NUS Asia-Pacific Centre for Environmental Law Working Paper 25/01

NUS Law Working Paper 2025/011

Climate Law Developments in East and Southeast Asia

Jolene Lin

Associate Professor, Director of APCEL,
Faculty of Law, National University of Singapore

[Uploaded June 2025]

Suggested citation: Jolene Lin, "Chapter 39: East and Southeast Asia" in Douglas Kysar and Ernest Lim (eds), *The Oxford Handbook of Climate Change and Private Law* (Oxford University Press, 2026, forthcoming), NUS Asia Pacific Centre for Environmental Law Working Paper Series: https://law.nus.edu.sg/apcel/publications/.

Chapter 39: East and Southeast Asia

Jolene Lin*

Abstract

This chapter focuses on climate change law developments in East and Southeast Asia, excluding India and China which will be discussed in Chapters [x] and [x] respectively (hereinafter "Asia"). These developments warrant discussion and analysis, even though many of them are at early stages compared to legal and regulatory developments elsewhere (e.g. Australia and the European Union), because they signal the direction of travel and raise interesting legal questions that merit scholarly attention. This chapter focuses on a few key areas of law that are potentially promising avenues for achieving corporate climate accountability in Asia and to draw out some implications for the broader discussion about climate change and private law. These key areas are: (1) climate litigation against private actors, (2) greenwashing, and (3) corporate accountability legislation.

Keywords

Asia, climate change litigation, greenwashing, corporate accountability, climate justice, loss and damage, remedies

1. Introduction

Asia is a large geographic region comprising of jurisdictions including Bhutan, Nepal, Japan, the United Arab Emirates, Vietnam and Malaysia, which are at different levels of social and economic development, and span across the common law and civil law traditions.[1] As it is impossible to cover the entire region in a single chapter, this chapter

* Associate Professor, National University of Singapore Faculty of Law; Director, Asia Pacific Centre for Environmental Law; email: Jolene.lin@nus.edu.sg. I am grateful to Siah Bing Ze and Yang Huiwen for their research assistance.

[1] The United Nations traditionally organizes countries into five regional groups, namely: the African States, Asia-Pacific States, Eastern European States, Latin American and the Caribbean States, and the Western European and Other States; https://www.un.org/dgacm/en/content/regional-groups. The Intergovernmental Panel on Climate Change (IPCC) adopts a more helpful and practical schematic of the regions of the world. The IPCC's Sixth Assessment report contains regional chapters and Asia is defined as "land and territories of 52 countries/regions. It can be broadly divided into six sub-regions based on geographic position and coastal peripheries", namely: Central Asia, East Asia, North Asia, South Asia, Southeast Asia and West Asia; Intergovernmental Panel on Climate Change (IPCC), *Climate Change 2022: Impacts, Adaptation and Vulnerability – Contribution of Working Group II to the Sixth Assessment Report* (CUP 2022) ch 10 (Asia): https://www.ipcc.ch/report/ar6/wg2/. The population of Asia was reported to be 4.8 billion people in 2024, which is about 60% of the world's population; https://repository.unescap.org/server/api/core/bitstreams/29538ee8-a43d-4b95-84a3-fe37595659c0/content. The gross domestic product (GDP) per capita ranged from US$2690 (Bangladesh) to US$33960 (Japan) in 2025; https://www.imf.org/en/Countries. The common law jurisdictions in Asia include Hong Kong, Singapore, Malaysia (which also incorporates aspects of Islamic law) and India. The civil law jurisdictions include South Korea, China, Vietnam and Bahrain (which also incorporates aspects of Islamic law). There are also jurisdictions like Bhutan and Sri Lanka which have mixed legal systems that draw from both common law and civil law traditions. Asia

focuses on climate change law developments in East and Southeast Asia, excluding India and China which will be discussed in Chapters [x] and [x] respectively (hereinafter "Asia").

It is not easy to avoid falling into the trap of broad-brush generalizations when proper and nuanced legal analysis would require in-depth knowledge of a specific jurisdiction's laws. A caveat that this author would therefore make is that this chapter does not seek to be a comprehensive and in-depth overview of climate change law developments in Asia. Selected legal and regulatory developments are discussed even though these developments are at early stages compared to those elsewhere (e.g. Australia and the European Union), because they signal the direction of travel and raise interesting legal questions that merit scholarly attention. In some cases, e.g. the Philippine Corporate Accountability Bill, the developments are novel and unique. One of the aims of this chapter is to draw attention to the unique contributions that Asian jurisdictions are making towards climate law and governance, thereby enriching comparative climate legal scholarship and practice.

Across Asia, and the Global South more broadly (with many countries in Asia falling within this category), climate change litigation is at early stages of development, often emerging because the courts are the only available institution thorough which civil society (and citizens, more broadly) can engage in and influence climate governance.[2] Apart from India and Pakistan, and to a lesser extent, the Philippines, which are jurisdictions that have established history of environmental public interest litigation that has created a pathway for climate litigation to emerge, there are a small handful of climate cases across the rest of Asia.[3] This relative paucity of climate litigation can be explained by, inter alia, hefty legal costs, judicial backlog that means that plaintiffs can wait many years before they have their day in court (so to speak), low levels of public trust in some judicial systems plagued by corruption, and difficulties of enforcement of judgements which greatly reduces the incentives for citizens to go to court.[4] In some

---

is highly vulnerable to climate change impacts largely due to the lack of adaptive capacities. For analysis, see IPCC's Sixth Assessment Report. All websites in this footnote accessed on 3 June 2025.

[2] Jolene Lin and Jacqueline Peel, *Litigating Climate Change in the Global South* (Oxford University Press 2024), p. 94.

[3] In a systematic examination of cases in Global South jurisdictions up to May 2023, 128 cases were identified of which 46 were filed or decided in Asia; supra note 2, p.56. It can be argued that in India and Pakistan which have an established tradition of public interest environmental litigation, court action is a matter of course. It has been said that "almost every major environmental issue that has made the news ends up before the High Court or the Supreme Court through a petition or is taken up by the Supreme Court of its own volition under its suo motu jurisdiction"; Waqqas Ahmad Mir, 'From Shehla Zir to Asghar Leghari: Pronouncing Unwritten Rights is More Complex than a Celebratory Tale" in Jolene Lin and Douglas A Kysar (eds), *Climate Change Litigation in the Asia Pacific* (Cambridge University Press 2020) 286.

