

U4 Expert Answer



Corruption training for judges applied to emission reduction mechanisms

Query

Please provide an overview of courses and expertise for training judges in understanding how corruption may be applied to the field of carbon emission reduction mechanisms.

Purpose

Our agency would like to support enhanced institutional integrity of provincial courts in Indonesia, including by training judges on how corruption may be applied to the field of carbon reduction mechanisms. We would like to know if there is any specialised training in this area that have been previously provided and where expertise is located in this area.

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Summary

Climate mitigation strategies such as emission reduction mechanisms have created a need for technical capacity development at national and sub-national levels. Moreover, there is a consensus among experts that climate mitigation strategies will not succeed unless the governance and corruption challenges they pose are effectively addressed. Given the critical role of the judiciary in ensuring good

governance, there is now an urgent need to develop capacity among the judiciary to tackle the corruption risks in this emerging area.

Research for this query indicates that currently there are no training programmes for the judiciary that deal specifically with corruption risks in emission reduction mechanisms. In the absence of specific training programmes in this area, this answer aims to point the enquirer towards institutions that have provided or are planning to provide training in related areas – training on environmental law and emission reduction mechanisms for judiciary and legal professionals (without a specific focus on corruption) and training programmes for the judiciary on anti-corruption.

1 Introduction

Carbon emission reduction schemes have the potential to give rise to a myriad of new corruption risks. Emission reduction schemes will involve an influx of funds into countries with weak absorption capacities and governance structures. Some of these schemes, such as REDD, will take place in sectors such as forestry that are already prone to high levels of corruption. (Chene, 2010)

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Even where appropriate policy, legal, and regulatory frameworks exist, effective implementation, enforcement, and compliance can pose considerable challenges. The judiciary plays an important role in meeting these enforcement and compliance challenges. However, in order to enable the judiciary to perform effectively, training is needed in order to illuminate the myriad technical challenges posed by emission reduction mechanisms.

In order to meet the challenges posed by these new emission trading schemes, training programmes need to address knowledge gaps in three areas – scientific and legal mechanisms of emission reduction schemes, governance and corruption risks posed by these schemes and general anti-corruption training for the judiciary to ensure that these cases are adjudicated within a justice system that possesses integrity.

2 Trainings on environmental law and emission reduction mechanisms

Our research suggests that there are currently no training programmes on emissions reduction that are specifically targeted towards the judiciary. Available training programmes can be divided into two broad categories – training programmes for judiciary and law enforcement officials on environmental law and more general training on climate change that includes law enforcement officials as a target group. However, some information has been found on training programmes that are currently planned to address the specific issue of corruption in emission reduction mechanisms. The following is a list of organisations that have or are planning training in the above categories. Please note that this is not an exhaustive list.

Training for judges and legal professionals on environmental law

The United Nations Environment Programme (UNEP)

UNEP has developed a Judges Programme which aims to strengthen the role of the judiciary in establishing sound environmental governance mechanisms, adherence to the rule of law and effective implementation of national environmental policies, laws and regulations, including national level implementation of multilateral environmental agreements. The programme is implemented by the Environmental Law Branch of UNEP in partnership with the World Bank

Institute, the United Nations University, United Nations Institute for Training and Research (UNITAR), World Conservation Union, academic partners and regional and national institutions with relevant expertise. (UNEP, Judges Programme)

The programme is delivered nationally, responding to the specific needs of each country. Activities of the programme include formulating national capacity-building plans for judges, developing training materials and conducting capacity building exercises. As an output of this initiative, UNEP has published a Judicial Handbook on Environmental Law. (UNEP, Judicial Handbook on Environmental Law)

In addition, UNEP, the Food and Agricultural Organization (FAO) and IUCN have jointly established an internet-based Environmental Law Information System (ECOLEX), accessible at <http://www.ecolex.org>. A portal for judgments within ECOLEX enables judges from around the world to upload decisions in environmental cases, thereby encouraging and enabling the progressive development of jurisprudence in this field.

International Development Law Organisation (IDLO)

IDLO has implemented several training programmes on good governance and environmental law in the past. For example, as part of the “Indonesia Australia Specialised Training Project” (IASTP III) in 2005 IDLO trained a group of Indonesian judges, prosecutors, environmental law enforcement officers and non-government organizations’ lawyers on criminal and civil aspects of environmental law and good governance principles as they relate to environmental law enforcement (IDLO, Development Law Update).

