

Human Rights Resource Centre (HRRC)
in collaboration with the
Asian International Justice Initiative (AIJI); and
WSD Handa Center for Human Rights and International Justice (Handa Center)

**Judicial Training in ASEAN:
A Comparative Overview of Systems and Programs**

April 2014



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Publisher

Konrad-Adenauer-Stiftung, Singapore

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PART ONE:

SYNTHESIS REPORT

SYNTHESIS REPORT

I. Introduction

A. *Background and Objective*

As ASEAN¹ moves forward to become a community integrated in the economic, political-security, and socio-cultural spheres by 2015,² strengthening the capacities of ASEAN judiciaries, including through cross-border collaboration, will be a requirement for stable and rules-based transitions throughout the region.

The ASEAN Charter,³ which entered into force on 15 December 2008, provides the legal and institutional framework for ASEAN to be a more rules-based, effective and people-oriented organisation.⁴ Following the entry into force of the Charter, the ASEAN leaders at the 14th ASEAN Summit in Cha-am, Thailand, signed the Roadmap for an ASEAN Community (2009-2015).⁵ The Roadmap is comprised of the Blueprints for the ASEAN Political-Security Community, the ASEAN Economic Community, the ASEAN Socio-Cultural Community and the Initiative for ASEAN Integration (IAI) Work Plan 2. Inter-connected, these documents are meant to instruct and guide ASEAN in moving towards an ASEAN Community by 2015.⁶

In order to build “A Rules-based Community of Shared Values and Norms,” the ASEAN Political-Security Community (APSC) Blueprint states that it is necessary to “Establish programmes for mutual support and assistance among ASEAN Member States in the development of strategies for strengthening the rule of law and judiciary systems and legal infrastructure.”⁷

This study, which provides an overview of judicial training in the ten ASEAN member states, is inspired by the above aims of the ASEAN Charter and the APSC Blueprint. It builds on the initial findings of the 2011 *Rule of Law for Human Rights in the ASEAN Region: A Baseline Study*.⁸ For ASEAN governments to fully implement their obligations under the ASEAN Charter to the rule of law and good governance, the 2011 baseline study recommended that Member States “develop and implement judicial training programs for judges from across the region so as to strengthen judiciary systems.”⁹

1 The Association of Southeast Asian Nations, or ASEAN, was established on 8 August 1967 in Bangkok, Thailand, with the signing of the ASEAN Declaration (Bangkok Declaration). Its current members are Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, Philippines, Singapore, Thailand and Viet Nam.

2 “Overview.” *Association of Southeast Asian Nations*. Accessed January 16, 2013. <http://www.asean.org/asean/about-asean>.

3 The ASEAN Charter. Available at: <http://www.asean.org/archive/publications/ASEAN-Charter.pdf> (accessed 7 April 2014).

4 Association of Southeast Asian Nations. *ASEAN Annual Report 2008-2009: Implementing the Roadmap for an ASEAN Community by 2015 (hereafter ASEAN Annual Report 2008-2009)*. Jakarta: ASEAN Secretariat, July 2009. 4. Available at: <http://www.aseansec.org/wp-content/uploads/2013/07/AR09.pdf> (accessed 7 April 2014).

5 Association of Southeast Asian Nations. *Roadmap for an ASEAN Community 2009-2015 (hereafter ASEAN Roadmap for ASEAN Community)*. Jakarta: ASEAN Secretariat, April 2009. Available at: <http://inter.oop.cmu.ac.th/ASEAN/RoadmapASEANCommunity.pdf> (accessed 7 April 2014).

6 *ASEAN Annual Report 2008-2009*, 1.

7 Association of Southeast Asian Nations. *ASEAN Political-Security Community Blueprint*. Jakarta: ASEAN Secretariat, June 2009. 4.

8 David Cohen, Kevin Tan Yew Lee, and Mahdev Mohan (eds). *Rule of Law for Human Rights in the ASEAN Region: A Baseline Study (hereafter HRRC Rule of Law Baseline Study)*. 1st ed. Jakarta: Human Rights Resource Centre, 2011. Available at: <http://hrrca.org/data/rule-law-human-rights-asean-region-baseline-study> (accessed 7 April 2014).

9 *Ibid.*, 23.

By providing a synopsis of the different structures and programmes in the region and, in the process, highlighting good practices, *Judicial Training in ASEAN: A Comparative Overview of Systems and Programs* aims to assist ASEAN judicial training institutions and other interested stakeholders in promoting cross-border collaboration on judicial training across ASEAN.

B. *Rationale for the Study*

The 2011 baseline study of the HRRC is the first ASEAN-wide study to look at the rule of law landscape in all of the 10 member states. In assessing the state of rule of law, the study looked at, among others factors, whether or not “[j]ustice is administered by competent, impartial and independent judiciary and justice institutions.”¹⁰ The study, however, did not attempt to examine how judicial officers are trained in ASEAN – an important component to consider when endeavouring to standardise certain norms for the judiciary across the region.

Other organizations, such as the ASEAN Law Association (ALA), have aimed to compile information on the legal systems of the member nations of the ALA.¹¹ The Konrad Adenauer Stiftung, in *Constitutionalism in Southeast Asia*, has also published the constitutional documents of all Southeast Asian countries as well as a collection of papers on crosscutting issues in the different constitutional systems.¹² The available publications provide analyses of the various justice systems, including their legal procedures, sources of law, and practices relevant to the legal profession and education. While existing literature are instrumental in understanding the context within which judicial training institutions developed and currently function in the region, none appear devoted to studying the structures and curricula of judicial training institutions from a regional perspective.

C. *Methodology and Analytical Framework*

This research consists of a comparative desk study (the **Study**). The Study is therefore limited in scope and cannot provide a full assessment of judicial training across ASEAN. It is primarily based upon the country-specific findings of our team of expert researchers and country-based research consultants. In doing so, we rely on reviewing existing primary and secondary sources.

The researchers predominantly consulted the Constitution, laws and/or regulations that mandated institutions to provide training for judicial officers, as well as the publications and curricula produced by such mandated institutions. The team of researchers also considered government and third-party reports assessing the state of judicial training in the country. These sources were complemented, where needed, by a limited number of non-structured interviews in the respective countries, particularly in countries where such information were not readily available.

The Study comprises two parts. **Part One** comprises a synthesis report (the **Synthesis Report**), including annexes. The Synthesis Report first focuses on the institutionalization and structure of judicial training in each of the 10 ASEAN member states. For ease of reference, we refer to these institutions as judicial training

¹⁰ Ibid., 25.

¹¹ “Legal Systems in ASEAN.” *ASEAN Law Association* Webpage. Accessed 30 January 2014. <http://www.aseanlawassociation.org/legal.html>

¹² Clauspeter Hill and Jörg Menzel. *Constitutionalism in Southeast Asia, Vol. 1-3 (hereafter Clauspeter Hill and Jörg Menzel. **Constitutionalism in Southeast Asia**)*. 2nd ed. Singapore: Konrad Adenauer Stiftung, 2010. Available at: <http://www.kas.de/rspa/en/publications/20589/>, <http://www.kas.de/rspa/en/publications/21147/>, and <http://www.kas.de/rspa/en/publications/21017/>. See also Kevin YL Tan. “The Making and Re-making of Constitutionals in Southeast Asia: An Overview.” *Singapore Journal of International and Comparative Law* no. 6 (2002). Available at: <http://law.nus.edu.sg/sybil/downloads/articles/SJICL-2002-1/SJICL-2002-1.pdf> (accessed 20 March 2014); and Kevin YL Tan, Jiunn-Rong Yeh, Chao-Ju Chen, Li-Ju Lee, Wen-Chen Chang. “History and Culture: Complexities in Studying Southeast Asian Constitutionalism.” *National Taiwan University Law Review* 5, no. 2 (September 2010).

mechanisms, (or **JTMs**). It looks at how the institutions are overseen and how they select participants, as well as how they organize their programmes and curricula.

It then focuses on how ASEAN integration is considered among the national-level JTMs. Examples of how JTMs have included issues specific to ASEAN and regional integration in their curricula are highlighted. This section also considers how ASEAN JTMs take advantage of the wealth of expertise in the region through collaboration and exchange of information. Part One is structured as follows:

- I. *Introduction*
 - A. *Background and Objective*
 - B. *Rationale for the Study*
 - C. *Methodology and Analytical Framework*
- II. *The Structure and Institution of Judicial Training across ASEAN*
 - A. *Institutional Set Up*
 - B. *Participants in Judicial Training Institutions*
 - C. *Training Organization and Curriculum*
- III. *Consideration of ASEAN Integration in National-Level Judicial Training*
 - A. *Institutional Consideration of ASEAN Integration*
 - B. *Consideration of ASEAN Integration, ASEAN Legal Instruments, and International Law in the Curriculum*
 - C. *Collaboration between Judicial Training Institutions*
- IV. *Conclusion*

Part Two then comprises ten country factsheets, one for each ASEAN country, providing both a detailed overview of each country's judicial training programs and the requirements necessary for entering the judicial professions. The factsheets are structured as follows:

- A. *Training Organization and Institutionalisation*
 - 1. *Relevant Recent Legal and Judicial Reforms*
 - 2. *Institutions Responsible for Judicial Training*
 - 3. *Participants of Judicial Training*
 - 4. *Necessity of Undergoing Pre-Judicature Training*
- B. *Structure and Content of Training Programme for Judges*
 - 1. *Structure of Training Curriculum*
 - 2. *Content of Training Curriculum: Selected Specific Topics*
 - a.) *Judicial Ethics*
 - b.) *Human Rights and/ or Fair Trial Rights*
 - c.) *ASEAN Instruments*
 - d.) *International/ Comparative Law and Conflict of Laws*
 - 3. *Continuing Judicial Education*

As ASEAN moves towards becoming an integrated community, judges and judicial officers will continue to play an increasingly important role in interpreting the legal instruments that frame and shape that community. This Study seeks to show how judicial training is structured and institutionalized, as well as JTMs' commitment to the norms embedded in the ASEAN Charter, in order to contribute positively to the understanding of that role.

II. The Structure and Institution of Judicial Training across ASEAN

A. Institutional Set Up

Southeast Asia comprises a region of diverse cultures, traditions and histories, entwined in a common heritage that is, both distinct and nuanced in each country. Much like the rich socio-cultural heritage of each ASEAN member state, the legal heritage of each ASEAN country can be seen to combine a number of different influences. Perhaps the most obvious difference in these histories can be divided into the countries that have systems that broadly follow the common law or the civil law tradition, to varying degrees.¹³ Yet despite these various traditions, there appear to be more commonalities between the paths institutionalizing judicial training in ASEAN than there are disparities.

At least in law or in official statements, each country in ASEAN recognizes the importance of having qualified judicial officers. They are motivated by different dynamics, but most have put in place mechanisms to ensure that they have quality judicial officers by establishing or reforming their judicial training system.

Figure 1.1: Chronological Timeline of Establishment of Judicial Training Institutions

Year	Country	Institution
1977, 2010	Myanmar	Central Institute of Civil Service (within the Union Civil Service Board), President (A law in 1977 placed this institute under the supervision of the Civil Service Selection and Training Board. In 2010, the Union Civil Services Board Law was passed; this institute is now under the Union Civil Service Board.)
1992	Malaysia	Judicial and Legal Training Institute, Prime Minister's Department ¹⁴
1994	Viet Nam	School of Tribunal Servants, Supreme Court
1994; 2003	Indonesia	Judicial Training Center, under the Supreme Court (The Judicial Training Center in the Supreme Court was first established in 1994. ¹⁵ It only provided in-service training to supplement the training organized by the Ministry of Justice. In 2003, the authority to conduct judicial training was transferred by the government to the Supreme Court.) ¹⁶

13 Broadly speaking, Cambodia, Indonesia, Lao PDR, Thailand and Viet Nam follow in the tradition of the civil law, whereas Brunei Darussalam, Malaysia, Myanmar and Singapore are considered to be common law jurisdictions. The Philippines is a hybrid of the two. In reality, however, all ASEAN countries now form hybrid systems with different influences, including socialist legal systems in some instances.

14 "The Judicial and Legal Training Institute was established based on the decision of the Cabinet on 18 March 1992 and started its operation on 23 December 1993. The Cabinet also decided that ILKAP to be placed under the Prime Minister's Department." Judicial and Legal Training Institute (ILKAP). "Corporate Information" *Official Portal: Judicial and Legal Training Institute*. Webpage. Accessed 30 March 2014. http://www.ilkap.gov.my/prime_bi.php?filename=webcontbi/mkorporat.php

15 Mahkamah Agung RI. *Cetak Biru Pembaruan*. 2003. 24, ff.

16 Komisi Hukum Nasional (KHN). *Membangun Sistem Pendidikan dan Pelatihan Hakim*. 2005. 42. In the previous system, three different ministries were involved in judicial administration, i.e. the Ministry of Justice, the Ministry of Religion Affairs and the Ministry of Defence.

1996; 1998	Philippines	Philippine Judicial Academy (PHILJA), under the Supreme Court (PHILJA was established in 1996 through an Administrative Order of the Chief Justice of the Supreme Court. In 1998, the PHILJA Statutory Charter was passed by the legislature.)
1999-2002	Indonesia	Judicial Commission, external oversight agency in the judiciary (The Commission was created based on the 1999-2002 amendment of the Constitution.)
2000	Thailand	Judicial Training Institute, Office of the Judiciary
2002	Brunei Darussalam	State Judiciary Department, Prime Minister's Office
2002; 2005; 2013	Cambodia	Royal School for Magistracy, Ministry of Justice (The Royal School for Magistracy was created by a decree in 2002; it was placed under the technical oversight of the Council of Ministers. In 2005, it was integrated into the Royal Academy for Judicial Profession. In 2013, the RAJP came under the administrative and financial oversight of the Ministry of Justice. ¹⁷)
2004	Viet Nam	Judicial Academy, Ministry of Justice
2010	Singapore	Judicial Education Board, Subordinate Courts
2012	Malaysia	Judicial Academy, Judicial Appointments Commission (JAC)
No data found.	Lao PDR	Judicial Research and Training Institute, People's Supreme Court
No data found.	Lao PDR	Legal and Judicial Training Institute, Ministry of Justice
No data found.	Myanmar	Judicial Training Institute, Supreme Court (The present judicial system was adopted under the 2008 Constitution and Union Judiciary Law 2010.)

In ASEAN, reforms in judicial training systems were often precipitated by a period of political transition in the country. In **Cambodia**, for example, after decades of civil war and following the democratic election in 1993, the Royal Government of Cambodia engaged in a series of legal and judicial reforms leading to a 2002 Royal Decree establishing the Royal School for Magistracy (also referred to as Royal School for Judges and Prosecutors) and its integration into the Royal Academy of Judicial Professions (RAJP) in 2005.¹⁸ Similarly in **Indonesia**, the reform process following the fall of the New Order regime in 1998 brought about reforms in the judiciary that transferred administrative control over the courts, including for judicial training, from the executive to the judiciary under the “one roof system.”¹⁹ This was also true for **Thailand** after the 1997 Constitution separated the Courts of Justice from the Ministry of Justice, for **Myanmar** after the adoption of the 2008 Constitution, and for **Lao PDR** after a constitutional amendment in 2003 “modified and enhanced the judiciary.”²⁰

Most ASEAN countries have in place institutions that develop standard training curriculums for candidate judges, (which are variously called initial, induction, or pre-judicature training/programmes), or judges who are already in service (at times referred to as continuing judicial education or in-service training). **Brunei** and

17 Royal Decree No. NS/RKT/1013/1058, dated 24 October 2013

18 Royal Decree, No. NS/RKT/0105/019, dated 21 January 2005.

19 Law no. 48/2009 on the Judiciary, Art. 21.

20 *HRRC Rule of Law Baseline Study*, 127.

Singapore are unique in that efforts to improve the capacity of judges did not lead to a drive to develop a standard national curriculum. In **Singapore**, individualized training road maps for every judicial officer were instead created and deserving officers were offered scholarships to pursue further studies and programmes.²¹ Judicial officers in **Brunei** usually receive education or training overseas, with training within the country only done whenever seen as beneficial.²²

Institutions that are tasked to provide judicial training or contribute to the professional growth of judges are either within the executive branch of the government or within the judiciary.

Figure 1.2: Institutions within the Executive Branch of Government

Country	Institution	Responsibility
1. Brunei Darussalam	State Judiciary Department , Prime Minister's Office.	Established to oversee matters pertaining to administration and finance of the Civil and the Syariah Courts. ²³ It has provided judicial training, as well as in-house training for court staff.
2. Cambodia	Royal School for Magistracy (RSM) , under the Royal Academy for Judicial Professions (RAJP). The RAJP is under the technical oversight of Ministry of Justice.	Provides judicial training for candidate judges and candidate prosecutors.
3. Lao PDR	Legal and Judicial Training Institute (LJTI) , under the Ministry of Justice.	Provides short-term training courses in specific areas for different categories of staff in the legal and judicial institutions. ²⁴
4. Malaysia	Judicial and Legal Training Institute (ILKAP) , under the Prime Minister's Department.	Provides training for members of Judicial and Legal Service. ²⁵ Subordinate Court judges and magistrates are considered Judicial and Legal Service members. ²⁶

21 Speech of CJ Yong cited in Andrew Phang, "The Singapore Legal System – History, Theory and Practice." *Singapore Law Review*, (2000–2001) Sing L.Rev 23. 38

22 Brunei Darussalam has no law school to provide formal education or an academy of law to formally train would-be practitioners in the civil law courts. Nabil Daraina Badaruddin, "Legal Education in ASEAN in the 21st Century: Brunei Perspective." N.d. Available at: http://www.aseanlawassociation.org/9GAdocs/w2_Brunei.pdf (accessed 20 March 2014).

23 Datin Paduka Hayyati Saleh, "Brunei Darussalam: Independence of The Judiciary Revisited and Towards More Effective Case Management." *ASEAN Law Association* PDF. Accessed 31 January 2014. http://www.aseanlawassociation.org/docs/w1_brunei.pdf

24 Pär Sköld and Xaynari Chanthala, *Strengthening Legal Education at the Faculty of Law and Political Science, National University of Laos: Mid-term Assessment*. Vientiane and Gotenborg, December 2006. 4. Available at: http://www.pnyx.se/docs/Rule_of_Law_in_Laos.pdf (accessed 20 March 2014).

25 Judicial and Legal Training Institute (ILKAP). "Official Portal: Judicial and Legal Training Institute." Website. Accessed 30 March 2014. http://www.ilkap.gov.my/prime_bi.php

26 Hon. Tun Dato' Sri Ahmad Fairuz bin Dato' Sheikh Abdul Halim, Chief Justice of Malaysia. "Judicial Independence, Accountability, Integrity and Competence — Some Aspects of the Malaysian Position." Paper presented at International Conference and Showcase on Judicial Reforms, Makati City, Philippines, 28-30 November 2005. Available at: [http://jrn21.judiciary.gov.ph/forum_icsjr/ICSJR_Malaysia%20\(D.%20Halim\).pdf](http://jrn21.judiciary.gov.ph/forum_icsjr/ICSJR_Malaysia%20(D.%20Halim).pdf) (accessed 20 March 2014).

5. Myanmar	Central Institute of Civil Service , under Union Civil Service Board (UCSB). The President oversees the affairs of the UCSB. ²⁷	Responsible for training entry-level judges, including for the Deputy Township level. ²⁸
6. Viet Nam	Judicial Academy , under the Ministry of Justice. ²⁹	Responsible for judicial training of judicial titles in Viet Nam, including judges, lawyers, public prosecutors, public notaries and bailiffs. ³⁰

Figure 1.3: Institutions within the Judicial Branch of Government

Country	Institution	Responsibility
1. Indonesia	Judicial Training Center , under the Supreme Court.	Responsible for judicial training and education, including developing and organizing judicial training programs. ³¹
2. Indonesia	Judicial Commission , a constitutionally created body whose members are nominated by the President and appointed by Parliament. It is meant to act as an “external oversight agency.” ³²	Supports the quality improvement of judges and develops supplementary training programs to those provided by the Judicial Training Center of the Supreme Court.
3. Lao PDR	Judicial Research and Training Institute (JRTI) , under the People’s Supreme Court.	Responsible for judicial training of judges and other court personnel.
4. Malaysia	Judicial Academy , headed by the Chief Justice of Malaysia and comprised of members of the judiciary.	Responsible for planning, organizing and conducting training programs and courses for judges of the Superior Courts. ³³ “Superior Courts” include the Federal Court, Court of Appeal, High Court in Malaya, and High Court in Sabah and Sarawak. ³⁴
5. Myanmar	Judicial Training Institute , under the Supreme Court of the Union.	Responsible for training judges of higher ranks.
6. Philippines	Philippine Judicial Academy (PHILJA) , a separate component unit of the Supreme Court and under its administration, supervision and control.	Provides training for justices, judges, court personnel, lawyers and aspirants to judicial posts.

27 Constitution of the Republic of the Union of Myanmar in Clauspeter Hill and Jörg Menzel. *Constitutionalism in Southeast Asia*.

28 The Union Civil Services Board Law (The State Peace and Development Council Law No. 24 / 2010), The Union of Myanmar (hereafter **Union Civil Services Board Law**). Available at: http://www.oag.gov.mm/sites/default/files/legislation/2013/12/union_civil.pdf (accessed 20 March 2014).

29 Decision No. 23/2004/QD-TTg, of the Prime Minister on establishment of Judicial Academy (Decision 23/2004/QD-TTg), Art. 2.

30 Ibid, Art. 3.

31 Secretary’s Decision SK MA/SEK/07/SK/III/2006, Arts. 303-304.

32 Sebastiaan Pompe. “The Judge S case and why court oversight fails.” *The Jakarta Post*, 13 June 2011. There had been initiatives in the Indonesian House of Representatives to revise the 2004 Judicial Commission Law and clarify its powers. Bagus BT Saragih and Ina Parlina. “Debate on sanctions for judges stalls KY law enactment.” *The Jakarta Post*, 21 July 2011.

33 Chief Registrar’s Office, Federal Court of Malaysia. *The Malaysian Judiciary Yearbook 2012* (hereafter **The Malaysian Judiciary Yearbook 2012**). 136. Available at: <http://www.kehakiman.gov.my/sites/default/files/document3/POJLAPORAN%20TAHUNAN/WJD000836%20Msian%20judiciady.pdf> (accessed 7 April 2014).

34 Judicial Appointments Commission Act 2009 (Laws of Malaysia, Act 695).

7. Singapore	Judicial Education Board , within the structure of the Subordinate Courts of the judiciary.	Oversees the continuing education of Legal Service Officers in the Subordinate Courts. ³⁵ Legal Service Officers include those who work as, among others, District Judges, Magistrates, Coroners or Registrars at the Subordinate Courts or the Supreme Court Registry. ³⁶
8. Thailand	Judicial Training Institute , under the Office of the Judiciary.	Responsible for training judicial personnel, including career judges and trainees, lay judges (associate judges), senior judges, and Kadis (<i>Datoh Yutithum</i>).
9. Viet Nam	School of Tribunal Servants , an educational institution operating under the Supreme Court.	Organizes some short training courses for judges to improve and strengthen judicial qualities.

In **Brunei, Cambodia, Philippines, and Thailand**, only one institution is charged with providing judicial training. In **Singapore**, the judiciary generally oversees the development of all judges, with a recently established Judicial Education Board in the Subordinate Courts that is specifically charged with developing the programme for Subordinate Court judges.

In the other countries, several institutions share judicial training responsibilities. In these instances, one institution provides the initial training for candidates for judicial and legal positions (some, at the same time, are also mandated to provide in-service training), while the other provides training only for judges who are already in service:

(i) ***Institutions that conduct initial training for candidates for judicial and legal positions:***

1. **Indonesia's** Judicial Training Center, which conducts a two-year induction program for candidate judges.
2. **Lao PDR's** Judicial Research and Training Institute, in regards training for judge assistants, who can then later be eligible for judicial appointment.
3. **Malaysia's** Judicial and Legal Training Institute, which provides induction training for members of the Judicial and Legal Service. Generally, only members of the Judicial and Legal Service can later be eligible for permanent judicial appointment.
4. **Myanmar's** Central Institute of Civil Service.
5. **Viet Nam's** Judicial Academy.

(ii) ***Institutions that conduct continuing judicial education for judges who are already in service:***

1. **Indonesia's** Judicial Commission, which only develops supplementary training programmes.
2. **Indonesia's** Judicial Training Center (also mentioned above), in that it regularly provides a Continuing Judicial Education program.

³⁵ "The Judicial Branch: The Subordinate Courts." *Legal Service Commission: Annual Report 2010*. Available at: <http://app.lsc.gov.sg/data/AR/2010/LSC/judicial-subordinatecourt.html> (accessed 20 March 2014).

³⁶ The Director, LSC Secretariat. "The Singapore Legal Service." PDF. Accessed 20 March 2014. <http://app.lsc.gov.sg/data/6a%20Law%20Gazette%20Jun%202010.pdf>

3. **Lao PDR's** Legal and Judicial Training Institute (LJTI), which provides short training courses for various legal and judicial officers.
4. **Malaysia's** Judicial Academy, which conducts training programs and courses for judges of the Superior Courts.³⁷
5. **Malaysia's** Judicial and Legal Training Institute (also mentioned above), in that it also provides the training for judges serving in the Subordinate Courts, as they are considered members of the Judicial and Legal Service.
6. **Myanmar's** Judicial Training Institute, which provides training for judges of higher ranks.
7. **Viet Nam's** Judicial Academy (also mentioned above), as it is also mandated to render in-service training for judges.
8. **Viet Nam's** School of Tribunal Servants, which conducts short training courses for judges already in service.

B. *Participants in Judicial Training Institutions*

(i) *Pre-Judicature Training*

In ASEAN, aside from **Brunei** and **Singapore**, all countries have established induction/initial training curriculums for candidates to judicial positions.

In regards their qualifications, in **Brunei**, while the Supreme Court Act³⁸ and the Intermediate Courts Act³⁹ require seven or five years of experience respectively as a judge, advocate, or solicitor for appointment, the Subordinate Courts Act simply requires a person to be “fit and proper” to be a magistrate.⁴⁰ As for **Singapore**, persons appointed as Magistrates in the Subordinate Courts must have been a “qualified person” for at least three years.⁴¹ To be a “qualified person” under the Legal Profession (Qualified Persons) Rules 2011, a person must have at least passed the final examination of Bachelor of Laws, or have been conferred a degree of Doctor of Jurisprudence.⁴² In practice, however, the average length of experience before individuals are appointed District Judges or Magistrates in the Subordinate Courts of Singapore is about 17 years.⁴³

For those countries with induction programs, discussions on this topic can be sectioned as follows: a.) Candidates for judicial appointment do not need prior experience in legal practice, and b.) Candidates for judicial appointment need prior experience in legal practice.

a.) *Candidates for judicial appointment do not need prior experience in legal practice*

In **Cambodia**, beginning 2003, all judges and prosecutors are required to undergo training with the Royal School for Magistracy (RSM). A degree in Bachelor of Laws, Cambodian citizenship, and passing the admission

37 *The Malaysian Judiciary Yearbook 2012*. 136.