[4] For discussion of these factors, see for example, Sameer Yasir, '"A Lifelong Nightmare": Seeking Justice in India's Overwhelmed Courts' *The New York Times* (13 January 2024) https://www.nytimes.com/2024/01/13/world/asia/india-judicial-backlog.html (accessed on 5 June 2025);Manaswini Rao, *Frontline Courts as State Capacity: Micro-Evidence from India* (12 February 2022) https://thedocs.worldbank.org/en/doc/40736ea1c916001d483b833b356c952d-0050022022/original/Frontline-Courts-as-Stata-Capacity.pdf (accessed 3 June 2025); Simon Butt, *Judicial Dysfunction in Indonesia* (Melbourne University Publishing 2023); S M Solaiman,

jurisdictions such as Japan, there is a strong preference for non-litigious dispute resolution.[5] In Thailand, the Philippines, Malaysia and Indonesia, the proliferation of SLAPP (Strategic Lawsuit Against Public Participation) and related defamation lawsuits against journalists, human rights activists and environmental defenders has had a chilling effect on civic engagement and legal advocacy.[6]

As these issues are likely to remain in play over the short to medium term, it can be argued litigation is unlikely to become a significant driver of climate governance in Asia which also means that there will be few opportunities for private law's encounter with climate change. However, it can be argued that climate litigation is likely to increase in Asia as more youths, civil society groups and other members of society become increasingly frustrated with the pace of legislative and executive climate action. This is most likely to occur in the Asian jurisdictions where the above-mentioned obstacles to access to justice are less prominent. Many of these cases are likely to engage public law, but there will be cases that attempt to use private law pathways to compel private actors to be accountable for their contribution towards addressing the climate emergency. Secondly, as more jurisdictions across Asia introduce climate change legislation and regulatory regimes such as corporate climate disclosure obligations, greenhouse gases (GHG) emissions trading schemes (or carbon markets) and greenwashing regulations, there will simply be more bases to hold public and private actors climate accountable. There will, in short, be more 'hooks' for climate cases – both public and private - in the coming years.

Against this background, this chapter focuses on a few areas of law that are potentially promising avenues for achieving corporate climate accountability in Asia and to draw out the implications for the broader discussion about climate change and private law. Section 2 of this chapter focuses on climate litigation against private actors. Section 3 on greenwashing and the limited role of private law in addressing it across Asia.

'Prevention of Judicial Corruption in Bangladesh: Cutting the Gordian Knot by Ensuring Accountability' (2023) 19 *University of Pennsylvania Asian Law Review* 27.

[5] Tomoko Otake, 'Climate Litigation Remains a Tough Sell in Japan Despite Wins Overseas' *The Japan Times* (17 September 2023) https://www.japantimes.co.jp/environment/2023/09/17/climate-change/japan-climate-litigation/ (accessed 3 June 2025); Also see contra Ginsburg T and Hoetker G, 'The Unreluctant Litigant? An Empirical Analysis of Japan's Turn to Litigation' (2006) 35(1) *Journal of Legal Studies* 31.

[6] For discussion, see International Commission of Jurists, 'Indonesia, Malaysia, Thailand, the Philippines: Experts Call for Legal Reforms to Address Abusive Lawsuits Targeting Human Rights and Public Interest Advocates (SLAPPs)' (9 December 2021) https://www.icj.org/indonesia-malaysia-thailand-the-philippines-experts-call-for-legal-reforms-to-address-abusive-lawsuits-targeting-human-rights-and-public-interest-advocates-slapps/ (accessed 3 June 2025). A landmark SLAPP case in the Philippines is *FCF Minerals Corporation v Lunag and Others* (896 Phil 806; 119 OG No 36, 6997, 4 September 2023), accessible at https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67292. In this case, a mining company sought to portray itself as the victim of a SLAPP. The court rejected this, reaffirming that "SLAPP is a defense that may only be invoked by individuals who become target of litigation due to their environmental advocacy**.** It is not a remedy of powerful corporations to stifle the actions of ordinary citizens who seek to make them accountable." Indonesia's anti-SLAPP provisions also only provide protection against SLAPPS for environmental issues and there are significant weaknesses which hinder their effectiveness; Linda Yanti Sulistiawati, 'Strategic Lawsuit Against Public Participation (SLAPP) in Indonesia: When Defenders Became Defendants' *Tempo* (10 May 2025) https://en.tempo.co/read/2005751/strategic-lawsuit-against-public-participation-slapp-in-indonesia-when-defenders-became-defendants (accessed 3 June 2025).

Suggested citation: Jolene Lin, "Chapter 39: East and Southeast Asia" in Douglas Kysar and Ernest Lim (eds), *The Oxford Handbook of Climate Change and Private Law* (Oxford University Press, 2026, forthcoming), NUS Asia Pacific Centre for Environmental Law Working Paper Series: https://law.nus.edu.sg/apcel/publications/.

Section 4 focuses on a unique piece of (proposed) corporate accountability legislation, which is the Philippine Corporate Accountability Bill. It is unique because it goes beyond the typical suite of disclosure obligations and seeks to promote accountability for loss and damage through both public and private litigation.

2. Taking Companies to Court over Climate Change

The use of law as an instrument to achieve wider social objectives is not a recent phenomenon. In their seminar work, "Pressure through Law", Carol Harlow and Richard Rawlings argue that lawsuits filed by groups advocating for social change can be identified in Britain as early as 1749 when abolitionists used the courts to test conflicting views of slavery in the common law.[7] In the early 2000s, climate litigation that sought to assign responsibility for causing climate change to the 'carbon majors' had already started in the United States but there were, ultimately, no successful cases.[8] In the past ten years, there has been a significant rise in climate litigation worldwide and climate lawsuits have been filed in, for example, Brazil, South Africa, Kenya, Indonesia, Nepal and Guyana.[9] Most of these cases are strategic litigation and tend to rely on public law (including constitutional law, administrative law, environmental laws, planning laws) for causes of action.[10]

While climate litigation is at emergent stages across Asia, the climate accountability landscape is far from being dormant. There are several efforts to use a broader set of legal interventions that may precede formal court proceedings, including complaints to regulators, shareholder/investor engagement, letters issued to corporate actors to warn of potential litigation and legal opinions to inform companies and their officers of their climate change-related legal duties.[11] Such activities can be understood to be

---

[7] Carol Harlow and Richard Rawlings, *Pressure through Law* (Routledge 2016).

[8] For discussion, see Geetanjali Ganguly, Joana Setzer and Veerle Heyvaert, 'If at First You Don't Succeed: Suing Corporations for Climate Change' (2018) 38(4) *Oxford Journal of Legal Studies* 841.

