

THE INDONESIAN JUDICIAL
CERTIFICATION PROGRAM ON THE
ENVIRONMENT

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THE STRUCTURE OF THE INDONESIAN JUDICIARY

- THE INDONESIAN JUDICIARY COMPRISES 4 JURISDICTIONS OF COURTS: GENERAL COURT, SHARIA COURT, ADMINISTRATIVE COURT AND MILITARY COURT.
- EACH TYPE OF COURT CONSISTS OF COURTS OF 1ST INSTANCES AND COURT OF APPEALS.
- GENERAL COURT HAS THE POWER TO HEAR CRIMINAL AND CIVIL MATTERS INCLUDING ENVIRONMENTAL CRIMINAL CASES AND CIVIL ENVIRONMENTAL CASES (TORT ACTIONS).
- ADMINISTRATIVE COURT TO HEAR ADMINISTRATIVE CASES INCLUDING ENVIRONMENTAL ADMINISTRATIVE MATTERS WHERE THE GOVERNMENTAL DECISION IS CHALLENGED BY A CITIZEN ON THE BASIS OF ENVIRONMENTAL CONSIDERATIONS.

CONTINUED

- COURT OF 1ST INSTANCES AND OF APPEALS IN THE FOUR JURISDICTIONS ARE UNDER THE SUPREME COURT OF REPUBLIC OF INDONESIA.
- THE SUPREME COURT DEALS WITH ISSUES OF LAW ONLY (WE CALL AS COURT OF CASSATION).
- INDONESIA HAS THE CONSTITUTIONAL COURT WITH THE POWER TO REVIEW (AS THE 1ST AND FINAL PROCESS) CONSTITUTIONALITY OF STATUTES/ACTS, DISPUTES OVER RESULTS OF GENERAL ELECTION, DISPUTES BETWEEN STATE INSTITUTIONS.

WHY IS THE JUDICIAL CERTIFICATION PROGRAM ON THE ENVIRONMENT NEEDED

- INDONESIA HAS FACED ENVIRONMENTAL PROBLEMS (water, marine and air pollution, deforestation/illegal logging, illegal trade of protected animals).
- THE COURTS/JUDGES ALSO HAVE THE ROLE AND RESPONSIBILITY TO PROTECT THE ENVIRONMENT THROUGH THEIR DECISIONS TO INSURE THE IDEA OF SUSTAINABLE DEVELOPMENT AS ESTABLISHED IN THE ENVIRONMENTAL ACT IS BROUGHT INTO REALITY.
- ENVIRONMENTAL LAW IS A RELATIVELY NEW AND COMPLEX FIELD OF LAW: elements of torts, criminal law, administrative law, technical instruments: environmental impact assessment, licenses, environmental standards, relying on scientific evidence.

CONTINUED

- STRENGTHENING AND IMPROVING THE PREVIOUS (1998-2005) ENVIRONMENTAL LAW TRAINING PROGRAM.
- ENVIRONMENTAL ISSUES BECOME INTERNATIONAL COMMUNITY'S CONCERNS: MANY INTERNATIONAL ENVIRONMENTAL CONVENTIONS AND DECLARATIONS MAY NEED TO BE TAKEN INTO ACCOUNT IN HEARING ENVIRONMENTAL CASES BEFORE DOMESTIC COURTS.

THE DECREE OF CHIEF JUSTICE NUMBER 134 OF 2011 CONCERNING ENVIRONMENTAL CERTIFICATION FOR JUDGES

- ONLY JUDGES WHO HAVE ENVIRONMENTAL CERTIFICATES ARE QUALIFIED TO HEAR ENVIRONMENTAL CASES AT THE COURT OF FIRST INSTANCES AND OF APPEALS.
- IF IN A COURT OF 1ST INSTANCE AND OF APPEAL PANEL OF JUDGES COMPRISING 3 CERTIFIED JUDGES CANNOT BE ESTABLISHED, AT LEAST, THE CHAIR IN THE PANEL OF JUDGES SHALL BE CERTIFIED ONE.
- IF IN A COURT OF 1ST INSTANCE, THERE IS NO CERTIFIED JUDGE, THE CHIEF OF THE COURT OF APPEAL WHO HAS JURISDICTION OVER THE COURT OF 1ST INSTANCE IS EMPOWERED TO APPOINT A CERTIFIED JUDGE FROM OTHER COURT OF 1ST INSTANCES WITHIN HIS OR HER JURISDICTION,
- IF IN A COURT OF APPEAL THERE IS NO CERTIFIED JUDGE, THE CHIEF JUSTICE SHALL APPOINT A CERTIFIED JUDGE FROM OTHER COURT OF APPEALS.

CONTINUED

- IN ORDER TO GET A CERTIFICATE, A JUDGE HAS TO ATTEND AND PASS FINAL TESTS OF ENVIRONMENTAL LAW COURSES HELD BY THE TRAINING CENTER UNDER THE SUPREME COURT.
- THE TRAINING CENTER UNDER THE SUPREME COURT IN COOPERATION WITH THE MINISTRY OF THE ENVIRONMENT, ALSO WITH THE ASSISTANCE OF UNDP, AECEN AND US EPA, HAS ESTABLISHED A CURRICULUM FOR ENVIRONMENTAL LAW COURSES: ToT, basic training and advance training.
- THE TRAINING CENTER WILL PERIODICALLY HOLD ENVIRONMENTAL LAW TRAININGS FOR JUDGES.
- The 1st ToT HAD BEEN HELD IN DECEMBER 2011 TO RECRUIT TRAINERS.

SURVEILLANCE AND EVALUATION

- CERTIFIED JUDGES IN PERFORMING THEIR DUTIES ARE UNDER SURVEILLANCE AND EVALUATION BY THE SUPREME COURT.
- FOR THOSE WHO DELIVER GOOD DECISIONS WILL BE GIVEN OPPORTUNITIES TO PARTICIPATE IN THE INTERNATIONAL SEMINAR, WORKSHOPS OR CONFERENCE ON ENVIRONMENTAL LAW.

- THANK YOU