IDLO’s upcoming programme, the Legal Preparedness for Climate Change Initiative (LPCCI), aims to systematically identify legal and governance barriers, recommend, and implement consensus-based solutions tailored uniquely for each recipient country for adaptation, mitigation by participation in international mitigation schemes, and access to international climate funding. This programme is envisaged to pursue a four-pronged approach with Legal Empowerment and Capacity Building as one component. Activities in this area include raising awareness and building capacity among legal professionals and the judiciary at national and regional levels (IDLO, Legal Preparedness for Climate Change Initiative).

Interpol

As part of its Pollution Crimes and Law Enforcement initiative, Interpol has formed a Working Group on Climate Change Crime and Corruption to explore the likely emergence of new crime areas under the rubric of climate change. The Working Group is in the process of developing an “assistance in prosecution” course on carbon trading fraud for investigators and prosecutors. For more, please contact Ms. Julie Lastra at Lastra.Julie@epamail.epa.gov

Asian Development Bank (ADB)

The Asian Development Bank has in the past undertaken efforts to build capacity among the judiciary to adjudicate environmental law cases. For example, in 2005, ADB partnered with the United States Agency for International Development (USAID) to launch the Asian Environmental Compliance and Enforcement Network (AECEN). AECEN addresses the need for increased enforcement and compliance with environmental law in Asia and the Pacific. Among other activities, AECEN has been training judges to adjudicate in environmental courts (AECEN, Strengthening Asian Judiciaries). Currently the ADB is helping institutionalise environmental expertise within the judiciaries of several Asian states - this includes a certification programme for judges in environmental law in Indonesia (ADB, Law and Policy Reform).

International Network for Environmental Compliance and Enforcement (INECE)

As part of its 2009 – 2012 strategy, the INECE plans to develop a programme to support the development of the International Network of Environmental Compliance Training Professionals. As part of that effort, the INECE and a variety of national and international partners, plan to explore opportunities to develop and/or deliver capacity building programmes and tools to support the judiciary and environmental prosecutors (INECE, Strategic Implementation Plan).

Training for judges on illegal logging

Illegal logging is a major driver of deforestation and can severely undermine emission reduction mechanisms. According to a recent report by Chatham House, corruption remains one of the most significant drivers of illegal logging. While some training efforts have been undertaken in the past decade to build technical capacity in illegal logging, the level of training efforts for judges in this area is still inadequate (Chatham House, Illegal Logging and Related Trade).

A comprehensive list of judiciary training efforts on illegal logging is beyond the scope of this Expert Answer. However, two notable recent efforts are:

UNODC

The UNODC has recently launched an initiative on Countering Illegal Logging and the Linkage between Forest Crime and Corruption in Indonesia. The goal of the programme is to strengthen the country's law enforcement and anti-corruption capacities. One of the core elements of the project is to provide specialised training to judges on corruption and illegal logging. (UNODC, Countering Illegal Logging and the Linkage between Forest Crime and Corruption in Indonesia)

International Union for Conservation of Nature (IUCN)

The IUCN, with the help of partner organisations, has for many years undertaken national level training of judiciary on illegal logging. (IUCN, Illegal Logging) In 2009 the IUCN conducted training for judges on illegal logging in Lao as part of its support to the Lao government in the Forest Law Enforcement and Governance (FLEG) programme. (IUCN, Forest Law Enforcement and Governance in Lao PDR)

General training on emission reduction mechanisms

This section covers some of the training programmes available on emission reduction mechanisms more broadly.

IDLO, Climate Change and Developing Countries: International Legal and Market-based Instruments

This course reviews and analyses climate-related multilateral environmental agreements and seeks to build a practical understanding of the rules and tools designed to promote climate change mitigation and adaptation in developing countries. It is aimed at decision-makers, policy advisors, legal practitioners, business managers and community representatives who are involved in climate change-related law, policy and projects. (IDLO, Climate Change and Developing Countries: international legal and market-based instruments)

The World Bank Institute, the CF-Assist Programme

The CF-Assist programme is intended to help public officials and business actors navigate and participate fully in the carbon market. The programme supports training events, knowledge exchange among developing countries, and peer-to-peer learning activities that provide technical assistance tailored to a

country's existing level of knowledge and expertise. CF-Assist is currently developing e-learning products on carbon mitigation for policy makers, public officials, bankers, auditors and non-governmental organisations. (World Bank Institute, CF-Assist programme description)

UNEP Finance Initiative, Online Course on Climate Change

The UNEP Finance Initiative is currently providing online training on climate change and the finance sector. In addition to participants from financial institutions, it can be helpful to government representatives and civil society who want to learn about the financial dimension of climate change issues (UNEP Finance Initiative, Climate Change Online Course).

