

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**

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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.