[9] In 'Global Trends in Climate Change Litigation: 2024 Snapshot', the authors report that their dataset currently contains 2,666 cases. Around 70% of these cases have been filed since 2015, the year the Paris Agreement was adopted. Climate cases from 55 countries have been identified, including cases filed in 2023 for the first time in Panama and Portugal; Joana Setzer and Catherine Higham, *Global Trends in Climate Change Litigation: 2024 Snapshot* (Grantham Research Institute on Climate Change and the Environment, London School of Economics and Political Science, 2024) online: https://www.lse.ac.uk/granthaminstitute/wp-content/uploads/2024/06/Global-trends-in-climate-change-litigation-2024-snapshot.pdf (accessed on 5 June 2025).

[10] For example, in *Save Lamu et. al. v. National Environmental Management Authority and Amu Power Co. Ltd.* (2017), the plaintiff environmental group pursued a judicial review of the national environmental agency's decision to grant Amu Power Company a license to construct a coal-fired power plant, arguing that the company had not conducted an adequate environmental impact assessment (EIA); Save Lamu and Others v National Environmental Management Authority and Amu Power Co Ltd [2019] KLR (High Court of Kenya). A copy of the decision can be found here: https://climatecasechart.com/wp-content/uploads/non-us-case-documents/2019/20190626_Tribunal-Appeal-No.-Net-196-of-2016_decision.pdf.

[11] See, for example, the guide "Net zero engagement in Asia – A Guide to shareholder climate resolutions" which is a resource for Asia-focused investors considering shareholder resolutions as part of corporate engagement. The guide was produced by ClientEarth (an environmental law NGO) with the support of the Asia Investor Group on Climate Change; online: https://www.clientearth.asia/media/i32jbwe1/net-zero-engagement-in-asia-a-guide-to-shareholder-

forms of legal mobilization, which extends to 'any process by which individuals or collective actors invoke legal norms, discourse or symbols to influence policy or behaviour' including, for example, the use of law in advocacy campaigns or lobbying.[12] While some of these efforts are led by global non-governmental organizations which are well-resourced and have highly qualified staff including lawyers and communication strategists, local grassroots citizen groups and youths also lead legal mobilization efforts across Asia.[13]

It can be argued that legal mobilization is likely to be more effective than litigation against a carbon major in Asia, e.g. Petronas and Pertamina which are Malaysian and Indonesian state-owned enterprises (SOEs) respectively.[14] First, these SOEs have deep pockets to support lengthy court battles that plaintiff organizations will struggle to match. Secondly, these SOEs serve public functions such as maintenance of energy security and generating public funds for development. In this context, litigating against these SOEs in Asia runs the risk of public backlash as the narrative behind the quest for climate justice and corporate accountability can be distorted to be one of the pursuit of elite and partisan interests against national security and development. While any analysis of potential backlash is necessarily fact-sensitive and it is not the case that all SOEs should not be sued on this basis, the point here is that litigation is a risky proposition. In any case, legal mobilization can help create favourable conditions to leverage the impact of future litigation if pursued. An important feature of legal mobilization is that its main objective need not be winning a case, but it is part of a broader advocacy strategy to draw attention to an issue, to start a debate, or even enable the media to write about something that they could not otherwise address.

In this section, two recent cases that have been filed in Japan and Korea will be briefly discussed with a view of elucidating the interaction between private law and climate change.

Youth Climate Case Japan for Tomorrow

climate-resolutions-2022.pdf. The Commonwealth Climate and Law Initiative (CCLI), a global NGO that "examines the legal basis for directors and trustees to consider, manage and report on climate change and broader environmental risks" has commissioned legal opinions from experts around the world. In Asia, opinions have been commissioned for Japan, Singapore, Hong Kong, the Philippines, Indonesia, Malaysia and India. These opinions have played a significant role in galvanizing academic and public discourse on directors' duties in relation to climate change. CCLI: https://commonwealthclimatelaw.org. "Towards Net Zero: Legal Aspects of Corporate Climate Action in Asia", held in Singapore on 17 October 2024, was the first conference in Asia to bring together lawyers, judges, directors, regulators, investors and academics to examine the legal issues around corporate climate action; online: https://law.nus.edu.sg/apcel/media/towards-net-zero-conference-legal-aspects-of-corporate-climate-action-in-asia/. All websites accessed 3 June 2025.

[12] Lisa Vanhala and Jacqui Kinghan, *Literature Review on the Use and Impact of Litigation* (Public Law Project Research Paper, 2023) 5, online: https://publiclawproject.org.uk/content/uploads/2023/11/Litigation-Lit-Review-PLP.pdf

[13] See Supra Note 2, Chapter 5 for an analytical overview of the constellation of key actors in Global South (which includes several jurisdictions in Asia) and their climate change legal mobilization efforts.

[14] Carbon Majors Database, 'Petronas' https://carbonmajors.org/Entity/Petronas-84; 'Pertamina' https://carbonmajors.org/Entity/Pertamina-78 (accessed 3 June 2025).

In August 2024, sixteen Japanese youths filed a case in the Nagoya District Court against ten thermal power companies seeking injunctive relief to compel the companies to reduce their greenhouse gas (GHG) emissions.[15] The youth plaintiffs rely on Articles 709 and 719 of the Japanese Civil Code which provide the legal basis for compensation for tortious loss or damage.[16] In their complaint, the plaintiffs allege that the power companies have a legal obligation to reduce their GHG emissions so as to be in line with the carbon budgets established by the Intergovernmental Panel on Climate Change (IPCC). They argue that compliance with the IPCC carbon budgets constitutes a legal obligation not to "infringe the rights or legally protected interests of another person" referred to in Article 709 of the Civil Code. This line of argument is similar to that pursued by the plaintiffs in *Milieudefensie et al. v. Royal Dutch Shell plc*.[17]

It has been argued that the "infringement of a right" in Article 709 should not be interpreted to limit protection only to cases of actual infringement, but to also confer protection to victims of "unlawful" conduct even if the conduct does not infringe any right. Accordingly, "unlawfulness" should be determined by considering the type and nature of the infringed interest, and the manner of the infringement.[18] Furthermore, it has been pointed out that judges often refer to the notions of "unlawfulness", "infringement of a right", "legally protected interest" and "fault" inter-changedly and it is not often not clear from the decisions how the various elements relate to each other if at all.[19] To the extent that such ambiguity exists, it creates space for legal argumentation about the scope of the legally protected rights/interests or, in the alternative, what constitutes unlawfulness.

---

[15] 'Guest Blog: First Youth Climate Lawsuit Brought in Japan' (Columbia Law School, Sabin Center for Climate Change Law Blog, 15 August 2024), online: https://blogs.law.columbia.edu/climatechange/2024/08/15/guest-blog-first-youth-climate-lawsuit-brought-in-japan/ (accessed 3 June 2025); 'Youth Climate Case (Japan) – For Tomorrow' (Climate Case Chart), online: https://climatecasechart.com/non-us-case/youth-climate-case-japan-for-tomorrow/ (accessed 3 June 2025). For discussion of climate litigation in Japan more generally, see Kenichiro Konishi, 'Climate Change Litigation in Japan: In Search of an Effective Remedy' (2023) 7(2) *Chinese Journal of Environmental Law* 214.

