STRENGTHENING CAPACITY FOR ENVIRONMENTAL LAW IN MALAYSIA’S JUDICIARY: TRAIN-THE-JUDGES PROGRAM (TTJ)
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AIR POLLUTION TUTORIAL EXERCISE
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Objectives

- This air pollution tutorial exercise addresses judges dealing with environmental issues.
- It is meant to provide judges with relevant information on air pollution and to assist them in applying suitable environmental law principles and strategies relating to air pollution.
Objectives

- After this exercise on air pollution, participants will have greater knowledge of approaches relevant in deciding air pollution cases and will gain a better understanding of the legal aspects related to air pollution allowing judges to be in a better position to actively apply these approaches.

- This exercise would also provide an opportunity for judges to exchange views regarding implementation practices pertaining to air pollution cases.
Description of Objectives of this tutorial exercise

- This tutorial exercise is done in groups.
- Each group is given 15 minutes to discuss and to write down their views in point forms.
- After the discussion each group’s rapporteur is given 5 minutes to explain the results of their discussion.
- Other groups will be invited to give comment and to discuss any differences of opinion or approach.
Participants will be given a case study on a situation involving air pollution issues that are raising possible legal and administrative questions.

The aim of this case-study is to consolidate the knowledge and skills received during the earlier sessions and apply them in solving issues raised in the tutorial exercise.

The participants need to discuss on possible actions that can be applied in dealing with the situations.

Each group needs to draft possible legal solutions to the problem.
Your Task

- For this tutorial exercise, participants are asked to read the following problem and write the feedback.
- Each group is given 15 minutes to write the feedback.
Siba, an old Iban native, has been living in a communal long house in a remote part of Sarawak all his life, and depends entirely on forest for livelihood. Just like their ancestors, Siba and his neighbours practice shifting cultivation by growing sago palm, fruit trees, paddy rice and vegetables. This type of farming involves traditional techniques of cutting down forested areas, burning the vegetation to produce fertile ash, and then farming that land for a period of time.

In 2017, a palm oil company by the name of Palm Group Company, was granted a provisional lease for 2,500 hectares of forest land for the palm oil plantation. Siba and his neighbours were concerned that the leased land is located very near to their native land. However, Siba’s grandson Jeffrey and other younger villagers were excited about possible job opportunities from the opening of palm oil plantation in their area. Although the company insisted that they apply zero-burning policies, systematic and intentional burning with the aim of clearing and preparing land for planting palm oil still occurs in many locations. Siba and his neighbours were not happy with the company’s activities for the clearing of forests and destruction of crops, but they were not sure what to do. Recently, when they were forced to flee their houses due to heavy smoke and fire coming from the plantation area, the Department of Environment was alerted. This has resulted in the formation of an investigation team to conduct ground checks not only on the plantation area, but also in the surrounding forests. On the part of the Palm Group Company, they did not deny that haze and fires have taken place, but blames them on neighboring local farmers. Whereas Siba and his neighbours claimed that the forest fire was due to land clearing activities of palm oil plantation on peat soil.

Discuss possible legal action(s) relating to air pollution offences.

Can they invoke any defence against such action(s)?

What are possible remedies available?
Conclusion

Through this exercise, participants will be able to deepen their knowledge regarding the implementation and enforcement of air pollution law in a practical manner.

This can further enhance their grasp of knowledge in relation to challenges faced or posed by different parties in pollution cases.

This case study will enable judges to facilitate discussion on how they would solve the problems presented before them in accordance with their respective jurisdiction.
Thank you

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