

Terms of Reference

A. Project Title:

Regional Asia Programme on Human Rights and Sustainable Development (2017-2021)

B. Project Description:

The programme “*Regional Asia Programme on Human Rights and Sustainable Development (2017-2021)*” implemented by Raoul Wallenberg Institute of Human Rights and Humanitarian Law’s (RWI), in collaboration with local partners, became operational in 2017. Its objective is to contribute to a just, inclusive and sustainable development in the region through mutually reinforcing protection of human rights, gender equality and the environment, by means of three mutually inter-linked strategies:

1. Strengthening knowledge on connections between human rights, gender equality and environment in the region, aiming to clarify context specific challenges and opportunities and to inform and influence policy, practice and discourse.
2. Strengthening multi-sector synergies, pursuing constructive collaboration and efficient, inclusive and rights-based action towards SDG targets, building bridges and offering platforms for mutual exchange, and;
3. Promoting accountability in relation to programme topics for all in society, including for cross-border violations and actions of private actors, and adequate measures for marginalised and discriminated groups.

Changes to schedules and services may be agreed between the Researcher and RWI.

C. Consultancy Services:

The duties of the hired National Researcher in 2019 will include, but are not limited to:

- I. Design, develop and implement the thematic study on the Right to a Safe, Clean and Sustainable Environment in ASEAN Countries (hereafter referred to as “the ASEAN Study”).

- II. Participate in an RWI-organized workshop, in September, where the Researcher will share and discuss the main initial findings and recommendations of his/her chapter/s with the lead researcher. (RWI will only cover the Researcher's accommodation and travel expenses, as well as his/her per diem, in line with its Financial Handbook 2019). The Researcher is expected present an initial draft analysis at this workshop.

Background

The thematic study, entitled the 'Human Right to a Safe, Clean and Sustainable Environment in ASEAN Countries' (tentative title) will: map and analyse the legal outcomes of the recognition of the right to a healthy environment in ASEAN countries. It will also provide practical and empirically grounded strategies and recommendations for advancing the implementation of the human right to a healthy environment in the ASEAN context as well as for strengthening ASEAN's role internationally. Moreover, cross-cutting themes will be addressed throughout the ASEAN study, specifically a) gender equality; b) generational justice; c) the protection of the rights of environmental human rights defenders; and d) people in specific situations of vulnerability. See Outline in Section 5.2 and draft table of contents in Section 6.

The process of developing this ASEAN study aims to foster a win-win situation in which intellectual insights and voices from scholars from South East Asia on the nexus between human rights, environment and gender equality are shared not only nationally but also benefit the regional and international debates with more grounded and diverse perspectives. Regional legal advances concerning human rights and environment in Europe, Africa and Latin America have been addressed in literature and international fora than in the ASEAN context. This ASEAN study will seek to fill this gap.

Conversely, the process of conducting the study is also intended to strengthen ASEAN researchers' knowledge and capacities in understanding systemic and root causes of unsustainability, obstacles and legal advances and innovations for the enjoyment of the human right to a healthy environment. Beyond focusing on a niche areas such as forests or freshwater in an isolated manner, the ASEAN study co-authors will be encouraged to shed light on connected regional challenges and solutions, and build bridges between two communities of scholars specifically between the human rights community and the environment community.

This RWI study, will be led and edited by RWI affiliated senior researcher Dr. Claudia Ituarte-Lima and co-authored by a team of experts from ASEAN countries. An Advisory Committee for the study will be established, composed of RWI affiliated Professor Sumudu Atapattu, RWI affiliated Professor Frank Baber and RWI team leader on Economic Globalisation Malin Oud. This concept note written by Claudia Ituarte-Lima, enriched with comments by RWI team, the Advisory Committee and the ASEAN authors' team, will form the basis of the introductory chapter of this RWI study.

A national researcher and/or university in various ASEAN countries will be engaged to conduct the research and produce the final report. The study is expected to be completed by **December 2019**, and its initial findings will be presented and discussed at relevant forums.

Scope of Work

The National Researcher is expected to work in consultation with the lead-researcher Claudia Ituarte-Lima, in designing, developing and implementing this research project. The Researcher will develop a conceptual analysis of the human right to a safe, clean and sustainable environment as applied to ASEAN countries and the specific focus of her/his chapter/s. The chapter/s will deepen the understanding of distinct, yet complementary and indivisible, dimensions of the human right to a healthy environment.