38 Supreme Court Act (1984 as amended in 2001), Brunei Darussalam. Available at *Brunei Legislation*. Accessed 1 April 2014. <http://www.commonlii.org/bn/legis/sc5226/>

39 Intermediate Courts, Cap. 162. Accessed 17 March 2014. http://www.agc.gov.bn/agc1/images/LAWS/ACT_PDF/cap162.pdf

40 Subordinate Courts Act. Accessed 27 February 2014. Available at: <http://www.commonlii.org/bn/legis/sc6271/> (accessed 1 April 2014).

41 Subordinate Courts (Amendment) Bill No. 26 of 2013, Clauses 6 and 7.

42 Legal Profession (Qualified Persons) Rules 2011, Rules 5–9A.

43 Second Reading of the Subordinate Courts (Amendment) Bill No. 26 of 2013. Available at: <http://www.mlaw.gov.sg/news/parliamentary-speeches-and-responses/second-reading-speech-on-subordinate-courts-amendment-bill.html> (accessed 1 April 2014).

exams are conditions for entry. Even fresh graduates may apply. In **Myanmar**, an initial judicial training and a background in law are also consistent requisites. The Judicial Training Center in **Indonesia** similarly requires a Bachelor of Laws degree for admission to pre-judicature training, except in some “certification” training programs for *ad-hoc* judge candidates where legal academic background is not required, for example, those in the industrial relations court.

Figure 1.4: Requirements for Admission into the Training Institute

Institution	Requirements
Cambodia: Royal School for Magistracy	A judge trainee candidates must: <ul style="list-style-type: none"> - Be a Cambodian citizen; - Possess at the minimum a bachelor of laws degree; - Pass the admission examination.
Indonesia: Judicial Training Center	To be admitted into the PPC Terpadu (initial judicial training program), a person must meet the following requisites: <ul style="list-style-type: none"> - Possess legal or sharia academic background - Indonesian citizen - 25-40 years old - Pass the capability requirement and possess good character requirements (pious, loyal to Pancasila⁴⁴ and the Constitution of 1945, authoritative, honest, fair, and not reprehensible) - Has no criminal record - Pass qualifying exams - Trained in the course for civil servants and thereafter appointment as civil servants
Myanmar: Central Institute of Civil Service	An applicant must: <ul style="list-style-type: none"> - Have Myanmar nationality; - Have a good moral character; - Possess a law degree. <p>The minimum age for appointment as Township Court judge is 25.⁴⁵</p>

b.) Candidates for judicial appointment need prior experience in legal practice.

Candidates for a judicial post at the lowest court (District People’s Courts) in **Viet Nam**, are required at least four years’ experience at the courts, usually as court officers, tribunal secretaries, or judicial clerks of courts. For **Thailand**, at least two years working experience in the legal profession is required in addition to being a law graduate and passing the bar examination. In the **Philippines**, candidates for judicial appointment to the lowest court must have, for at least five years, been engaged in the practice of law in the Philippines, or held a public office in the Philippines requiring admission to the practice of law as an indispensable requisite.⁴⁶

44 Pancasila refers to the Five Principles that define the Indonesian nation: Belief in the one and only God, Just and civilized humanity, Unity of Indonesia, Democracy, Social justice.” “The Philosophical Basis of Human Rights in Indonesia.” Embassy of the Republic of Indonesia in London—United Kingdom. Accessed 5 April 2014, http://www.indonesianembassy.org.uk/human_right-2.htm

45 International Bar Association’s Human Rights Institute (IBAHRI), *The Rule of Law in Myanmar: Challenges and Prospects*. London: International Bar Association, 2012. 58.

46 JBC – 009, Rules of the Judicial and Bar Council, The Supreme Court of the Philippines (November 2000). Section 8. *Citing* B.P. Blg. 129, Section 26. Available at: <http://jbc.judiciary.gov.ph/index.php/jbc-rules-and-regulations/jbc-009#R2S8> (accessed 1 April 2014).

In **Lao PDR**, only persons with law degrees who have served as court staff (usually for two to three years) can, upon recommendation of their judges, participate in the JRTI's judicial training for promotion to the next level as judge assistants. Judge assistants who have worked for one to two years (no minimum number of years is stated in the law) can be recommended for promotion to judgeship by the judge of the respective court. **Malaysia**, in general,⁴⁷ similarly requires prior experience as member of Malaysia's Judicial and Legal Service before anyone can be considered for permanent appointment to the Subordinate Courts. The Judicial and Legal Service Commission selects the members of this service and decides their promotions and transfers. No length of experience as members of the Judicial and Legal Service, before they may be considered eligible for judicial appointment, is however indicated in the Subordinate Courts Act.

**Figure 1.5: Requirements for Judicial Appointment
(and thus for Admission into the Training Institute)**

Country	Requirements
Lao PDR	Judge candidates must be: <ul style="list-style-type: none"> - Lao citizens - At least 25 years of age - Have a strong political commitment - Have a good behaviour - Be loyal to the benefits of the nation - Have a good deontology - Be honest towards the performance of their duty - Have acquired a high law degree and be trained according to the curriculum of judges, and - Be in good health.⁴⁸
Malaysia	Candidates for appointment to the Subordinate Courts, unless the appointment is as Second Class Magistrate, must first be members of the Judicial and Legal Service. The following are the conditions for appointment to the management and professional classification of the Judicial and Legal Service: <ul style="list-style-type: none"> - Citizen of Malaysia; - Not less than 18 years; - (i) Bachelor of Law recognized by the government institutions of higher education or a qualification recognized as equivalent thereto, or (ii) passed the Final Bar Examination; - Pass Bahasa Malaysia/Malay at Sijil Pelajaran Malaysia level or equivalent qualification recognized by the government.

47 The Subordinate Courts Act states:

60. No person shall be appointed to be a Sessions Court Judge unless he is a member of the Judicial and Legal Service of the Federation: Provided that this section shall not prevent the appointment of a person to act temporarily as a Sessions Court Judge.

78A. No person shall be appointed to be a First Class Magistrate unless he is a member of the Judicial and Legal Service of the Federation: Provided that this section shall not prevent the appointment of a person to act temporarily as a First Class Magistrate.

79. The State Authority may appoint any fit and proper person to be a Second Class Magistrate in and for the State.

48 Shantel Talbot, *Lao People's Democratic Republic (Laos) Law and Religion Framework Overview*. 04 February 2014. 11. *Citing* Law on People's Court (Amended) (No. 09/NA, 26 November 2009). Available at: <http://www.religlaw.org/common/document.view.php?docId=6184> (accessed 1 April 2014).

Philippines	Qualifications of judges of courts of the first level are as follows: ⁴⁹ <ul style="list-style-type: none"> - Citizen of the Philippines; - Of proven competence, integrity, probity and independence and a member of the Philippine Bar; - At least thirty years of age; - For at least five years, has been engaged in the practice of law in the Philippines, or has held a public office in the Philippines requiring admission to the practice of law as an indispensable requisite.⁵⁰
Thailand	A career judge candidate must: ⁵¹ <ul style="list-style-type: none"> - Pass the entrance exam; - Be of Thai nationality; - Possess a law degree; - Pass the examination of the Thai Bar Association; - Have no less than two years prior work experience in the legal profession.
Viet Nam	A judge candidate must ⁵² <ul style="list-style-type: none"> - Have a legal background (<i>e.g.</i> graduation from licensed national law schools or foreign law schools recognized by the MOJ); - Be recommended by the judiciary; - Have a Vietnamese nationality; - Have no criminal record; - Have good morality.

c.) *Continuing Judicial Education*

All countries in ASEAN conduct in-service training or continuing judicial education, although some are more systematic in rendering the training than others.

Indonesia, for instance, holds a Continuing Judicial Education programme for judges, including ad-hoc judges, which is organized for six days; materials are defined by a training needs analysis. The **Philippine** Judicial Academy has a three-day Judicial Career Enhancement Program in its Core Program, aside from other thematic courses it may choose to conduct under its Special Focus Programs, Alternative Dispute Resolution Programs, and Convention-Seminars. **Malaysia's** Judicial and Legal Training Institute, which provides training to Subordinate Court judges, has an impressively detailed annual curriculum. **Malaysia's** Judicial Academy, which was established only in 2012 to provide training to judges of the Superior Courts, has also been holding programmes consistently. **Thailand's** Judicial Training Institute is similarly regular in providing judicial training for in-service judges at all levels. **Viet Nam's** School of Tribunal Servants also holds brief training programmes each year.

In **Singapore**, there have been recent initiatives to develop standardized continuing judicial education; however, so far, this move is concretely evident only in the Subordinate Courts. The Subordinate Court's

49 First level courts are: Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts, Municipal Circuit Trial Courts.

50 JBC-009, Rules of the Judicial and Bar Council.

51 See Act on Judicial Administration of the Courts of Justice, B.E. 2543.

52 Law on Organization of the Peoples' Court (2002), Art. 37; Ordinance on Judges and Jurors of People's Courts (2002), Art. 20.

Judicial Education Board, established in 2010 to provide guidance and direction on the development of judicial training for judges in the Subordinate Courts, initiated its key programmes in 2012.

For **Cambodia**, while it was found that the Royal Academy for Judicial Professions, through the Royal School for Magistracy, offers an in-service training for judges,⁵³ no sufficient information was found in regards how regularly these courses are conducted. This Study also found it difficult, with the limited information readily available, to determine the extent of similar trainings in **Myanmar**.

Brunei seems to hold seminars for judges on an as-needed basis. Similarly, in **Lao PDR**, no systematized training program for the continuing legal training of judges was identified; nevertheless, when new laws are passed, seminars for the judiciary are usually organized.

Due to the fact that continuing judicial education is less structured, information in regards the selection of participants was challenging to obtain. Nonetheless, for the **Philippines**, it was found that it is a good practice, to avoid duplication and overlapping training programmes and activities, to have one single institution provide all judicial education programs for justices, judges, and court personnel. Further, by reason of a Supreme Court circular issued in 1996, and later reiterated in a law issued in 1998, the pertinent training programs of PHILJA are incorporated in all conventions of judges.⁵⁴

C. *Training Organization and Curriculum*

a.) *Pre-Judicature Training*⁵⁵

Figure 1.6: Duration of Pre-Judicature Training

Country	Institution	Duration of Programme
Brunei Darussalam	N/A	N/A
Cambodia	Royal School for Magistracy	2 years
Indonesia	Judicial Training Center	2 years PPC Terpadu (initial judicial training program) <i>For Ad Hoc and Career Judges assigned to Special Courts:</i> - 6 days “Certification” training for ad-hoc judges - 18 days “Certification” training for judges at anti-corruption judges
Lao PDR	Judicial and Legal Training Institute	6 weeks (for judge assistants)
Malaysia	Judicial and Legal Training Institute (ILKAP)	9 days (for all Grade L41 judicial and legal officers.) ⁵⁵

53 H.E. Tep Darong. “Cambodia and the Rule of Law.” *Occasional Papers on Democratic Development* (January 2009). Phnom Penh: Konrad-Adenauer-Stiftung. PDF. Accessed 3 April 2013. http://www.kas.de/wf/doc/kas_16756-1522-2-30.pdf?130205225016

54 Republic Act No. 8557, Sec. 12, provides that “All conventions of Judges and Court personnel shall include pertinent Academy educational programs under such rules and requirements as the Academy may prescribe.” This provision, in effect, reiterates the provisions of Supreme Court Administrative Circular No. 11-96 dated October 10, 1996, as amended by Circular No. 13-96 dated November 28, 1996, requiring the inclusion in all conventions/conferences of Judges and Court personnel of educational and training programs of the Philippine Judicial Academy (PHILJA).

55 ILKAP’s Induction Programme for 2014 includes a 9-day “Mind Transformational Programme” course for “Judicial and Legal officers (L41).” It is not certain whether this is the programme that all judicial candidates are expected to attend or there are others not contained in the programme. See, for other listed induction courses, Malaysia Factsheet at B.1.b. Judicial and Legal Training Institute (ILKAP), Prime Minister’s Department. *Training Programme 2014 (hereafter ILKAP Training Program 2014)*. Selangor Darul Ehsan: Judicial and Legal Training Institute (ILKAP), 2014. Available at: <http://www.ilkap.gov.my/download/2014/Buku%20Program%20Latihan%202014.pdf> (accessed 1 April 2014).

Myanmar	Central Institute of Civil Service	Insufficient data.
Philippines	Philippine Judicial Academy	10 days Pre-Judicature Program; <i>and</i> 2 weeks Orientation Seminar-Workshop
Singapore	N/A	N/A
Thailand	Judicial Training Institute	1 year
Viet Nam	Judicial Academy	1 year

Information in regards the content and structure of pre-judicature training was generally easy to access. The research did find, however, that in the case of **Myanmar**, there has not as yet been a thorough assessment of the content, length and curriculum of **Myanmar's** judicial training programs. The limited information available is only in regards the training that candidates for Deputy Township judgeships receive through the UCSB. The information merely indicates that the training comprises a theoretical and practical “on the job-training course” on criminal and civil laws, “legal English,” court administration and logistics subjects.⁵⁶ In other instances, contents and, sometimes, even schedules, of courses for pre-judicature training were accessible. For instance, in **Cambodia**, the weekly schedule is posted on RSM's website.⁵⁷ All jurisdictions are the same in trying to balance theoretical and practical components in the training.

(ii) *Continuing Judicial Education*

Generally, information on the programme on continuing education was more difficult to access, probably because this tended to be more *ad-hoc* in nature and made flexible to allow the institutions to address what they think are the more urgent issues. It was also noted that frequency and content at times depended on the organiser of the seminar, number of participants and trainers available, as well as the budget to support the trainings.⁵⁸ In **Viet Nam**, for example, judges may be required to attend short-term in service training courses given by the School of Tribunal Servants, an educational institution operating under the Supreme Court, as part of continuous legal education. Content of the courses is changed from year to year to accommodate newly enacted laws or regulations and new developments in juridical practice.

Notably, **Malaysia's** Judicial and Legal Training Institute publishes an annual schedule of courses, which can be accessed online. This contains information on the objective of the course, content description, intended participants, names of coordinators per course, and the venue.⁵⁹ There are positive on-going initiatives in the region to improve continuing judicial education. Significantly, **Lao PDR** adopted the Legal Sector Master Plan (**LSMP**) in September 2009 as part of its broader effort to build a country based on the rule of law.⁶⁰ One of the goals under the LSMP is to establish a national training institute by October of this year, with the technical support of the United Nations Development Programme (**UNDP**).⁶¹ Included in this plan is the development of an integrated and comprehensive curriculum for judges.⁶²

56 “The Supreme Court of the Union of Myanmar,” *The Supreme Court of the Union of Myanmar*. Website. Accessed 20 February 2014. <http://www.unionsupremecourt.gov.mm/?q=content/supreme-court-union>

57 *Royal School of Magistracy*. Website (in Khmer). Accessed 1 April 2014. <http://www.rajp.gov.kh/Books/schedule29.pdf>

58 See Country Factsheet for Lao PDR at B.1, and Country Factsheet for Myanmar at B.1.

59 *ILKAP Training Program 2014*.

60 Primer on the Legal Sector Master Plan: Building a Rule of Law State in Lao PDR, 2.

61 Interview with UNDP Programme Analyst, Vientiane, Laos, 17 February 2014.

62 Ibid.

III. Consideration of ASEAN Integration in National-Level Judicial Training

As was noted in our introduction, strengthening the rule of law, judiciary systems and legal infrastructure remains a key goal of the ASEAN Political Security Community Blueprint and a fundamental platform for action through which to realize the ASEAN Charter.⁶³ However, as in many areas of ASEAN cooperation, institutionalizing this platform requires striking a delicate balance between “advancing the mutual regional interests of its member states, while still preserving the diverse national interests of its various stakeholders.”⁶⁴ While strengthening the role of judiciaries in ASEAN has widely been acknowledged both at the Secretariat and at the national level as a key issue of regional concern, implementing a comprehensive plan to foster judicial training on cross-border issues remains somewhat elusive.

Yet bearing in mind ASEAN’s history and the subtle nuances of “ASEAN way”, such a plan will likely evolve organically, and through a series of initiatives, rather than by the implementation of any single convention or treaty region-wide.⁶⁵ This has certainly been the case in other areas of intra-ASEAN cooperation, such as those pertaining to the regulation of domestic practices. For instance, Tolentino Jr notes that concerns that emerged over environmental problems in the 1980s resulted in a growing commitment to the goals of environmental protection and sustainable development across the region over a 30-year period.⁶⁶ This has emerged a heterodox yet complimentary set of environmental regulation agencies and environmental protection regimes across ASEAN, which now complement each other’s work. It has also included landmark cases brought in the public interest in Indonesia, Malaysia and the Philippines, which may have also had regional implications.⁶⁷ Similarly, Ng notes that the significant strides that have been made in intellectual property regulation were the result of a cooperative framework agreement, regional working groups and intellectual property rights initiatives agreed regionally over nearly two decades. She further acknowledges that “sectarian opposition and political will” have been cited for delays in implementing parts of the proposed programs, hence again pointing to the heterodox nature of ASEAN’s consensus-based approach.⁶⁸

In this regard, the extent to which ASEAN member states have realized their own national policy goals vis-à-vis developing the skills of the judiciary remains an important factor to consider when determining at what point the region will be ready for an ASEAN-wide judicial training program implemented by each country’s JTM. As has been the case with other areas of reform, the extent to which each government engages will likely take on a different form in each jurisdiction and be implemented over an agreed timeframe. In **Lao PDR** and **Myanmar**, for instance, it was acknowledged that training for judges in a number of areas pertaining to national laws and practice were still in the process of being developed and likely need to take precedence.⁶⁹ Similarly, **Cambodia** is currently in the process of enacting laws, which guarantee the independence and impartiality of the judiciary

63 See Part One: Synthesis Report, Introduction at p.2 and footnotes 2-7.

64 Ng, Elizabeth Siew-Kuan (2013) “ASEAN IP Harmonization: Striking the Delicate Balance,” 25 *Pace International Law Review* 129 at p.131 (Hereafter, “Ng”).

65 The “ASEAN Way” is based on the idea of a consensus-based approach to decision-making, in which a principle of mutual respect for the sovereignty, independence, equality and territorial integrity of each member state is agreed on. See in particular, the *Treaty of Amity and Cooperation in Southeast Asia* (1976), Article 2, available online at: <http://www.asean.org/news/item/treaty-of-amity-and-cooperation-in-southeast-asia-indonesia-24-february-1976-3>. [Last accessed 1 April 2014]

66 Tolentino Jr, Amado S. (2011) “Improving Environmental Governance and Access to Justice” *Environmental Policy and Law* vol.41, issue no. 2, pp.95-101 at p.95. (Hereafter, “Tolentino Jr”).

67 Ibid., Tolentino Jr, at pp.98-100.

68 *Supra*, note 62 (Ng), at p.135.

69 See Myanmar and Lao PDR reports, at Section A(1) and Section B(1), respectively.

and organize the structure of its courts. It seems inevitable that a key task of the Royal Academy for Judicial Professions in the forthcoming period will be ensuring that this legislation (and the corresponding Code of Judicial Ethics) are incorporated into the existing training curriculum. However, as has been discussed in detail in other sections of this report, the potential for on-going collaboration and reform remains significant.

A. *Institutional Consideration of ASEAN Integration*

(i) *Consideration of the Challenges Pertaining to ASEAN Integration*

Our Study shows that, at present, there is fairly limited information available about the extent to which the legal and judicial challenges pertaining to ASEAN integration are being considered by JTMs across the region: if indeed, the integration process is being considered by the JTM, it is not generally being made public.⁷⁰ As a result of this finding, it is also challenging to determine how much planning and preparation is being undertaken to institutionalize ASEAN-oriented programs focused on the integration process. However, at an informal level, a key concern identified by many JTMs has been to understand what impact (if any) integration will have on the implementation of national laws.

During interviews with representatives from JTMs in Cambodia and Lao PDR, for instance, parties noted that the judiciary and JTMs continued to have limited knowledge on the implications of the ASEAN Community Blueprints and the integration process. This is likely at least in part due to the fact that many discussions pertaining to integration continue to remain at the policy level, and may yet be seen as an issue of judicial interpretation given they are yet to become part of the law. The findings did, however, point to potential areas for collaboration, including (i) institutionally-driven or methodologically-based coursework – such as programs pertaining to alternative dispute resolution (ADR),⁷¹ court efficiency and e-filing systems; and issues pertaining to transparency; and (ii) thematic programs dealing with specific cross-border concerns, such as environmental protection.⁷² In certain instances, cross-border collaboration between judges was already taking place on these issues.⁷³

(ii) *Cooperation and Collaboration between ASEAN Judiciaries and Judicial Training Schools*

At the same time, however, plans for cooperation between ASEAN judiciaries and judicial training schools do appear to be developing, led by at least two ASEAN countries. In **Thailand** ASEAN court cooperation and training (to be offered both to Thai nationals and trainee judges from the region) now forms part of the strategic plan of the Thai Court of Justice.⁷⁴ This is perhaps not surprising, given **Thailand's** traditional role as a strong proponent of ASEAN and its emphasis on “the need for the region to act as a unit.”⁷⁵ According to the 2014-2017 plan, training judges in international law, the ASEAN Charter and ASEAN legal instruments by collaborating with Thai universities and other organizations forms a key component of the Court's continuing judicial education program.

70 See Brunei Darussalam, Cambodia, Indonesia, Lao PDR, Malaysia, Myanmar, the Philippines, and Viet Nam Reports, at Section B(2)(c).

71 In Brunei Darussalam, ADR was considered a key cross-border issue where training could be designed and implemented, and one that could provide “a common platform for discussions” amongst peers in ASEAN judiciaries. See Country Factsheet for Brunei Darussalam, at Section B(2)(c).

72 See Country Factsheet for Malaysia, at Section B(2)(c).

73 See Country Factsheet for Brunei Darussalam, at Section B(2)(c).

74 See Country Factsheet for Thailand, at Section B(2)(c).

75 Williams, Megan R., (2007) “ASEAN: Do Progress and Effectiveness Require A Judiciary?” 30 Suffolk Transnational Law Review 433–457 at p.445. See also Thanat Khoman, *ASEAN Conception and Evolution*, to which Williams refers, available online at: <http://www.asean.org/news/item/asean-conception-and-evolution-by-thanat-khoman> [Last accessed 1 April 2014].

Additionally, the **Singapore** Subordinate Courts are engaged in a Court Excellence and Judicial Cooperation Forum for judiciaries in the ASEAN region. The forum provides for knowledge exchange and the sharing of “best practices” and “lessons learned” in the area of judicial administration.⁷⁶ Participating judiciaries will explore frameworks, which assist courts to improve their performance, judicial administration and the delivery of justice. This form of continuing judicial education could perhaps serve as a model for similar programs undertaken by judicial trainees.

B. *Consideration of ASEAN Integration, ASEAN Legal Instruments, and International Law in the Curriculum*

(i) *Inclusion of Training Pertaining to ASEAN Integration and ASEAN Legal Instruments in the Judicial Training Curriculum*

Based on our researchers’ review of the available sources, several countries in ASEAN do not currently include courses pertaining to ASEAN or ASEAN integration as part of their JTM’s curriculum. In some countries, however, such as **Singapore** and **Malaysia**, which are common law jurisdictions, the fact that there is no official JTM must be taken into account: evidence was provided for the inclusion of broader programs both in the law schools and by certain legal institutes. In **Brunei, Cambodia, Myanmar** and **Indonesia**, there appeared to be no evidence of courses relating to ASEAN, nor were the ASEAN Charter or the ASEAN instruments being specifically considered through externally-led seminars or discussion programs held at the JTM.⁷⁷ **Cambodia’s** Royal Academy for Judicial Professions does, however, host programs including judges from the broader Asian region that includes some discussion of ASEAN.⁷⁸

Approaches taken by other countries varied. In **Lao PDR**, although the judicial training curriculum itself does not include modules pertaining to ASEAN and the ASEAN Economic Community, there have been some seminars organized by the Ministry of Foreign Affairs, which have been attended by judges.⁷⁹ Similarly, despite devoting limited space to ASEAN’s legal instruments as part of its flagship programs, one-off seminars and special focus group programs were conducted by the **Philippine** Judicial Academy pertaining to both the ASEAN Charter and Trafficking in Persons.⁸⁰

Finally, **Viet Nam** perhaps provides an interesting case study in this regard. According to the research conducted, the Vietnamese judicial academy’s training curriculum does include a component of training which focuses on “international integration and the judiciary.” The module considers: (i) international legal and practical issues that judges should be aware of to resolve disputes pertaining to foreign entities, including disputes arising out of Viet Nam’s economic integration process (*doi moi*) since 1986;⁸¹ (ii) transnational crimes; (iii) international

76 See Country Factsheet for Malaysia, at Section B(2)(c).

77 See Country Factsheets for Cambodia, Myanmar and Indonesia, at Section B(2)(c).

78 In 2014, the Royal Academy for Judicial Professions conducted an International Symposium on Judicial Integrity and Training, 8–10 April, 2014, together with the Konrad Adenauer Foundation, Singapore. The training, open to judges and judicial professionals (including those working in court administration), looked at various aspects of the role of judges in society and safeguards for guaranteeing judicial independence and impartiality.

79 See Country Factsheet for Lao PDR, at Section B(2)(c).

80 See Country Factsheet for the Philippines, at Section B(2)(c). The Philippine Judicial Academy (**PHILJA**) conducted a lecture, presented by Chief Justice Reynato S Puno III on the ASEAN Charter in 2010, which was attended by 383 participants. Following on from an ASEAN-led series of workshop on Trafficking in Persons in the Philippines in 2011, PHILJA continued to hold workshops for judges in 2012 pertaining to the same topic.

