

TERMS OF REFERENCE

The Asia Pacific Forum of National Human Rights Institutions refers to the Advisory Council of Jurists to advise and make recommendations as to international law, instruments and standards relevant to environment and the right to life.

In particular the Advisory Council of Jurists is asked to consider:

- (1) whether a right to an environment of a particular quality exists either in international human rights instruments, or in customary international law;
- (2) any existing human rights that may be used to address environmental concerns;
- (3) the nature and scope of the right to life and whether this right may be used to address environmental harms;
 - a. how international human rights instruments have defined the “right to life”;
 - b. the nature and scope of the right to life in customary international law as it relates to the condition of the environment;
 - c. the extent to which environmental harms that affect human life violate human rights law;
- (4) The nature and scope of the responsibility of a State to protect its citizens from environmental damage that may be detrimental to human life, where that damage is caused not only by:
 - a. the State, but also by;
 - b. non-State actors who undertake public or private projects;
- (5) whether international legal instruments, or international customary law, impose obligations on non-State actors to protect human rights. The ACJ is asked to consider what mechanisms exist to address such violations.
- (6) whether a State has an obligation in international law to control activities within its jurisdiction that might cause environmental harms that undermine the right to life in another State;
- (7) whether a State has an obligation in international law to protect its citizens from violations to their right to life that are caused by environmental harms originating either in the territory of another State, or in international air or water space. The ACJ is asked to consider what mechanisms exist to address such violations.
- (8) in the context of environmental harms to human life, what additional value would there be in having a specific right to environment.

Relevant international instruments include but are not limited to:

- (i) Universal Declaration of Human Rights;
- (ii) International Covenant on Economic, Social and Cultural Rights;
- (iii) International Covenant on Civil and Political Rights
- (iv) International Convention on the Elimination of All Forms of Racial Discrimination;
- (v) Convention on the Elimination of All Forms of Discrimination Against Women;
- (vi) Convention on the Rights of the Child;
- (vii) international environmental conventions including
 - (a) Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;
 - (b) United Nations Framework Convention on Climate Change;
 - (c) Stockholm Convention on Persistent Organic Pollutants;
 - (d) Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade.

The Advisory Council of Jurists may wish to consider:

- (i) General Comment No.3 of the Committee on Economic, Social and Cultural Rights: The nature of States parties obligations
- (ii) General Comment No. 10 of the Committee on Economic, Social and Cultural Rights: The role of national human rights institutions in the protection of economic, social and cultural rights
- (iii) General Comment No. 12 of the Committee on Economic, Social and Cultural Rights: The right to adequate food
- (iv) General Comment No. 14 of the Committee on Economic, Social and Cultural Rights: The right to the highest attainable standard of health
- (v) General Comment No. 15 of the Committee on Economic, Social and Cultural Rights: The right to water
- (vi) Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights;
- (vii) Maastricht Guidelines on Violations of Economic, Social and Cultural Rights
- (viii) The UN Millennium Development Goals
- (ix) Vienna Declaration and Programme of Action;
- (x) Declaration of the United Nations Conference on the Human Environment (Stockholm Declaration);
- (xi) Rio Declaration on Environment and Development.