The consultant will be asked to provide practical and empirically grounded strategies and recommendations for advancing the implementation of the human right to a healthy environment in the ASEAN context. The chapter should include examples of both right-holders led initiatives and duty-bearers-led initiatives with concrete evidence of positive impacts in the implementation and enforcement on the mapped human rights and environmental obligations of ASEAN countries. The consultant will provide inputs and comments to the lead-researcher and Copy Editor for the concluding chapter that will draw on insights from the various chapters. Cross-cutting themes throughout the report are a) gender equality; b) generational justice; c) the protection of the rights of environmental human rights defenders; d) people in specific situations of vulnerability.

Methodology

Legal interpretation and comparative methods will be the main methods used in this report. Each of the chapters will map international obligations and national laws relating to the enjoyment of a safe, clean, healthy and sustainable environment of the respective 10 ASEAN countries. The mapping of the international and regional legal instruments will provide a baseline of obligations with relevant legal implications applicable in the ASEAN context.

We will also assess whether and, if so, how the respective countries have recognised the human right to a healthy environment in their respective Constitutions, and provide examples of the legal outcomes from this recognition. We will identify if thematic specific legislation on substantive issues (water, food, health and climate) have been enacted after the recognition of the human right to a healthy environment, and if there are specific reference to the right to a healthy environment in the rationale for legal advances e.g. new laws (legislative), decrees (executive) or court decisions (judiciary). In countries which do not have a recognition of the right to a healthy environment at the Constitutional level, we will analyse selected national legislation and judicial decisions that can contribute to improving the connections between human rights and environment.

With a comparative approach, lessons will be drawn on the implementation and enforcement of these obligations as well as challenges faced in the enjoyment of the right to a healthy environment in the region. An ASEAN legal and geographical focus will be used for

understanding and providing recommendations for acting upon the connections between human rights and environmental sustainability in ASEAN countries.

Study Outline

In this study, Section one will provide an overview of the state of Nature Contributions to People/ecosystems goods and services in each of the ASEAN countries and analyse the legal outcomes from the recognition of the right to a healthy environment in the respective ASEAN countries. Before analysing these legal outcomes, this section will provide a brief overview of the state of the environment in ASEAN countries and unpack key environmental challenges that threaten people's human rights and good quality of life in these countries. International human rights law recognizes that every person, irrespective of gender, age, ethnic, economic conditions has the right to what IPBES conceptualises as a good quality of life. Considering that water, food and health are at the core of sustainability challenges and are recognized, as rights in the ASEAN Declaration, we will focus on these substantive dimensions of the human right to a healthy environment. Climate change has profound effects on the enjoyment of the human right to a healthy environment for present and future generations.

Section II will discuss procedural dimensions of the human right to a healthy environment in ASEAN countries. In this chapter, State and business obligations concerning access to information and public participation, access to justice and remedy in environmental matters will be addressed. This section will also discuss the legal outcomes of the recognition of the right to a healthy environment in terms of implementation and enforcement. It will reveal legal innovations concerning access to justice and remedy focusing on jurisprudence and legal empowerment.

Section III will provide strategies and recommendations for implementation of the human right to a healthy environment in the ASEAN contexts as well as ASEAN's role internationally. First, it will identify key strategies and hands-on recommendations for integrating human rights principles and standards in ASEAN instruments. It will discuss specific tools such as how to connect human rights impact assessments and environmental impact assessments. Secondly, it will discuss the integration of environmental principles and standards in ASEAN human rights-related instruments. Thirdly, women rights and their contributions to the enjoyment of the human right to a healthy environment will be highlighted, moving beyond the narrative only focusing on women's vulnerability. Finally, this section will discuss ASEAN's role in championing the human right to a healthy environment in international fora such as the UN Human Rights Council, MEAs Conference of the Parties and processes as the High-Level Political Forum concerning Agenda 2030 and the Sustainable Development

Cross-cutting themes:

Certain cross-cutting issues will be addressed throughout the ASEAN study, specifically a) gender equality; b) generational justice; c) the protection of the rights of environmental human rights defenders; d) people in specific situations of vulnerability.