81 Viet Nam’s own economic integration introduced reforms throughout much of the past two decades that facilitated a political and economic campaign combining economic planning and free market incentives. See, for instance, Ngyuen Hong Son, “Viet Nam’s Evolutionary Perspective on

trade disputes; and (iv) ASEAN legal instruments.⁸² Viet Nam's own economic transition, and the evolutionary approach taken to integrating into both regional and national systems, may provide some interesting insights as to methodological approaches that might be adopted to the subject matter by other CLMV countries.⁸³ This is particularly so given the level of cross-border interaction already taking place between Viet Nam and other CLMV judiciaries.⁸⁴

(ii) ***Courses or Course Modules Offered on International and/or Comparative Law or Conflict of Laws***

As ASEAN integration nears, increased cross-border regulation will likely require judges across the region to consider issues pertaining to conflict of laws and comparative law more frequently in their cases. It is perhaps useful to note that most jurisdictions in ASEAN appear to offer modules pertaining to comparative law or conflict of laws as part of the international law component of their undergraduate courses. This is perhaps not surprising, bearing in mind the extent to which such courses usually require a heavy theoretical component. In **Singapore**, international and comparative law form core components of legal education: both faculties of law require graduates to have completed a compulsory course on comparative legal systems, and offer extensive international law listings as part of their elective programs.⁸⁵

In **Malaysia**, however, continuing legal and judicial education programs do offer courses on thematic areas of law that include modules with an international and comparative law component. For example, courses offered by Malaysia's Judicial and Legal Training Institute include international standards pertaining to child rights and women's rights. Courses have also previously been offered on the Convention on the Rights of Persons with Disabilities.⁸⁶

The **Philippines** was perhaps the one country where a study of international law formed an integral part of the JTM, with a dedicated department in the Philippine Judicial Academy dealing specifically with international and human rights law. In the pre-judicature programs at the Academy, Developments in International Law, International Human Rights Law and Domestic Enforcement and Implementation are all modules, which form part of the course.⁸⁷

However, other than in **Viet Nam**, there appeared to be limited to no discussion of conflict of laws issues pertaining to either ASEAN integration or broader international agreements and instruments in the available JTM curriculum.⁸⁸ Perhaps one area that could be further explored as an ASEAN-wide point of interest would be a component pertaining to the *Hague Convention on the Choice of Court Agreements* (2005) (the **Hague Convention**). The Hague Convention "aims at ensuring the effectiveness of choice of court agreements (also known as 'forum selection clauses' or 'jurisdiction clauses') between parties to international commercial transactions."⁸⁹ As has recently been noted by Singapore's Chief Justice Menon:

Regional and international Economic Integration: From Doi Moi to Participation in the AEC" (2013), *International Conference on International Relations and Development*, available online at: <http://www.icird.org/publications> [Last accessed 1 April 2014]. (Hereafter, **Nguyen**).

82 See Country Factsheet for Viet Nam, at Section B, as well as discussions with in-country researcher.

83 "CLMV" is the shorthand used to refer to Cambodia, Lao PDR, Myanmar and Viet Nam as a sub-grouping in ASEAN. See Nguyen, at pp.7-8.

84 See Section III(C) below.

85 See Country Factsheet for Singapore, at Section (C).

86 See Country Factsheet for Malaysia, at Section 2(B).

87 See Country Factsheet for the Philippines, at Section 2(B).

88 However, in certain instances these conclusions may be due to a lack of publicly available data about the modules or courses on offer at the JTM in question.

89 See *Outline of the Convention*, available online at: <http://www.hcch.net/upload/outline37e.pdf> [Last accessed 1 April, 2014].

It seeks to realise that goal through the harmonisation of rules on the recognition and enforcement of foreign judgments in civil matters. One of the major features of the convention is its provision that where the disputing parties have chosen a particular court of another state to resolve their dispute, state parties are to recognise and enforce a judgment given by that court, save in limited exceptional circumstances.⁹⁰

To date, only **Malaysia**, the **Philippines** and **Viet Nam** are members of the Convention.⁹¹ However, it could still form a useful tool for discussion pertaining to the enforcement of contracts in judicial training programs. It is also perhaps an interesting catalyst for considering the enforcement of contractual agreements across ASEAN during regional ministerial meetings.

C. *Collaboration between Judicial Training Institutions*

Despite limited data available pertaining to domestic judicial training pertaining to ASEAN, cross-border collaborative initiatives between JTMs and the judiciaries in ASEAN appear to be increasing in certain countries. Additionally, cross-border initiatives in judicial training have a longstanding history in others, perhaps opening the door to further consideration of ASEAN integration via established programs. According to recent statements from the Vietnamese foreign ministry, **Viet Nam** and **Lao PDR** have undertaken close judicial cooperation over three decades. According to the statement, the countries have executed five judicial cooperation agreements over that time and have agreed to prioritise training of judicial personnel over the past five years. In Thailand, for instance, the Courts of Justice have organized legal and administrative training programs for international participants (including from ASEAN countries) in recent times. Additionally, in 2013, the Court of Justice officially opened the ASEAN Cooperation Center, which aims to strengthen cooperation between the courts of justice across the region. The Center aims to play:

a vital technical role in providing technical knowledge pertaining to the ASEAN Economic Community, such that the ASEAN courts will be fully prepared to accommodate the changing nature of cases due to ASEAN integration.⁹²

Singapore's launching of its International Framework for Court Excellence similarly aims to ensure that a platform for exchange of information regarding judicial “best practices” and legal developments around the world takes place within ASEAN. It also offers a forum for participants to share experiences in improving their own courts, and will likely continue to provide an important “lessons learned” forum for judicial professionals working in the region.

Much like initiatives in other sectors, justice sector and judicial training programs in ASEAN hence appear to be adopting an evolutionary approach to integration, perhaps seeing 2015 as more of a milestone than an endpoint. While there seems to be ample scope to improve the level and extent of cooperation between JTMs (as evinced by the comments of many working at JTMs themselves), their does appear to be, in several countries, a growing commitment and willingness towards ensuring that the overall competence and capacity of the judiciary to understand and consider cross-border issues arising from the integration process forms part of the informal curriculum. The next step will be to further formalize this commitment – which ASEAN will undoubtedly continue to do as closer cooperation and greater unity is achieved.

90 See Keynote Address by Chief Justice Sundaresh Menon, ASEAN Integration Through Law, Concluding Plenary, (Centre for International Law, National University of Singapore, 25 August 2013) <http://app.supremecourt.gov.sg/data/doc/ManagePage/4943/ASEAN%20Integration%20Through%20Law%20Project%20Keynote.pdf>

91 Convention members have been listed online at: http://www.hcch.net/index_en.php?act=states.listing [Last accessed 1 April 2014].

92 Country Report for Thailand, at Section [C] (Question 6).

IV. Conclusion

There are many promising possibilities in regards judicial training in ASEAN. Currently, judicial training in the 10 Member States is at different stages of development. The manner in which judicial training has been institutionalized also varies widely. All countries are the same, however, in their commitment to pursue the professional development and excellence of members of their respective judiciaries.

ASEAN countries show that the strategies are many. For example, while most countries, including **Cambodia, Indonesia, Lao PDR** (in its training for judge assistants), **Malaysia, Myanmar, the Philippines, Thailand,** and **Viet Nam**, rely heavily on curriculums developed by training institutions, **Brunei Darussalam** leans more towards having its judges attend international trainings, welcoming visits from international experts, and holding special trainings on specific topics within the country. **Singapore** has for years provided its judges with individualised professional programs—including scholarships for further studies at highly respected institutions, both within and outside the country.

ASEAN countries have been engaging with each other in seminars and trainings to discuss common issues, examples of these are those organized by the ASEAN Law Association and the ASEAN–Wildlife Enforcement Network. Additionally, **Singapore** and **Thailand** recently established programs that could provide platforms for discussions on issues relating to the ASEAN Charter and the ASEAN Community, as well as share best practices among the judiciaries in the region. Nonetheless, in comparison with the richness of experience within ASEAN from having institutions that have been creative and innovative in instilling professional growth, there are currently limited examples of cooperation and collaboration in regards developing judicial training programmes. The more pronounced exchange so far is that between **Lao PDR** and **Viet Nam**. There is thus ample room for training institutions in ASEAN to create common mechanisms to achieve similar goals and objectives.

To recall, the leaders in the region have agreed that, for ASEAN to be competitive and achieve regional integration, ASEAN countries must “adopt a holistic approach and view the region as a single economy.”⁹³ They launched the Initiative for ASEAN Integration (IAI) with the objectives of narrowing the development gap and accelerating economic integration of the newer members of ASEAN, namely Cambodia, Lao PDR, Myanmar, and Viet Nam (CLMV).⁹⁴ Essentially, the IAI provides a framework for regional cooperation through which the more developed ASEAN members could help those member countries that most need it.⁹⁵

In the current Work Plan, an intended course of action is to help build capacity in, among others, “rule of law and judiciary systems and legal infrastructure.”⁹⁶ To prepare for an ASEAN Community where goods, services, investment, skilled labour, and capital flow freely, there is a need to strengthen rule of law in the areas of enforcement of contracts, competition policy, dispute settlement, and government policy reform.⁹⁷

93 Media Secretariat, 4th ASEAN Informal Summit, Singapore. “Press Statement by Chairman, 4th ASEAN Informal Summit, Singapore, 25 Nov 2000: The Way Forward: Initiative For ASEAN Integration” (*hereafter* **Press Statement by Chairman, 4th ASEAN Informal Summit**). 25 November 2000. Available at: <http://unpan1.un.org/intradoc/groups/public/documents/apcity/unpan005492.pdf> (accessed 1 April 2014).

94 “Initiative for ASEAN Integration (IAI) and Narrowing the Development Gap (NDG).” *Association of Southeast Asian Nations*. Accessed January 16, 2013. <http://www.asean.org/communities/asean-economic-community/category/initiative-for-asean-integration-and-narrowing-the-development-gap> (accessed 1 April 2014).

95 *Press Statement by Chairman, 4th ASEAN Informal Summit*, Paragraph 1.

96 ASEAN. “Initiative for ASEAN Integration (IAI) Strategic Framework and IAI Work Plan 2 (2009-2015).” n.d. 18-19. Available at: <http://www.asean.org/images/archive/22325.pdf> (accessed 1 April 2014). The latest Work Plan of the IAI (IAI WP 2), together with the three ASEAN Community Blueprints, forms part of the Roadmap for an ASEAN Community (2009-2015).

97 *Ibid.* 7. Para. B1 (i).

While adopting laws and national policies in regards ASEAN are generally roles that belong to the executive and legislative branches of government, members of the judiciary in the region will have the monumental task of seeing to their proper interpretation. Judicial training institutions have much to contribute in this respect. Setting out common achievable objectives, for instance, developing expertise in regards recognition of foreign judgements, handling cross-border controversies, and ensuring observance of the international tenets of judicial ethics, as well as starting the process of realising them, are certainly within the capacities of all of ASEAN's judicial training institutions. This Study has sought to set out both the commonalities and distinctions along the path to becoming a judge in ASEAN in its member states, in the hope that it can contribute towards assisting these institutions, and ASEAN, towards achieving this worthy goal.

PART TWO:

COUNTRY FACTSHEETS

COUNTRY FACTSHEET 1: JUDICIAL TRAINING IN BRUNEI DARUSSALAM

A. Training Organization and Institutionalisation

1. *Relevant Recent Legal and Judicial Reforms*

The British had managed to establish a legal system in Brunei styled after their own legal system.⁹⁸ The country, which gained its independence from the United Kingdom in 1984, traditionally heavily relied on the British and Hong Kong jurisdictions as sources of its senior judges.⁹⁹ Brunei Darussalam has no law school to provide formal education or an academy of law to formally train would-be practitioners in the civil law courts.¹⁰⁰ Thus, those in the legal profession usually attained their qualification from either Malaysia or England.¹⁰¹

There is an on-going process to transform the legal system into one that is unique to Brunei, with Brunei slowly developing to put in place its own sets of laws and precedents. For example, the Sultan announced that a Syariah Penal Code would be implemented beginning April 2014. Under the Code, the jurisdiction of the Islamic Courts will expand to deal with offences and penalties prescribed in the Code.¹⁰² Previously, Syariah was mainly restricted to dealing with family law and disputes. These developments may affect considerably the form and content of judicial training to respond to new challenges.¹⁰³¹⁰⁴

2. *Institutions Responsible for Judicial Training*

Institution	Responsibility	Training Oversight and Trainers of the Institution
State Judiciary Department, at the Prime Minister's Office.	The State Judiciary Department was established in 2002 to oversee matters pertaining to administration and finance of the Civil and Syariah Courts. ¹⁰³	This Department is within the Prime Minister's Office. ¹⁰⁴ It is headed by a Director, currently Hj Mohd Serudin Hj Timbang. The State Judiciary Department appears to have discretion in the selection of trainers and has invited lecturers who are not part of the

98 Azrimah Binti Haji Abdul Rahman, Legal Counsel, Attorney General's Chambers. "Working Paper for National Day Seminar 2006, 'Legal System in Brunei Darussalam after the Signing of the Supplementary Agreement 1905/1906 between Brunei and Great Britain.'" 28.

99 See e.g., Simon N. M. Young. "The Hong Kong Multinational Judge in Criminal Appeals" (September 1, 2008). *Law in Context (Special Issue on Criminals Appeals 1907-2007)*, Vol. 26, pp. 130-150, 2008. Available at SSRN: <http://ssrn.com/abstract=1317178>

100 Nabil Daraina Badaruddin. "Legal Education in ASEAN in the 21st Century: Brunei Perspective." N.d. Available at: http://www.aseanlawassociation.org/9GAdocs/w2_Brunei.pdf (accessed 31 January 2014).

101 "Legal Systems in ASEAN." *ASEAN Law Association* Webpage. Accessed 31 January 2014. http://www.aseanlawassociation.org/papers/Brunei_chp5.pdf. See also "Find Legal expertise in Brunei Darussalam." *Nexus Commonwealth Network Brunei Darussalam*. http://www.commonwealthofnations.org/sectors-brunei_darussalam/business/legal/.

102 "Brunei Darussalam country brief." *Australian Government: Department of Foreign Affairs and Trade* Webpage. Accessed 1 April 2014. http://www.dfat.gov.au/geo/brunei/brunei_brief.html; and "Monarch calls public to unite as one to support Syariah law." *Borneo Post Online* (7 March 2014). Webpage. Accessed 22 March 2014. <http://www.theborneopost.com/2014/03/07/monarch-calls-public-to-unite-as-one-to-support-syariah-law/>.

103 Datin Paduka Hayyati Saleh. "Brunei Darussalam: Independence of The Judiciary Revisited and Towards More Effective Case Management." *ASEAN Law Association* PDF. Accessed 31 January 2014. http://www.aseanlawassociation.org/docs/w1_brunei.pdf

104 "The Brunei Civil Service Heads of Government Ministries and Departments." *bruneiresources.com* Webpage. Accessed 1 April 2014. <http://www.bruneiresources.com/civilserviceheads.html>

	Sources indicate that this Department provides training for court officers and staff, such as court interpreters. ¹⁰⁵	government, including representatives from judicial training institutions of other countries, such as Malaysia. ¹⁰⁶
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3. *Participants of Judicial Training*

Requisites for Participants	Recruitment Process	Annual Average Number of Graduates
As completing a pre-judicature training program does not appear to be mandatory, only persons who have been appointed to the Bench undertake judicial training.	The State Judiciary Department appears to decide who are able to take part in the training courses it holds within the country. There is little information on the recruitment process and there is no information on criteria for the selection of candidates.	Not adequately identified in available literature.

4. *Necessity of Undergoing Pre-Judicature Training*

Literature does not indicate prior judicial training as a precondition for appointment as a judge. It appears that a judge essentially learns more about his/her functions by himself or herself as he/she carries out his/her work or through in-service training courses.

The Sultan of Brunei appoints members of the judiciary usually in consultation with the Chief Justice.¹⁰⁷ While Section 7 of Brunei’s Supreme Court Act¹⁰⁸ and Section 10 of the Intermediate Courts Act¹⁰⁹ require seven or five years of experience respectively as a judge, advocate or solicitor to be appointed, Section 9 of the Subordinate Courts Act simply requires a person to be “fit and proper” to be a magistrate.¹¹⁰

For Chief Syar’ie Judges, Appeal Court Judges, or High Court Judges, under Sections 8-11 of the Syariah Courts Act, the requirement is seven years of experience as a Judge of a Syariah Court, or Kadi, or being learned in *Hukum Syara’*. For High Court Judges, experience as Registrar, or Syar’ie Prosecutor is also considered. For Subordinate Court Judges, appointments are simply made on the advice of the President of the Majlis and after consultation with the Majlis.¹¹¹

105 Quratul-Ain Bandial. “Court interpreters need more training.” *The Brunei Times* (30 October 2010). Webpage. Accessed 2 April 2014. <http://www.bt.com.bn/news-national/2010/10/30/court-interpreters-need-more-training>

106 Ibid.

107 Datin Paduka Hayati Saleh. “Brunei Darussalam: Independence of The Judiciary Revisited.”

108 Supreme Court Act (1984 as amended in 2001), Brunei Darussalam. Available at <http://www.commonlii.org/bn/legis/sc5226/> (accessed 1 April 2014).

109 Intermediate Courts, Cap. 162. Available at http://www.agc.gov.bn/agc1/images/LAWS/ACT_PDF/cap162.pdf (accessed 1 April 2014).

110 Subordinate Courts Act. Available at <http://www.commonlii.org/bn/legis/sc6271/> (accessed 27 February 2014).

111 Syariah Courts Act. Available at http://www.agc.gov.bn/agc1/images/LAWS/ACT_PDF/cap184.pdf (accessed 17 March 2014).

B. Structure and Content of Training Programme for Judges

1. Structure of Training Curriculum

Literature does not mention any training curriculum for the past or recent years. Training seems to be *ad-hoc* in nature. For instance, to improve case management, plans were developed for both the judicial officers and staff to undergo constant training in judicial administration.¹¹² In the past, the training topics have included alternative dispute resolution.¹¹³ Judges are also sent abroad for brief training. For instance, senior judges attended a forum on “Judicial Protection of China-ASEAN Free Trade Area” in Nanning, Guangxi province, China, from 8-12 October 2008.¹¹⁴ A delegation from Brunei also attended the inaugural Alternative Dispute Resolution Conference at the Supreme Court in Singapore on 4 and 5 October 2012.¹¹⁵

2. Content of Training Curriculum: Selected Specific Topics

a.) Judicial Ethics

There is no available literature to indicate that judges are specifically trained on judicial ethics. Nonetheless, on the occasion of the Opening of Legal Year 2004, the Chief Justice cited the “principles, procedures and ethics of the common law upon which our judicial system is firmly embedded.”¹¹⁶ Thus, to the extent that the judiciary considers judicial ethics important, there may have been courses covering the topic.

b.) Human Rights and/or Fair Trial Rights

No available literature indicates that judges are specifically trained on human rights or fair trial rights. However, the oath of a member of the Supreme Court is to “do right to all manner of people after the laws and usages of the country, without fear or favour, affection or ill-will.”¹¹⁷ Additionally, according to its website, the goal of the judiciary is “securing justice, enhancing access to justice and preserving public trust and confidence.”¹¹⁸ Training courses may thus take or have taken human rights principles into account. In relation to international human rights treaties, it could be noted that Brunei has been among the “most reluctant ratifiers” of the ASEAN, together with Singapore and Myanmar.¹¹⁹ Brunei has ratified only the Convention on the Elimination of All Forms of Discrimination against Women, and Convention on the Rights of the Child.¹²⁰

112 Pg Rostaina Pg Duraman, Chief Registrar, Supreme Court Brunei. “The Framework of the Judicial Cooperation in ASEAN in Case Management The Brunei Darussalam Experience.” 12. Available at <http://www.aseanlawassociation.org/11GAdocs/workshop2-brunei.pdf> (accessed 17 March 2014).

113 Judicial Brunei Darussalam. “Judiciary Brunei Darussalam.” Website. Accessed 31 January 2014. <http://www.judicial.gov.bn/>

114 “Judges agree to create conducive environment for China-Asean FTA.” *The Brunei Times* (16 October 2008). Webpage. Accessed 1 April 2014. http://www.bt.com.bn/home_news/2008/10/16/judges_agree_to_create_conducive_environment_for_china_asean_fta

115 “Judiciary Brunei Darussalam.” Website.

116 Ibid.

117 Datin Paduka Hayati Saleh. “Brunei Darussalam: Independence of The Judiciary Revisited.”

118 “Judiciary Brunei Darussalam.” Website.

119 European Parliament, Directorate-General for External Policies, Policy Department. “ASEAN Citizen’s Rights, Rule of Law, Judiciary, and Law Enforcement” (July 2013). 8.

120 Ibid., 16-17.

c.) *ASEAN Instruments*

No available literature indicates that judges are specifically trained on the ASEAN Charter or other regional instruments. Nonetheless, cooperation with ASEAN counterparts appears to be valued. Senior judges attend annual ASEAN Law Governing Council meetings that discuss topics of common interest in the areas of Judicial Cooperation, Legal Profession, Legal Education, Legal Information, International Law, Alternative Dispute Resolution and Business Law.¹²¹

d.) *International/Comparative Law and Conflict of Laws*

No available literature indicates that judges are specifically trained on international or comparative law and conflict of laws. These issues may be dealt with in the same way as other legal issues, with topics included in training courses when the State Judiciary Department appreciates the need for doing so.

3. Continuing Judicial Education

There does not appear to be any systematized judicial training programme in Brunei and there does not appear to be any curriculum. Training does happen through in-house training, training abroad, and visits from trainers and experts of other jurisdictions.

121 “Brunei attends Asean Law meet.” *The Brunei Times* (8 March 2011). Webpage. Accessed 1 April 2014. <http://www.bt.com.bn/news-national/2011/03/08/brunei-attends-asean-law-meet>

COUNTRY FACTSHEET 2: JUDICIAL TRAINING IN CAMBODIA

A. Training Organization and Institutionalisation

1. *Relevant Recent Legal and Judicial Reforms*

Following democratic election in 1993, the Royal Government of Cambodia initiated a series of legal and judicial reforms, often in collaboration with development partners.¹²² In 2003, the Government adopted a National Strategy on Legal and Judicial Reform and, in 2005, a corresponding Plan of Action for the implementation of this strategy. Following a gradual implementation of the legal and judicial reform strategy, the Government committed through its National Strategic Development Plan (2008–2013) to accelerate the implementation process.¹²³ One important component is the envisaged adoption of fundamental laws that has been waiting since 2005, particularly the Law on the Organization and Functioning of the Courts and Prosecutions, the Law on Amendment of the Supreme Council of Magistracy, and the Law on Statute of Judges and Prosecutors. These laws would help to strengthen the judiciary's independence and impartiality. It is hoped that the year 2014 will see some progress in the drafting and adoptions of these fundamental laws.¹²⁴

Against the background of a considerable decimation of Cambodia's judiciary during the period of the Khmer Rouge regime, the Strategy and Plan of Action made detailed provisions for improving and expanding the education and capacities of the Cambodian judicial profession. A first important step was the establishment, in 2005, of the Royal Academy of Judicial Professions (RAJP) to oversee and manage the training for the various judicial professions in Cambodia.¹²⁵ The Royal School for Magistracy (also often referred to as Royal School for Judges and Prosecutors, RSJP),¹²⁶ established by Royal Decree in 2002, was thus integrated into the new RAJP as a separate department. Accordingly, the RAJP is nowadays responsible for the training of judges, prosecutors, court clerks, and notary officers. Currently, the school consists of a General Secretariat and four specific professional training schools, namely the Royal School for Magistracy, the Royal School for Greffiers, the Royal School for Bailiffs, and the Royal School for Notary.¹²⁷ In this report the focus is on the training of judges under the Royal School for Magistracy (**RSM**).

122 See, for instance, Konrad-Adenauer Foundation (KAS). *Occasional Papers on Democratic Development: Rule of Law* (hereafter **KAS Occasional Papers: Rule of Law**). January 2009. Available at http://www.kas.de/wf/doc/kas_16756-1522-2-30.pdf?130205225016 (last visit on 1 April 2014).

123 Kong Phallack. "Overview of the Cambodian Legal and Judicial System and Recent Efforts at Legal and Judicial Reform." In *Introduction to Cambodian Law*, edited by Hor Peng, Kong Phallack, Joerg Menzel. Phnom Penh: Konrad-Adenauer Foundation, 2012. 12. Available at http://www.kas.de/wf/doc/kas_31083-1522-2-30.pdf?120720080516 (last visit 1 April 2014).

124 Vong Sokheng. "New Laws on Judiciary due by End of Month." *The Phnom Penh Post* (5 February 2014). Available at <http://www.phnompenhpost.com/national/new-laws-judiciary-due-%E2%80%98end-month%E2%80%99> (last visit 30 March 2014); Stuart White. "Judicial Draft Laws Still Unseen: Rights Groups." *The Phnom Penh Post* (11 March 2014). Available at <http://www.phnompenhpost.com/national/judicial-draft-laws-still-unseen-rights-groups> (last visit on 30 March 2014).

125 Royal Decree No. NS/RD/0105/019, 21 January 2005.

126 This entity is also referred to as Royal School for Judicial Professions or Royal School for Judges and Prosecutors (RSJP). For the purpose of this report, the name Royal School for Magistracy (RSM) is used based on the most current information provided on the website of Royal Academy for Judicial Profession (last visited in March 2014).

127 See also *Royal Academy for Judicial Professions*. Website. http://www.rajp.gov.kh/index_en.html

2. Institutions Responsible for Judicial Training

Institution	Responsibility	Training oversight and trainers of the institution
Royal School for Magistracy (RSM), within the Royal Academy for Judicial Professions (RAJP).	Responsible for training of all judges and prosecutors in Cambodia.	In 2013, the RAJP came under the administrative and financial oversight of the Ministry of Justice. The Board of Directors consists of 14 members, from both the executive and judicial branches, and is chaired by the Minister of the Council of Ministers. The RAJP is headed by a President who is chosen from among Cambodians with high qualifications in Law or Management. ¹²⁸ Trainers in the RSM have often been chosen from among sitting judges and prosecutors, as well as from a pool of well-known legal practitioners and university professors. ¹²⁹ Short-term international trainers are also provided through development assistance programs.

3. Participants of Judicial Training

a.) Royal School for Magistracy (RSM), in the Royal Academy for Judicial Professions

Requisites for Participants	Recruitment Process	Annual Average Number of Graduates
A judge trainee candidate must <ul style="list-style-type: none"> - Be a Cambodian citizen; - Possess, at the minimum, a bachelor of laws degree; - Pass the admission examination. 	There exists an admission examination for judge trainee candidates, composed of written and oral exams. ¹³⁰ In the past, the RSM admitted smaller groups of judge trainees that were selected for admission by various ministries without need of examination, based on their experience at the ministries. ¹³¹ The RAJP has exerted efforts in the last intakes to ensure regularity in the selection process.	At the establishment of the school, there were around 190 judges throughout Cambodia. The initial aim of the program was an average annual graduation of 50 judges. ¹³² A 2009 news article reported that, on average, 55-65 judge trainees had graduated annually. ¹³³ Generally, the needs of the courts are taken into account when determining the number of judge trainees per intake. In 2011, one report states that there were 396 judges in Cambodia. ¹³⁴

128 Royal Decree No. NS/RKT/0105/019, Art. 7.

129 Skype call with one current trainer at Royal School for Magistracy.

130 See Phun Vidjia. "Cambodia." In David Cohen, Kevin Tan Yew Lee, and Mahdev Mohan (eds). *Rule of Law for Human Rights in the ASEAN Region: A Baseline Study (hereafter HRRC Rule of Law Baseline Study)*. 1st ed. Jakarta: Human Rights Resource Centre, 2011. Available at: <http://hrcca.org/data/rule-law-human-rights-asean-region-baseline-study>. 60.

