



## HUMAN RIGHTS AND THE ENVIRONMENT

### QUESTIONNAIRE FOR THE BACKGROUND PAPER

Please complete the questionnaire and send all responses by e-mail to Kieren Fitzpatrick: [kierenfitzpatrick@asiapacificforum.net](mailto:kierenfitzpatrick@asiapacificforum.net)

Responses to this questionnaire will be used in the Background Paper on Human Rights and the Environment, which will be distributed to the Advisory Council of Jurists.

The APF Secretariat requests APF members to submit all responses to the questionnaire by **Friday 18 May 2007**.

Thank you in advance for your time and contribution.

Information about the Advisory Council of Jurists is available at: <http://www.asiapacificforum.net/jurists/>

#### Documentation

Please send the following documentation to the APF Secretariat by email or by mail:

##### Constitutional provisions relating to:

- the right to an environment of a particular quality;
- obligations with respect to the environment;
- the right to life
- the relevance of international law in the domestic jurisdiction.

##### Relevant legislation referring to:

- a right to an environment of a particular quality;
  - protections against environmental harms that affect human life or health
- (Please provide the full name and citation for legislation and regulations)

##### NGO Reports

- reports by local, national or international non-governmental organizations on environmental harms that affect the rights to life and health in your country

## **Part 1: The “Right to Environment” in Your Country**

1. Has a “right to environment” been recognized in your constitution or national legislation?
2. Have your national courts recognized a “right to environment” as a component of other human rights? If so, please provide copies some of the most significant decisions.
3. Have your national courts recognized that environmental harms have violated the rights to life or health? If so, please provide copies of some of the most significant decisions.
4. Have your national courts recognized that environmental harms have violated human rights other than the rights to life and health? If so, please provide copies of some of the most significant decisions.

## **Part 2: Issues Raised in the Terms of Reference**

1. How has the right to life been interpreted by various actors (e.g. your Commission, the Courts) in your country? What positive obligations have been placed on the State to protect this right?
2. Do your national courts recognise customary international law as a source of law to be complied with? Include any cases that refer to rules of customary law as establishing the scope of the right to life.
3. What obligations does the State have in your country to protect individuals against violations of their rights by non-State actors engaged in either public or private projects? Has the State been required:
  - a. To take steps to prevent potential harms, for instance, by regulating industry, or by providing the public with information about threats to their life or health?
  - b. To provide remedies where violations have occurred?
4. Does your country have legislation or regulations imposing human rights obligations on non-State actors? Have your national courts found that non-State actors have obligations to protect the rights to life and health against environmental harms arising from their activities?
5. If your country is facing environmental threats to human life or health caused by activities occurring outside your country, what steps have been taken to address these problems? Have your national courts imposed any obligations on the State to protect against harms to human rights that originate outside the State?

## **Part 3: Activities of your Commission**

1. Has your Commission received complaints from individuals or groups claiming that environmental harms, including harms caused by non-State actors, have affected their right to life or health? If so, please indicate how many complaints

you have received, and please describe some of the most important cases, and the role of your Commission in resolving the complaints.

2. Has your Commission conducted research on the connection between environmental harms and the rights to life or health? If so, please provide the results of this research.
3. Has your Commission undertaken awareness and education campaigns relating to environmental harms affecting the rights to life or health? If so, please provide details of these campaigns, identify the individuals or groups who have been trained and estimate how many people have been trained.
4. Has your Commission intervened in court proceedings on the issue of the environment and the rights to life and health? If so, please provide details of the cases, the role of the commission and the outcome of the cases. Please provide copies of any submissions and court decisions.
5. Has your Commission addressed the effect of environmental harms on the rights to life and health in its annual reports or in any other reports? If so, please provide a copy of the relevant sections.
6. Does your Commission work in collaboration with civil society, including the private sector, government or U.N. agencies or multilateral donors, such as the World Bank, on the issue of environmental harms affecting the rights to life and health? If so, in what way?
7. Has your Commission proposed legislation or regulations relating to environmental harms that affect the rights to life and health, or helped to develop a national policy?
8. What jurisdiction does your Commission have over the activities of non-state actors? Has your Commission undertaken any activities to address environmental harms caused by non-State actors that are affecting the rights to life or health?

#### **Part 4: Current Situation**

1. Are there currently environmental problems in your country that could affect the rights to life and health, but that have not been addressed as human rights issues? If so, what obstacles exist to addressing the human rights consequences of these environmental problems?
2. Would the articulation of a specific right to the environment be valuable in addressing threats to human life and health in your country?