

Terms of Reference
Online Workshop on Environment for Southeast Asian Judges
“Towards Climate Justice: Challenge, Strategy and Future Trend in Climate
Change Adjudication”
1-4 November 2021

I. Background

Council of ASEAN Chief Justices (CACJ) is a forum for ASEAN Chief Justices to hold discussions on common concerns of ASEAN judiciary bodies and engender mutual cooperation. This forum was first established in 2013 in Singapore and currently consists of 10 ASEAN member countries who actively working together to advance law enforcement in Southeast Asia. One of the collaborative efforts to improve the advancement of law in Southeast Asia is carried out by CACJ by holding trainings coordinated by the Working Group on Judicial Education and Training.

As an institution that facilitates the exchange of perspectives among ASEAN countries, the implementation of various trainings by CACJ targets cross-border issues which appear as mutual concerns, one of which is environmental issue. Actions or crimes that lead to environmental damages may cause damaging effects on neighboring countries. As evidence for this concern, we can see how haze pollution that occurs on yearly basis brings negative impacts that spread across national borders.¹

Not only its impact, but also its law enforcement pervades on cross-border level. Environmental crime may involve regional and even international network or the nationalities of field actors in a certain case may even varied, which arises cross-border issues in its judicial process.² This implies that a firm international cooperation in law enforcement is required as a respond to these phenomena.

The problem of enforcement of environmental decisions also faced by several ASEAN countries. Unfortunately, the path to the environmental decision enforcement frequently includes a long and costly process. The enforcement of environmental decision, such as environmental restoration is the final result expected by litigant parties and public. Public demands the recovery of an ecosystem that has been degraded, damaged, or destroyed. In most cases, it is hard to enforce the environmental restoration order. Therefore, it is very important to discuss and highlight the enforcement of environmental decision in this workshop since decision without enforcement is meaningless.

¹ Martina Chow, “Southeast Asia’s Transboundary Haze: Obstacles to Regional Solution,” <https://globalriskinsights.com/2020/09/southeast-asias-transboundary-haze-obstacles-to-a-regional-solution/> accessed on August 14, 2021.

² Heri Juanda, “Captain of Suspected Slave Fish Boat Silver Sea 2 Held in Indonesia,” <https://www.nbcnews.com/news/world/captain-suspected-slave-fish-boat-silver-sea-2-held-indonesia-n434191> accessed on August 14, 2021.

Realizing the significance of paradigm and knowledge of judges, as law enforcement officers who work at the end of judicial process, in enhancing the sustainability of environmental law enforcement, we believe that a workshop on environmental issue is needed. Therefore, an online workshop on environment for southeast asian judges with the main theme “**Towards Climate Justice: Challenge, Strategy and Future Trend in Climate Change Adjudication**”, will be held to address this concern. Furthermore, this workshop is expected to be a platform for the promotion of environmental law enforcement among the CACJ and ASEAN member countries.

II. Objective

This online workshop aims to:

1. Become a platform for sharing of knowledges and challenges faced by judges in Southeast Asia in handling environmental cases and enforcing the environmental decisions;
2. Identify underlying problems and recommendations to improve environmental cases settlement, including cross-border cases in ASEAN;
3. Obtain judges who have adequate competence and great interest in learning environmental cases settlement, including cross-border cases in ASEAN.

III. Organiser

Judicial Training Center on Technical Matters, Supreme Court of the Republic of Indonesia

IV. Eligibility Criteria for Participants

This workshop is limited only for 3 (three) judges from each ASEAN country. Participants must attend the whole sessions of workshop.

Each participant is a resource person who expected to share environmental cases, challenges and best practices from their countries. To participate in this workshop, the applicants should meet following criteria:

- Judges from first level instance court in ASEAN countries who are handle or expect to handle environmental cases;
- Judges who seek opportunity to gain and share knowledges on the challenges and best practices in handling environmental cases in ASEAN.

V. Activities

The online workshop will be held on:

date : 4-day workshop on 1-4 November 2021 (Day 1 full day, Day 2-4 half day)

place : Online, via Zoom

Under the main theme of “**Climate Change**”, this workshop has four sub-themes, namely:

a) Development of Climate Change Litigation

The participants will be discussing this issue on forestry, energy, marine cases and enforcement of environmental decision.

b) Scientific Aspects in Environmental Litigation

The participants will be discussing this issue on forestry, energy, marine cases and enforcement of environmental decision.

c) Development of Environmental Democracy and Public Participation in Natural Resource Management

The participants will be discussing this issue on forestry, energy, marine cases and enforcement of environmental decision.

d) Anti-Strategic Litigation Against Public Participation (Anti-SLAPP)

The participants will be discussing this issue on forestry, energy, marine cases and enforcement of environmental decision.

VI. Detailed Agenda

Time WIB/Jakarta Time (GMT+7)	Activity
Day 1 – Opening Plenary Session (Full Day) Monday, 1 November 2021	
08.30 – 09.00	Opening Remarks, Introduction, and Setting of Objectives
09.00 – 10.15 WIB (GMT+7)	Session 1: Development of Environmental Democracy and Public Participation in Natural Resource Management <ul style="list-style-type: none"> ○ The relation of access to information, access to participation and access to justice in environmental cases ○ Information disputes ○ Anti-Strategic Litigation Against Public Participation (Anti-SLAPP)
10.30 – 12.00 WIB (GMT+7)	Session 2: Scientific Evidence in Environmental Litigation <ul style="list-style-type: none"> ○ Scientific evidence in environmental cases ○ Accessing, examining, and assessing the testimony of expert witnesses ○ Access to scientific expertise ○ Examining and assessing scientific evidence ○ Assessing environmental damage and loss through scientific evidence
13.30 – 15.00 WIB (GMT+7)	Session 3: Development of Climate Change Litigation <ul style="list-style-type: none"> ○ Development of the implementation of environmental principles in handling environmental cases

	<ul style="list-style-type: none"> ○ Formulating losses in the case of climate change through environmental valuation ○ Innovations to bring the issue of climate change to the court ○ How to relate the attributions of guilt to various environmental cases ○ Enforcement of environmental decisions
Day 2 and Day 3 – Panel Discussions (Half Day)	
Tuesday-Wednesday, 2-3 November 2021	
08.30 – 12.30 WIB (GMT+7)	<p>Panel 1: Development of Climate Change Litigation Panel 2: Scientific Aspects in Environmental Litigation Panel 3: Development of Environmental Democracy and Public Participation in Natural Resource Management Panel 4: Anti-Strategic Litigation Against Public Participation (Anti-SLAPP)</p> <p><i>Participants will be divided into each panel according to their interest and concern. All of participants are resource persons who will share their knowledges and experiences. The session is guided by a facilitator. Each panel should appoint a rapporteur who will share the result of the discussion in the plenary on Day 4.</i></p>
Day 4 – Closing Plenary Session (Half Day)	
Thursday, 4 November 2021	
08.30 – 12.30 WIB (GMT+7)	Group Presentation and Discussion
	Joint Action Plan Discussion
	Closing Summary of General Recommendations
	<i>This session will provide an opportunity for each panel to share to the plenary the result of the thematic discussion, focusing on the new insights and perspectives regarding underlying problems and recommendations. After presentation, presenters/rapporteurs and facilitator develop the workshop conclusions and recommendations.</i>

VII. Contact Person

Nisrina +6281364339898
Aditanty +6281319858522
Email at jtc.supremecourt@gmail.com