131 Ibid.

132 Caroline Huot and Sam Rith. "Hope of Justice Lies in School for Judge." *The Phnom Penh Post* (21 November 2003). Available at <http://www.phnompenhpost.com/national/hope-justice-lies-school-judges> (last visit March 29, 2014).

133 Asian Human Rights Commission. "To Be A Judge, Be Ready to Bribe: Student." 12 May 2009. Available at <http://www.humanrights.asia/news/forwarded-news/AHRC-FAT-004-2009/?searchterm> (last visit March 28, 2014).

134 Phun Vidjia. "Cambodia" In HRRC Rule of Law Baseline Study. 60. Citing the website of the Royal Academy for Judicial Professions.

4. Necessity of Undergoing Pre-Judicature Training

A majority of previous qualified and trained judges did not survive the Khmer Rouge Regime. As a result, Cambodia faced tremendous challenges in staffing its fledgling judiciary during the time of reconstruction. Judges appointed at that time and thereafter received no or only little judicial training, and were mainly appointed based on other professional experience.¹³⁵ In 1999, only around 37 per cent among the then almost 100 judges received some form of legal training, while a considerable number did not even complete high school education.¹³⁶ Therefore, there has been a considerable need for proper judicial training. After the opening of the Royal School for Magistracy in 2003, all judges and prosecutors are supposed to go through formal judicial training.

B. Structure and Content of Training Programme for Judges

1. Structure of Training Curriculum

Judge and prosecutor trainees receive an initial training of two years. The training is divided into three phases:

- (1) Eight months of class theory;¹³⁷
- (2) One-year practical judicial traineeship; and
- (3) Four months legal specialization.

During the judicial traineeship phase, trainees are placed at courts in Cambodia. Some are placed in courts abroad in the framework of international cooperation. During the specialization phase, trainees with good grades may choose to be judges or prosecutors in specialized fields. After the specialized courses, judges and prosecutors will be appointed by the Supreme Council of Magistracy to work at courts throughout Cambodia.

There is no year-round curriculum for the RSM as compared to the regular curriculum offered at universities in Cambodia. The subject/topics are taught in weekly sections. There are three components of the training, namely civil matters, criminal matters, and administrative matters.¹³⁸ Since the establishment of the RSM and the RAJP, a series of collaborations and assistance measures have been agreed with international development donors, such as with Japan in relation to the initial training curriculum and on civil matters, as well as with France on criminal matters.

An important knowledge and capacity transfer occurs through the involvement of Cambodian judicial professionals at the Extraordinary Chambers in the Courts of Cambodia (ECCC), which benefits both senior and junior professionals. This capacity-building process is an explicit goal of the ECCC's legacy activities.¹³⁹

135 Cambodia Center for Human Rights. *CCHR Briefing Note: Judicial Reform*. February 2013. 5-6. Available at http://www.cchrcambodia.org/admin/media/analysis/analysis/english/2013-02-18-CCHR%20Briefing%20Note%20-%20Judicial%20Reform_en.pdf (last visit 28 March 2014)

136 Toshiyasu Kato, Jeffrey Kaplan, Chan Sophal and Real Sopheap. *Cambodia: Enhancing Governance for Sustainable Development, Working Paper No 14*. Phnom Penh: Cambodian Development Resource Institute, May 2000. 17-18.

137 Although most of this is in-class training, the weekly schedule for the current 6th batch of trainees indicates that there is a time slot for in-class simulation of court hearing. See schedule for week 32, published at the RSM's website.

138 This is confirmed by the weekly schedule posted on the RSM's website and an interview with a current trainer at the school. See for example the weekly schedules (in Khmer) at <http://www.rajp.gov.kh/Books/schedule29.pdf>

139 Cambodian Human Rights Action Committee and Bar Association of the Kingdom of Cambodia. "Implementation of the ECCC Legacies for Domestic Legal and Judicial Reform: Workshop Report." March 2013. Available at http://www.kas.de/wf/doc/kas_34774-1522-1-30.pdf?130620061847 (last visited 2 April 2014)

1. Content of Training Curriculum: Specific Topics

a.) Judicial Ethics

The Supreme Council of Magistracy adopted the Code of Ethics for Judges and Prosecutors in Cambodia in 2007.¹⁴⁰ It applies to all judges in Cambodia. This Code of Ethics seems to be part of the RSM's training curriculum, although it is not possible to assess from the available information the extent and exact content of this curriculum.¹⁴¹

b.) Human Rights and/or Fair Trial Rights

In 2010, the Special Rapporteur on human rights situation in Cambodia made a recommendation that judges and prosecutors should receive adequate training on human rights law and on interpreting domestic laws in compliance with international human rights standards under international human rights treaties to which Cambodia is a party.¹⁴² More recently, a human rights training for RSM trainees was provided with support from Sweden. Fifty-five trainees in the 6th trainee intake received a weeklong intensive training on human rights with a special focus on fair trial rights from 24-28 March 2014. The training was a requirement for all and counted as credits for their study. The trainers were both national and international experts and guest speakers. At the end of the training, there were exams.¹⁴³

c.) ASEAN Instruments

From interviews and available information, it seems that the current RSM training curriculum does not incorporate training on the ASEAN legal framework.

d.) International or Comparative Law and Conflict of Laws

Article 31 of 1993 Cambodian Constitution recognizes the importance of international human rights law. In addition, the Cambodian Constitutional Council ruled in a decision that, in making decisions, judges shall not only consult national laws, but also international laws applicable to Cambodia.¹⁴⁴ However, it appears that the current training curriculum focuses mainly on Cambodian national law and its legal system. Conflict of laws is not systematically dealt with at the university or judges training level.

e.) Continuing Judicial Education

It has been stated that, through the Royal School for Magistracy, RAJP offers an in-service training for judges (judges who are practicing in provincial-municipal courts and all levels of trial courts), although it has not been possible to assess the extent of these in-service trainings.¹⁴⁵ In addition, judges and other judicial professional are invited to participate in various short-term trainings or workshops that relate to recent developments in the legal framework laws. These are often implemented in collaboration with the RAJP.

140 See also Cambodian Center for Human Rights. *Fair Trial Rights in Cambodia*. Phnom Penh, July 2010. 3. Available at http://sithi.org/tmp/admin/article/files/2010-07-14%20First%20Fair%20Trial%20Rights%20in%20Cambodia_EN.pdf (last visit March 30, 3024).

141 See H.E. Tep Darong. "Cambodia and the Rule of Law." In *KAS Occasional Papers: Rule of Law*. 35.

142 "Report of the Special Rapporteur on the Situation of Human Rights in Cambodia." 16 September 2010. Para. 100. Available at http://cam-bodia.ohchr.org/WebDOCs/DocReports/3-SG-RA-Reports/A_HRC_CMB16092010E.pdf (last visit March 30, 2014).

143 Raoul Wallenberg Institute of Human Rights. "Intensive Human Rights Course at the Cambodian Royal Academy for Judicial Profession." Available at <http://rwi.lu.se/events/intensive-human-rights-course-cambodian-royal-academy-judicial-profession/> (last visit March 30, 2014).

144 The Constitutional Council. "Case No. 131/003/2007 of June 26, 2007. Decision No. 092/003/2007 C.C.D of July 10, 2007." Available at http://www.ccc.gov.kh/english/dec/2007/dec_003.html (last visit March 30, 2014).

145 See H.E. Tep Darong. "Cambodia and the Rule of Law." In *KAS Occasional Papers: Rule of Law*. 34-35.

COUNTRY FACTSHEET 3: JUDICIAL TRAINING IN INDONESIA

A. Training Organization and Institutionalisation

1. *Relevant Recent Legal and Judicial Reforms*

Since the reform process after the fall of the New Order in 1998, the judiciary has undergone some significant reforms. The most fundamental reform that relates to how judicial training is organized is the transfer of the administrative control over the courts from the executive to the judiciary, the so-called “one roof system.” This led to organizational changes and a subsequent expansion of the responsibilities of the Supreme Court (*Mahkamah Agung*).¹⁴⁶ Based on an amendment of the Constitution (1999-2002), a Judicial Commission (*Komisi Yudisial*) was established.¹⁴⁷ It was later given the authority to improve the capacity of judges.¹⁴⁸

The Judicial Training Center (*Pusat Pendidikan dan Pelatihan Mahkamah Agung*), hereinafter **JTC**, developed from a research and education unit in the Supreme Court first established in 1994.¹⁴⁹ Previously, it only provided in-service training to judges of up to five days as “supplementary” to the past initial judicial training that was organized by the judicial training centre of the Ministry of Justice.¹⁵⁰ The authority to conduct judicial training was transferred by the government to the Supreme Court only in 2003.¹⁵¹ As a result of the one roof system, the research and education unit in the Supreme Court became a higher administrative organ within the judiciary, and the Secretary of the Supreme Court further divided this organ into three units: the research unit, the “technical” or judicial training unit, and the management training unit. Nowadays, the JTC is the responsible unit for training and education. It operates a centralized training facility in Bogor that was established in 2008. The tasks of JTC are, among others, to develop and to organize different judicial training programs.¹⁵²

146 Law no. 48/2009 on the Judiciary, Art. 21. This is similar to Art. 13 of Law No. 4/2004 and Art. 11 of Law No. 35/1999 on the Judiciary (old). See also Rifqi S. Assegaf. “Judicial Reform in Indonesia, 1998-2006.” In Naoyuki Sakumoto & Hikmahanto Juwana (eds.). *Reforming Laws and Institutions in Indonesia: An Assessment*, ASED Series No. 74 (IDE/JETRO, 2007). 11-44.

147 Constitution of 1945 (as amended), Art. 24B.

148 Law no. 18/2011 on the Judicial Commission, Art. 20.

149 Mahkamah Agung RI. *Cetak Biru Pembaruan*. 2003. 24. It refers to the Chief Justice’s Decision No. KMA/040/SK/X/1994, Secretary’s Decision SK MA/SEK/07/SK/III/2006 and Chief Justice’s Decision No. KMA/018/SK/III/2006. See also Mahkamah Agung RI. *Kertas Kerja: Pembaruan Sistem Pendidikan dan Pelatihan Hakim*. (2003); and Binziad Kadafi. “Pendidikan dan Latihan (Diklat) Hakim.” *Jurnal Hukum Jentera*, IV. 2003. 99-110.

150 Mahkamah Agung RI. *Kertas Kerja: Pembaruan Sistem Pendidikan dan Pelatihan Hakim*. 6-7.

151 Komisi Hukum Nasional (KHN). *Membangun Sistem Pendidikan dan Pelatihan Hakim*. 2005. 42. In the previous system, three different ministries were involved in the judicial administration, i.e. the Ministry of Justice, the Ministry of Religion Affairs and the Ministry of Defense.

152 Secretary’s Decision SK MA/SEK/07/SK/III/2006, Art. 303-304. In addition to these tasks, JTC is responsible for administrative and management training within the judiciary.

2. Institutions Responsible for Judicial Training

Institution	Responsibility	Training Oversight and Trainers of the Institution
1. Judicial Training Center or <i>Pusat Pendidikan dan Pelatihan Mahkamah Agung</i> , part of the judiciary.	Responsible for judicial training and education, including developing and organizing judicial training programs. ¹⁵³	<p>The JTC falls under the authority of the Supreme Court. However, the financial management of the Supreme Court, including that of JTC, must have the consent of the executive government.</p> <p>The officers are civil servants who work for the Supreme Court, while the trainers have different backgrounds. Recruitment of JTC's officers falls under the authority of the Supreme Court's Administrative Affairs Body (<i>Badan Urusan Administrasi</i>).</p> <p>Several judges are assigned by the Supreme Court to be permanent trainers for a period of time and a number of senior judges and/or academics are invited to lecture occasionally. The JTC refers to its own list of trainers for these external trainers. In addition, there are courses in which external experts or professionals are invited.</p>
2. Judicial Commission or <i>Komisi Yudisial</i> , a constitutional body.	Supports the quality improvement of judges and develops supplementary training programs.	Members of the Commission are nominated by the President and appointed by Parliament. One of them leads the judicial training unit. The trainers are senior judges, academics, and senior legal practitioners who are invited for certain trainings.

3. Participants of Judicial Training

a.) Judicial Training Center

Requisites for Participants	Recruitment Process	Annual Average Number of Graduates
<p>PPC Terpadu (Initial judicial training program)</p> <p>Participants must meet the qualifications to be a judge. Thus, the applicant should not only meet the academic requirement, but also the nationality requirement (Indonesian), the age requirement (25-40 year old), the capability requirement,</p>	<p>The process starts with a request for a certain amount of new recruits made by the Supreme Court to the government. The government may approve, or refuse, this request. Based on the quota that has been approved by the government, a number of positions will be advertised by court.</p>	<p>In 2012, there were 200 candidates for graduation for the class of 2011 (candidates were in their second year of training) and 205 candidates for the class of 2012 (who were in their first year of training).</p> <p>The candidates for the class of 2012 were the last candidates who were recruited at the end of 2010, before the process was stopped.</p>

¹⁵³ Ibid.

a number of good character requirements (pious, loyal to <i>Pancasila</i> ¹⁵⁴ and the Constitution of 1945, authoritative, honest, fair, and not reprehensible), and has no criminal record.	The recruitment is organized at the regional level under the supervision of designated high-courts and the process is similar to that of civil servants. Judge candidates, in any case, will first be recruited as civil servants. Fresh-graduates with a legal or sharia academic background who meet the legal criteria are able to apply to be a judge. The applicants must first take a number of exams, and if they pass the exams, they should follow a course of civil service training. After being appointed as civil servants, only then will they be able to participate in the initial judicial training program that is nationally provided by JTC.	All candidates usually graduate after finishing the initial training program. ¹⁵⁵ There had been no certain limit on the number of new candidates the judiciary can take in, but the Supreme Court should submit its annual proposal to the government for approval. However, after 2010, no recruitment has been made, since the Supreme Court, Judicial Commission, and the government are still considering the details of the recruitment mechanism. ¹⁵⁶
Continuing Judicial Education Judges who have worked for 1-5 years and 6-10 years.	Not adequately identified in available literature.	In 2012, 160 participants took CJE courses. ¹⁵⁷
Certification Training Ad-hoc judges, or career judges who work for special courts.	Not adequately identified in available literature.	In 2012, 566 participants took “certification” training. ¹⁵⁸

b.) *Judicial Commission*

Requisites for Participants	Recruitment Process	Annual Average Number of Graduates
Members of the judiciary.	Not adequately identified in available literature.	Not adequately identified in available literature.

4. *Necessity of Undergoing Pre-Judicature Training*

To become a judge in Indonesia, one should have undergone judicial training. Additionally, a bachelor’s degree in law or its equivalent is generally required to become a judge, except for the position at the industrial relations court, which only requires a bachelor’s degree from the applicant. Aside from the initial judicial training program, the “certification” training program for ad-hoc judge candidates who possibly have no legal academic

154 “Pancasila” refers to the Five Principles that define the Indonesian nation: Belief in the one and only God, Just and civilized humanity, Unity of Indonesia, Democracy, Social justice. “The Philosophical Basis of Human Rights in Indonesia.” *Embassy of the Republic of Indonesia in London—United Kingdom* Webpage. Accessed 5 April 2014. http://www.indonesianembassy.org.uk/human_right-2.htm

155 Mahkamah Agung (MA). *The Annual Report* 2012. 280.

156 According to the new rules, the selection process of judges should be conducted by the Supreme Court and Judicial Commission. See Law No. 49/2009 on the General Court, Art. 14A; Religious Court, Art. 13A; and Law no. 51/2009 on the Administrative Court, Art. 14A.

157 Mahkamah Agung (MA). *The Annual Report* 2012.

158 Ibid.

background, for example, those in the industrial court, familiarizes them with court procedures. Ad-hoc judges are required to take the “certification” training after passing the entrance exams.

B. Structure and Content of Training Programme for Judges

1. Structure of Training Curriculum

The JTC is still making efforts to carry out its reform agendas. Nonetheless, generally speaking, the JTC has three separate judicial training programs: the integrated initial judicial training program (PPC Terpadu), the Continuing Judicial Education (CJE), and the “certification” training.¹⁵⁹

a.) PPC Terpadu

PPC Terpadu is a two-year training program for judge candidates, before they are appointed as judges, and is a combination of training (courses) and internship. After considering some similar practices at the Dutch Judicial Training Institution (SSR), the JTC launched a special curriculum for this program in 2010, including subjects in each stage of the training process that reflect the daily tasks and responsibilities of judges.

This compulsory program consists of three different stages in which each candidate is trained to perform all daily tasks at the court, *i.e.* court administration, case management, and judicial competence.¹⁶⁰ The curriculum is divided into these three components. For each component, the candidates should take courses at the JTC that lasts for three months, each followed by a semester of court internship under the supervision of a senior judge (mentor). At the end of the program, a candidate should further take a one-month internship at a prosecutor’s office or a law firm. Judicial integrity (ethics) and judicial independence are integrally included in the curriculum.

b.) Continuing Judicial Education

CJE is a supplementary training for judges, including ad hoc judges, who have worked for 1-5 years and 6-10 years. It is organized for six days and the materials are defined by a training needs analysis. In such trainings, a number of senior judges and academics are involved as trainers.

c.) “Certification” Training

“Certification” training is provided for ad hoc judges, or career judges who work for special courts, and is organized for six days. Only the training for anti-corruption judges takes 18 days. There appears to be no written structured curriculum for the training for the different special courts, although some materials were observed to have been collected from the trainers in the “certification” training for industrial judges.¹⁶¹

159 See Mahkamah Agung (MA). *The Annual Report 2011*. 296-304; Mahkamah Agung (MA). *The Annual Report 2012*. 276-283.

160 Mahkamah Agung (MA). *Program Pendidikan dan Pelatihan Calon Hakim Terpadu*. 2010. Also known as Chief Justice’s Decision No. 169/KMA/SK/X/2010.

161 Miranda Fajerman. *Report, Training Needs Assessment for Industrial Relations Court Judges* 27. Based on this report, with the support of the International Labour Organization (ILO), the Supreme Court launched a curriculum for industrial judges in 2013. In the beginning, the “certification” training was intended only for (ad-hoc) judges in special courts, but last year, JTC also organized training for environment cases.

2. Content of Training Curriculum: Selected Specific Topics

a.) *Judicial Ethics*

Indonesian judges are subject to the Code of Ethics.¹⁶² Training and examination on the Code of Ethics are mandatory.¹⁶³ This subject can be further found in PPC Terpadu, CJE, as well as in the “certification” training for industrial judges and anti-corruption judges. Judicial independence is also considered in the constitutional law subject given during the initial judicial training program. There is, however, no document reporting how this subject is taught. In its policy paper, the Judicial Commission also states that it will provide a code of ethics training, a special training on legal procedure, and a thematic training on a particular legal field.¹⁶⁴ Similarly, no report on its implementation has been published.

b.) *Human Rights and/or Fair Trial Rights*

Human rights and/or fair trial rights are included in PPC Terpadu and in the “certification” curriculum for industrial judges,¹⁶⁵ albeit no report on its implementation is available so far. Furthermore, the Judicial Commission also has included human rights courses in its supplementary training.¹⁶⁶

c.) *ASEAN Instruments*

The integrated initial judicial training program (PPC Terpadu) only provides judges with basic judicial training and it does not include subjects on the ASEAN Charter or other ASEAN legal instruments.

d.) *International/Comparative Law and Conflict of Laws*

The existing curriculum for the initial judicial training program pays little attention to international legal instruments, but the more advanced curriculum for industrial relations judges has already included some cross-border legal cases and international legal instruments. Similarly, conflict of laws is not included in PPC Terpadu. However, the new curriculum for industrial judges covers some topics on conflict of laws in the area of labour law. This may also be the case in other “certification” trainings, although such a curriculum would merely be made on ad hoc basis. While ordinary judges might still handle cases that include cross-border issues in their daily work, it seems that the JTC does not consider this as a potential structural problem.

162 See Law No. 48/2009 on the Judiciary, Art. 5 (3). For the scope and substance of the Code of Ethics, see also Joint Regulation No. 02/PB/MA/IX/2012-02/PB/P.KY/09/2012 on the Guidance for the Implementation of the Code of Ethics.

163 Joint Regulation No. 01/PB/MA/IX/2012-01/PB/P.KY/09/2012 on the Appointment/Selection of Judges.

164 Komisi Yudisial RI. *Grand Design Peningkatan Kapasitas Hakim*. 2013.

165 See Mahkamah Agung (MA). *Program Pendidikan dan Pelatihan Calon Hakim Terpadu*. 2010; and Mahkamah Agung (MA) and International Labour Organization (ILO). *Kurikulum untuk Hakim Pengadilan Hubungan Industrial*. 2013.

166 Komisi Yudisial RI. *Grand Design Peningkatan Kapasitas Hakim*. 49.

3. Continuing Judicial Education

The JTC has recently taken initiatives to offer “mid-career” judges with Continuing Judicial Education. However, the program is still a developing process and it might be too early to see its impact. This program is intended for judges with 1-5 years and 6-10 years working experience and the materials are prepared through an ad hoc training needs analysis. In 2012, this training was focused on case management, the quality of decisions, and the Code of Ethics.¹⁶⁷ Programs on jurisprudence likely need further developments in Indonesia. In reference to training for commercial judges, for instance, one author wrote that the mistakes in the application of law involved fundamental principles of substantive laws, such as contracts and corporations, which are regularly taught to students in law faculties everywhere.¹⁶⁸

¹⁶⁷ Mahkamah Agung RI. *The Annual Report 2012*. 262.

¹⁶⁸ Benjamin H. Tahyar. *Patrimonialism, Power and the Politics of Judicial Reform in Post-Soebarto Indonesia: An Institutional Analysis*. PhD Thesis, (School of Oriental and African Studies, University of London, 2012). 253.

COUNTRY FACTSHEET 4: JUDICIAL TRAINING IN LAO PDR

A. Training Organization and Institutionalization

1. *Relevant Recent Legal and Judicial Reforms*

In the past 20 years, a number of reforms have been implemented that hold significance for judicial training. First, in 2003, Lao PDR adopted an amended Constitution, which “modified and enhanced the judiciary.”¹⁶⁹ A new tier of courts, the Appellate Courts, was established. Judges are now appointed, transferred and dismissed by the National Assembly Standing Committee on the recommendation of the President of the Supreme Court, which was formerly a government responsibility. Similarly, the administration of local courts, formerly the responsibility of the Ministry of Justice, now resides with the Supreme Court. Both the Supreme Court and Supreme People’s Prosecutor report to the National Assembly.¹⁷⁰ This was followed by the promulgation of a series of fundamental laws, reforming the criminal and civil legal framework, and the accession to or ratification of a number of international human rights conventions, including the ICESCR and the ICCPR.

Following the reform of the legal framework, attention has shifted to improving the implementation and enforcement of this framework and developing the necessary human resources in the legal and justice sector. For this purpose, the Government adopted, in 2009, the Legal Sector Master Plan (LSMP) with the aim of achieving a rule of law state by 2020. In 2014, UNDP officially launched the Support Project for the Implementation of the LSMP, which is designed to provide technical support for the LSMP.¹⁷¹ Under the LSMP, laws and regulations related to legal training and education will be developed. Concrete efforts are underway to centralize and coordinate judicial and legal training in Laos, including the creation of a national judicial training institute, which is planned to be accomplished by the end of 2014.¹⁷² The UNDP Project will also support the country’s on-going integration into international communities through further adaptation of and compliance with international treaties.

2. *Institutions Responsible for Judicial Training*

Institution	Responsibility	Training Oversight and Trainers of the Institution
1. Judicial Research and Training Institute (JRTI) , under the People’s Supreme Court.	Responsible for judicial training of judges and other court personnel. ¹⁷³	are invited to provide seminars on particular topics, in coordination with international organizations. The Director General of the Supreme Court’s JRTI is appointed by the National Assembly Standing Committee. ¹⁷⁴

169 David Cohen, Kevin Tan Yew Lee, and Mahdev Mohan (eds). *Rule of Law for Human Rights in the ASEAN Region: A Baseline Study*. 1st ed. Jakarta: Human Rights Resource Centre, 2011. 127. Available at: <http://hrrca.org/data/rule-law-human-rights-asean-region-baseline-study>

170 Ibid; UNESCAP. *Lao People’s Democratic Republic: Report on Implementation of the Brussels Programme of Action for the Least Developed Countries (2001-2010)*. 3. Available at <http://www.un.org/wcm/webdav/site/ldc/shared/Laos%20PDR.pdf> (accessed 7 April 2014).

171 UNDP. “Legal Sector Capacity and Access to Justice to Be Improved.” Press Release. 31 January 2014. Available at http://www.la.undp.org/content/lao_pdr/en/home/presscenter/pressreleases/2014/01/31/legal-sector-capacity-and-access-to-justice-to-be-improved/ (accessed 23 March 2014).

172 Interview with UNDP Programme Analyst. Vientiane, Laos. 17 February 2014.

173 Interview with Director General of the People’s Supreme Court’s Judicial Research and Training Institute. Vientiane, Laos. 3 March 2014.

2. Legal and Judicial Training Institute (LJTI) , under the Ministry of Justice.	Provides short-term training courses in specific areas for different categories of staff in the legal and judicial institutions, such as judges, clerks, and prosecutors ¹⁷⁵	Within the Ministry of Justice.
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3. *Participants of Judicial Training*

a.) *Judicial Research and Training Institute (JRTI)*

Requisites for Participants	Recruitment Process	Annual Average Number of Graduates
Judge candidates must be <ul style="list-style-type: none"> - Lao citizens - At least 25 years of age - Have a strong political commitment - Have good behaviour - Be loyal to the benefits of the nation - Have a good deontology - Be honest towards the performance of their duty - Have acquired a high law degree and be trained according to the curriculum of judges, and - Be in good health.¹⁷⁶ 	Persons who have served as court staff can participate in the JRTI judicial training for promotion to judge assistants upon recommendation by a judge: <ul style="list-style-type: none"> - Generally, candidates have first worked as a staff in a City, District or Provincial Court, usually for two to three years; - They attend training for judge assistants for around six weeks at the JRTI and must then pass an examination to become judge assistants; - Candidates then work as a judge assistant for one to two years or more; - Upon gaining experience as judge assistant, the judge of the respective court will propose his/her promotion to the President of the Provincial Court, who then recommends the appointment to the President of the Supreme Court. The Judicial Council (composed of Supreme Court and other judges) considers the qualifications of the judge assistant and in turn submits the name to the National Assembly Standing Committee for appointment. 	There is currently no limit in the intake of trainees for JRTI's training for judge assistants or in the appointment of new judges, as there is a need for more people in the judiciary. The number of new judges and judicial assistants vary per year. For 2013, around 20 judges were appointed and 67 qualified to become judge assistants. ¹⁷⁷

4. *Necessity of Undergoing Pre-Judicature Training*

To qualify for judicial appointment, the amended Law of People's Court requires that candidates "have acquired a high law degree and be trained according to the curriculum of judges."¹⁷⁸ While there were some judges

174 Ibid.

175 Pär Sköld and Xaynari Chanthala. *Strengthening Legal Education at the Faculty of Law and Political Science, National University of Laos: Mid-term Assessment*. Vientiane and Gotenborg (December 2006). 4. Available at: www.pnyx.se/docs/Rule_of_Law_in_Laos.pdf (accessed 7 April 2014).

