

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



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/>