triggering a summary hearing where the burden of proof is shared.

Another significant procedural hurdle in environmental adjudication is the recognition of Indigenous knowledge and oral histories. While these narratives are essential for establishing the historical and spiritual connection to land, they often clash with conventional evidentiary standards. As noted in the upcoming RWI-ICJ Guidebook, most Southeast Asian jurisdictions lack specific guidelines for admitting Indigenous knowledge.

The procedural dimensions explored above—from the liberalization of standing to the management of scientific uncertainty and the protection of vulnerable groups—reveal a fundamental shift in the judicial role. However, this transition cannot be achieved through legislative reform alone; it requires a deep and sustained investment in specialized judicial learning and institutional training.

Institutional Diversity as a Foundation for Dialogue

While ASEAN courts operate within diverse procedural frameworks, they exercise common judicial control over both the substance and process of environmental disputes.[28] This institutional diversity does not imply fragmentation; rather, it provides a foundation for peer exchange as courts grapple with shared functional questions regarding access, evidence, and enforcement. Regional dialogue, therefore, should not pursue formal harmonization, but in-

[26] Available at: https://peraturan.bpk.go.id/details/38771/uu-no-32-tahun-2009 accessed 16 March 2026.

[27] Available at: https://lawphil.net/courts/supreme/am/am_09-6-8-sc_2010.html accessed 16 March 2026.

[28] Benjamin, H. Antonio, "We, the Judges, and the Environment," (2012) 29 Pace Environmental Law Review 582, at 588–589.

stead foster informed reflection on how distinct models navigate these common challenges.[29]

Globally, many jurisdictions have strengthened environmental adjudication through institutional innovation. Specialized environmental courts and tribunals have been established to enhance access to justice and improve the effectiveness of decision-making.[30] These institutions take different forms, including stand-alone environmental courts, specialized divisions within general courts, and the designation of judges with environmental expertise.[31] As of 2022, more than 2,115 environmental courts and tribunals have been established in 67 countries.[32]

Across the region, this diversity is visible in three primary areas. First, several jurisdictions have institutionalized environmental procedures through codification. In the Philippines, the Rules of Procedure for Environmental Cases provide a comprehensive procedural framework and introduce landmark mechanisms like the Writ of Kalikasan. In Indonesia, Supreme Court Regulation No. 1 of 2023 offers guidance on key issues, including precautionary principles, strict liability, corporate liability, and protection against SLAPP.

Second, institutional specialization reflects a growing recognition of environmental adjudication as a distinct field. The Philippines designated 117 municipal and regional trial courts as environmental courts to handle environmental cases. Malaysia designated specific courts and expanded their jurisdiction from criminal to civil matters to improve access to remedies. Thailand established specialized judicial chambers, notably the Green Bench, with jurisdiction over both civil and criminal environmental cases. The Thai Administrative Court further complements this through an inquisitorial system that allows for proactive judicial evidence-gathering.

Finally, the institutionalization of this field is supported by robust judicial training and certification systems. Indonesia, for instance, requires environmental cases to be heard by certified "environmental judges," a status achieved by roughly 16% of its judiciary through specialized training.[33] These efforts, supported by regional judicial education programs and the work of the CACJ, ensure that judges possess the specialized capacity required to handle the scientific and social complexities of modern environmental law.

Reflective Questions

Institutional Choice: Is it more effective to establish specialized environmental courts or to strengthen existing judicial structures to handle these complex disputes?

The Capacity Gap: While specialized procedural rules can enhance capacity, what additional support—such as training, regional peer-to-peer exchange, or technical expert pools—is most vital for their success?

[29] Association of Southeast Asian Nations (ASEAN), ASEAN Agreement on Transboundary Haze Pollution (2002), available at https://asean.org/wp-content/uploads/2021/01/ASEAN AgreementonTransboundaryHazePollution-1.pdf accessed 22 March 2026.

[30] United Nations Environment Programme (UNEP), Environmental Rule of Law: Tracking Progress and Charting Future Directions (Nairobi: UNEP, 2023), 123.

[31] Preston, J. Brian, "The Role of Environmental Courts and Tribunals in Delivering Environmental Justice" in Linda Y. Sulistiawati and Sroyon Mukherjee (eds), Environmental Courts and Tribunals in Asia-Pacific: Best Practices, Challenges and the Way Forward (Brill Nijhoff 2025) p 5

[32] Pring & Pring (2016).

[33] Agung Wardana, "Greening the Bench in Indonesia: From Certification to Environmental Courts?" in Linda Y. Sulistiawati and Sroyon Mukherjee (eds), Environmental Courts and Tribunals in Asia-Pacific: Best Practices, Challenges and the Way Forward (Brill Nijhoff 2025) p. 161.