[16] Civil Code (Japan), arts 709 and 719 (English translation available online at https://www.japaneselawtranslation.go.jp/en/laws/view/2154 (accessed 3 June 2025). Article 709 (Compensation for Loss or Damage in Torts) states "A person that has intentionally or negligently infringed the rights or legally protected interests of another person is liable to compensate for damage resulting in consequence". Article 719 (Liability of Joint Tortfeasors) states " (1) If more than one person has inflicted damage on another person by a joint tort, each of them is jointly and severally liable to compensate for the damage. The same applies if it cannot be ascertained which of the joint tortfeasors inflicted the damage. (2) A person who has abetted or aided a perpetrator is deemed to be a joint tortfeasor, and the provisions of the preceding paragraph apply."

[17] *Milieudefensie et al. v Royal Dutch Shell plc* (2021) District Court of The Hague, Case No C/09/571932 / HA ZA 19-379, Judgment of 26 May 2021, unofficial English translation available at https://uitspraken.rechtspraak.nl/#!/details?id=ECLI:NL:RBDHA:2021:5339 (accessed 5 June 2025).

[18] Emi Matsumoto, 'Tort Law in Japan' in Mauro Bussani and Anthony J Sebok (eds), Comparative Tort Law: Global Perspectives (Edward Elgar Publishing 2021) 365.

[19] Ibid, p 369.

In *Milieudefensie et al. v. Royal Dutch Shell plc,* the Hague District Court had to determine what the standard of care was. Book 6 Section 162 of the Dutch Civil Code stipulates that "acting in conflict with what is generally accepted according to unwritten law is unlawful". In conducting this open-ended enquiry of determining the standard of care with reference to a range of factors, including public international law, business and human rights codes of conduct, and human rights law, the Hague District Court concluded that Shell had a duty to reduce its GHG emissions (otherwise its conduct would fall below the standard of care and would therefore be unlawful). The plaintiffs in *Youth Climate Case Japan for Tomorrow* have invited the Japanese courts to do the same.

A number of tort law scholars have already identified several challenges to the use of tort law in climate litigation, which can be broadly summarized in four categories: the plaintiff, the defendant, causation and the harm.[20] This chapter will not seek to revisit that body of intellectual work. What the following discussion seeks to highlight is that tort-based climate litigation is creating the space for the interplay between private law and public law concepts. The "standard of care" is an open-ended norm that has to be judicially interpreted in light of contemporary social values and reference can be taken from various normative sources including constitutional law. This means that even though the constitution does not impose obligations on companies directly, fundamental rights can be given indirect horizontal effect and shape the contours of a private duty/right. In interpreting whether the defendant company's conduct has been "unlawful", it should also be noted that these companies are regulated by administrative laws and permitting systems. Prevailing environmental laws and regulations (public law) should be considered in determining the lawfulness of the defendant company's conduct but it is not a foregone conclusion that compliance with public law means that the defendant company has not infringed upon the plaintiff's legal interests that can be protected by private law.[21]

Such interplay between public law and private law is novel, if not controversial, in most instances. In the United Kingdom (UK), for example, it has been said that the use of tort law to address corporate accountability for human rights abuses "has initiated a silent revolution within tort law".[22] At the same time, academics have critiqued how such instrumental use of tort law - "tools used in private bilateral quarrels between victims and perpetrators" - is fundamentally changing the notion of human rights.[23] Both the use of human rights law in a tort case and the use of tort law to achieve human rights goals invite criticism! Within the context of climate litigation, this author takes the view that the borrowing of legal doctrines across the public-private boundary

---

[20] Douglas A Kysar, 'What Climate Change Can Do About Tort Law' (2011) 41 *Environmental Law Reporter* 1; Martin Spitzer and Bernhard Burtscher, 'Liability for Climate Change: Cases, Challenges and Concepts' (2017) 8 *Journal for European Environmental & Planning Law* 137; Friederike Otto and others, 'Carbon Majors and the Scientific Case for Climate Liability' (2025) *Nature* https://www.nature.com/articles/s41586-025-08751-3 (accessed 3 June 2025).

[21] To the extent that the permits (public law) do not contain any GHG reduction obligations, the absence of public regulation can be recognised as a case of state maladministration in light of the state's legal obligations to address climate change.

[22] Dalia Palombo, 'Business, Human Rights and Climate Change: The Gradual Expansion of the Duty of Care' (2024) 44 *Oxford Journal of Legal Studies* 889.

[23] Ibid.

to address society's greatest challenges should be encouraged rather than frowned upon in the name of doctrinal purity. Further, one can ask: what ultimately does tort law protect? It has been argued that tort law is a primary legal mechanism "for the recognition and protection of some of the most fundamental human rights" and by "fundamental", what is meant is that these rights are the bedrock of a social order and its legal system.[24] This would all sound familiar to a constitutional law scholar. As such, the boundary between private and public is perhaps not as clear as often depicted and therefore should not act as a barrier for urgently needed creative climate lawyering.

Korean Youths seek civil injunction against POSCO

POSCO is a South Korean steel manufacturer headquartered in Pohang, South Korea. With a production of 38 million tonnes in 2023, it was ranked the seventh largest steel-producing company in the world.[25] The steel sector is the largest emitter of GHG emissions of all South Korea's industries, representing approximately 39% of industrial emissions and 13% of total GHG emissions.[26] Steel production is an energy-intensive process and in South Korea, about 70% of steel is produced by using coal-powered Blast Furnace-Basic Oxygen Furnace (BF-BOF) systems. Regulatory efforts to reduce industrial GHG emissions, including a national emissions trading scheme, have not been effective as GHG emissions continue to rise.[27] Steel production also has significant adverse impacts on air quality and public health (respiratory illnesses and premature deaths linked to prolong exposure to toxic air pollutants).[28] A study has shown that air pollution from South Korea's three BF-BOF plants was related to approximately 506 premature deaths in 2021.[29]

Ten youths in South Korea, aged 11 to 18, filed a civil lawsuit in February 2025 against POSCO seeking an injunction to stop the company from replacing the lining of its blast furnace (which is a necessary process to extend the furnace's operational lifespan).[30] Relying in part on *Do-Hyun Kim et al v. South Korea*, a decision handed down by the Korean Constitutional Court on 29 August 2024 declaring part of Korea's Framework Act on Carbon Neutrality and Green Growth for Coping with the Climate Crisis unconstitutional, the youth plaintiffs in this case argue that POSCO is violating their