176 Shantel Talbot. *Lao People's Democratic Republic (Laos) Law And Religion Framework Overview*. 04 February 2014. 11. *Citing Law on People's Court (Amended) (No. 09/NA, 26 November 2009)*. Available at: <http://www.religlaw.org/common/document.view.php?docId=6184> (accessed 7 April 2014).

177 Interview with Director General of the People's Supreme Court's Judicial Research and Training Institute. Vientiane, Laos. 3 March 2014.

178 Ibid.

before who were appointed without undergoing training and examination, since 2009, the process of training and appointment of judges has strictly been followed.¹⁷⁹ The stricter application of the training process may have coincided with the introduction of the Legal Sector Master Plan in 2009 and the amendment of the Law of People's Court.

B. Structure and Content of Training Programme for Judges

1. Structure of Training Curriculum

The main structured training is the one that the Supreme Court's JRTI conducts for judge assistants, which is held for six weeks and follows a training curriculum. The training curriculum for judicial assistants is divided into two main components:

- (1) Ethics and Code of Conduct (*i.e.*, being good, honesty, impartiality, accountability), and
- (2) Judicial Technique and Skills (*i.e.*, laws, procedure, case management).¹⁸⁰

The actual topics discussed under these two subjects and the amount of time allocated for these subjects are currently unavailable.

For the trainings held for judges, the curriculum depends on the topic of the seminar and the organizer of the seminar. The LSMP and UNDP's Support Program aim to improve the training curriculum, with the planned development of an integrated and comprehensive curriculum for judges.¹⁸¹

2. Content of Training Curriculum: Specific Topics

a.) Judicial Ethics

Judicial Ethics is one of the components in the curriculum for the training of judge assistants.¹⁸²

b.) Human Rights and/or Fair Trial Rights

Human rights and fair trial rights are integrated in the subject of criminal law in JRTI's training curriculum for judge assistants.¹⁸³ Human rights and fair trial rights are also discussed in seminars organized by various institutions with the support of international organizations. However, it has been noted that judges and court personnel still need improvement in their understanding and application of these rights.¹⁸⁴

c.) ASEAN Instruments

The ASEAN Charter and ASEAN legal instruments are not in the judicial training curriculum. However, there have been some seminars organized by the Ministry of Foreign Affairs on the ASEAN integration and the ASEAN Economic Community (AEC), which were attended by some judges.

179 Interview with Director General of the People's Supreme Court's Judicial Research and Training Institute. Vientiane, Laos. 3 March 2014.

180 Ibid.

181 Interview with UNDP Programme Analyst. Vientiane, Laos. 17 February 2014.

182 Interview with Director General of the People's Supreme Court's Judicial Research and Training Institute. Vientiane, Laos. 3 March 2014.

183 Ibid.

184 Interview with UNDP Programme Analyst. Vientiane, Laos. 17 February 2014.

d.) *International or Comparative Law and Conflict of Laws*

It is unclear to what extent the judicial training curriculum considers international law or comparative law. Nevertheless, special training courses on international law have been organized over the past years with the cooperation of the UNDP International Law Project. Conflict of laws is not part of the curriculum of JRTI's trainings, but this has been included as one of the topics in some seminars organized with the technical assistance of international organizations. There still needs to be improvement in the understanding and application of conflict of laws in practice.

3. Continuing Judicial Education

Apart from a few short-term courses offered by the LJTI, at present, there is no systematized training program for the continuing legal training of judges on developments in laws and jurisprudence. The training programs currently implemented by the government institutions usually provide basic information for judges and other legal professionals.¹⁸⁵ Nevertheless, when new laws are passed, seminars for the judiciary are usually organized.

185 Interview with Director General of the People's Supreme Court's Judicial Research and Training Institute. Vientiane, Laos. 3 March 2014.

COUNTRY FACTSHEET 5: JUDICIAL TRAINING IN MALAYSIA

A. Training Organization and Institutionalisation

1. *Relevant Recent Legal and Judicial Reforms*

The establishment of the Judicial Academy fairly recently in 2012 represents an advance in the area of judicial training for judges of Superior Courts. Prior to its establishment, training of Superior Court judges consisted only of holding of workshops and short courses, and has not permitted the development of a permanent training program.¹⁸⁶ A Training and Judicial Capacity Development Unit was also set up under the Chief Registrar’s Office of the Federal Court of Malaysia in 2010. It caters to the training of judicial officers. Judicial officers are also encouraged to pursue post-graduate studies.¹⁸⁷

2. *Institutions Responsible for Judicial Training*

Institution	Responsibility	Training Oversight and Trainers of the Institution
1. Judicial Academy , composed of members of the judiciary.	Responsible for planning, organizing and conducting training programs and courses for judges of the Superior Courts. ¹⁸⁸ “Superior Courts” include the Federal Court, Court of Appeal, High Court in Malaya, and High Court in Sabah and Sarawak. ¹⁸⁹	The Judicial Academy is made up of members of the judiciary. It is headed by the Chief Justice of Malaysia as the Chairman and comprises the President of the Court of Appeal, the Chief Judge of Malaya, the Chief Judge of Sabah and Sarawak together with six judges of the Federal Court and High Court. The Academy receives its funding from the Judicial Appointments Commission. This commission also acts as the Secretariat for the Academy. ¹⁹⁰

186 World Bank (Poverty Reduction and Economic Management Sector Unit East Asia and Pacific Region). *Malaysia: Court Backlog and Delay Reduction Program: A Progress Report (hereafter World Bank Malaysia Court Backlog and Delay Reduction Report)*. August 2011. 21. Para. 84. Available at <http://www.kehakiman.gov.my/sites/default/files/document3/Teks%20Ucapan/WORLD%20BANK%20REPORT%20FINAL.pdf> (viewed 28 February 2014).

187 Speech by the Chief Justice of Malaysia (11 January 2014). 17. Paras 42-43. Available at http://www.kehakiman.gov.my/sites/default/files/document3/Teks%20Ucapan/UcapanTUN2014_15JAN.pdf (viewed on 28 February 2014).

188 Chief Registrar’s Office, Federal Court of Malaysia. *The Malaysian Judiciary Yearbook 2012 (hereafter The Malaysian Judiciary: Yearbook 2012)*. 136. Available at <http://www.kehakiman.gov.my/sites/default/files/document3/POJLAPORAN%20TAHUNAN/WJD000836%20Msian%20judiciary.pdf> (viewed on 7 April 2014).

189 Judicial Appointments Commission Act 2009 (Laws of Malaysia, Act 695). Available at: http://woulibrary.wou.edu.my/library/pdf/sg_judiciary.pdf (viewed on 7 April 2014).

190 The Malaysian Judiciary: Yearbook 2012. The Judicial Commission consists of

1. The Chief Justice of the Federal Court who shall be the Chairman;
2. The President of the Court of Appeal;
3. The Chief Judge of the High Court in Malaya;
4. The Chief Judge of the High Court in Sabah and Sarawak;
5. A Federal Court judge to be appointed by the Prime Minister; and
6. Four eminent persons, who are not members of the executive or other public service, appointed by the Prime Minister after consulting the Bar Council of Malaysia, the Sabah Law Association, the Advocates Association of Sarawak, the Attorney General of the Federation, the Attorney General of a State legal service or any other relevant bodies.

2. Judicial and Legal Training Institute (<i>Institut Latihan Kehakiman dan Perundangan</i> or ILKAP), under the Prime Minister's Department.	Provides training for members of the "Judicial and Legal Service." ¹⁹¹ Subordinate Court judges and magistrates are considered Judicial and Legal Service members. ¹⁹²	The Judicial and Legal Training Institute or ILKAP is under the Prime Minister's Department.
3. Malaysian Qualification Agency, under the Prime Minister's Department.	Oversees the training curriculums of education institutions that offer programs leading to the professional qualification to serve as a Syariah court judge.	Monitored by the Department of Syariah Judiciary of Malaysia (Jabatan Kehakiman Syariah Malaysia), under the Prime Minister's Department. ¹⁹³

3. *Participants of Judicial Training*

a.) *Judicial Academy*

Requisites for Participants	Recruitment Process	Annual Average Number of Graduates
Judges of the Superior Courts, <i>i.e.</i> , Federal Court, Court of Appeal, High Court in Malaya, and High Court in Sabah and Sarawak.	Not adequately identified in available literature.	In 2012, a total of 84 judges attended six programmes conducted by appellate judges. Aside from this, the Academy also held trainings by foreign lecturers as well as three Outreach Programs aimed at bringing judges closer to nature and to raise awareness on the significance of the environment. ¹⁹⁴

b.) *Judicial and Legal Training Institute*

Requisites for Participants	Recruitment Process	Annual Average Number of Graduates
In-Service Training —Judges who are considered members of the Judicial and Legal Service, such as Subordinate Court judges and magistrates.	Not adequately identified in available literature.	No total number was found. However, the Institute offers around 25 short courses a year aimed at judicial and legal service members working in the courts. ¹⁹⁵

191 Judicial and Legal Training Institute (ILKAP). "Official Portal: Judicial and Legal Training Institute" (hereafter *ILKAP Website*). Website. Accessed 30 March 2014. http://www.ilkap.gov.my/prime_bi.php

192 Hon. Tun Dato' Sri Ahmad Fairuz bin Dato' Sheikh Abdul Halim, Chief Justice of Malaysia. "Judicial Independence, Accountability, Integrity and Competence — Some Aspects of the Malaysian Position." Paper presented at International Conference and Showcase on Judicial Reforms, Makati City, Philippines, 28-30 November 2005. Available at: [http://jrn21.judiciary.gov.ph/forum_icsjr/ICSJR_Malaysia%20\(D.%20Halim\).pdf](http://jrn21.judiciary.gov.ph/forum_icsjr/ICSJR_Malaysia%20(D.%20Halim).pdf) (viewed on 7 April 2014).

193 Najibah M. Zin. "Islamic Judges in Malaysia." *Pacific Rim Law and Policy Journal*, (2012), 21(1). 115, 120-121; and Kikue Hamayotsu. "Once a Muslim, always a Muslim: the politics of state enforcement of Syariah in contemporary Malaysia." *South East Asia Research*. 20, 3. 408. Available at: <http://www.niu.edu/polisci/faculty/pdf/Once%20a%20Muslim%20Always%20a%20Muslim%20-%20Hamayotsu%20SEAR12.pdf> (viewed on 7 April 2014).

194 *The Malaysian Judiciary: Yearbook 2012*.

195 *World Bank Malaysia Court Backlog and Delay Reduction Report*. 21. Para 84.

<p>Induction Training—Candidates for appointment to the Subordinate Courts must, in general, first be members of the Judicial and Legal Service. The exception in the law is for appointment as Second Class Magistrate.¹⁹⁶</p> <p>The following are the conditions for appointment to the management and professional classification of the Judicial and Legal Service:¹⁹⁷</p> <ol style="list-style-type: none"> a. Citizen of Malaysia; b. Not less than 18 years; c. (i) Bachelor of Laws recognized by the government institutions of higher education or a qualification recognized as equivalent thereto, or (ii) Passed the Final Bar Examination; d. Pass Bahasa Malaysia/Malay at Sijil Pelajaran Malaysia level or equivalent qualification recognized by the government. 	<p>The Judicial and Legal Service Commission has jurisdiction over all members of the judicial and legal services,¹⁹⁸ and its function is to appoint, confirm, emplace on the permanent or pensionable establishment, promote, transfer and exercise disciplinary control over members of the service.¹⁹⁹</p> <p>Officers in the management and professional tier of the service are required to attend an induction course before they can be eligible for appointment.²⁰⁰</p>	<p>Not adequately identified in available literature.</p>
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4. *Necessity of Undergoing Pre-Judicature Training*

Judicial training or a background in law appear to be consistent requisites, except in appointments of Second Class Magistrates.

To be appointed as judge of the Federal Court, Court of Appeal and of the High Courts, a person must be a citizen and has “for the ten years preceding his appointment he has been an advocate of those courts or any of them or a member of the judicial and legal service of the Federation or of the legal service of a State, or sometimes one and sometimes another.”²⁰¹ Article 122AB of the Constitution also allows the appointment of Judicial Commissioners for the High Courts. Such Judicial Commissioners are appointed for specific periods or purposes, possess the qualifications necessary for appointment as a judge of a High Court, and have the power to perform functions of a judge of the High Court. This appears to provide future High Court judges with a venue to familiarize themselves with the duties in the High Court. A Judicial Commissioner would be

¹⁹⁶ The Subordinate Courts Act states:

60. No person shall be appointed to be a Sessions Court Judge unless he is a member of the Judicial and Legal Service of the Federation: Provided that this section shall not prevent the appointment of a person to act temporarily as a Sessions Court Judge.

78A. No person shall be appointed to be a First Class Magistrate unless he is a member of the Judicial and Legal Service of the Federation: Provided that this section shall not prevent the appointment of a person to act temporarily as a First Class Magistrate.

79. The State Authority may appoint any fit and proper person to be a Second Class Magistrate in and for the State.

¹⁹⁷ Judicial and Legal Service Commission. “Maklumat Skim Perkhidmatan” (Scheme of Service). Webpage. Accessed 6 March 2014. <http://www.spkp.gov.my/portal/eng/skimPerkhidmatan.php>

¹⁹⁸ Federal Constitution, Article 138(1).

¹⁹⁹ *Ibid.*, Article 144 (1).

²⁰⁰ Judicial and Legal Service Commission. “Maklumat Skim Perkhidmatan” (Scheme of Service). Webpage.

²⁰¹ Federal Constitution, Article 123.

recommended for appointment as a judge of the High Court if found to have served satisfactorily.²⁰² A report notes that the practice of appointing Judicial Commissioners might undermine judicial independence.²⁰³ A thorough discussion of such matter, however, is beyond the scope of this study.

For its part, the Judicial and Legal Training Institute offers its induction programs to members of the judicial and legal service before they are appointed to the service.²⁰⁴ Aside from this, to be appointed to the management and professional classification of the Judicial and Legal Service, a person must hold a Bachelor of Laws degree or had passed the Final Bar Examination. In the case of appointment as Second Class Magistrate, however, the Subordinate Courts Act in Section 79 states that “any fit and proper person” may be appointed.

B. Structure and Content of Training Programme for Judges

1. Structure of Training Curriculum

The course contents of the training programmes at the Judicial Academy are planned and coordinated by the Academy Director, an administrative post, currently held by a serving Court of Appeal judge, Justice Mohamad Ariff Md. Yusof.²⁰⁵ The Judicial and Legal Training Institute is similarly headed by a Director-General.²⁰⁶ It appears that the Judicial Academy offers trainings on judicial developments relevant to the judges’ work and that the content varies every year, depending on what the Academy deems appropriate. The Judicial and Legal Training Institute, on the other hand, seems to have more structured programs.

a.) Judicial Academy

The programmes presently fall into the following categories:

(i) Courses conducted by appellate judges as facilitators

*For 2012:*²⁰⁷

- a. Dealing with Cases Under Section 39B of the Dangerous Drugs Act 1952
- b. Injunctions
- c. Admissibility of Evidence in Civil Trials
- d. Election Petition: Challenging Election Result
- e. Judicial Review and Appellate Intervention

202 Ahmad Fadzil, *Judicial Independence in Australia and Malaysia* (2004), 5-6. Available at SSRN: <http://ssrn.com/abstract=929856> or <http://dx.doi.org/10.2139/ssrn.929856> (viewed on 7 April 2014).

203 Ibid.

204 *World Bank Malaysia Court Backlog and Delay Reduction Report*, 21. Para 84.

205 *The Malaysian Judiciary: Yearbook 2012*, 136.

206 ILKAP Website.

207 *The Malaysian Judiciary: Yearbook 2012*, 136-144.

*For 2013:*²⁰⁸

- a. Company Act
- b. How to Deal with Cases Under Section 39B of the Dangerous Drugs Act 1952
- c. Appellate Intervention and Revision
- d. Appellate Judges Seminar

(ii) Seminars by foreign speakers

For 2012:

- a. Workshop on Implementing the International Framework for Court Excellence
- b. Court Annexed Mediation: Shortcomings and Future Developments
- c. Competition Law in Malaysia

For 2013:

- a. Dialogue Session Between the Honourable Society of the Middle Temple and Malaysian Judiciary
- b. Construction Law: Issues and Challenges

(iii) Outreach programmes

Outreach Programmes in 2012 in Taman Negara, Cameron Highland, and Kundasang; and in 2013, in Pulau Gemia, Marang.

(iii) Sponsoring judges to seminars organised by other bodies/institutions

b.) ***Judicial and Legal Training Institute***

The Institute has over 99 courses that are spread across the following programmes:²⁰⁹ 1.) Senior Management & Professional Programme, 2.) Prosecution Programme, 3.) Civil Programme, 4.) Civil Litigation Programme, 5.) Language Programme, 6.) Induction Programme. While it appears that the “Senior Management & Professional Programme” is the one that was specifically designed for judicial and legal officers, including judges, the other programmes also contain courses that indicate “judicial and legal officers” as the intended participants.

208 “Course Organised by Judicial Academy For Year 2013.” *Judicial Appointments Commission*. Webpage. Accessed 29 March 2014. http://www.jac.gov.my/index.php?option=com_content&view=article&id=280&Itemid=92&lang=en

209 Judicial and Legal Training Institute (ILKAP), Prime Minister’s Department. *Training Programme 2014 (hereafter ILKAP Training Programme 2014)*. Selangor Darul Ehsan: Judicial and Legal Training Institute (ILKAP), 2014. Available at: <http://www.ilkap.gov.my/download/2014/Buku%20Program%20Latihan%202014.pdf> (viewed on 7 April 2014).

Below is the 2014 “Senior Management & Professional” programme. The courses, one to three days in length, are spread throughout the year.²¹⁰

1. Course on Protocols, Social and Dining Etiquette
2. Workshop on Negotiation Skills
3. Workshop of Handling and Discipline Management
4. Workshop on Writing Grounds of Judgement
5. Course on Creative Thinking in Problem Solving
6. Course on Middle Managers’ Worklife and Academic Strategic Planning
7. Course of Time and Stress Management
8. Course on Mind Transformation, Motivation and Leadership
9. Course for Magistrates
10. Seminar on Judicial Ethics
11. Seminar for Industrial Court Chairman
12. Seminar on People Skills – Empowerment and Positive Influence at The Workplace
13. Course on Government’s Transformation Plans
14. Seminar for Sessions Court Judges
15. Workshop on Arbitration

The “Course for Magistrates” lasts for three days and covers: Character building, Magistrates’ roles and jurisdiction, Rules of Court 2012: court fee, Recent amendments to the Criminal Procedure Code, Summary trial conference, Remand, Inquest, Review, Exhibit (Criminal and Civil cases), Types of exhibits, Handling exhibits in court before trial, Handling exhibit in court during trial, Handling exhibit in court after trial (exhibit disposal), Procedures of appeal and preparation of Manual Appeal Record and E-filing (Civil and criminal cases), Techniques of recording proceedings in court and writing grounds of judgment, Effective practical writing of grounds of judgment (civil and criminal cases), Procedures of criminal case management and trial, Court mediation process.²¹¹

The “Seminar for Sessions Court Judges” similarly lasts for three days and has the following topics: Innovation in Judicial workplace, General position and limitations to grant various reliefs, Procedure in applying for injunction, Procedure in applying for declaration and specific performance/rescission/ cancellation/rectification, Pre-trial conference, Case management, Plea bargaining, Compensation, Summary trial conference, Rules of Court 2012, Fee, Amendment to Criminal Procedure Code (Pre trial process), Role of Yayasan Bantuan Guaman Kebangsaan (National Legal Aid Foundation), Effective writing of grounds of judgment, and Mediation – effective alternative dispute resolution.²¹²

210 Ibid., 86.

211 Ibid., 100-111.

212 Ibid., 109.

In regards the Induction Programme for those coming into the Judicial and Legal Service, listed below are the courses offered for 2014. Descriptions of the contents are available online.²¹³

1. Workshop on Basic Understanding of Statutes for Legal Assistant (2 days)
2. Workshop for Subordinate Court Registrars (3 days)
3. Workshop on File Management (Legal and Judicial Support Group) (3 days)
4. Workshop for Legal Assistant (Judicial and Legal) (3 days)
5. Workshop on Preparation of Appeal Criminal Record for Legal Administrative Assistant L 17 (Court) (3 days)
6. Workshop on Legal Research for Assistant Legal Officers (3 days)
7. Course on Integrity and Ethics for Legal Assistant (Legal and Court) (3 days)
8. Course for Assistant Legal Officers (Legal Aid Department) (3 days)
9. Course for Orderly (2 days)
10. Mind Transformational Programme (for Judicial and Legal officers - L 41, offered 3 times in 2014) (9 days)

2. Content of Training Curriculum: Selected Specific Topics

a.) Judicial Ethics

There is a Code of Ethics for Judges 2009. Furthermore, in 2009, the Malaysian Parliament passed the Judges' Ethics Committee Bill. The Judicial and Legal Training Institute has scheduled a one-day "Seminar on Judicial Ethics" to be held on 21 May 2014. The contents of the seminar are as follows: Principles of judicial officers' ethical conduct policy; Applying ethical principles in and outside the office; Case study and simulation; Current issues and challenges.

b.) Human Rights and/or Fair Trial Rights

The Judicial and Legal Training Institute has scheduled a three-day "Course on Human Rights According to Civil and Shariah Law" to be held in May 2014. While included in the Institute's Civil Programme, it indicates that the participants will be "Judicial and Legal Service Officers, Lawyers, Law Lecturers, etc."²¹⁴ A similar course on human rights was contained in the 2013 programme.²¹⁵ It does not seem to have been included in the programmes for 2011 and 2012. There are also courses that will touch on international standards in regards child rights and women's rights.²¹⁶ In 2012, aside from covering child rights and women's rights as contained in the CRC and CEDAW, the Institute also included the Convention on Persons with Disabilities.²¹⁷ All these courses included judicial officers among the intended participants; more information on the process for selecting participants would be helpful.

²¹³ Ibid., 147-150.

²¹⁴ *ILKAP Training Programme 2014*. 130.

²¹⁵ Institut Latihan Kehakiman dan Perundangan (ILKAP), Jabatan Perdana Menteri. *Program Latihan 2013 (hereafter ILKAP Training Programme 2013)*. Institut Latihan Kehakiman dan Perundangan (ILKAP). 28. Available at: <http://www.ilkap.gov.my/download/2013/Buku%20Program%20Latihan%20ILKAP%202013.pdf>

²¹⁶ Ibid.

²¹⁷ Ibid., 59.

c.) *ASEAN Instruments*

The Malaysian judiciary appears to be taking steps to increase awareness on ASEAN and cross-border issues among its judicial officers. In a national seminar on “The Green Court” for Malaysian Judges and Magistrates, held from 9-11 November 2012 in Kuala Lumpur, the following topics were discussed: the Green Bench, ASEAN experience; prosecution and enforcement in environmental cases; national laws and international conventions relating to environment; and principle of sentencing in environment cases.²¹⁸

In its 2013 programme, the Judicial and Legal Training Institute included a three-day course on “Legal Instruments under the Association of Southeast Asian Nations (ASEAN) by 2015.” Intended participants included judicial and legal service officers, lawyers, lecturers on law.²¹⁹ Unfortunately, details of the course are not included.

The 2014 “Civil Programme” includes a “Course on the Readiness of Association of Southeast Asian Nations (ASEAN) in Realizing ASEAN Economic Community (AEC) in 2015.” This course, scheduled for 27-29 October will cover the following: Association of Southeast Asian Nations (ASEAN) and its state of play; Characteristics of AEC; ASEAN readiness in achieving AEC: prospects and challenges for Member States and for Private Sector. Participants will be Judicial and Legal Service Officers, Lawyers, and Law Lecturers.²²⁰

d.) *International/Comparative Law and Conflict of Laws*

There is presently particular interest in international environmental law in Malaysia.²²¹ Additionally, in his 2012 Speech, the Chief Justice cited training on mediation conducted by an American senior federal judge to enhance skills in mediation.²²² The Judicial and Legal Training Institute appears to incorporate some topics on international law in its “Civil Programme.” For 2014, for instance, it will hold a three-day “Course on Intellectual Property Law—Rights and Issues.” Among others, there will be discussions on “International aspects of intellectual property.”²²³

3. *Continuing Judicial Education*

A judge is expected to undergo continuous legal education and training. The trainings provided by both the Judicial Academy and Judicial and Legal Training Institute enable the judges to be updated on developments in laws and jurisprudence.

218 *The Malaysian Judiciary: Yearbook 2012*, 127.

219 *ILKAP Training Programme 2013*, 32.

220 *ILKAP Training Programme 2014*, 136.

221 *The Malaysian Judiciary Yearbook 2012*, 121.

222 Speech by the Chief Justice of Malaysia (12 January 2013). 20-21, para 31. Available at <http://www.kehakiman.gov.my/sites/default/files/document3/Penerbitan%20Kehakiman/OLY2013%20SPEECH%20BY%20THE%20RT.%20HON.%20TUN%20ARIFIN%20ZAKARIA%20CHIEF%20JUSTICE%20OF%20MALAYSIA.pdf> (viewed on 7 April 2014).

223 *ILKAP Training Programme 2014*, 133.