Timeline

From August to November 2019, the ASEAN study authors will conduct a conceptual analysis of the human right to a human right to a safe, clean and sustainable environment as applied to ASEAN countries. Each of the authors will be assigned one or two chapters based on their thematic expertise. The chapters will deepen the understanding of distinct yet complementary and indivisible dimensions of the human right to a healthy environment. In each of the chapters, authors will be asked to provide examples of both right-holders led initiatives and duty-bearers-led initiatives with concrete evidence of positive impacts in the implementation and enforcement on the mapped human rights and environmental obligations of ASEAN countries. During December 2019, the Copy Editor, with support from the authors from ASEAN countries and the Advisory Committee, will draw conclusions on insights from the various chapters. The ASEAN study is expected to be ready by the end of December 2019. The Copy Editor and the Advisory Committee will provide comments and suggestions to the authors throughout the process.

Proposed table of contents

Preface

Chapter 1. Introduction

Chapter 2. Nature Contributions to People and substantive dimensions of the human right to a healthy environment

2.1. Right to a safe climate

2.2. Right to clean water

2.3. Right to healthy and sustainable food

2.4. Right to clean air

Chapter 3. Procedural dimensions of the human right to a healthy environment

3.1. Environmental rule of law and accountability

3.2. Access to information and public participation

3.3. Legal innovations in access to justice and remedy: jurisprudence and legal empowerment

3.4. Environmental impact assessment and public participation

Chapter 4. ASEAN and the human right to a healthy environment: strategies and recommendations

4.1. Integrating human rights principles and standards in ASEAN and national environmental instruments

4.2. Integrating environmental principles and standards in ASEAN and national human rights instruments

4.3. Integrating human rights and environment in ASEAN development instruments

Chapter 5. Women's rights and contributions to the enjoyment of the human right to a healthy environment

Chapter 6. Lessons learned for ASEAN from the Aarhus and Escazu agreements

Chapter 7. ASEAN: championing the human right to a healthy environment in international fora?

Chapter 8. Concluding remarks and recommendations

The following key components are envisioned, but not limited to:

	Outputs/Deliverables	Timeline (Expected)
1.	Provide an outline of the chapter/s containing the main ideas and plan	29 August
2.	First draft of the chapter/s, examining the requested thematic dimension of the right to a safe, clean and sustainable environment in ASEAN based on a literature review, legal interpretation and comparison of relevant legal frameworks	29 September
3.	Mid-term draft addressing the first round of comments and feedback from the lead-researcher, Copy Editor and the Advisory Committee	27 October
4.	Final Draft chapter/s, including outline addressing the second round of comments and feedback from the lead-researcher, Copy Editor and the Advisory Committee Provide inputs and comments to the concluding chapter	Final chapter: 30 November Inputs to concluding chapter: 8 December
5.	A Policy Brief summarising the key findings and recommendations relevant to the researcher's chapter/s' cross-cutting thematic issue and a two-minute videoclip presenting the key message of his/her chapter/s.	8 December

- 1. First Draft:** the first draft examines the requested thematic dimension of the right to a safe, clean and sustainable environment in ASEAN based on a literature review, legal interpretation and comparison of relevant legal frameworks in various ASEAN country contexts (see more above under scope of work). It should underscore good and bad practices related to the specific thematic issue covering as many ASEAN countries as possible, as well as compose evidence-grounded recommendations. The sources of data shall include English written documents relevant to the research question - research papers, reports by government, civil-society, non-governmental and international organisations; legal and policy documents, including the climate change adaptation plan, etc; latest secondary data from different media sources; and relevant key global policy documents - and, if possible, the literature in the local language.
- 2. Mid-term draft:** the mid-term draft addresses the first round of comments and feedback by the lead-researcher, Copy Editor and Advisory Committee.

3. **Final chapter/s:** produce a final version of the chapter/s, incorporating the second round of comments and feedback from the lead researcher, Copy Editor and the Advisory Committee. An outline of the final draft should be included in this last submission, containing an executive summary of the research findings, purpose of the research, methodology used, and findings and recommendations. This final stage also includes providing inputs and comments to the concluding chapter that will draw on all the chapters. The Final Drafts will be copy-edited by RWI's Copy Editor for readability and consistency in consultation with the National Researchers.
4. **Dissemination:** present findings and recommendations at relevant forums and contribute to RWI's outreach strategy for the report by, among many things, participating in a 2-minute clip to be posted on RWI's website wherein the Researcher presents the key messages/takeaways of his/her chapter/s.