[24] Allan Beever, 'What does tort law protect' (2015) 27 Spore Academy of Law Journal p. 638.
[25] World Steel Association, 'Top Steel-Producing Companies 2023/2022': https://worldsteel.org/data/top-producers/ (accessed 3 June 2025).
[26] Climate Transparency, *South Korea: Climate Transparency Report 2022* (October 2022) p.14: https://www.climate-transparency.org/wp-content/uploads/2022/10/CT2022-South-Korea-Web.pdf (accessed 3 June 2025).
[27] 'South Korea's Biggest Polluters Made Millions from Carbon Sales' *The Japan Times* (26 February 2024) https://www.japantimes.co.jp/business/2024/02/26/companies/south-korea-polluters-carbon-sales/ (accessed 3 June 2025).
[28] Centre for Research on Energy and Clean Air (CREA), *Unveiling the Truth Behind Blast Furnace Pollution in South Korea* (2024) https://energyandcleanair.org/publication/unveiling-the-truth-behind-blast-furnace-pollution/ (accessed 3 June 2025).
[29] Ibid.
[30] For Our Climate, '[Press Release] POSCO's Blast Furnace Expansion Accelerating Climate Crisis: Future Generations Take It to Court' (25 April 2024) https://forourclimate.org/newsroom/1038 (accessed 3 June 2025).

constitutional right to healthy environment by failing to reduce its GHG emissions and continuing to expand its coal-fired steel furnace capacity for another 15 years.[31]

While *Do-Hyun Kim et al v. South Korea* was a constitutional challenge against the state for not fulfilling its duty to guarantee the right to live in a healthy environment, inter alia, and therefore not directly applicable in the context of litigation against private actors like a company, courts in other jurisdictions (e.g. the Netherlands, South Africa and India) have used human rights and constitutional rights to interpret the scope of private law obligations such as the duty of care in negligence claims or directors' duties.[32] Much of the earlier discussion about the interplay between public law and private law (Section 2.4.1) is relevant here. It can be argued that this interpretative approach could be taken in this case, which is the first in the world to specifically target the steel industry's carbon-intensive production methods. As the case was filed only sixteen weeks ago at the time of writing, much remains to be seen of this test case.

3. Greenwashing

Business firms and other private actors are confronted with public regulation as well as private environmental governance in the face of reality that urgent action to address climate change is required. Half of the world's largest publicly listed companies have set themselves a net zero target including Trafigura (a Singapore-based commodities company that is second-largest oil trader globally), Samsung Electronics (a Korean company that is the fourth-largest technology company globally) and the Mitsubishi Group (a large Japanese conglomerate that generated about US$135 billion in revenue in 2024).[33] Many financial sector firms have formed or joined initiatives such as the Glasgow Financial Alliance for Net Zero (GFANZ) which provides "financial institutions with tools, frameworks, and voluntary guidance to support the net-zero transition to bolster economic growth and manages the financial risks of climate change". In the span of three years, GFANZ has grown its membership from about 160 (in 2021) to 700 members (in 2024).[34] There has been an exponential growth of investment funds that are marketed as "green" or "socially responsible" though this growth has been dampened by an "ESG backlash" primarily in the United States but with knock-on effects in the rest of the world including Asia.[35] The corporate pledges

---

[31] Ibid. Constitutional Court of South Korea, Do-Hyun Kim and 18 others v. South Korea, judgment of 29 August 2024; For discussion of this landmark decision, the first time a court in Asia has declared a climate law unconstitutional and ordered the legislative body to amend the law, see: Aleydis Nissen, 'Green Court – South Korean Constitutional Court Rules Landmark Climate Judgement', EJIL:Talk! 29 April 2025, online: https://www.ejiltalk.org/green-court-south-korean-constitutional-court-rules-landmark-climate-judgement/ (accessed on 5 June 2025).

[32] Coss-ref to India chapter.

[33] Zero Tracker, 'Tracking Net Zero Commitments' https://zerotracker.net (accessed 3 June 2025).

[34] Glasgow Financial Alliance for Net Zero (GFANZ), 2024 Progress Report (November 2024) 4. https://assets.bbhub.io/company/sites/63/2024/11/GFANZ-Progress-Report-2024.pdf (accessed 3 June 2025).

[35] Mark Segal, 'BlackRock Exits Net Zero Coalition, Says Move Won't Change How It Manages Investments' *ESG Today* (10 January 2025) https://www.esgtoday.com/blackrock-exits-net-zero-coalition-says-move-wont-change-how-it-manages-investments/ (accessed 3 June 2025); 'From Boom to Backlash: The Evolving ESG Narrative' *Nanyang Business School* (20 February 2025)

and public statements are typically focused on climate action ("Paris aligned" being a popular buzzword) but can include commitments to address a range of environmental issues including biodiversity loss, plastics pollution and air pollution.

This proliferation of environmental marketing claims has raised concerns about their truthfulness. Greenwashing generally refers to the practice of companies making false or misleading environmental claims.[36] These claims about the environmental impact of a product, service or a company's business model are usually made to gain a commercial advantage as many consumers are willing to pay more for a product that is ecologically less harmful or, to put it simply, "better for our planet".[37] As consumer demand for environmentally less harmful products and services has grown globally, many businesses have responded in part by marketing their products and services as being environmentally less harmful (or even beneficial).

Studies have shown that, contrary to oft-held assumptions, a significant majority of people living in Asia are concerned about climate change and express willingness to pay more for goods and services that have less negative environmental impacts.[38] However, these studies also show that there is also significant intention-action gap across most Asian jurisdictions. The intention-action gap, which refers to the situation in which a person expresses clear intention or plans to do something but fails to translate that intention into actual behaviour, can be explained by the generally low levels of awareness of environmental and ecological sustainability across Asia, the overwhelming choices available to the environmentally-conscious consumer that

---

https://www.ntu.edu.sg/business/news-events/news/story-detail/from-boom-to-backlash--the-evolving-esg-narrative (accessed 3 June 2025).
'ESG Fund Outflows Hit Record as Sustainable Investing Backlash Grows' *Financial Times* (25 April 2025) https://www.ft.com/content/9f425c25-4fc3-45de-bcc5-e9c75d6d14d3 accessed 3 June 2025

[36] See, for example, paragraph 1 of the preamble in "Empowering consumers for the green transition: European Parliament legislative resolution of 17 January 2024 on the proposal for a directive of the European Parliament and of the Council on amending Directives 2005/29/EC and 2011/83/EU as regards empowering consumers for the green transition through better protection against unfair practices and better information (COM(2022)0143-C9-0128/2022-2022/0092 (COD)).