COUNTRY FACTSHEET 6: JUDICIAL TRAINING IN MYANMAR

A. Training Organization and Institutionalization

1. *Relevant Recent Legal and Judicial Reforms*

Myanmar has been undergoing major institutional changes in recent years. The current Constitution was adopted through referendum in 2008. The first elections since 1990 were held on 7 November 2010, bringing a degree of representative government for the first time after more than 20 years.²²⁴ In a speech given by the Supreme Court Chief Justice in 2012, he stated: “Under new political system, we now face challenges which mainly include harmonization of the judiciary with democratic culture, absence of corruption in every courtroom and reinforcement of the judicial system.”²²⁵

In relation to judicial training, the Constitution mandated the establishment of a Union Civil Services Board, which would perform the duties of selecting and training Civil Services personnel, as well as prescribing Civil Service regulations.²²⁶ In 2010, the State Peace and Development Council, which exercised State sovereignty before the 2008 Constitution came into operation, passed the Union Civil Services Board Law pursuant to its duty to lay the preparatory work necessary to implement the Constitution.²²⁷ This law supplanted the Public Service Selection and Training Board Law (Pyi Thu Luttaw Law No. 4 of 1977),²²⁸ which had established the Civil Service Selection and Training Board (CSSTB).²²⁹ The new law outlines the powers, duties, term of office, and discipline of the members of the Union Civil Services Board. The Union Civil Services Board Law applies to all civil service personnel, excluding Defense Services personnel and the Myanmar Police Force.²³⁰

1. *Institutions Responsible for Judicial Training*

Institution	Responsibility	Training Oversight and Trainers of the Institution
1. Judicial Training Institute , under the Supreme Court of the Union.	Responsible for training judges of higher ranks.	The President nominates justices to the highest court. These justices then appoint officials to positions within the Supreme Court, including the Director of the Judicial Training Institute.

224 Nick Cheesman, Monique Skidmore, Trevor Wilson (eds.). *Myanmar's Transition: Openings, Obstacles and Opportunities*. Singapore: Institute of Southeast Asian Studies, 2012. 3-4.

225 H. E. U Htun Htun Oo. “Current Developments of Judicial System in Myanmar (Speech given at Keio University, Japan, 28 November 2012).” *Judicial Journal* 3, no. 2 (n.d.) (hereafter *H. E. U Htun Htun Oo Current Developments of Judicial System in Myanmar*). Available at: http://www.unionsupremecourt.gov.mm/sites/default/files/supreme/judicial_journal_v3_n2.pdf

226 Constitution of the Republic of the Union of Myanmar in Clauspeter Hill and Jörg Menzel. *Constitutionalism in Southeast Asia, Vol. 1*. 2nd ed. Singapore: Konrad Adenauer Stiftung, 2010. Section 246 (a).

227 The Union Civil Services Board Law (The State Peace and Development Council Law No. 24 / 2010), The Union of Myanmar (hereafter **Union Civil Services Board Law**). Preamble. Available at: http://www.oag.gov.mm/sites/default/files/legislation/2013/12/union_civil.pdf (viewed on 7 April 2014).

228 *Ibid*, Section 28.

229 The UCSB website indicates that the Central Institute of Civil Service was placed under the supervision of the Civil Service Selection and Training Board by the Public Service Selection and Training Board Law (Pyi Thu Luttaw Law No. 4 of 1977). Union Civil Service Board, The Republic of the Union of Myanmar. “Central Institute of Civil Service (Phaunggyi).” nd. Webpage. Accessed 26 February 2014. [http://www.ucsb.gov.mm/about%20ucsb/Central%20Institute%20of%20Civil%20Service%20\(Phaung%20Gyi\)/details.asp?submenuid=33&id=143](http://www.ucsb.gov.mm/about%20ucsb/Central%20Institute%20of%20Civil%20Service%20(Phaung%20Gyi)/details.asp?submenuid=33&id=143) This law, however, was repealed in 2010 by the Union Civil Services Board Law.

230 Union Civil Services Board Law, Section 3.

2. Central Institute of Civil Service , under Union Civil Service Board (UCSB).	Responsible for training entry-level judges (including for the Deputy Township level).	The Constitution vests the President with the power to appoint the UCSB's officers and to oversee its affairs. The UCSB then oversees the organization and programs conducted by the Central Institute of the Civil Service.
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2. *Participants of Judicial Training*

a.) *Judicial Training Institute*

Requisites for Participants	Recruitment Process	Annual Average Number of Graduates
In-service judges and judge candidates with prior experience in lower-level courts.	<p>The Supreme Court has the authority to appoint judges to the High Courts in the States and Regions and District Courts or Courts in the Self Administered Division/Zones.</p> <p>It is believed that after a period of time serving as Deputy Township judges, individuals are invited to participate in trainings and write exams that allow for appointments to the District Courts. Research did not find sources explaining if all these judges were required to participate in judicial trainings prior to appointment, or how they may be selected for trainings.²³¹</p>	No public information available.

b.) *Central Institute of Civil Service (within the UCSB)*

Requisites for Participants	Recruitment Process	Annual Average Number of Graduates
<p>A candidate for judgeship in the subordinate courts must</p> <ul style="list-style-type: none"> - Have Myanmar nationality; - Have a good moral character; - Possess a law degree. <p>A report noted that the minimum age for appointment as Township Court judge is 25.²³²</p>	<p>Research did not find sources explaining the selection process, but it is thought that if an individual fulfils these requirements, they can then attend a Basic Course for Junior Civil Service Training at the UCSB's Central Institute of Civil Service. Upon completion of the course they are eligible for appointment as Deputy Township Judges, as vacancies permit.²³³</p>	<p>Research did not identify how many judges graduate annually. There are currently said to be 1,131 judges throughout Myanmar's judicial system.²³⁴</p>

²³¹ International Bar Association's Human Rights Institute (IBAHRI), *The Rule of Law in Myanmar: Challenges and Prospects (hereafter IBAHRI Rule of Law in Myanmar)*. London: International Bar Association, 2012. 57.

²³² Ibid., 58.

²³³ "The Supreme Court of the Union." *The Supreme Court of the Union of Myanmar*. Webpage. Accessed 20 February 2014. <http://www.unionsupremecourt.gov.mm/?q=content/supreme-court-union>

²³⁴ IBAHRI *Rule of Law in Myanmar*, 56.

3. *Necessity of Undergoing Pre-Judicature Training*

Although supporting data was not found during research, it is likely that the majority of current judges have undergone some form of judicial training at some point in the past. However, it is also possible for a sitting member of the judiciary to have been appointed a judgeship without having gone through judicial trainings and with only basic legal qualifications. The Union Judiciary Law provides a series of qualifications that members of the Supreme Court and High Courts of the Regions/States must meet, which includes having previously served as a judge, judicial officer, law officer, or advocate; but it also includes a provision that the President can appoint any individual that he/she may consider an “eminent jurist.”²³⁵ While parliament has the ability to nullify a Presidential appointment, it can only do so if the candidate does not meet the qualifications stipulated by law.²³⁶

B. Structure and Content of Training Programme for Judges

1. *Structure of Training Curriculum*

Judicial trainings for higher levels have been occurring somewhat regularly since the Supreme Court established the Judicial Training Institute in Yangon. However, the frequency of trainings is limited by the number of participants and trainers available, as well as by a modest budget to support the trainings.

There has not been a thorough assessment that provides information on the content, length and curriculum of Myanmar’s judicial training programs—whether that conducted by the Supreme Court or the UCSB—and interviews conducted for this report did not yield information on these matters. The limited information available is for trainings that candidates for Deputy Township judgeship receive through the UCSB, which comprises a theoretical and practical “on the job-training course” on criminal and civil laws, “legal English,” court administration and logistics subjects.²³⁷ Information on trainings that the Supreme Court holds for higher-ranking judges was not found during the course of research.

Literature highlights the need to improve judicial and legal education in Myanmar. *Myanmar Rule of Law Assessment* mentions that, while judicial training is given by the Supreme Court through the Judicial Training Institute, additional judicial training programs would be “highly valuable.”²³⁸ Although the publication does not discuss the details of the curriculum for members of the judiciary, it points to a general need for “major reform” in the country’s curriculum for legal education.²³⁹ “Supporting Rule of Law in Myanmar: A Strategy for Funding Legal Change” similarly identified “large-scale, targeted legal education and training” as a key recommendation.²⁴⁰ This need has been recognized by the Supreme Court, with the Chief Justice saying: “We need to build up capacity of judges urgently. The Supreme Court launches different training programs to extend the horizon of our judges; especially in these areas: current developments of the Constitution and laws; changing legal and judicial concepts; information technology and language skill to study them.”²⁴¹

235 Union Judiciary Law, (The State Peace and Development Council Law No. 20/2010), The Union of Myanmar (hereafter **Union Judiciary Law**). Sections 30 and 48. Available at: http://www.unionsupremecourt.gov.mm/sites/default/files/supreme/union_judiciary_law.pdf (viewed on 7 April 2014).

236 Ibid., Sections 26- 27 and 44-45.

237 “The Supreme Court of the Union.” *The Supreme Court of the Union of Myanmar*. Webpage. Accessed 20 February 2014. <http://www.unionsupremecourt.gov.mm/?q=content/supreme-court-union>

238 New Perimeter, Perseus Strategies, and the Jacob Blaustein Institute for the Advancement of Human Rights. *Myanmar Rule of Law Assessment*. March 2013. 31. Available at: <http://www.jbi-humanrights.org/files/burma-rule-of-law-assessment.pdf> (viewed on 7 April 2014).

239 Ibid., 36.

240 Roger Normand. “Supporting Rule of Law in Myanmar: A Strategy for Funding Legal Change.” *Oak Foundation* (March 2013). PDF. Accessed 30 January 2014. <http://www.oakfnd.org/node/4753>

241 H. E. U Htun Htun Oo *Current Developments of Judicial System in Myanmar*.

2. Content of Training Curriculum: Specific Topics

a.) *Judicial Ethics*

The lack of publicly available data on training curriculums and contents makes an assessment of the principles included in Myanmar's judicial training programs incomplete. It is not known to what extent principles like judicial ethics, human rights, and fair trial rights are, or have been, included in judicial trainings.

b.) *Human Rights and/or Fair Trial Rights*

The United Nations Development Programme (UNDP) has conducted trainings with judges that address International Human Rights Law, Access to Justice and Legal Empowerment, and Judicial Integrity. It is, however, not known how these principles have been and continue to be incorporated in national trainings.²⁴²

c.) *ASEAN Instruments*

The research could not identify any information related to the inclusion of ASEAN legal instruments in official judicial training programs.

d.) *International or Comparative Law and Conflicts of Laws*

Research did not identify how these principles are incorporated into trainings.

3. Continuing Judicial Education

Research did not identify if trainings kept pace with institutional and legal reforms.

242 Maya Nyagolova. "UNDP leads Training on Human Rights, Access to Justice and Judicial Reform at the Judicial Training Institute of Myanmar." *United Nations Development Programme: Asia-Pacific Weekly Highlights*. 18 October 2012. Webpage. Accessed 7 April 2014. <http://www.snap-undp.org/WeeklyHighlights/Lists/Posts/Post.aspx?List=b2b1f523-84af-4f7b-9be8-591c30c47aca&ID=192>

COUNTRY FACTSHEET 7: JUDICIAL TRAINING IN THE PHILIPPINES

A. Training Organization and Institutionalisation

1. *Relevant Recent Legal and Judicial Reforms*

The last two decades have been a time of reform, including in regards judicial education. Prior to the creation of the Philippine Judicial Academy (PHILJA), authors note that judicial education/training was an occasional, scattered activity that was conducted by judges' organizations and the Supreme Court on an *ad hoc* basis.²⁴³

In 1992, a committee for the establishment of a judicial academy was created.²⁴⁴ PHILJA was established in 1996 and received its legislative mandate in 1998. In 1996, the pertinent training programs of PHILJA were incorporated in all conventions of judges.²⁴⁵ The immersion program for judges, which was instituted in 1988, was also extended from one (1) week to one (1) month.²⁴⁶ In 1998, newly appointed trial judges were required to undergo an immersion program for one month. Those promoted were to undergo the program for two weeks.²⁴⁷ In 2003, guidelines were issued to avoid duplication or overlapping training programs and activities by different offices of the Supreme Court. From then on, all seminars, workshops and other judicial and legal education programs for justices, judges, and court personnel were to be conducted and implemented by PHILJA.²⁴⁸

Additionally, the Philippine Mediation Center Office (PMCO) was established in 2008. The function of the PMCO relates to ADR mechanisms. Philippine Mediation Center Units were also organized throughout the country.²⁴⁹

2. *Institutions Responsible for Judicial Training*

Institution	Philippine Judicial Academy (PHILJA) , within the Supreme Court.
Responsibility	On 12 March 1996, the Supreme Court created PHILJA through an administrative order and charged it with the “formulation and implementation of a continuing program of judicial education for justices, judges, court personnel and lawyers.” ²⁵⁰ On 26 February 1998, a law was passed to formally institutionalize PHILJA as “a training school for justices, judges, court personnel, lawyers and aspirants to judicial posts.” ²⁵¹

243 Amparita S. Sta. Maria. “Judicial Education in the Philippines.” In *A Manual on Human Rights-based Approach to Realizing Equal Access to Justice*, ed. Asian Consortium for Human Rights-Based Access to Justice Approach (Manila: Asian Consortium for Human Rights-Based Access to Justice Approach, 2012). 189. Available at <http://www.hrbajustice.asia/on-line-materials/a-manual-on-hrba2j-document-download/> (accessed 17 March 2014).

244 *Ibid.*, 189-190.

245 Administrative Circular No. 11-96, Inclusion of Philippine Judicial Academy (PHILJA) Educational Programs in Conventions of Judges, 10 October 1996. Administrative Circular No. 13-96, Amending Administrative Circular No. 11-96 dated 10 October 1996, 28 November 1996.

246 Administrative Circular No. 12-96, Amending Administrative Circular No. 6 dated 11 October 1988, 19 November 1996.

247 Administrative Circular No. 6-98, Amending Administrative Circular No. 12-96 dated 19 November 1996 and Administrative Circular No. 6 dated 11 October 1988, 29 July 1998.

248 Philippine Judicial Academy. *Introduction to PHILJA* (Manila: Philippine Judicial Academy, 2012). 16.

249 *Ibid.*, 11.

250 Administrative Order No. 35-96, Establishment of the Philippine Judicial Academy, 12 March 1996. § 1.

251 An Act Establishing the Philippine Judicial Academy, Defining its Powers and Functions, Appropriating Funds Therefor, and for Other Purposes, Republic Act No. 8557 (1998). § 3

<p>Training Oversight and Trainers of the Institution</p>	<p>PHILJA operates under the administration, supervision, and control of the Supreme Court.²⁵² The Constitution ensures the Supreme Court’s independence as regards administrative supervision over all courts and their personnel.²⁵³</p> <p>PHILJA has a governing board that is tasked to formulate and approve all policy proposals with regard to the general thrust of the Academy. This Board of Trustees is composed of the following: (1) Chief Justice of the Supreme Court (<i>ex-officio</i> chairman); (2) Senior Associate Justice of the Supreme Court (<i>ex-officio</i> vice chairman); (3) Chancellor of PHILJA, Presiding Justices of the Court of Appeals and the Sandiganbayan, Court Administrator, President of the Philippine Judges Association, and President of the Philippine Association of Law Schools (<i>ex-officio</i> members); and (4) judge of a first level court (appointive member).²⁵⁴</p> <p>It also has a set of Executive Officials: (1) Chancellor; (2) Vice-Chancellor; and (3) Executive Secretary.²⁵⁵ PHILJA has two (2) Academic Offices, namely, the Academic Affairs Office and the Research, Publications, and Linkages Office.²⁵⁶</p> <p>Most of the members of the Board of Trustees are <i>ex-officio</i> officers. The appointive member of the Board, who must be an incumbent judge of a first level court who has served as such for at least five (5) years and taught in a reputable law school for the same number of years, is appointed by the Supreme Court and shall serve for a term of one (1) calendar year. He/she may be reappointed for another term.²⁵⁷ The executive officials of PHILJA are also appointed by the Supreme Court.²⁵⁸</p> <p>PHILJA is staffed by a Corps of Professorial Lecturers.²⁵⁹ Currently, the Academy has 105 Professorial Lecturers, three (3) of which are Professors with administrative duties. Aside from the 105 Professorial Lecturers, all the justices of the Supreme Court are considered Professorial Lecturers with the rank of Special Professor. Together, they all form PHILJA’s Academic Council.²⁶⁰</p> <p>A lecturer in PHILJA must have been nominated by a member of the Board of Trustees. The nomination is submitted for approval to the Supreme Court after a majority vote of the Board. He/she is formally appointed to a term of two (2) years, without prejudice to subsequent reappointments.²⁶¹</p>
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252 Ibid., § 1.

253 Ibid., Art. VIII, § 6.

254 Ibid., § 7.

255 Ibid., § 6.

256 Philippine Judicial Academy, *Introduction to PHILJA*, 10.

257 R.A. 8557, § 5.

258 Ibid., § 6. Unless otherwise provided by the Court, they must have “meritorious service as member of a collegiate appellate court for at least five (5) years, or as Regional Trial Court Judge for at least ten (10) years and, in all these instances, meritorious service as teacher of law in a reputable law school for at least five (5) years.” Their term of office is for two (2) years, without prejudice to subsequent reappointments.

259 Ibid., § 6.

260 “Academic Council,” Philippine Judicial Academy. Accessed 17 March 2014. http://philja.judiciary.gov.ph/academic_council_prof.htm

261 R.A. 8557, § 6.

3. *Participants of Judicial Training*

<p>Requisites for Participants</p>	<p>Under the PHILJA Statutory Charter, the criteria for the selection and admission of participants are determined by the Chancellor in consultation with the Corps of Professorial Lecturers and approved by the Board of Trustees.²⁶²</p> <p>Because of the principle of continuing judicial education, incumbent justices/judges are provided with the latest developments in substantive and procedural law, as well as technology and possible application in courts, and other related topics.</p> <p>Meanwhile, the Pre-Judicature Program of PHILJA is for aspirants to judicial posts.²⁶³ The qualifications for appointment as judge of courts of the first level are the following:²⁶⁴</p> <ul style="list-style-type: none"> - Citizen of the Philippines; - Of proven competence, integrity, probity and independence, and a member of the Philippine Bar; - At least thirty years of age; - For at least five (5) years, has been engaged in the practice of law in the Philippines, or has held a public office in the Philippines requiring admission to the practice of law as an indispensable requisite.²⁶⁵
<p>Recruitment Process</p>	<p>The process of recruiting participants depends on the program and its target audience. Programs may either be compulsory or voluntary. The Supreme Court has the power to require all or some members of the judiciary to take and complete specific programs.</p> <p>Some programs for newly appointed members of the judiciary, including programs for those who have been newly promoted, may be mandatory. They cannot enter into the performance of their duties, unless they have completed the said programs. Thus, PHILJA indispensably requires all of them to take such programs.</p> <p>Others, such as the Judicial Career Enhancement Program (JCEP), could be availed of voluntarily by those who have been in the service for some time.</p> <p>Programs are invariably announced publicly using, for instance, the website of PHILJA and newspapers of general circulation.²⁶⁶</p>

²⁶² Ibid, §9.

²⁶³ Ibid., 18.

²⁶⁴ First level courts are: Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts, Municipal Circuit Trial Courts.

²⁶⁵ JBC – 009, Rules of the Judicial and Bar Council, The Supreme Court of the Philippines (November 2000). Available at: <http://jbc.judiciary.gov.ph/index.php/jbc-rules-and-regulations/jbc-009#R2S8> (accessed 7 April 2014). *See also*, The Judiciary Reorganization Act of 1980, Batas Pambansa Bilang 129 (1981).

²⁶⁶ R.A. 8557, 18-21.

Annual Average Number of Graduates	<p>There is no data on how many judges graduate annually on average. Likewise, there is no indication that limits on the intake of judges by the judiciary are imposed.</p> <p>PHILJA's annual report for 2011 says that PHILJA held 24 regular training programs; implemented 106 special focus programs with various program partners; and provided training to 1,404 judges, 415 clerks of court, and 168 legal researchers. It administered three (3) pre-judicature programs to 111 aspirants. Nine convention-seminars for various court personnel were conducted. With regard to ADR, 29 trainings, programs and activities were held. Basic training to 35 prospective mediators was provided, and the accreditation of 33 others facilitated.²⁶⁷</p> <p>PHILJA has conducted 475 seminars, with a grand total of 70,518 participants, from 1996 to 2004.²⁶⁸</p>
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4. Necessity of Undergoing Pre-Judicature Training

In the past, it was possible to become a judge without having undergone judicial training. Under the 1987 Philippine Constitution, judicial training is not a requirement for one to become a judge.²⁶⁹ Under the PHILJA Statutory Charter, signed into law in 1998, only participants who have completed the programs prescribed by PHILJA and have satisfactorily complied with all the requirements related to it may be appointed or promoted to any position or vacancy in the Judiciary.²⁷⁰

B. Structure and Content of Training Programme for Judges

1. Structure of Training Curriculum

²⁶⁷ Philippine Judicial Academy. 2011 *Annual Report*. Manila: Philippine Judicial Academy, 2012. 9. Available at <http://philja.judiciary.gov.ph/spublication/PDF/2011PHILJAAnnualReport.pdf> (accessed 17 March 2014).

²⁶⁸ Ricardo C. Puno, Sr. "Philippine Judicial Academy in Retrospect." In *Chief Justice Hilario G. Davide, Jr. Distinguished Lecture Series (January-December 2005)*, ed. Philippine Judicial Academy. Manila: Philippine Judicial Academy, 2007. 344. Available at http://philja.judiciary.gov.ph/attachments/In_Retrospect.pdf (accessed 17 March 2014).

²⁶⁹ Phil. Const. art. VIII, § 7. Article VIII, Sec. 7 of the Constitution states that:

No person shall be appointed Member of the Supreme Court or any lower collegiate court unless he is a natural-born citizen of the Philippines. A Member of the Supreme Court must be at least forty years of age, and must have been for fifteen years or more, a judge of a lower court or engaged in the practice of law in the Philippines.

The Congress shall prescribe the qualifications of judges of lower courts, but no person may be appointed judge thereof unless he is a citizen of the Philippines and a member of the Philippine Bar.

A Member of the Judiciary must be a person of proven competence, integrity, probity, and independence.

²⁷⁰ R.A. 8557, § 10.

Table 1: **Organization of Trainings in Terms of Length and Accessibility**²⁷¹

Program	Length	Judicial Professions Involved
<i>Core Programs</i>		
Pre-Judicature Program	10 days	None. For lawyers aspiring judicial posts.
Judicial Career Enhancement Program	3 days	Incumbent judges/judicial personnel who have been in the service for some time.
Orientation Seminar-Workshop for Executive Judges ²⁷² and Vice Executive Judges	At least 2 days	Upon the appointment of Executive Judges and Vice Executive Judges.
Orientation Seminar-Workshop for Newly Appointed Judges	Immersion 2-week orientation program	Newly Appointed Judges
Orientation Seminar-Workshop for Newly Appointed Clerks of Court	-	Newly Appointed Clerks of Court
Continuing Legal Education for Court Attorneys	At least 2 days	Court Attorneys
<i>Development Program for Court Personnel</i>	Varied. Responsive to the need to enhance and update judicial personnel on skills, values, etc.	Court Personnel
<i>Special Focus Programs</i>	Varied. Thematic in nature.	Judges, court personnel and other stakeholders.
<i>Alternative Dispute Resolution Programs</i>	Varied. Depends on the type of program.	Trial judges, clerks of court, officers/members of the Integrated Bar of the Philippines, Philippine Mediation Center (PMC) Unit Staff, court personnel, trainee mediators. In addition, other stakeholders, i.e., non-governmental organizations, religious groups, local government units, and media.
<i>Convention-Seminars</i>	Varied. All national conventions of judges and court employees have an academic component, and they are usually conducted for 1 and ½ days.	Various.
<i>Program for Quasi-Judicial Agencies</i>	Varied.	Officers and lawyers of quasi-judicial agencies.

271 Philippine Judicial Academy. *Introduction to PHILJA*. 16-28; Sta. Maria. "Judicial Education in the Philippines." 192-193; "15th Pre-Judicature Program." Philippine Judicial Academy. PDF. Accessed 17 March 2014. http://philja.judiciary.gov.ph/attachments/1_15th_Pre_Judicature_Program.pdf

272 According to the Supreme Court, "The Executive Judge shall take charge of the administrative work of the Supreme Court in all first and second level courts. The Executive Judge derives his/her powers and prerogatives through delegation by the Supreme Court." Administrative Matter No. 03-8-02-SC, Guidelines on the Selection and Designation of Executive Judges and Defining their Powers, Prerogatives and Duties, Effective February 15, 2004. § 1. Available at <http://oca.judiciary.gov.ph/issuances/admin/AM-03-8-02-SC.pdf> (accessed 17 March 2014).

Table 2: Program Descriptions and Assessment of the Curriculum for Judges²⁷³

Program	Description	Assessment
Core Programs		
Pre-Judicature Program	This program provides initial training to aspirants for judicial positions, as mandated by the Academy's statutory and administrative charters. It orients and guides aspirants towards a career in the judiciary as it offers them a judicial perspective on the law and introduces them to skills, attitudes, values and appropriate conduct called for by their appointment to the Bench.	Since the sessions are not intended to repeat law school instruction or serve as Bar review, they are more in-depth and focused on the training needed to become a judge. This approach from a judicial perspective is crucial in training prospective judges. Given the time limitations of the program, it is the challenge for a trainer to equally pay attention to both the practical and philosophical aspects of the program.
Judicial Career Enhancement Program	This three-day program is intended for judges and judicial personnel who have been in the service of the judiciary for some time. It aims to optimize the impact of the Academy's programs while cutting down on expenses by holding simultaneous sessions that address the concerns of each sector.	Aside from providing updates on recent developments and jurisprudence on substantive and procedural law, the program emphasizes judicial ethics. A judge is also an administrator of his court, and this must be highlighted in the program.
Orientation Seminar-Workshop for Executive Judges and Vice Executive Judges	Upon appointment, Executive Judges and Vice Executive Judges undergo this program which runs for at least two days. The program is intended to update the judges on laws, legal developments and issuances that would enhance their capability to discharge their administrative functions.	An executive judge bears more administrative workload and reportorial requirements than an ordinary judge. The functions of an executive judge and his/her deputy are well explained. However, time-pressed, the orientation must be skilfully handled to produce optimal results.
Orientation Seminar-Workshop for Newly Appointed Judges	Upon appointment to the judiciary, judges undergo this program to prepare them for assumption of office and the discharge of their duties. Immersion programs in the judges' respective work stations accompany these induction activities. Actual observation of court trials is done by sitting in with an Executive Judge or a senior Judge in the conduct of judicial proceedings in order to familiarize a newly appointed judge with the skills of adjudication and administration. Both programs are prerequisites to the performance of judicial functions.	The program has commendable practical and theoretical emphases. This is very important since a judge, unlike a trial lawyer/advocate, is involved in the resolution of disputes and must possess skills that are not necessarily needed by trial lawyers/advocates. The stress on the core areas of ethics, skills, and knowledge is conducive to the formation of principled members of the judiciary.
Special Focus Programs	These programs cater to judges, court personnel and other stakeholders. They are thematic in nature, focusing on new rules and current trends and developments, as well as emerging issues in particular areas of law.	The programs provide flexibility and leeway for the Academy to include specialized branches/areas of law in its curricula, such as Law and Economics and Environmental Law, and related concerns.

273 Philippine Judicial Academy. *Philippine Judicial Academy: An Introduction*. 16-28. Assessment provided by the author.