The literature identifies that effective environmental courts and tribunals (ECTs) combine broad jurisdiction, specialized and competent judges, robust training systems, access to scientific expertise, and mechanisms ensuring access to justice, contributing to the development of environmental jurisprudence.[34] However, no single model exists, as effective ECTs reflect context-specific combinations of these features.[35] Jurisdictions are encouraged to adopt models suited to their own legal traditions while ensuring these core functional pillars are addressed.[36]

Indonesia provides an instructive example of bridging the gap between rules and practice. Supreme Court Regulation No. 1 of 2023 guides judges in assessing scientific evidence, including its relevance, scientific validity, expert qualifications, and methodological reliability. Recognizing that rules alone do not guarantee effective evaluation, the Indonesian Supreme Court has begun implementing complementary science-based training to ensure these standards are applied rigorously in the courtroom.

Towards Structured Regional Judicial Learning

Based on the previous sections, environmental adjudication in Southeast Asia is evolving in response to increasingly complex, scientifically grounded, and socially significant disputes, requiring courts to adapt their institutional roles and procedural approaches. While the right to a healthy environment is recognized in national and regional frameworks, its effective realization depends on domestic legal systems and their ability to translate substantive rights into practice. Across Southeast Asia, procedural frameworks differ, highlighting the need for continued reflection on how these approaches can support effective adjudication of environmental and human rights claims.

However, this transition cannot be achieved through legislative reform alone; it requires sustained investment in specialized judicial learning and training, as the effectiveness of environmental adjudication depends on judicial capacity to navigate these challenges. The need for both initial and ongoing training is widely recognized as critical to effective environmental jurisprudence and access to justice.[37] This includes education for judges, continuing professional development throughout their tenure,[38] as well as knowledge exchange and comparative learning initiatives across jurisdictions.

Despite differences in procedural and substantive laws across jurisdictions, adjudication processes share common analytical foundations. Courts generally engage in three core steps: finding the law, finding the facts, and applying the law to the facts.[39] The art of judging environmental disputes involves the same three core steps.[40]

Building on this foundation, common challenges in environmental adjudication may

[34] Preston, Brian J., "Characteristics of Successful Environmental Courts and Tribunals' (2014) 26(3) Journal of Environmental law 365-393; Pring & Pring (2009).; UNEP (2016).

[35] Pring & Pring (2009), 19.

[36] Kisworo, Windu, A Framework for the Establishment of an Environmental Court in Indonesia: Opportunities and Challenges (PhD diss., Macquarie University, 2019).

[37] Pring & Pring (2009), 73.

[38] Preston, J. Brian, 'Characteristics of Successful Environmental Courts and Tribunals' (2014) 26(3) Journal of Environmental Law 365, 377.

[39] Pound, Roscoe & DeRosa, L. Marshall L, An Introduction to the Philosophy of Law (Transaction Publishers, 1999) 48, as quoted in Preston, J. Brian, 'The Art of Judging Environmental Disputes' (2008) 12 Southern Cross University Law Review 108. These three steps constitute a model of syllogistic reasoning. Through the first two steps of finding and interpreting the law, the judge identifies the relevant rule of law which is the major premise. The rule of law typically states that in a given factual situation certain rights, obligations or liabilities exist. The third step, of applying the law so found and interpreted to the matter, involves two stages. The first stage is finding the facts relevant to the identified rule of law, which identify the minor premise. The second stage involves taking the rule of law as the major premise, employing the facts found as the minor premise, and, in theory, coming to a judgment by a process of syllogistic reasoning.

[40] Preston, J. Brian, 'The Art of Judging Environmental Disputes' (2008) 12 Southern Cross University Law Review 108, 125.

be identified through structured reflection, supported by guiding institutional and procedural questions.[41] Institutional questions aim to strengthen shared understanding among judiciaries while recognizing diversity.[42] At the same time, procedural questions arise in relation to the functioning of courts rather than environmental policy choices. These include:

- How to assess and admit complex scientific and technical evidence;
- How to balance broad standing in environmental cases with safeguards against abuse of process;
- How to ensure effective interim relief where harm may be irreversible;
- How to supervise compliance with environmental judgments;
- How to address procedural issues where environmental harm has transboundary elements, but jurisdiction remains domestic.

Structured Regional Judicial Learning through the Council of ASEAN Chief Justices

These shared foundations and challenges provide a basis for structured regional judicial learning. Regional bodies contribute to norm development and policy dialogue, while national courts are responsible for the interpretation and enforcement of rights and obligations. Procedural rules then shape access to justice and the availability of effective remedies.[43]

In this context, the Council of ASEAN Chief Justices (CACJ), an ASEAN Accredited Entity, occupies a distinct position as a judicial-led platform that operates across jurisdictions while respecting institutional independence.[44] As reflected in its ongoing work on judicial education and training, the CACJ serves as a structured mechanism for strengthening judicial capacity and promoting the exchange of good practices.[45] It provides not only a forum for dialogue but a practical institutional pathway for embedding sustained judicial learning across jurisdictions.