[37] Centre for Climate Engagement, *Summary Report: Greenwashing – Legal Risks and Opportunities* (1 July 2024) https://climatehughes.org/greenwashing/#:~:text=In%20a%20private%20sector%20context,to%20gain%20a%20commercial%20advantage (accessed 3 June 2025); United Nations' High-Level Expert Group on the Net Zero Emissions Commitments of Non-State Entities, *Integrity Matters: Net Zero Commitments by Businesses, Financial Institutions, Cities and Regions* (United Nations 2022) https://www.un.org/sites/un2.un.org/files/high-level_expert_group_n7b.pdf (accessed 3 June 2025). It should be noted that while there is significant attention paid to greenwashing by businesses, less attention is paid to greenwashing by universities and public agencies which can also be highly detrimental. For discussion, see Temitope Tunbi Onifade, '"State Greenwashing": An Overlooked Phenomenon?' 2025 Journal of Environmental Law (Advance Access 10 May 2025): https://academic.oup.com/jel/advance-article/doi/10.1093/jel/eqaf008/8129420?searchresult=1; Alice Venn, 'Climate Litigation, Equality and Unfulfilled Promises: Illuminating Greenwashing in the Public Sector' 2025 Journal of Environmental Law, https://doi.org/10.1093/jel/eqaf011 (both accessed on 3 June 2025).

[38] Karine Trinquetel, 'How to Avoid Your Brand Being Inadvertently Tarred with the "Greenwashing Brush"' (Kantar, 31 March 2024) https://www.kantar.com/inspiration/the-negative-impact-of-greenwashing-and-how-to-keep-your-marketing-aligned-with-the-un-sdgs (accessed 3 June 2025)

leads to decision paralysis, and the high costs of environmentally-friendly products.[39] In these surveys, many consumers also express mistrust about many environmental claims which hinders their willingness to make those purchases, which points to the erosive effects of greenwashing.

Across Asia, regulatory efforts to tackle rampant greenwashing are uneven and sporadic. Regulation has also largely not come from environmental and climate change policymakers, but from financial market regulators and government agencies responsible for consumer welfare and the promotion of competition and fair trading. In Indonesia, for example, the legal basis for regulating greenwashing is the Consumer Protection Act No. 8 of 1999. Article 4(3) of this Act stipulates that consumers have the right to accurate, clear and honest information about the conditions of goods and services. Article 8 prohibits businesses from misleading considers by claiming that their products or services meet certain standards when they do not. However, lack of enforcement and low penalties for non-compliance have been identified as barriers to effective regulation of greenwashing in Indonesia.[40]

Another example is Singapore, where greenwashing is rampant and there is 'light touch' regulation if at all. In response to a study on greenwashing in online marketing that was commissioned by the Competition and Consumer Commission of Singapore (CCCS) and that showed that 51% of online product claims to be "environmentally friendly", "sustainable", 'natural" and "good for Earth" were vague and unsubstantiated, CCCS informed Parliament that it would issue guidelines "to help companies make fair and accurate claims about the 'green' credentials of their products."[41] It is interesting to note that the regulatory agency's position is that these guidelines are intended to "help companies to avoid unintentional greenwashing that could amount to unfair practices under the Consumer Protection (Fair Trading) Act".[42] As of May 2025, the guidelines have not been published and there have only been two reported cases of the Advertising Standards Authority finding companies in breach of the Singapore Code of Advertising Practice, which is a set of guidelines for the advertising industry to self-regulate in the interests of promoting ethical advertising.[43] The Zero

[39] Ibid; See also Ridho Bramulya Ikhsan, 'Greenwashing Raises Red Flags among Indonesian Consumers' (Eco-Business, 2 October 2024) https://www.eco-business.com/opinion/greenwashing-raises-red-flags-among-indonesian-consumers/ (accessed 3 June 2025).
[40] Caecilia Patrice Yonandi and Gunardi Lie, 'Greenwashing in Indonesia: Deceptive Claims and Corporate Social Responsibility (CSR)' (2025) 11(2.A) *Jurnal Ilmiah Wahana Pendidikan* 112–13 https://jurnal.peneliti.net/index.php/JIWP/article/view/9786 (accessed 3 June 2025).
[41] Lawrence Loh, Yvonne Yock, Joycelyn Lee *et al*, *Promoting Best Practices in Online Marketing* (Centre for Governance and Sustainability, November 2023) https://bschool.nus.edu.sg/cgs/wp-content/uploads/sites/7/2023/11/CGS-Report-on-Promoting-Best-Practices-in-Online-Marketing-November-2023.pdf (accessed 3 June 2025); Singapore Ministry of Trade and Industry, *Written Reply to Parliamentary Question on CCCS' Guidelines on Product Marketing to Avoid Greenwashing* (5 February 2024)https://www.mti.gov.sg/Newsroom/Parliamentary-Replies/2024/02/Written-reply-to-PQ-on-CCCS-guidelines-on-product-marketing-to-avoid-greenwashing (accessed 3 June 2025).
[42] Singapore Ministry of Trade and Industry, ibid.
[43] James Darley, 'Inside VietJet's Controversial "Greenwashing" Campaign' *Sustainability Magazine* (10 January 2025) https://sustainabilitymag.com/articles/the-story-of-vietjets-controversial-greenwashing-campaign; Carmen Sin, 'Prism+ Air-Con Ad Deemed "Greenwashing" by S'pore Watchdog; Company Defends It as "Tongue-in-Cheek"' *The Straits Times* (18 December

Greenwashing Alliance is an early-stage civil society initiative to identify and stop cases of greenwashing.[44] Of the four cases of greenwashing that the Alliance has acted on, two companies (City Energy and Shell Singapore) did not respond to the Alliance's emails. In the remaining two cases (involving carbon offset claims by Scoot Airlines and Singapore Airlines), the Singapore Airlines Group responded with a commitment "to improve the carbon offset information on SIA and Scoot's communication channels and VCOP microsites".[45]

The brief discussion above shows that public regulation of greenwashing is currently weak, even in Singapore which has high state enforcement capacity. Limited public awareness of the harms of misleading environmental claims, business actors not being clear about the boundary between creative marketing and misleading advertising and regulators only starting to tackle greenwashing – these three factors combine such that there are insufficient reputational and enforcement risks to deter greenwashing. Steps are being taken across Asia to address these factors through, for example, consumer education and issuance of guidelines to businesses. Ratcheting up of enforcement action is happening in South Korea but there is limited evidence of that happening elsewhere. Against this context, is there a role for private law to play?

