

**STRENGTHENING CAPACITY FOR
ENVIRONMENTAL LAW IN MALAYSIA'S
JUDICIARY:
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Drafting exercise on definition of
“ Environment”

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WHY ENVIRONMENTAL LAW?

- Environmental law is a new branch of law whereby its concepts, principles and procedures are still in the moulding process.
- Judiciary has a vital role to play in this whole process. It is the judicial decision-making that gives shape and direction to the new concepts and procedures involved.
- Judges have long had a central role in developing and enforcing effective laws for the protection of the environment and ensuring access to justice.

DEFINITION OF `ENVIRONMENT' IN STATUTE

- An environmental statute is enacted by Parliament where the term `environment' may contain in the definition section that sets forth and defines this term used in that statute.
- However, the definition of the term “environment” in a statute can have a far-reaching consequences in environmental protection.

HOW IS 'ENVIRONMENT' DEFINED UNDER THE LAW?

- **MALAYSIA**
- **Environmental Quality Act 1974**
- **Section 2. Interpretation.**
- "environment" means the physical factors of the surroundings of the human beings including land, water, atmosphere, climate, sound, odour, taste, the biological factors of animals and plants and the social factor of aesthetics.

HOW IS 'ENVIRONMENT' DEFINED UNDER THE LAW?

- **India**

- The Environmental Protection Act 1986

- Section 2 (a):

- "Environment" includes :

- a) Water, air and land

- b) The inter-relationship which exists among and between,

- i) water, air, land, and

- ii) human beings, other living creatures, plants, microorganisms and

- property**

Activity 3: Drafting exercise on definition of "Environment".

HOW IS 'ENVIRONMENT' DEFINED UNDER THE LAW?

- **Canada**

- **Environmental Protection Act 1999**

- **Section 3 (1) : Definitions**

- Environment means the components of the Earth and includes

- (a) air, land and water;

- (b) all layers of the atmosphere;

- (c) all organic and inorganic matter and living organisms; and

- (d) the interacting natural systems that include components referred to in paragraphs

- (a) to (c).

Activity 3: Drafting exercise on definition of "Environment".

HOW IS 'ENVIRONMENT' DEFINED UNDER THE LAW?

- **New Zealand**

- **Environment Act 1986:**

- Section 2: Interpretations: *environment* includes—

- (a) ecosystems and their constituent parts including people and communities; and

- (b) all natural and physical resources; and

- (c) those physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes; and

- (d) the social, economic, aesthetic, and cultural conditions which affect the matters stated in paragraphs (a) to (c) or which are affected by those matters.

Activity 3: Drafting exercise on definition of "Environment".

YOUR TASK

- For this drafting exercise, participants are not asked to interpret the term `environment`, but to draft legislative definition of `environment`.
- Objective of drafting: A legal definition of the environment that helps delineate the scope of the subject, determine the application of legal rules, and establish the extent of liability when harm occurs.
- Participants are divided into groups of 5 to draft legislative definition of `environment`.
- Groups are given 15 minutes to write the feedback.

CONCLUSION

- Through this drafting exercise, participants can generate a deeper understanding of environmental issues to enable judges make informed decisions in environmental cases.

THANK YOU

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