<i>Alternative Dispute Resolution Programs</i>	This covers programs on: (1) Court-Annexed Mediation, Mobile Court-Annexed Mediation and Appellate Court Mediation; (2) Judicial Dispute Resolution (JDR) Training Programs; (3) Specialized Mediation Programs; (4) Development Programs for PMC Unit Staff; and (5) National ADR Conference.	ADR plays a big role in the speedy disposition of cases. Aside from de-clogging court dockets, they are instruments of social justice and peace. It is commendable for the PHILJA to promote such innovations through education/training.
<i>Convention-Seminars</i>	The program serves as a vehicle for learning experiences and opportunities geared towards the improvement of the quality of judicial service, through the enhancement of judicial and managerial skills and knowledge, as well as the strengthening of work values.	PHILJA sees these as opportunities to make judicial education accessible to a wider group of persons. Convention-seminars, apart from having the potential to capture huge audiences, provide avenues for experiential exchanges between and among justices/judges, PHILJA, and the public at large.

2. Content of Training Curriculum: Selected Specific Topics

a.) *Judicial Ethics*

PHILJA addresses three (3) principal concerns:

- (1) *Judicial Person* or particularly the values of a judge and his fidelity to the code of ethics;
- (2) *Judicial Knowledge*, without which the delivery of justice cannot be competent; and
- (3) *Judicial Skills*, as a judge must not only resolve questions of law but must also manage his/her court and direct his/her personnel.²⁷⁴

Thus, judicial ethics is deeply ingrained in the curricula. PHILJA devotes an academic department to Ethics and Judicial Conduct. Among others, the Pre-Judicature Program and the Judicial Orientation and Immersion Program both contain considerable discussions on judicial ethics. Judges are subject to codes of ethics, *i.e.*, the New Code of Judicial Conduct for the Philippine Judiciary (Bangalore Draft), the Code of Judicial Conduct, and the Canons of Judicial Ethics.

²⁷⁴ Fr. Ranhilio C. Aquino. "Academy Programs – A Running Commentary." In *Chief Justice Hilario G. Davide, Jr. Distinguished Lecture Series (January-December 2005)*, ed. Philippine Judicial Academy. Manila: Philippine Judicial Academy, 2007. 350. Available at http://philja.judiciary.gov.ph/attachments/Academy_Programs.pdf (accessed 17 March 2014).

b.) *Human Rights and/or Fair Trial Rights*

PHILJA has endeavoured to include human rights and related issues in its trainings, programs, and activities.²⁷⁵ The flagship programs of PHILJA invariably discuss human rights topics.²⁷⁶ Special focus programs, which are thematic in nature, cover new rules and current trends and developments, as well as emerging issues in particular areas of law, including human rights and international humanitarian law.²⁷⁷ Fair trial rights, as part of constitutional law, criminal law, remedial law, and human rights law, are necessarily covered in PHILJA's programs. PHILJA also dedicates a department to International and Human Rights Law.²⁷⁸

c.) *ASEAN Instruments*

There have been some efforts to incorporate ASEAN-wide concerns in lectures and special focus group programs. In 2010, PHILJA conducted the *Chief Justice Reynato S. Puno Third Distinguished Lecture: The ASEAN Charter* with a total of 383 participants.²⁷⁹ In 2011, seminar workshops on the ASEAN Awareness Program for Trafficking in Persons for Judges and Prosecutors were held.²⁸⁰ The program enabled participants “to identify and trace issues and problems on trafficking encountered from the ground level to the investigation, prosecutorial, and judicial levels; to the filing, prosecution and adjudication of the case in court; and finally to formulating strategies in the successful prosecution of a trafficking case.”²⁸¹ PHILJA continued to hold the program for judges in 2012.²⁸²

d.) *International/Comparative Law and Conflict of Laws*

International Law is an integral part of the judicial training curriculum of PHILJA. The International and Human Rights Law Department handles components of programs dealing with International Law.²⁸³ This is in spite of the fact that the Philippines is a dualist State, with only customary law as automatically incorporated in domestic law. In the Pre-Judicature Program, for example, Developments in International Law, International Human Rights Law and Domestic Enforcement and Implementation as a subject is discussed.²⁸⁴

275 Sedfrey M. Candelaria and Ronald P. Caraig. “Judicial Education and Human Rights in the Philippines.” *Human Rights Education in Asia-Pacific—Volume Three*, ed. Jefferson R. Plantilla. Osaka: Asia-Pacific Human Rights Information Center, 2012. 39. Available at <http://www.hurights.or.jp/archives/asia-pacific/section1/pdf/2%20-%20Judicial%20Education%20and%20Human%20Rights%20in%20the%20Philippines.pdf> (accessed 17 March 2014).

276 Ibid., 40. These topics include: *Human Rights: International and Domestic Standards; Developments in International Law; International Law and Domestic Enforcement and Implementation; International Covenants and Domestic Legislation; Human Rights and Social Context and Economic Issues; Human Rights, Gender Sensitivity and the Protection of Children; Women's and Children's Rights; Indigenous Peoples Rights; Human Rights Law and Philippine Jurisprudence; Human Rights and the Courts: Social Context Issues and the Vulnerable Sectors; Human Rights and the Constitution; Humanizing the Law; Human Rights and Care for Disadvantaged Sectors; Violence Against Women and Children; and International Criminal Courts and the International Criminal Law.*

277 Ibid.

278 “Academic Council.”

279 “News: Chief Justice Reynato S. Puno Third Distinguished Lecture: The ASEAN Charter.” *Philippine Judicial Academy*. Webpage. Accessed 17 March 2014. http://philja.judiciary.gov.ph/news/2010/news_3rd_dls.htm

280 Philippine Judicial Academy. *2011 Annual Report*. 47.

281 Ibid., 11.

282 “News: Judges Attend ASEAN Awareness Course Program.” *Philippine Judicial Academy*. Webpage. Accessed 17 March 2014. http://philja.judiciary.gov.ph/news/2012/news_2ndQ2012_asean_awareness_course.htm

283 “Academic Council.”

284 “15th Pre-Judicature Program.”

Conflict of laws, or private international law, is treated as a judicial education topic that is occasionally tackled under “Special Areas of Concern.” In 2004, for example, conflict of laws was discussed in two separate occasions within the calendar year.²⁸⁵ *ASEAN Conflict of Law* is one of the major publications of PHILJA Chancellor Azcuna.²⁸⁶

3. Continuing Judicial Education

As early as 1988, the Supreme Court has institutionalized continuing judicial education in the Philippines. In an administrative circular, the Court required the judicial career enhancement and judicial executive programs to be held once a year. The programs include the following substantial features:

- (1) A review of recent Supreme Court decisions and legislation;
- (2) Monitoring and assessment of the performance of participating judges;
- (3) Judicial clinic to discuss court problems;
- (4) Dialogue with members of the bar and government officials involved in the administration of justice; and
- (5) Other relevant aspects of judicial training as may be prescribed by the Chief Justice.²⁸⁷

²⁸⁵ Philippine Judicial Academy. *The 2004 Year-End Report*. Manila: Philippine Judicial Academy, 2005. 54. Available at <http://philja.judiciary.gov.ph/spublication/PDF/2004%20PHILJA%20Annual%20Report.pdf> (accessed 17 March 2014).

²⁸⁶ “Adolfo S. Azcuna.” *Philippine Judicial Academy*. Webpage. Accessed 17 March 2014. <http://philja.judiciary.gov.ph/profiles/J%20Azcuna%20Profile.htm>

²⁸⁷ Administrative Order No. 6, Continuing Judicial Education Program.

COUNTRY FACTSHEET 8: JUDICIAL TRAINING IN SINGAPORE

A. Training Organization and Institutionalisation

1. *Relevant Recent Legal and Judicial Reforms*

Prior to 1992, there was a serious backlog problem in the Singapore Courts. Beginning in 1992–1993, the judiciary began to take a more active role in case management.²⁸⁸ This involved a major attitudinal shift for judges, which was effected by the use of management techniques, dialogue to build consensus for change, training and professional development to improve core competencies, and the use of technological support systems to enhance capacity and efficiency and facilitate change.²⁸⁹ Timelines for cases and decisions were also put in place.²⁹⁰

There is a strong and continuous emphasis on technical training to ensure that the judiciary keeps abreast with new technology employed by the Courts, e.g., the launch of the new e-Litigation system in 2013.²⁹¹ Further, the Judicial Education Board (JEB) was set up in April 2010 to provide guidance and direction on the development of judicial training for judges in the Subordinate Courts in Singapore, and to put in place a systematic judicial training program.²⁹² Supreme Court judges are to have their own Judicial Awareness programme. Where desirable, common workshops will be run involving all members of the judiciary.²⁹³

2. *Institutions Responsible for Judicial Training*

There is no separate route to becoming a judge and no institution at the national level is specifically responsible for providing judicial training prior to appointments. It should be noted, however, that individualised training programs are prepared for the career progression of each judge. (*See* B.3.) Additionally, within the Subordinate Courts, there is a Judicial Education Board with the following characteristics:

Institution	Responsibility	Training Oversight and Trainers of the Institution
Judicial Education Board, within the Subordinate Courts.	Oversees the continuing education of Legal Service Officers in the Subordinate Courts. ²⁹⁴ Legal Service Officers include those who work as, among others, District Judges,	The JEB is within the structure of the Subordinate Courts. It is chaired by the Honourable Judge of Appeal, Justice V K Rajah. ²⁹⁵ The Strategic Planning and Training

288 See Karen Blochlinger. “*Primus Inter Pares: Is the Singapore Judiciary First Among Equals?*” *Pacific Rim Law & Policy Journal*, (2000) 9(3). 591.

289 Waleed Haider Malik. *Judiciary-led Reforms in Singapore – Framework, Strategies and Lessons* (hereafter **Waleed Haider Malik. *Judiciary-led Reforms in Singapore***). Washington D.C.: World Bank, 2007. 53–54.

290 *Ibid.*, 75–82.

291 *eLitigation: Singapore Judiciary’s Integrated Electronic Litigation System*. Website. Accessed 7 April 2014. <https://www.elitigation.sg/home.aspx>

292 Justice V K Rajah. “Judicial Education in Singapore—Beyond the Horizon” (hereafter **Justice V K Rajah. “Judicial Education in Singapore”**). Paper presented at Asia Pacific Courts Conference 2010, 6 October 2010. 24–31. Available at <http://www.webcitation.org/5vMjy9LC6> (accessed 7 April 2014).

293 *Ibid.*

294 “The Judicial Branch: The Subordinate Courts.” *Legal Service Commission: Annual Report 2010*. Available at: <http://app.lsc.gov.sg/data/AR/2010/LSC/judicial-subordinatecourt.html> (accessed 7 April 2014).

295 Subordinate Courts, Singapore. *Upholding Justice, Serving Society, Inspiring Trust: Annual Report 2012* (hereafter **Subordinate Courts Annual Report 2012**). Subordinate Courts. 34. Available at: <https://app.subcourts.gov.sg/Data/Files/file/AR%202012/AR%202012.pdf> (accessed 7 April 2014).

	Magistrates, Coroners or Registrars at the Subordinate Courts or the Supreme Court Registry. ²⁹⁶	Division (SPTD) of the Subordinate Courts assists the JEB. ²⁹⁷
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By way of background, the Judiciary is made up of two tiers: Supreme Court and Subordinate Courts (recently renamed “the State Courts”²⁹⁸). The Supreme Court is made up of the Court of Appeal and the High Court. The Court of Appeal is the highest appellate court. The Subordinate Courts include the Magistrate and District Courts, as well as other specialist courts, *e.g.*, Small Claims Tribunals, Family Court, Coroner’s Court, and Juvenile Court.

3. *Participants of Judicial Training*

Requisites for Participants	As judges are largely trained on the job, judicial training is only undertaken by persons who have been appointed to the Bench.
Recruitment Process	<p>Available data does not show how the JEB selects participants for its programmes.</p> <p>In regards judicial appointments, Judges and Judicial Commissioners of the Supreme Court are appointed by the President with the concurrence of the Prime Minister. In proposing appointments, the Prime Minister must consult the Chief Justice.²⁹⁹ To qualify for appointment as Judge or Judicial Commissioner of the Supreme Court, a person must have been a “qualified person” within the meaning of section 2 of the Legal Profession Act (Cap 161),³⁰⁰ read with the Legal Profession (Qualified Persons) Rules 2011, for at least ten years, or a member of the Singapore Legal Service, or both.</p> <p>In the Subordinate Courts, persons appointed as District Judges must have been a “qualified person” for at least seven years. Persons appointed as Magistrates must have been a “qualified person” for at least three years.³⁰¹ In practice, however, the average length of experience before individuals are appointed District Judges or Magistrates in the Subordinate Courts is about 17 years.³⁰²</p> <p>To be a “qualified person” under the Legal Profession (Qualified Persons) Rules 2011, a person must have at least passed the final examination of Bachelor of Laws, or have been conferred a degree of Doctor of Jurisprudence.³⁰³ Different additional criteria apply depending on the jurisdiction where such degree was conferred.³⁰⁴</p>

296 The Director, LSC Secretariat. “The Singapore Legal Service.” Available at: <http://app.lsc.gov.sg/data/6a%20Law%20Gazette%20Jun%202010.pdf> (accessed 7 April 2014); and “Opening for Singapore Legal Service Officers.” Singapore Academy of Law. Webpage. Accessed 30 March 2014. <http://www.sal.org.sg/Lists/Announcements/DispForm.aspx?ID=9>

297 Thian Yee Sze. “Building a Learning Community of Judicial Practice – The Experience of the Subordinate Courts of Singapore” (hereafter **Thian Yee Sze. “Building a Learning Community of Judicial Practice”**). In *Judicial Education Training: Journal of the International Organization for Judicial Training*, edited by Prof. Amnon Carmi. Israel: International Organization for Judicial Training, August 2013. 25.

298 Subordinate Courts (Amendment) Bill No. 26 of 2013.

299 Constitution of the Republic of Singapore, Article 95.

300 Section 2 of the Legal Professions Act (Cap 161) provides:

Section 2(1): “qualified person” means any person who —(a) possesses such qualifications as the Minister may prescribe under subsection (2), or may deem under section 14(2) or (3) to be so prescribed, and satisfies such requirements as the Minister may prescribe under subsection (2); (b) was approved by the Board of Legal Education as a qualified person under section 7 in force immediately before 9th October 2009; or (c) is approved by the Minister as a qualified person under section 15A(1) in force immediately before the date of commencement of section 3(e) of the Legal Profession (Amendment) Act 2011 or under section 14(1);

Section 2(2): For the purposes of the definition of “qualified person” in subsection (1), the Minister may, after consulting the Board of Directors of the Institute, make rules to prescribe the qualifications, education and training for, and any other requirements that must be satisfied by, persons seeking to be qualified persons under this Act.

301 Subordinate Courts (Amendment) Bill No. 26 of 2013, Clauses 6 and 7.

302 Second Reading of the Subordinate Courts (Amendment) Bill No. 26 of 2013.

303 Legal Profession (Qualified Persons) Rules 2011, Rules 5–9A.

304 *Ibid.*

Annual Average Number of Graduates	Thirty-six Subordinate Court Judges attended JEB's 2012 Judgment Writing Workshop. Also in that year, 32 Subordinate Court Judges attended its Craft of Judging Workshop.
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4. Necessity of Undergoing Pre-Judicature Training

It is typical for persons to be appointed to the Bench without prior judicial training. On the other hand, it does not appear possible for a person to be appointed as a judge without having any law background, as they are required to have been a “qualified person.” Further, the office of the Judicial Commissioners allows for the testing of the suitability of individuals for appointment as Judges of the Supreme Court.³⁰⁵ This office allows such persons (Judicial Commissioners) to be appointed on a temporary basis.³⁰⁶ In fact, all the present Supreme Court Judges were first appointed as Judicial Commissioners. The qualifications and appointment process of Judicial Commissioners is similar to that of the Judges of the Supreme Court.³⁰⁷

B. Structure and Content of Training Programme for Judges

1. Structure of Training Curriculum

There is no formal judicial training programme prior to appointment. Continuing judicial education, however, is a “perennial focus area” for the Subordinate Courts and its JEB.³⁰⁸ Judges are involved in the planning stage of JEB's training programmes, since judges are best placed to understand their training needs.³⁰⁹ According to the Subordinate Court's 2012 Annual Report, which is the latest available annual report,³¹⁰ the JEB initiated the following key programmes in 2012:

a.) Judicial Mentorship Programme

The inaugural run of the Judicial Mentorship Programme was held between March and May 2012. This programme paired Subordinate Court Judges with High Court Judges who served as their mentors. Its purpose is to provide Subordinate Court Judges with the opportunity to observe and learn from experienced High Court Judges who set the benchmark standards for ideal judicial temperament and ethics.

b.) Judgment Writing Workshop

In March 2012, Professor James Raymond, President of the International Institute for Legal Writing and Reasoning, conducted a two and a half day workshop on the skills involved in writing judgments. The course touched on methods for identifying, articulating, arranging and analysing legal issues. It also covered skills on writing effective beginnings and conclusions, recognising and avoiding common stylistic flaws in legal writing,

³⁰⁵ Constitution of the Republic of Singapore, Article 94(4); Chan Sek Keong, “Securing and Maintaining the Independence of the Court in Judicial Proceedings,” *Singapore Academy of Law Journal*, (2010) 22 SacLJ. 229; and *Supreme Court*. Website. Accessed 7 April 2014. <http://app.supremecourt.gov.sg/default.aspx?pgID=40>

³⁰⁶ Kevin YL Tan. *The Singapore Legal System*. Singapore University Press, 2nd Ed, 2003. 51.

³⁰⁷ Constitution of the Republic of Singapore, Articles 94 and 95.

³⁰⁸ *Subordinate Courts Annual Report 2012*. 8.

³⁰⁹ Thian Yee Sze. “Building a Learning Community of Judicial Practice.” 26.

³¹⁰ “Annual Report.” *State Courts Singapore*. Webpage. Accessed 31 March 2014. <https://app.statecourts.gov.sg/subcourts/page.aspx?pageid=4469>

and coping with other tasks ancillary to the writing process, *e.g.* hearing management. In addition, part of the programme was devoted to developing the subject matter and pedagogical expertise of the local judicial training faculty.

c.) *Craft of Judging Workshop*

This workshop was conducted by the Judicial College of England and Wales from 8 to 11 May 2012 and focused on developing skills such as assessing the credibility of evidence, providing sound and well-structured reasons for decisions, managing young and vulnerable witnesses, dealing with ethical issues in and outside the Court, and dealing effectively with unexpected and high conflict situations in Court.

2. *Content of Training Curriculum: Selected Specific Topics*

a.) *Judicial Ethics*

The JEB's Judicial Mentorship Programme and Craft of Judging Workshop both addressed judicial ethics. In general, judges are bound by a code of ethics.³¹¹ Legal ethics form a key component of a judge's early education and is a core component of the Practical Law Course of the Singapore Institute of Legal Education.³¹²

b.) *Human Rights and/or Fair Trial Rights*

Human rights and/or fair trial rights also form key components of a judge's early education. Constitutional and Administrative Law, Evidence Law, and Jurisprudence—subjects that cover human rights principles—are taught as compulsory subjects in both of the Law Faculties in Singapore (*viz.* the National University of Singapore and the Singapore Management University). Civil and criminal procedures are also core components of the Practical Law Course conducted by the Singapore Institute of Legal Education.

c.) *ASEAN Instruments*

In general, there is recognition in Singapore that its laws and legal scholarship must reflect the ever-increasing interconnectedness of nations and their respective legal systems.³¹³ The Law Faculties offer extensive course listings on topics relevant to the ASEAN Charter, ASEAN legal instruments, and the laws of other ASEAN countries. For example, courses such as “Introduction to Indonesian Law,” “Contract and Commercial Law in Civil Law Asia,” “International Law and Asia,” “Human Rights in Asia,” “ASEAN Economic Community Law and Policy,” “Comparative State and Religion in Southeast Asia,” “Law, Governance & Development in Asia” are offered at the National University of Singapore.³¹⁴

311 Waleed Haider Malik. *Judiciary-led Reforms in Singapore*. 56.

312 Section 4(1) of the Legal Profession Act (Cap. 161). The Singapore Institute of Legal Education was established under the Legal Profession Act (Cap. 161) and is (amongst others) entrusted with maintaining and improving the standards of legal education in Singapore, providing for the training, education, examination of persons intending to practise the profession of law in Singapore, and coordinating and exercising supervision over continuing professional development for the legal profession in Singapore.

313 See, *e.g.*, Andrew Phang. “The Singapore Legal System – History, Theory and Practice” (hereafter **Andrew Phang. “The Singapore Legal System”**). *Singapore Law Review*, (2000–2001) Sing L.Rev 23. 44.

314 “Course Listing.” *National University of Singapore: Law*. Webpage. Accessed 7 April 2014. http://law.nus.edu.sg/student_matters/course_listing/courses_disp.asp?MT=LL&Sem=ALL&MGC=2

d.) *International/Comparative Law and Conflict of Laws*

International and comparative law are also core components of the judges' early education. Both Law Faculties require graduates to have completed a compulsory course on comparative legal systems, and offer extensive international law listings. Conflict of Laws is also a compulsory course at the Singapore Management University Law Faculty, and an elective at the National University of Singapore Law Faculty.

3. *Continuing Judicial Education*

Individualised training programs and roadmaps are prepared for the career progression of each judge to ensure a systematic progression in the development of knowledge and expertise. These include continual provision of individualised feedback through, *e.g.*, the Court Craft Excellence Programme run by the JEB, which involved having a panel of experienced members of the legal fraternity observe the judge's bench skills during court proceedings and providing confidential feedback to the judge thereafter.³¹⁵

Opportunities for further education are also available to judicial officers, via applications to the Legal Service Commission.³¹⁶ As ex-Chief Justice Yong Pung How, in reference to the Subordinate Courts, emphasized:

Individualized training road maps for every judicial officer have been charted to actualize their potential and professional development. Officers who show promise are offered scholarships to pursue further studies and programmes. Presently two in every five judicial officers there possess a postgraduate law degree.³¹⁷

An author also observed that, aside from providing scholarships to study in leading universities locally and abroad and preparing individualised training programs, judges are encouraged to participate in international seminars and workshops. Additionally, contacts with international institutions and access to legal databases, the e-justice knowledge-sharing network, and libraries have helped judges to improve their performance.³¹⁸

Lastly, as mentioned above, the Subordinate Court's the JEB has initiated the key programmes in 2012 in order to enhance continuing judicial education.

315 Justice V K Rajah. "Judicial Education in Singapore." 32; Thian Yee Sze. "Building a Learning Community of Judicial Practice." 27.

316 The Legal Service Commission is constituted under Part IX of the Constitution. Its jurisdiction extends to all officers in the Singapore Legal Service. It has the duty to appoint, confirm, emplace on the permanent establishment, promote, transfer, dismiss and exercise disciplinary control over officers in the Legal Service. Its mission is to maintain a dedicated corps of officers with integrity and ability to staff the Judiciary, the Attorney-General's Chambers and the Legal Service departments of various Ministries and other arms of Government. "Introduction." *Singapore Legal Service*. Webpage. Accessed 13 March 2014. <http://app.lsc.gov.sg/data/index.htm>

317 Speech of CJ Yong cited in Andrew Phang, "The Singapore Legal System." 38.

318 Waleed Haider Malik. *Judiciary-led Reforms in Singapore*. 50.

COUNTRY FACTSHEET 9: JUDICIAL TRAINING IN THAILAND

A. Training Organization and Institutionalisation

1. *Relevant Recent Legal and Judicial Reforms*

The 1997 Constitution reformed the judicial system in Thailand significantly. Most importantly, the Courts of Justice were separated from the Ministry of Justice. As a result, the Courts of Justice now have an independent secretariat, namely, the Office of the Judiciary, which is headed by a Secretary-General who reports directly to the President of the Supreme Court. The Office of the Judiciary has autonomy in personnel administration, budget, and other activities as provided by law. It has its own staff and is divided into several offices and divisions.

Regarding judicial training, before the Constitution separated the Courts of Justice from the Ministry of Justice, the Training and Seminar Division (which organized trainings for judge-trainees before sending them to be trained with senior judges) was under the supervision of the Office of the Judicial Affairs. After the independence of the Courts of Justice and with the enactment of the Act of Judicial Service of the Courts of Justice, B.E. 2543, an official body called the Judicial Training Institute (JTI) was set up on 21 August 2000 to supervise the training.³¹⁹

1. *Institutions Responsible for Judicial Training*

Institution	Responsibility	Training Oversight and Trainers of the Institution
1. Judicial Training Institute , under the judiciary, Office of the Judiciary.	Responsible for training judicial personnel, including <ol style="list-style-type: none"> 1. Career judges (and trainees) 2. Lay judges (associate judges) 3. Senior judges 4. Kadis (<i>Datob Yutithum</i>) 	The JTI's Judicial Training Administration Committee as well as the Commission on Curriculum Controlling and Development Plan of the Judicial Services provide oversight over the JTI. ³²⁰ The Committee focuses on the administration of the training courses, while the Commission selects the trainers. A Board of Committee supervises each training program.
2. Training and Development Office , under the Attorney General, Ministry of Justice.	Responsible for training prosecutors, including <ol style="list-style-type: none"> 1. Public prosecutors 2. Prosecutor-trainees 	Oversight is provided by the Office of the Attorney-General.

³¹⁹ *Judicial Training Institute*. Website. Accessed 7 April 2014. <http://www.jti.coj.go.th/>

³²⁰ Regulations of the Judicial Administration Commission on Training and Development of Judicial Services of the Courts of Justice, B.E. 2546.

2. *Participants of Judicial Training*

a.) *Judicial Training Institute (JTI)*

Requisites for Participants	Recruitment Process	Annual Average Number of Graduates
<p>A career judge candidate must³²¹</p> <ul style="list-style-type: none"> - Pass the entrance exam; - Be of Thai nationality; - Possess a law degree; - Pass the examination of the Thai Bar Association; - Have no less than 2 years prior work experience in the legal profession. 	<ul style="list-style-type: none"> - Qualified candidates for judge-trainee are chosen by one of three methods: open examination, knowledge test, special selection;³²² - There is an entrance examination for career judges, organized by the Judicial Commission; - Candidates with satisfactory training result will be approved by the Judicial Commission and tendered to the King for royal appointment to be a judge. 	<p>There are a large number of applicants, with only a few being selected.</p> <p>In 2011, there were 7,642 applicants, with only 15 or less than 0.2% passing the process.</p> <p>In 2012, there were 4,595 applicants, with only 12, less than 0.25%, passing the process.³²³</p>

a.) *Training and Development Office*³²⁴

Requisites for Participants	Recruitment Process	Annual Average Number of Graduates
<p>A candidate must</p> <ul style="list-style-type: none"> - Pass the entrance exam for public prosecutors organized by the Office of the Attorney General - Be of Thai nationality; - Possess a law degree; - Pass the examination of the Thai Bar Association; - Have no less than 2 years prior work experience in the legal profession. 	<ul style="list-style-type: none"> - Qualified candidates for prosecutor-traineeship are chosen by one of three methods: open examination, knowledge test, special selection; - All accepted trainees have to participate in a one-year training course. 	<p>Not adequately identified in available literature.</p>

3. *Necessity of Undergoing Pre-Judicature Training*

All career judges have to pass the compulsory examinations and must participate in the initial judicial training courses offered to all judge-trainees by the Judicial Training Institute. However, different requirements are

³²¹ See Act on Judicial Administration of the Courts of Justice, B.E. 2543.