So far, we have discussed greenwashing in its traditional paradigm, which is that of businesses trumpeting their environmental credentials to individual consumers. In the traditional paradigm, private litigation by individual consumers based on fraudulent or negligent misrepresentation can be a pathway to tackle greenwashing. In the US, for example, private actions against greenwashing commenced in the 1970s and continues today.[46] However, regulation through litigation is an expensive and challenging proposition in many Asian jurisdictions. In Singapore and Hong Kong, for example, there is an absence of formal class action litigation procedures, and there are restrictions on contingency or conditional fees and third-party litigation funding.[47] This chapter would therefore advocate for greenwashing legislation and stronger enforcement of these laws by regulators across Asia.

2023) https://www.straitstimes.com/singapore/prism-air-con-ad-accused-of-greenwashing-is-removed-after-s-pore-watchdog-deems-it-misleading (both accessed 3 June 2025).

[44] Zero Greenwashing Alliance, https://www.zerogreenwashingalliance.com (accessed 3 June 2025).

[45] Zero Greenwashing Alliance, *Case File: S/T/02 – Scoot* (2023) https://9b2d2d75-7adf-4ea5-8c47-1b96d3a7eaf6.filesusr.com/ugd/a4715a_70413f2a7aeb4ae5a63c7eabaa4b9f0a.pdf; Zero Greenwashing Alliance, *Case File: S/T/03 – Singapore Airlines* (2023) https://9b2d2d75-7adf-4ea5-8c47-1b96d3a7eaf6.filesusr.com/ugd/a4715a_13a04187f5cb4deba13fc3dc9a93cc86.pdf (both accessed 3 June 2025).

[46] For discussion, see Eric L. Lane, 'Greenwashing 2.0' (2013) 38 Columbia Journal of Environmental Law 279 at pgs. 280-295.

[47] In Singapore, the key procedural rules for representative proceedings is found in Order 4, Rule 6 of the Rules of Court 2021. A class action is defined as "…where numerous persons have a common interest in any proceedings, such persons may sue or be sued as a group with one or more of them representing the group". Third-party funding is not permitted for representative or class actions except those commenced in the Singapore International Commercial Court. Contingency fee arrangements are prohibited in Singapore. Conditional fee arrangements are permitted only for cases commenced in the Singapore International Commercial Court or generally in arbitration matters; https://www.mlaw.gov.sg/files/Council_GN_Third_Party_Funding.pdf.

The clean technology revolution – a significant period of development and commercialization of low-carbon technologies and equipment – has meant that green marketing has expanded beyond the advertising of products to individual consumers into business-to-business (B-to-B) communications regarding clean technology products and services.[48] As such, it has been argued that greenwashing analysis should also contemplate legal actions by and on behalf of corporate consumers and three new categories of commercial consumer greenwashing cases have been identified: breach of contract or breach of warranty clauses involving energy generation equipment and projects, trademark infringement actions involving branded clean technology equipment and fraud cases in connection with renewable energy credits.[49] All three categories arise as some clean technology businesses are tempted to make false, misleading, or deceptive claims about the environmental benefits of their products and projects.[50] There are currently no reported cases in these categories in Asia as it is likely that such disputes are resolved through arbitration which is frequently the dispute resolution mechanism of choice for cross-border transactions, particularly when a party is a state or state-owned entity. It is also the mechanism of choice where confidentiality and privacy is important to the parties in dispute, which is often the case with contracts involving technology and innovation. While commercial arbitration offers confidentiality to the parties, it makes it difficult to track the extent to which climate-related issues are already being raised. However, it can be argued that, given the sheer scope of potential disputes risk, it is likely that commercial consumer greenwashing cases have been decided by arbitration.

In line with global trends, sustainability reporting and climate disclosure rules have been introduced across several jurisdictions in Asia.[51] In Singapore, for example, sustainability reporting on key environmental, social and governance (ESG) metrics and climate-related disclosures consistent with the Task Force on Climate-related Financial Disclosures (TCFD) recommendations have been introduced in phases, with mandatory reporting by all Singapore-listed companies starting from the 2025 financial year.[52] A similar approach has been adopted in Hong Kong, Malaysia and Japan, for example.[53] Mandatory reporting on ESG and climate change risks is often seen as a

[48] Supra note 48.
[49] Supra note 48, pg. 303.
[50] Ibid.
[51] Cross-ref with chapters in this Handbook on sustainability reporting/disclosure rules.
[52] Rules 711A and 711B, Mainboard Rules, Singapore Stock Exchange: https://rulebook.sgx.com/rulebook/sustainability-report (accessed on 6 June 2025).
[53] The Stock Exchange of Hong Kong, 'Climate Change': https://www.hkex.com.hk/Listing/Sustainability/ESG-Academy/ESG-in-Practice/Climate-Change?sc_lang=en; Sustainability Standards Board of Japan, 'SSBJ issues Inaugural Sustainability Disclosure Standards to be applied in Japan' (press release, Tokyo, 5 March 2025): https://www.ssb-j.jp/jp/wp-content/uploads/sites/7/news_release_20250305_e.pdf; Bursa Malaysia, 'Bursa Malaysia Requires Sustainability Reporting Using the IFRS Sustainability Disclosure Standards (Press Release, 23 December 2024): https://www.bursamalaysia.com/sites/5bb54be15f36ca0af339077a/content_entry5c11a9db758f8d31544574c6/6768e229e6414a4ba0eb9f4d/files/23122024__MEDIA_RELEASE_BURSA_MALAYSIA_REQUIRES_SUSTAINABILITY_REPORTING_USING_THE_IFRS_SUSTAINABILITY_DISCLOSURE_STANDARDS.pdf?1734927108 (all accessed on 8 June 2025).

step forward in fostering corporate accountability and, in putting a price on carbon and other forms of environmental pollution, will help to internalize environmental costs and force businesses to pay the true costs of their operations. However, there is also significant room for misleading climate-related claims in disclosure reports which can lead to both regulatory enforcement and shareholder litigation.[54]

4. Corporate Accountability Legislation

In a legal innovation that is globally a first of its kind, the Climate Accountability (CLIMA) Act is a bill that was put forward by some members of the Philippines House of Representatives in November 2023.[55] House Bill 9609 is an ambitious attempt to create a holistic corporate accountability framework in the Philippines - one that is backed by legal sanctions and will provide climate change victims effective compensation and other remedies. As stated in its preamble, this legislation seeks "[t]o institute policies and systems to address climate change, establishing the necessary institutional mechanisms for the protection of most vulnerable communities from loss and damage in the country, providing for corporate and state accountabilities and reparations for violation thereof, and other purposes." The proposed CLIMA Act can also be seen as an initiative by a climate-vulnerable state to complement the work that is being done on loss and damage in the sphere of international law (i.e. the United Nations Framework Convention on Climate Change (UNFCCC) regime).[56]

The bill consists of four chapters and the following discussion highlights the key features of each chapter.