D. Research Deliverables:

The National Researcher will produce the following in comprehensive written English language:

- 1-2 Chapter/s – as agreed with the lead researcher, including an analysis of the law and policy in ASEAN and other secondary data related to the specific chapter's thematic issue, deeper insights of lessons learned in case studies in one or several ASEAN countries, and evidence-grounded recommendations.
- A presentation summarising the key findings and recommendations relevant to the researcher's chapter/s' cross-cutting thematic issue and a two-minute videoclip presenting the key message of his/her chapter/s.

E. Institutional Arrangement:

The research team will comprise of one (1) lead international researcher (Ms. Claudia Ituarte-Lima), seven (7) national researchers, if possible, from different ASEAN member-states, and one (1) Copy Editor.

The National Researchers must:

- 1.** Have a master's degree, preferably in the field of: human rights, environment, climate change, law, international relations or social sciences;
- 2.** Have at least 2 years' work experience in the field of research, including literature review, analysis and report writing. Published research is a definite advantage;
- 3.** Have proven knowledge of and experience in implementing research methodologies, including desk-based research and qualitative data collection;

- 4.** Excellent command of written and spoken English. Familiarity with other ASEAN languages is considered an asset;
- 5.** Demonstrate strong written communication, research and analytical skills, and ability to rapidly integrate information from various sources;
- 6.** Have proven experience in working as part of a research team; experience of collaborations with international researchers and international research projects an advantage;
- 7.** Strong personal commitment to human rights, gender equality and the environment;
- 8.** Be a citizen of an ASEAN country, preferably currently based in one of these countries. (Thailand, Indonesia, Singapore, Malaysia, Philippines, Vietnam, Brunei, Cambodia, Myanmar and Laos).

The hired Researcher will directly be under the close supervision of the lead international researcher - Ms. Claudia Ituarte-Lima who will provide oversight and technical assistance, where needed. Reports, recommendations and other deliverables will be shared with the Copy Editor of the ASEAN study and responsible programme officers in a timely manner, with copy to the respective Team Leaders and other relevant team members.

F. Duration of Work & Scope of Bid Price:

Upon completion of the aforementioned deliverables and tasks, a total of SEK 38,000 (est USD 4,000 dollars) will be paid, following certification by lead researcher and RWI of satisfactory performance of deliverables and tasks.

RWI shall effect payments to the National Researcher based on the following breakdown, after acceptance by RWI of the invoices submitted by the national researcher and upon achievement of the corresponding deliverables.

	Outputs/Deliverables	Payment	Timeline (Expected)
1.	Chapter outline and the first draft of the chapter/s	30%	Chapter outline 15 August – 29 August First draft of the chapter/s 30 August – 29 September

2.	Mid-term draft addressing the comments and feedback of the lead-researcher	30%	30 September – 27 October
3.	Finalised chapter/s, incorporating the comments and feedback from the lead-researcher and the Advisory Committee. Inputs to the concluding chapter A Policy Brief summarising the key findings and recommendations relevant to the researcher’s chapter/s’ cross-cutting thematic issue and a two-minute videoclip presenting the key message of his/her chapter/s.	40%	Finalised Chapter/s 28 October – 30 November Inputs to concluding chapter 30 November – 8 December Policy brief and two-minute video clip 30 November – 8 December

The National Researcher is also expected to attend the RWI-organised workshop in September where initial main findings and recommendations of each chapter will be shared and scrutinised by the lead researcher. Travel and accommodation expenses associated with this workshop will be covered by RWI. The Researcher is expected present an initial draft analysis at this workshop

G. Duty Station:

Home-based with potential trips to other countries in ASEAN, as agreed with RWI and Lead Researcher.

H. Interested Individuals are Requested to Submit a Proposal, Including:

- Letter of interest clearly stating relevant experience and qualifications and the titles of at least two chapters from the aforementioned list (see page 6 - Chapters 2-7) that are most relevant to their areas of expertise and research interests;
- Sample of at least two recent pieces of work of published English material, preferably on the topics of their preferred chapter/s;
- Copy of CV, including names of at least two contacts for references on similar work undertaken.

Interested candidate should submit the documents to email: **victor.bernard@rwi.lu.se** :not later than **Sunday, 4 August 2019**.