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Tackling Air Pollution through Legislation

National experiences in participatory governance: the case of **Chiang Mai** (Thailand) - **PM2.5 litigation**

Watchalawalee Kumboonreung

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The world's most polluted city.

THE STRAITS TIMES ASIA

THE STANDARD Work-from-home order issued as Thailand's Chiang Mai chokes on pollution

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Smoke from forest fires blankets northern Thailand in thick pollution

By Koche Clem and Heather Chen, CNN
Published 10:37 PM EDT, Wed April 5, 2023

วิกฤต PM2.5 ไทย ลาวหนัก

สิ้นนอกตีแผ่สถานการณ์ฝุ่นพิษภาคเหนือ

เลวร้ายติดอันดับโลก

News | Environment

How Chiang Mai became the world's most polluted city

Burning fields are blamed for hazardous levels of air pollution in

Legal Proceedings on Air Pollution in Court: 2019-2023

Over the past 5 years, the number of citizen suits against government agencies to solve PM2.5 has been rising.

- Specifically, 5 cases related to PM2.5 have been brought before the Administrative Court in Thailand.
- 3 of them were at the Chiang Mai Administrative Court.

The primary legal contention revolves around the alleged neglect of official duties mandated by the law or the execution of such duties with unreasonable delays.



นายกฤษณ์กำนกำเตื้อะ
นายกทำงานชะบั้ง

PM 2.5
ควันป่อต/น
ป5 = ๕๗๕๖



The 10 of plaintiffs are Chiang Mai citizens who have been affected by PM2.5, including:

- Scholars of CMU Faculty of Law and doctor
- Environmental Activists Sector: the Chiang Mai's Breath Council, Northern Breath Council, Balance-Chiang Mai,
- Local resident, encompassing both adults and youth aged 14
- 727 individuals from general public (who signed as supporter),
- Online supporter of approx. 1,000 people.

Thailand Constitution 2017

- * Right to participation
- * Right to access public health services
- * Right to receive state-provided protection and treatment against harmful contagious diseases at no cost, as stipulated by law

The National Health Act 2007

Right to live in healthy environment and environmental condition

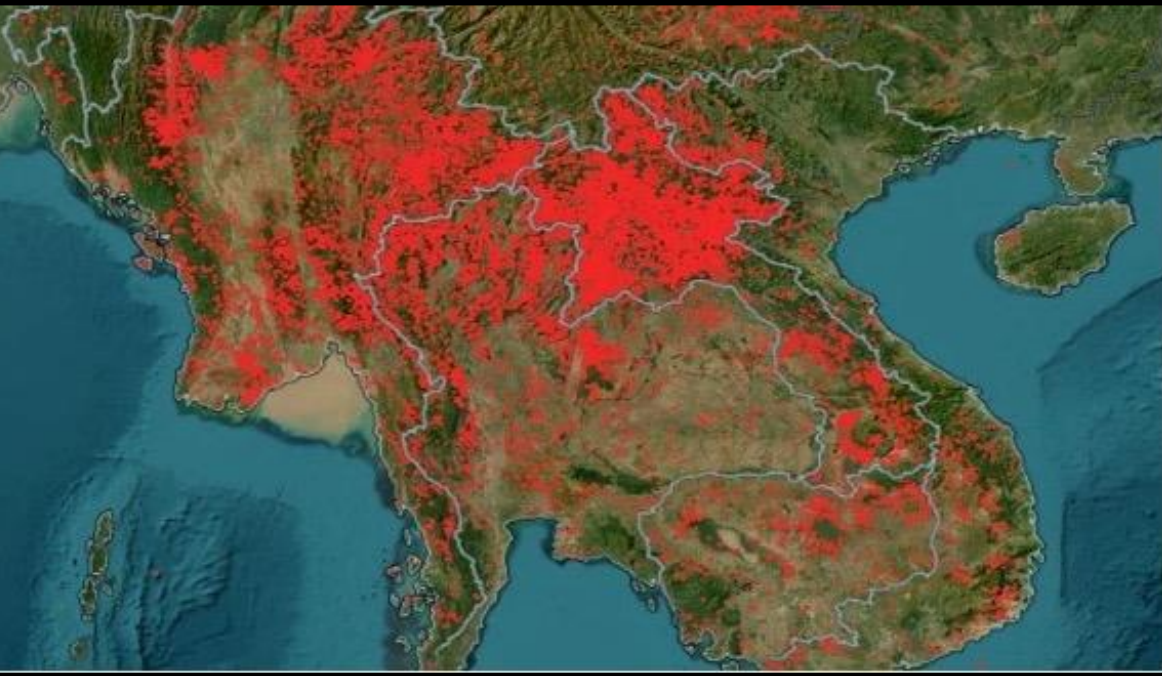
International Law

- Right to Living in healthy environment - UDHR
- Rio Declaration on Environment 1992
- ASEAN Human Right Declaration
- Right to Health, ECSR
- Right to Clean, Healthy and Sustainable environment.
- SDG & UNGP



Main Legal Claim:

Alleged neglecting of official duties required by the law to be performed or performing such duties with unreasonable delay, due to the PM2.5 exceeding 100 microgram per cubic meter continuously more than 3 day



NASA's satellite image on 4 April shows thousands of hotspots detected in the last 24 hours. The hotspots, indicating fire or burning, are pervasive in the northern parts of Laos, Myanmar and Thailand. Source: [NASA](#)

- **The Enhancement and Conservation of the National Environmental Quality Act 1992.**
- **The National Action Plan on Haze 2019**
 - **the Prime Minister**
 - **the National Environment Board (NEB)**

- **The Securities and Exchange Act 1992**
- **The United Nations Guiding Principles on Business and Human Rights (UNGPR)**
 - **the Securities and Exchange Commission**
 - **the Capital Market Supervisory Board**

Requests to the Court

- The PM and NEB to exercise duty by law to mitigate, solve, and prevent the PM2.5 situation.
- Demand the NEB to amend the Haze National Action Plan 2019 to align with the standard value criteria PM2.5 from 50 to 37.5 ($\mu\text{g}/\text{m}^3$)
- Task SEC and CMS to define measure, condition and method to reveal information in the form of 56-1 One Report to enforce the listed companies to disclose human risks through business supply chains, whether operating in or outside Thailand.

The Expedited Judicial

Rule of the General Assembly of Judge of the Supreme Administrative Court on Administrative court Procedure B.E. 2543, Cluause 49/2

April

May

November

10.04. 23

the filing date

20.04. 23

**The Court accepted the case
but dismissed the petition
of SEC and CMS**

**18.05.23 – Decided to
appeal the petieion on SEC
and CMS to the Supreme
Administrative Court**

22.10.23

The Inquiry Day



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The impact after the case

- Increased public attention towards the air pollution issue.
- Heightened government awareness and preparedness in response to the air pollution situation.
- The new Government displays stronger commitment to advocate the implementation of the 'Clean Air Act'.



Challenges

National Level- **Lacking**

- Right to healthy environment
- Clean Air Act
- Climate Change Act
- Pollutant Release and Transfer Register Act (PRTP)

Transboundary

- Haze pollution
- Corporate Accountability
- Extraterritorial Obligations
- Access to justice and remedy

In the era of Climate Change , transboundary pollution presents challenges not only Thailand but to the entire ASEAN Region.