

Second South Asian Judicial Roundtable on Environmental Justice

30-31 August, 2013

Thimphu, Bhutan



Thimphu Declaration on Enhancing Environmental Justice in South Asia

The Second South Asian Judicial Roundtable on Environmental Justice, supported by the Judiciary of Bhutan and the Asian Development Bank was held in Thimphu, Bhutan on 30-31 August 2013. The Conference brought together chief justices, judges, court officials and environmental experts from Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka.

The key objectives of the roundtable were:

- (i) Enhancing understanding of shared environmental challenges within South Asia;
- (ii) Sharing challenges and successes in environmental adjudication experienced by different South Asian countries; and
- (iii) Furthering co-operation between South Asian judiciaries by advancing the Bhurban Declaration and agreeing to discuss a draft *Memorandum of Understanding* with their respective heads of judiciary.

The participants recognized a number of critical environmental challenges confronting South Asian countries. These include managing the current, and mitigating future impacts of climate change; conserving natural resources and biodiversity; and preventing pollution and its associated negative impacts on citizens of the region. Given the cross-border nature of environmental resources, it was suggested that studies should be undertaken to review the impacts of development activities on the people of the region. While the meeting acknowledged the efforts being made to address these challenges, it also discussed the significant actions that must be undertaken to ensure the effective implementation of existing environmental policies and laws.

In this regard, chief justices and judges recognized their own important and unique role in ensuring environmental preservation, by upholding constitutional rights and providing fair and comprehensive adjudication of environmental cases. This requires continued enhancement of the judiciary's capacity and knowledge on

environmental issues, as well as the broader strengthening of the entire environmental enforcement mechanism.

Judges specifically recognized that the specialized nature of the subject warrants specialized treatment. Hence, there is a need to revisit the norms, values, and jurisprudence developed so far. Following from this, appropriateness of the judicial structure should be reviewed to ensure that institutional gaps within the judiciary are dealt with.

As host to this meeting, the Judiciary of Bhutan proposed to:

- (i) Develop a Bench Book, compiling all national environmental acts, regulations, guidelines and cases, to facilitate adjudication of environmental cases brought before the courts;
- (ii) Support capacity building of Bhutan's judiciary on environmental issues, and encourage the inclusion of environmental legal education in the legal curriculum in Bhutan;
- (iii) Make specific environmental law resources available in the library of the Supreme Court of Bhutan;
- (iv) Support the institutionalization of the South Asia Judges Network on the Environment within the South Asia Regional Co-operation in Law (SAARCLAW).

In addition to the above, the participants agreed to enhance collaborative efforts among judiciaries in the region. They proposed to explore the possibility of developing a regional approach for safeguarding the environment and share information on environmental justice. In particular, participants agreed to discuss the draft *Memorandum of Understanding for Co-operation between South Asian Judiciaries* with their respective heads of judiciaries. This MOU would further collaboration in areas including, but not limited to the following:

- (i) *Information Exchange*: Sharing of information on environmental judgments, challenges and legal issues, and best practices in environmental adjudication on the Asian Judges Network Website;
- (ii) *Capacity Building*: The need to build the capacity of judiciaries through judicial academies; build expertise through cross fertilization between South Asian countries by having exchange courses; and promote exchange of lessons learned between South Asian judiciaries on environmental adjudication; and
- (iii) *Strengthening the Judiciary's focus on environmental issues*: Strengthen specialized environmental tribunals; establish green benches in courts where they do not exist; frame and implement rules of procedure on environmental cases where required.

Thank You & Tashi Delek