Building on this role, the CACJ, particularly through the Working Group on Judicial Education and Training (WG-JET), offers a practical entry point for advancing regional judicial learning in environmental adjudication.[46] The WG-JET's emphasis on shared training priorities, knowledge exchange, and comparative learning aligns with the needs identified in environmental litigation.[47]

Regional initiatives under the CACJ may therefore:

- Support peer learning among judiciaries;
- Facilitate the exchange of environmental jurisprudence;
- Provide a forum for discussing emerging procedural issues linked to environmental and human rights claims;
- Became a space for strengthening institutional capacity in complex environmental litigation.

To support these exchanges, the RWI-ICJ Guidebook on Environmental Rules of Procedures for Judges may serve as a practical resource for structured judicial learning

[41] Raoul Wallenberg Institute (2020).

[42] Raoul Wallenberg Institute (2020).

[43] Pring & Pring (2016).

[44] Council of ASEAN Chief Justices (CACJ), Singapore Declaration, 12th CACJ Meeting (2025), available at https://cacj-ajp.org/web/wp-content/uploads/2025/11/12th-CACJ-Meeting-2025-Singapore-Declaration.pdf accessed 22 March 2026.

[45] CACJ Working Group on Judicial Education and Training (WG-JET), Work Plan 2020–2025, Introduction and Objectives. (Internal Document, on file with the CACJ Secretariat).

[46] CACJ WG-JET, Work Plan 2020–2025, Section 2 (Objectives).

[47] CACJ WG-JET, *Work Plan 2020–2025,* Section 3 (Judicial Education and Training Priorities – Environmental Law).

by mapping procedural approaches across jurisdictions, synthesizing judicial practice, and documenting innovations on procedural aspects of environmental adjudication. As a comparative and non-prescriptive tool, it facilitates informed dialogue and exchange on how different legal systems address shared procedural challenges.

The Guidebook is designed as a living resource that can support the ongoing institutional goals of the CACJ. While its primary function is to provide a comparative baseline for environmental adjudication, it also identifies broader areas where regional judicial dialogue could be further strengthened.

To complement these regional efforts, international technical resources provide immediate practical utility. A notable example is the Course on Climate Rights Litigation launched by UNEP in 2022 via the InforMEA platform.[48] This self-paced course—which includes a downloadable workbook—offers judges a structured framework for understanding climate rights litigation, specifically addressing challenges to national mitigation targets and the rights of persons in situations of heightened vulnerability.

Consistent with the objectives of the WG-JET Work Plan 2020–2025 and the February Regional Consultation for the Guidebook, the following areas represent potential points of synergy for future consideration:



Knowledge Management: There is a significant opportunity to develop structured, searchable repositories of environmental jurisprudence. A practice-oriented summary of regional cases would serve as a non-prescriptive tool, helping judges understand how different courts have successfully navigated similar procedural hurdles.

Complementing Existing Modules: The Guidebook could serve as a valuable complement to existing CACJ training, such as the module on Evaluating Scientific Evidence, by providing additional best practices from across Southeast Asian jurisdictions.

The activities and approaches discussed here are intended as indicative possibilities for future cooperation. Rather than prescribing a fixed set of activities, these areas provide a starting point for continued dialogue between the CACJ and relevant supportive organizations, like RWI. Such engagement ensures that any future initiative remains fully aligned with regional judicial priorities and the evolving needs of the bench.

[48] Available here: https://elearning.informea.org/pluginfile.php/140191/mod_resource/content/1/Workbook_Climate%_20Litigation.pdf



CONCLUSION

The shifting landscape of Southeast Asian environmental law marks a transition in the judicial role. As explored throughout this brief, the ever-evolving state of the world requires a judiciary that is technically literate, procedurally agile, and institutionally resilient.

Four core conclusions can be offered:

- Environmental adjudication is no longer a niche regulatory concern; it increasingly intersects with fundamental human rights. As cases involving climate change, biodiversity loss, and transboundary harm grow in complexity, the judiciary remains the essential arbiter for interpreting these evolving obligations within national and regional frameworks.
- The effectiveness of environmental law depends entirely on the procedural realm. The design of rules regarding standing, the assessment of scientific evidence, and the availability of interim relief determines whether environmental justice is a functional reality or a theoretical abstraction for the communities involved.
- The Southeast Asian judiciaries demonstrate a wealth of institutional innovation. The region's diverse legal traditions provide a rich library of successful models for peer learning.
- Strengthening the regional judiciary does not require formal harmonization. Instead, it requires a structured space for voluntary, peer-led dialogue. By leveraging the Council of ASEAN Chief Justices and the WG-JET, the region can move toward a common understanding of procedural challenges while fully respecting national sovereignty and judicial independence.

Rather than prescribing a fixed set of activities, these areas provide a starting point for continued dialogue between the CACJ and relevant supportive organizations, like RWI. Such engagement ensures that any future initiative remains fully aligned with regional judicial priorities and the evolving needs of the bench. Environmental adjudication represents not a departure from the core judicial function, but its contemporary evolution in response to the defining legal challenges of the 21st century.

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