³²² An open examination is open for applicants who hold an LL.B degree; a knowledge test is for persons who hold an LL.B. and LL.M.; and a special selection process is for persons who hold an LL.M. or Ph.D. from foreign country. See Act on Judicial Services of the Courts of Justice, B.E. 2543, Articles 26-29.

³²³ *Office of the Judicial Commission*. Website. Accessed 9 March 2014. <http://www.ojc.coj.go.th/>

³²⁴ Training and Development Institute. *Office of the Attorney-General*. Webpage. Accessed 9 March 2014. <http://www.dt.ago.go.th>

in place for the appointment of a *Datoh Yutithum* (Kadi)³²⁵ as well as an associate judge (a lay judge).³²⁶ These judges are recruited through a separate process held by each court and may have a specialization other than in law. Nevertheless, both Kadis and lay judges also have to participate in specific judicial training provided by a court or specialized court prior to their appointment.

B. Structure and Content of Training Programme for Judges

1. Structure of Training Curriculum

The Judicial Training Institute conducts a one-year judge-trainee training course, which consists of three parts: judicial knowledge, practical training, and academic training.³²⁷

- 1) The judicial knowledge training comprises six sections:
 - (1) Introduction to court works, knowledge related to the work of the Court;
 - (2) Knowledge related to the role of the judge (*e.g.* judicial culture, judicial idealism, and professional ethics);
 - (3) Thai language usage;
 - (4) Knowledge related to court procedure;
 - (5) Judicial character; and
 - (6) Activities.
- 2) For the practical training component, each judge-trainee is assigned to assist a career judge with court proceedings.
- 3) Academic training comprises the following sections:
 - (1) Civil and criminal procedure;
 - (2) Special courts' procedure;
 - (3) Legal interpretation;
 - (4) General knowledge (*e.g.* narcotic drugs, gambling, and "new laws in the globalized world," such as human rights, transnational crimes, international criminal law, or money laundering);
 - (5) Organs under the Constitution and the Constitutional Process;
 - (6) Moral, professional ethics and judicial character; and
 - (7) Moot court practice.

325 The word "Datoh Yutithum" was translated as "Kadi" in the English Name Lists of Organizations and Offices of Judges and Officials of the Courts of Justice. According to the *Act on the Application of Islamic Law in the Territorial Jurisdiction of Pattani, Narativat, Yala and Satun Provinces*, B.E. 2489, the Islamic Law on Family and Succession, except as stated in provisions on prescription in respect to succession, shall apply instead of the Civil and Commercial Code in giving a judgment in civil cases concerning family and succession of Muslims. In such cases, career judges and a Kadi who is an expert in Islam will sit on the bench together to adjudicate a case.

326 Lay judges are laymen recruited separately to perform duties in the Juvenile and Family Courts, the Labour Court or the Intellectual Property and International Trade Court. The aim of having lay judges is to have an experienced person or an expert in a relevant field who can work closely with a career judge in adjudicating cases. Unlike a career judgeship, a lay judgeship is not a permanent position. Each lay judge holds office for a term of certain years depending on which specialized court he or she is assigned to.

327 Legal Research Institute Foundation. "Potential Development of Judges: A Comparative Study and Practices of Civil Law and Common Law Countries." Bangkok: Courts of Justice, 2007. 11-26.

The specific curriculum for lay judges and Kadis are provided differently and depend on the requirements of each special court, such as family courts, labour courts, and intellectual property and international trade courts. Kadis will be trained in Islamic law and professional ethics.

2. Content of Training Curriculum: Specific Topics

a.) *Judicial Ethics*

Judges are subject to the Code of Judicial Conduct,³²⁸ and judicial ethics is part of the training curriculum of judge-trainees. This training section covers judicial discipline and ethics, judicial wisdom, professional way of life of the judiciary, ethical practice in court trials, ethical practice in administrative works, ethical practice of individual and family, ethical practice in other matters, religious way of living, way of life of renowned justices, justice in common sense and justice to the law, social status of character, physical character, verbal character, mind development, image of a judge under expectation of the public, and conventional social manner.

b.) *Human Rights and/or Fair Trial Rights*

Human rights is provided and integrated into the judicial training curriculum for judge-trainees, within the “general knowledge” section. Moreover, human rights is also included in the in-service training curriculum for judges.

c.) *ASEAN Instruments*

The ASEAN Charter, ASEAN legal instruments and other relevant cross-border instruments are not in the main part of the judicial training curriculum, which focuses on judicial knowledge and procedure. However, information relating to ASEAN documents may be included in the curriculum for judge-trainees under the general knowledge section in the topic relating to new laws in the globalized world, or contained in the in-service course for career judges.

d.) *International/Comparative Law and Conflict of Laws*

There is no section dedicated to international and comparative law in the judicial training curriculum for judge-trainees. However, the curriculum contains international or comparative law as a small part of the general knowledge section. There appears to be no special subject on conflict of laws in the curriculum for career judge-trainees, but it is a part of the International Trade Law course in the training curriculum for lay judges in intellectual property and international trade court.

3. Continuing Judicial Education

The Judicial Training Institute provides not only judicial training for judge-trainees but also in-service judicial trainings for judges at all levels. These trainings aim to inform them on the latest legal development in the form of seminars and conferences, namely: (1) Training Course for Junior Judge; (2) Training Course for Judges of the Court of First Instance; (3) Administration Course of Court of First Instance; (4) Training Course for Judges of Court of Appeal; (5) Training Course for Chief Judge of Court of Appeal; (6) Training Course for Judges of Supreme Court; and (7) other special courses.³²⁹

328 Office of the Judiciary. “The Code of Judicial Conduct, B.E. 2552.”

329 For details, see *Judicial Training Institute*. Website. Accessed 9 March 2014. <http://www.jti.coj.go.th/>

COUNTRY FACTSHEET 10: JUDICIAL TRAINING IN VIET NAM

A. Training Organization and Institutionalisation

1. *Relevant Recent Legal and Judicial Reforms*

An important milestone of judicial reform in Viet Nam is the State’s adoption, in 2002, of a judicial reform strategy toward 2020.³³⁰ This judicial reform strategy has called for modernizing the justice regime and improving the professionalism of judges.³³¹ Based on the set blueprint, the Government authorized the Ministry of Justice to establish a Judicial Academy (JA) in 2004, which shall serve as the national judicial institution responsible for both initial and in-service training for all judicial titles in Viet Nam, including judicial training for judges.³³²

Prior to the establishment of the JA, Viet Nam did not have any official training institution responsible for judicial training and education. The court appointed judges without requiring them to take formal courses of professional training. They were selected and appointed by the court based on their working experience as court officers, clerks, tribunal secretaries and prosecutors, and legal experts of governmental bodies.³³³ The establishment of the JA has changed significantly the conditions for appointment and contributed considerably to the development of the quality of judges. Nowadays, all judges in Viet Nam must be trained in the JA’s judicial training programs.³³⁴

2. *Institutions Responsible for Judicial Training*

Institution	Responsibility	Training Oversight and Trainers of the Institution
1. Judicial Academy , a public education institution under the Ministry of Justice.	Responsible for judicial training of judicial titles in Viet Nam, including ³³⁵ <ol style="list-style-type: none"> 1. Judges; 2. Lawyers; 3. Public prosecutors; 4. Public notaries; 5. Bailiffs; 6. Other judicial titles. 	The Ministry of Justice oversees the management of the JA and appoints its Director and Board of Directors. All officers of the JA are civil servants working for the MOJ. ³³⁶ Aside from a group of permanent trainers, the JA also engages a number of legal experts from law research institutes, senior judges and prosecutors, and academics of leading law schools as adjunct lecturers.

330 Decision No. 23/2004/QĐ-TTg of the Prime Minister on establishment of Judicial Academy (Decision 23/2004/QĐ-TTg).

331 Institute of State and Law. *Legal and Judicial Reforms in Viet Nam*. IDE-JETRO, IDE Asian Law Series No. 7, Hanoi (2001). 11-16. See also Le Thi Thu Ba. *Cong tac quan ly toa an nban dan dia phuong va van de nang cao trinh do van hoa xet cu cua cac toa an (Local People’s Court Management and Judging Cultural Enhance of People’s Courts)*. Legal Science Information Review Issue 7 (2001): 18-27.

332 Decision No. 23/2004/QĐ-TTg, Art. 3.

333 Penelope (Pip) Nicholson and Nguyen Hung Quang. “The Vietnamese Judiciary: The Politics of Appointment and Promotion” (hereafter **Penelope (Pip) Nicholson and Nguyen Hung Quang, “The Vietnamese Judiciary”**). *Pacific Rim Law and Policy Journal*, Vol 14 (1) (2005): 1-34. See also Nguyen Hai Ninh. *Reform of Justices in Viet Nam*. ASEAN Law Association, 10th General Assembly. Available at <http://www.aseanlawassociation.org/10GAdocs/Vietnam5-1.pdf> (last assessed 18 Feb 2014).

334 Ordinance on Judges and Jurors of People’s Courts 2002, Art. 37; and Circular 01/2011/TTLT-TANDTC-BQP-BNV of the Peoples Supreme Court on guiding on implementation of some provisions of the Ordinance on Judges and Jurors, Art. 1.

335 Decision No. 23/2004/QĐ-TTg, Art. 3.

336 Ibid., Arts. 2 & 4.

2. School of Tribunal Servants , Supreme Court.	Organizes some short-training courses for judges to improve and strengthen judicial qualities.	This is an educational institution operating under the Supreme Court
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3. *Participants of Judicial Training*

a.) *Judicial Academy (JA)*

Requisites for Participants	Recruitment Process	Annual Average Number of Graduates
<p>A judge candidate must³³⁷</p> <ul style="list-style-type: none"> - Have a legal background (<i>e.g.</i> graduation from licensed national law schools or foreign law schools recognized by the MOJ); - Be recommended by the judiciary; - Have a Vietnamese nationality; - Have no criminal record; - Have good morality. 	<p>There are no entrance exams, and candidates are usually former court officers, tribunal secretaries, and judicial clerks with at least four years of work experience.</p> <p>Thus, candidates must first pass the public examination for civil servants to qualify to work as judicial clerk/tribunal secretary.³³⁸ During their service at the court, they undergo in-service training courses provided by the School of Tribunal Servants.³³⁹</p> <p>Only those with satisfactory results and good performance during their services can be selected for appointment as judge and attend the JA training course.³⁴⁰</p> <p>The court system comprises three levels: District People’s Courts, Provincial People’s Courts and Supreme People’s Court. The Chief Justice of the Supreme Court exercises the power to appoint lower level judges from the list of preferred appointees submitted by the Judicial Selection Council of district or provincial levels.³⁴¹</p>	<p>Judge candidates must accomplish the JA’s judicial training program. Each year, the Chief Justice of the Supreme People’s Court will decide the quota for appointment of judges depending on the needs of the respective administrative units. The Chief Justice of the relevant provincial court would select and send the qualified court clerks and tribunal secretaries of its jurisdiction to participate in the JA’s training.³⁴²</p> <p>On average, the JA accepts about 500 students per year in its judicial training program and graduation rate is around 90%, <i>i.e.</i> being awarded a certificate of accomplishment of the program issued by the JA (JA Certificate).³⁴³</p>

337 Law on Organization of the Peoples’ Court (2002), Art. 37; Ordinance on Judges and Jurors of People’s Courts (2002), Art. 20.

338 Ordinance on Judges and Jurors of People’s Courts 2002, Art. 5. *See also* commentary in Penelope (Pip) Nicholson and Nguyen Hung Quang, “The Vietnamese Judiciary.”

339 The School of Tribunal Servants was established under Resolution No. IX 210/UBTVQH of the Standing Committee of the National Assembly dated 20/5/1994 and Decision 100/TCCB dated 23/8/1994 of Chief Justice of The Supreme People’s Court. For further information, visit its website. *School of Tribunal Servants*. Website. Last accessed 7 April 2014. <http://tcba.toaan.gov.vn/portal/page/portal/tcba/27676661>

340 Direction 152/2003/TCCB of The People’s Supreme Court of Viet Nam guiding recruitment, selection and promotion of civil servant ranks within the court, dated 1/8/2003 (Direction 152/2003/TCCB).

341 Direction 152/2003/TCCB. *See also* Penelope (Pip) Nicholson and Nguyen Hung Quang, “The Vietnamese Judiciary.”

342 Law on Organization of the Peoples’ Court, Art. 40.

343 Judicial Academy. *Bao cao thanh tuu 15 nam hoat dong cua Hoc vien tu phap (Report on Achievement of Judicial Academy in 15 years of operation)*. 2014.

4. Necessity of Undergoing Pre-Judicature Training

In the past, judges in Viet Nam could be appointed without any formal judicial training as long as they had experience working as judicial officers, judicial clerk or prosecutors or legal experts of governmental bodies (with “judging experience”).³⁴⁴ Since 2004, possessing a JA Certificate, signifying successful completion of the JA’s course, has been a mandatory requirement for appointment as a judge. In practice, however, in some very exceptional cases (*i.e.* the court has a special demand for a judge with a certain expertise or where the candidate is a proven legal expert), the Supreme Court may consider waiving the requirement of a JA certificate.³⁴⁵

B. Structure and Content of Training Programme for Judges

1. Structure of Training Curriculum

The JA training course is conducted full-time and is 12 months in length. The training course is entirely financed by the government; students participating in the course shall not pay any tuition fee and also receive their salaries in full during the study. The training curriculum is focused mainly on the future judges’ skills to hear specific cases rather than teaching the content of law. The JA’s judicial training curriculum for judges comprises the following parts:³⁴⁶

- 1) *Fundamental knowledge*, including the following modules: (i) judge’s moral; (ii) the relationship between judge, lawyer and prosecutor; (iii) communication skill at trials; (iv) psychologies of judge; (v) human rights in judiciary; (vi) new content of administrative law 2010; (vii) new content of civil procedure law 2004; (viii) introduction to arbitration law; (ix) international integration and judiciary; and (x) international cooperation on criminal procedure;
- 2) *Specialized professional knowledge*, including the following modules: (i) skills on judging civil, business, trade and labour cases; (ii) skills on criminal cases; and (iii) skills on administrative cases (all units including matters such as collecting, considering and using evidences, drafting of documents and judgments, and moot courts);
- 3) *Professional knowledge for practices at local courts*;
- 4) *Specialized skills*.

2. Content of Training Curriculum: Specific Topics

a.) Judicial Ethics

In Viet Nam, although a Code of Ethics has not been introduced, all judges are required to observe “judge morals” and good ethics.³⁴⁷ Hence, principles of legal ethics and judge morals are taught in the curriculum as part of fundamental knowledge of the professional training program. In particular, the core course is organized to distinguish the differences between common social morals and ethics from those of a judge.

344 Penelope (Pip) Nicholson and Nguyen Hung Quang. “The Vietnamese Judiciary.” See also Hanoi Institute of State and Law. *Legal training*. Institute of Developing Economies, Japan External Trade Organization, Available at http://d-arch.ide.go.jp/idedp/IAL/IAL000700_007.pdf (last visited 10 February 2014).

345 Chapter I (section 1), Circular 01/2011/TTLT-TANDTC-BQP-BNV of the Peoples Supreme Court on guiding on implementation of some provisions of the Ordinance on Judges and Jurors.

346 The contents of JA course is publically available at its website. *Judicial Academy*. Website. Last accessed 7 April 2014. http://hocvientuphap.edu.vn/Tai_lieu.aspx?id=2

347 Law on Organization of the Peoples’ Court (2002), Art. 37; Ordinance on Judges and Jurors of People’s Courts (2002), Art. 20.

b.) *Human Rights and/or Fair Trial Rights*

The training program has a module named “human rights in judiciary” which is compulsory for participants. The module covers the basic rights of the accused before and after the punishment, and the humanitarian aspect of each judgment.

c.) *ASEAN Instruments*

The JA training curriculum includes one module on “international integration and judiciary.” This module focuses on international legal and practical issues that judges must be aware of and understand to resolve disputes with foreign elements and disputes arising from the economic integration of Viet Nam. The content gives an introduction to arising issues caused by economic integration, such as foreign crimes and international trade disputes, which judges may face in their practice. The module also explains the most important treaties and legal documents of ASEAN.

d.) *International/Comparative Law and Conflict of Laws*

The curriculum does not include any particular module on international law and/or comparative law, although there are modules on (i) international integration and judiciary and (ii) international cooperation on criminal procedure. It should be noted that international law and comparative law are taught in the bachelor of laws program at law schools in Viet Nam. Conflict of laws, in the sense that one national law might be in conflict with another national law, or with an international legal instrument, is not taught as a separate module in the JA judicial training program. Certain aspects or issues of conflict of laws could, however, be included in some modules in the curriculum.

3. *Continuing Judicial Education*

Judges in Viet Nam are not mandated to take any other course as they have qualified through the appointment procedure. However, each year, they may be required to attend short-term in service training courses by the School of Tribunal Servants, an educational institution operating under the Supreme Court, as part of continuous legal education. Content of the courses change from year to year to accommodate newly enacted laws or regulations and new developments in juridical practice.

ANNEXES

ANNEX 1:

Literature Review, by Country

1. Brunei

Books, Newspaper Articles and Other Documents

1. Azrimah Binti Haji Abdul Rahman, Legal Counsel, Attorney General's Chambers, "Working Paper for National Day Seminar 2006, 'Legal System in Brunei Darussalam after the Signing of the Supplementary Agreement 1905/1906 between Brunei and Great Britain.'"
2. "Brunei attends ASEAN Law meet." *The Brunei Times* (8 March 2011). Webpage. Accessed 1 April 2014. <http://www.bt.com.bn/news-national/2011/03/08/brunei-attends-asean-law-meet>
3. "Brunei Darussalam country brief." Australian Government: Department of Foreign Affairs and Trade. Webpage. Accessed 1 April 2014. http://www.dfat.gov.au/geo/brunei/brunei_brief.html
4. Datin Paduka Hayyati Saleh. "Brunei Darussalam: Independence of The Judiciary Revisited and Towards More Effective Case Management." *ASEAN Law Association* PDF. Accessed 31 January 2014. http://www.aseanlawassociation.org/docs/w1_brunei.pdf
5. European Parliament, Directorate-General for External Policies, Policy Department. "ASEAN Citizen's Rights, Rule of Law, Judiciary, and Law Enforcement." July 2013.
6. "Judges agree to create conducive environment for China-ASEAN FTA." *The Brunei Times* (16 October 2008). Webpage. Accessed 1 April 2014. http://www.bt.com.bn/home_news/2008/10/16/judges_agree_to_create_conducive_environment_for_china_asean_fta
7. "Monarch calls public to unite as one to support Syariah law." *Borneo Post Online* (7 March 2014). Webpage. Accessed 22 March 2014. <http://www.theborneopost.com/2014/03/07/monarch-calls-public-to-unite-as-one-to-support-syariah-law/>
8. Nabil Daraina Badaruddin. "Legal Education in ASEAN in the 21st Century: Brunei Perspective." N.d. Available at: http://www.aseanlawassociation.org/9GAdocs/w2_Brunei.pdf (accessed 28 March 2014).
9. Pg Rostaina Pg Duraman, Chief Registrar, Supreme Court Brunei. "The Framework of the Judicial Cooperation in ASEAN in Case Management The Brunei Darussalam Experience." Available at <http://www.aseanlawassociation.org/11GAdocs/workshop2-brunei.pdf> (accessed 28 March 2014).
10. Quratul-Ain Bandial. "Court interpreters need more training." *The Brunei Times* (30 October 2010). Webpage. Accessed 2 April 2014. <http://www.bt.com.bn/news-national/2010/10/30/court-interpreters-need-more-training>

Laws and Regulations

1. Intermediate Courts, Cap. 162.
2. Subordinate Courts Act.
3. Supreme Court Act (1984 as amended in 2001).
4. Syariah Courts Act.

Online Resources

1. Judicial Brunei Darussalam. "Judiciary Brunei Darussalam." Website. Accessed 31 January 2014. <http://www.judicial.gov.bn/>

2. Cambodia

Books, Newspaper Articles and Other Documents

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ANNEX 2:

Overview of Judicial Training in ASEAN

	Brunei	Cambodia	Indonesia	Lao PDR	Malaysia	Myanmar	Philippines	Singapore	Thailand	Viet Nam
1. Is there an initial or induction training programme for candidates for judicial positions?	No	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes
2. Is the initial or induction training made mandatory by any law, rule, or regulation?	NA	Yes ³⁴⁸	Yes	Yes	Yes ³⁴⁹	ID	Yes	NA	Yes	Yes ³⁵⁰
3. Is there a specific institution charged with continuously developing the initial training curriculum for candidates for judicial positions?	NA	Yes	Yes	Yes	Yes	Yes	Yes	NA	Yes	Yes
4. Is information on the qualification criteria and selection process for the initial or induction training programme readily accessible?	NA	Yes ³⁵¹	Yes	No ³⁵²	Yes	No ³⁵³	Yes	NA	Yes	Yes
5. Is prior formal legal education always a prerequisite for judicial appointment?	No ³⁵⁴	Yes	No ³⁵⁵	Yes	No ³⁵⁶	Yes ³⁵⁷	Yes	Yes	Yes ³⁵⁸	Yes
6. Is there an established continuing education programme (as opposed to ad-hoc trainings or seminars) for judges that is taught or facilitated by an institution tasked with providing in-service training to judges?	No	ID ³⁵⁹	Yes	No	Yes	No	Yes	ID ³⁶⁰	Yes	Yes ³⁶¹

348 However, information is not from primary sources, e.g. law and regulations, but from articles written by third parties or from employees of the institution.

349 An exception may perhaps lie with regard to the appointment of second class magistrates, as they are not required to be members of the Judicial and Legal Service and are required only to be “fit and proper.”

350 In very exceptional cases, when the Supreme Court views there is a special need for a certain expertise or the person is considered a proven legal expert, this may not be a requirement.

351 However, information, especially on the selection process, is not from primary sources, e.g. law and regulations, but from articles written by third parties or from employees of the institution.

352 In terms of the qualifications determined by law, information is accessible. However, the basis on which certain criteria were determined during the selection process was not found (e.g. obtaining the required recommendation from a superior judicial officer).

353 In terms of the qualification determined by law, information is accessible. However, adequate information on the selection or admission process was not found.

354 Magistrates at the Subordinate Courts are simply required to be “fit and proper.”

355 *Ad hoc* judges at the Industrial Relations Court are only required to possess a bachelor’s degree.

356 Second class magistrates are only required to be “fit and proper.”

357 An exception may perhaps lie in the provision of the Union Judiciary Law allowing the President to appoint an individual that he/she may consider an “eminent jurist.”

358 Judges in Thailand have to have background in law. However, a person without legal background can be appointed as a *Datob Yutithum* or “Kadi” (an expert in Islam who sits with a career judge), as well as an associate judge (a lay judge, who also sits with a career judge in certain cases).

359 Reports indicate that there are continuing judicial education trainings, but not enough information on whether trainings are regular and systemized was found.

7. Are judges given opportunities to develop their skills aside from through the established continuing education programme? E.g., Scholarships for further education, ad hoc seminars, or support to attend trainings locally or overseas.	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
8. Does the training curriculum for candidates or judges include the following on a regular basis?										
a) Judicial ethics	NA	Yes	Yes	Yes	Yes	ID ₃₆₂	Yes	ID ₃₆₃	Yes	Yes
b) Human rights and fair trial rights	NA	ID ₃₆₄	Yes	Yes	Yes	ID ₃₆₅	Yes	NA ₃₆₆	Yes	Yes
c) ASEAN instruments	NA	No	No	No ₃₆₇	Yes	No	No ₃₆₈	NA	No ₃₆₉	Yes
d) International/Comparative law and conflict of laws	NA	No	Yes ₃₇₀	No ₃₇₁	Yes	No	Yes	NA	Yes ₃₇₂	Yes ₃₇₃
9. Is there any collaborative training or curriculum development project with other ASEAN judicial training institutions?	Yes	Yes	ID	Yes	Yes	Yes	Yes	Yes	Yes	Yes
10. Is there a government policy or commitment to standardize judicial training?	ID	Yes	Yes	Yes	Yes	Yes	Yes	Yes ₃₇₄	Yes	Yes

Legend:

NA — Not applicable

ID — Insufficient data

360 The Judicial Education Board in the Subordinate Courts had initial continuing education trainings in 2012. More information as to its consistency is needed before trainings can be considered regular. Additionally, there is no information that such a move is being made in the High Courts.

361 There appears to be yearly continuing education program/s at the School of Tribunal Servants. It is also within the mandate of the Judicial Academy to render in-service training. However, more information on how participants are selected would be valuable.

362 It is unclear if this is taught in the regular training curriculum, but there have been trainings on these issues.

363 The Judicial Education Board in the Subordinate Courts had initial continuing education trainings in 2012 and covered judicial ethics. More information as to its consistency is needed before such trainings can be considered regular. Additionally, there is no information that such a move is being made in the High Courts.

364 There have been trainings on these topics. More information is needed to establish whether or not this is taught regularly.

365 It is unclear whether this is taught in the regular training curriculum, but there have been trainings on these issues.

366 This was not covered in the Judicial Education Board's initial continuing education trainings in 2012, and there is, generally, no standardized training curriculum in Singapore, with the judiciary relying more on individualized programmes.

367 However, there have been seminars organized on the topic of ASEAN Integration.

368 While not included in the curriculum of the Core Programs, there have been some efforts to incorporate ASEAN-wide concerns in lectures and special focus group programs.

369 The ASEAN legal instruments and other relevant cross-border instruments are not in the main part of the judicial training curriculum. This topic may be or have been included in the curriculum under the "general knowledge" section.

370 Currently given only to ad hoc industrial court judges, and only concerning international trade and labour laws.

371 There are, however, courses organized by UNDP on International Law.

372 The curriculum has international or comparative law as a small part of the "general knowledge" section.

373 There are modules on (i) international integration and judiciary and (ii) international cooperation on criminal procedure in the curriculum.

374 Through the Judicial Education Board in the Subordinate Courts, efforts are being made to standardize training. There is no information that such a move is being made in the High Courts, which rely heavily on individualise programmes.