

State Obligations on air pollution to support fulfillment of the right to a clean, healthy & sustainable environment

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Intro to RWI

The Raoul Wallenberg Institute of Human Rights and Humanitarian Law (RWI) is an independent academic institution.

In Southeast Asia, RWI is present in Jakarta, Bangkok, and Phnom Penh.

Thematic areas: 1) Human Rights & Environment, 2) Business & Human Rights, 3) Access to Justice, 4) IHL, 5) Inclusion & Non-discrimination.



The Tale of Two Cities (Bangkok & Jakarta)

In both cities, hazardous air quality is no longer episodic — it is foreseeable.

Bangkok

Seasonal PM2.5 spikes (around January-February).

Agricultural burning + urban traffic + industrial emissions around Bangkok.

School closures and emergency responses.

Jakarta

Persistent urban PM2.5 exceedance.

Industrial + traffic + coal power influence.

Litigation and public pressure with an ongoing enforcement gap.



From Urban Crisis to Legal Obligation

Foreseeability

When hazardous air quality is:

- Recurrent
- Measurable
- Scientifically established
- Linked to health harms
- **It is no longer an unpredictable event - it becomes foreseeable harm.**

Under international human rights law, once harm is foreseeable:

States must:

- Prevent exposure through regulation
- Control public and private emission sources
- Monitor compliance effectively
- Take corrective action without delay.

For national air quality actors:

- Standards must be health-based
- Exceedances must trigger mandatory action
- Monitoring must inform enforcement
- Public reporting must enable accountability
- Clean air shifts from policy aspiration → to enforceable governance duty.

Chronic urban air pollution transforms environmental management into a human rights compliance question.

State Responsibilities in Air Pollution Governance

Prevent (Substantive)	Enable (Procedural & Accountability)	Protect Equally
Standard Setting: Align with WHO Guidelines (PM2.5).	Access to information: real-time, accessible public air quality data.	Identify and address pollution hotspots.
Regulate emission sources (transport, industry, energy).	Participation: guarantee meaningful participation in permitting and air quality planning. For exp. public hearings on industrial permits.	Prioritise vulnerable populations: children, the elderly, informal workers, low-income communities, the unhoused, etc.
Enforce compliance, including to businesses.	A2J & remedy: provide effective remedies for environmental harm, incl. legal standing for individuals & communities to challenge regulatory inaction/weak enforcement.	Prevent disproportionate exposure.
Take corrective action when standards are exceeded.		Protect environmental defenders from reprisals.

Why does the Declaration matter?

1) Breaking Institutional Silos

Historically, environmental regulators and human rights institutions have operated in parallel — one focused on technical compliance, the other on rights protection.

2) Regional Bridging Function

The ASEAN Declaration on the Right to a Safe, Clean, Healthy and Sustainable Environment provides a framework for institutional alignment across ASEAN bodies, including AICHR and ASOEN.

3) Implications for Governments (incl. national air quality actors)

ADER affirms — at the regional level — that environmental protection is a rights obligation, not merely a technical policy choice.

For national air quality actors, this reframes pollution control as a duty tied to rights.

ASEAN Declaration on the Right to a Safe, Clean, Healthy and Sustainable Environment

October 28, 2025



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12 November 2025



Can AICHR Turn ASEAN's Environmental Rights Promise into Reality?



Why does the Declaration matter?

Regional Support for Procedural Rights: ADER reinforces commitments to access to information, meaningful participation, and access to justice. Even as a declaration, it strengthens the political expectation that transparency, public oversight, and remedy must accompany air quality governance.

Regional Peer Leverage: Because all ASEAN Member States endorsed it, ADER creates space for peer dialogue, benchmarking, and mutual reinforcement — including in megacities like Bangkok and Jakarta.

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Thank you for listening!

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