Point Carbon and GHG Management Institute, Online Course on Carbon Markets

This course provides a comprehensive overview of carbon markets, from their origins in global efforts to address climate change to the details of regional emissions trading programmes. It is intended to provide participants with a general knowledge of climate change policy and the implications of treating greenhouse gas emissions as a tradable commodity. It also explores the economic principles of emissions cap-and-trade policies, the history of the United Nations Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol. In addition it covers national policies that countries are implementing to cut their greenhouse gas emissions, carbon offsets and offset projects, the European Union's emissions trading system, regional carbon trading regimes and voluntary carbon markets (GHG Management Institute, Introduction to Carbon Markets).

Training initiatives also exist for different aspects of emissions reduction by regional and local law enforcement organisations. For example, the Environmental Defender's Office (EDO), a community legal centre based in Sydney, Australia, has recently conducted training on legal aspects of REDD for lawyers and stakeholders in the Solomon Islands. (The Solomon Star, February 2010) For more information on workshops and training materials by the EDO, please see:

http://www.edo.org.au/edonsw/site/international_events.php

3 Trainings for judiciary and legal professionals on corruption

Corruption in the judiciary distorts the proper role of the judge, which is to uphold the rule of law, protect the liberties and rights of the citizen, and to ensure a fair trial by a competent and impartial court. Efforts to combat corruption in any sector rely on a fair and impartial judicial system for enforcement. (Transparency International, 2007) As a result, there are currently a considerable number of training efforts targeted towards the judiciary and corruption. Initiatives that could be particularly interesting in the context of this query include:

IDLO, Justice Education Training programme

In 2009 the IDLO conducted the Judicial Education and Training (JET) Programme in Indonesia as part of the Aceh Justice Project. The programme aimed at strengthening the institutional capacity (skills, systems and infrastructure) of the general courts in Aceh to provide access to justice, uphold the rule of law, protect human rights, and promote an integrated justice system (IDLO press release, Judicial Education and Training programme).

UNODC, Strengthening Judicial Capacity and Integrity in Indonesia

The UNODC's Strengthening Judicial Integrity and Capacity Project is carried out under the framework of UNODC's Global Program Against Corruption. The project aims to support the Indonesian Government in strengthening judicial integrity and capacity. It will assist the Supreme Court and Attorney General's Office as well as other relevant agencies in strengthening judicial integrity, capacity and professionalism. Phase II of the project will support the Supreme Court in conducting anti-corruption certification training for at least 120 judges. (UNODC, Strengthening Judiciary Integrity and Capacity in Indonesia)

UNDP, Strengthening Integrity and Accountability of the Judiciary

The UNDP is currently undertaking various regional training efforts in order to ensure effective implementation of the Bangalore Principles of Judicial Conduct (UNDP, Anti-Corruption Newsletter). Currently the UNDP is engaged in a judicial reform project in Tajikistan where it is conducting trainings within judiciary, the prosecutor's office and the police on integrity and accountability (UNDP Tajikistan, State

Enhancement for Improved Governance). The UNDP has also collaborated with the IDLO in implementing the JET programme in Indonesia, as described above.

ADB, Governance in Justice Sector Reform Programme

Implemented in the Philippines in 2008 this programme by the ADB focused on capacity building within the judiciary to ensure integrity in the justice sector. (ADB, Governance in Justice Sector Reform Programme - Philippines).

American Bar Association, Rule of Law Initiative – Asia

The Asia division of the American Bar Association currently implements a technical legal assistance programme on anti-corruption in the region. An example of activities under this programme is a recently conducted training on investigation in corruption cases for the judiciary in the Philippines (ABA Rule of Law initiative, Asia).

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