Chapter 1 is one of general provisions. There are three noteworthy definitions. First, Section 2 declares that the United Nations Guiding Principles on Business and Human Rights is the basis for the establishment of minimum standards of behaviour for corporate actors operating in the Philippines. Secondly, Section 2 defines what a 'business' is and specifically what the 'carbon majors' refer to, i.e. "businesses that are multinational or state-owned producers, traders, and refineries of crude oil, natural gas, coal, and cement, that significantly contribute to global greenhouse gas emissions, without taking climate accountability, and therefore primarily drive climate

---

[54] Perhaps the most well-known example is the first case brought by the U.S. Securities and Exchange Commission (SEC)'s Climate and ESG Task Force, which was against Vale S.A., a Brazilian mining company whose American depository shares and notes are registered with the SEC and publicly traded on the New York Stock Exchange; U.S SEC, 'Brazilian Mining Company to Pay $55.9 Million to Settle Charges Related to Misleading Disclosures Prior to Deadly Dam Collapse' (Press Release, Washington D.C., 28 March 2023): https://www.sec.gov/newsroom/press-releases/2023-63 (accessed on 8 June 2025).

[55] A copy of House Bill No. 9609 can be found at https://www.greenpeace.org/static/planet4-philippines-stateless/2023/11/720d51c3-hb09609.pdf. For discussion about the context of climate loss and damage in the Philippines, see Legal Rights and Natural Resources Center, 'Submission to the UN Special Rapporteur on the Right to Development regarding Climate Justice in Loss and Damage', 29 March 2024, online: https://www.ohchr.org/sites/default/files/documents/issues/development/sr/cfi-2024-reports/subm-2024-sr-development-cso-legal-ri-lrc-lrc.pdf (both accessed on 10 June 2025).

[56] Jameela Joy Reyes, 'Loss and Damage: Perspectives from inside and outside the UNFCCC' (Heinrich Boll Stiftung, Southeast Asia, 9 July 2024), https://th.boell.org/en/2024/07/09/loss-and-damage-perspectives-inside-and-outside-unfccc (accessed on 9 June 2025).

change". Thirdly, the section defines reparations as "the amends for a tort or injury inflicted, especially, in the context of this bill, compensation, relocation, and rehabilitation and recovery for victims/survivors of climate loss and damage".

Chapter 2 sets out the framework for corporate accountability. The reporting obligations and measures that businesses must undertake in order to fulfil their due diligence standard of care are far-reaching. Section 4 clearly states that a business that exceeds established thresholds for GHG emissions can be held liable in negligence. Notably, Section 5 imposes obligations on companies to make climate-related financial disclosures, measure their GHG emissions throughout their value chains, respect and protect human rights, and comply with the Indigenous People's Rights Act of 1997. Section 8 provides for who can use. Standing is conferred on climate change victims or survivors who seek redress for the harm caused by non-compliance with the CLIMA Act, minors, generations yet unborn and biodiversity. The bill clearly states that the filing of a petition pursuant to the CLIMA Act is without prejudice to international dispute resolution and administrative redress. Citizens suits are also encouraged to enforce the act. Section 11 states that the doctrine of last clear chance applies to this act, "whereby carbon majors' knowledge of their significant contribution to climate change compels them to substantially reduce greenhouse gas emissions to be faithful to their duty of care. Failure to do so implicates them in exacerbating and thus makes them accountable for significantly contributing to the climate crisis."

Chapter 3 establishes the climate change reparations fund that is to be administered by an independent board. The operating costs of the fund will be borne by the government as well as donations, grants and other funds generated by international loss and damage mechanisms. Chapter 4 sets out fines of up to 15% of a business's gross income reported in their latest regulatory disclosure for the offences of greenwashing, climate denialism and exceeding GHG emissions thresholds that are determined in accordance with the Philippines' Paris Agreement Nationally Determined Contribution (NDC). All collected fines will be channeled to the climate change reparations fund.

At the time of writing, House Bill No. 9609 is still pending with the Committee on Climate Change (19th Congress).[57] Many provisions in the bill will require refinement before they can be translated into laws and policies.[58] It is, after all, an ambitious piece of legislation that sets the high water mark in the quest for corporate climate accountability globally. The hope is that the CLIMA Act will soon become law, thereby creating a robust legal framework that combines private litigation, public enforcement, international law and climate science to achieve corporate accountability for climate change and human rights.

[57] Senate of the Philippines, Legislative Digital Resources: https://issuances-library.senate.gov.ph/bills/house-bill-no-9609-19th-congress (accessed on 10 June 2025).
[58] See, for example, recommendations made by the Republic of the Philippines, Commission on Human Rights in its 'Position Paper on the Draft Climate Accountability Bill', https://chr.gov.ph/chr-resource/position-paper-2023-6/ (accessed on 10 June 2025).

5. Conclusion

This chapter has sought to provide a snapshot of some legal and regulatory developments in Asia that are truly innovative as well as promising in their attempt to advance corporate accountability for climate change. The challenges are immense. Many of the countries in Asia struggle with issues of poverty, ethnic and religious tensions, corruption and lack of access to basic needs including water and energy. Against this background, corporate accountability mechanisms have tended to emerge in the more developed jurisdictions in Asia. Yet, at the same time, corporate climate accountability takes on a more existentialist and moral dimension when one considers that there are millions of vulnerable victims and survivors of climate-related extreme weather events in Asia.

For a long time, policymakers and scholars recognise that there is a role for private actors in reducing GHG emissions, but governments are conceived of as the primary actors leading efforts to limit climate change. The Paris Agreement is an instrument of public international law and its architecture of 'Nationally Determined Contributions', supported by transparency and capacity-building mechanisms, seeks to galvanize state action. This focus on governments and public law as instrumental to addressing climate change is replicated across all jurisdictions globally. However, since 2015 (the year in which the Paris Agreement entered into force), there has been a surge of interest in making private actors assume responsibilities to limit climate change as well as creating incentives (usually financial) to encourage their participation in limiting climate change. It is in this space where scholars interested in private law's intersections with the societal project of decarbonization, climate adaptation and loss and damage have found examples of the relevance of private law. This chapter shows that these examples are rare in Asia as the 'public' still looms large in climate law and governance. However, this chapter has also shown that as more climate-related laws and regulations are put in place, private litigation and private contracting will increase to complement the 'public' in the quest for climate justice in Asia.