# MEMORANDUM OF UNDERSTANDING FOR CO-OPERATION AMONGST THE SOUTH ASIA JUDICIARIES

## I. THE COOPERATION PARTNERS

1. The judiciaries of the Islamic Republic of Afghanistan, the People's Republic of Bangladesh, the Kingdom of Bhutan, India, the Republic of the Maldives, Nepal, the Islamic Republic of Pakistan, and the Democratic Socialist Republic of Sri Lanka (hereafter "the Judiciaries"), being equally desirous of establishing a framework for cooperation to support their role in ensuring sustainable development and protection of the environment in their countries and in the South Asia region, enter into this Memorandum of Understanding in order to significantly improve the development, implementation, and enforcement of, and compliance with, environmental law.

## II. THE AIMS AND GUIDING PRINCIPLES

2. The Judiciaries acknowledge that the great political, economic, and social changes that have taken place in their countries in the recent past necessitate a common effort to assess, define, and establish a framework for cooperation to improve the development, implementation and enforcement of, and compliance with, environmental law. They appreciate that the cooperation that they seek to foster will facilitate the realization of their Governments' common aim of poverty reduction and environmentally sustainable development. They recognize that, given the scale and complexity of the challenges that confront them, collaboration is essential to achieve their common aim.

3. The Judiciaries will work together to:

   a) Share information among South Asian judiciaries on South Asia's common environmental concerns and challenges;

   b) Highlight the critical role of South Asian senior judiciaries as leaders in national legal communities and champions of the rule of law and environmental justice, with the ability to develop environmental jurisprudence; and

   c) Develop a process for continuing and expanding the cooperation and engagement on environmental issues of the senior judiciaries in the Member States of the South Asian Association for Regional Cooperation (SAARC).

4. The cooperation among the Judiciaries will be guided by the following principles:

a) Recognition that natural resources are of immense value to all South Asian countries, contributing to their economic and social well-being and the livelihoods of their peoples, and that the challenge of sustainable development and addressing the scarcity of natural resources is common to all South Asian countries and requires urgent attention by all Governments, their judiciaries, and their citizens;

b) Determination to promote in a constructive and mutually beneficial manner the development, implementation, and enforcement of, and compliance with, environmental law, to support sustainable development and the conservation and sustainable use and management of the natural resources in all South Asian countries;

c) Recognition that while the role of the Judiciaries is pivotal in resolving environmental issues, they cannot work alone and that it is equally important that they engage Attorneys General, Advocates General, prosecutors, Directors of Judicial Academies, national and sub-national environmental authorities, all government institutions, private sector entities and environmental law academicians, practicing attorneys, and environmentalists and members of civil society in environmental enforcement processes, particularly from the point of view of complying with orders and directions issued by the Judiciaries;

d) Willingness to promote interdependent regional cooperation on environmental enforcement issues, taking into account the benefits that could be derived and the detriments that could be avoided or mitigated from such cooperation; and

e) Acknowledgement of the necessity to provide an appropriate, efficient, and functional framework for coordinating their individual and joint efforts to support natural resource conservation and sustainable development in South Asia and for sharing their efforts with the international community.

## III. ASPECTS OF THE PROPOSED COOPERATION

5. Cooperation among the Judiciaries will focus on their shared priorities for the development, implementation, and enforcement of, and compliance with, environmental law. In particular, cooperation among the Judiciaries may include initiatives to:

a) Disseminate information on environmental challenges and legal issues, and best practices in environmental adjudication among themselves, whilst acknowledging the differences among their respective legal systems, on the website of the Asian Judges Network on Environment (AJNE);

b) Strengthen specialised environmental tribunals and provide environmental training for the judiciary and other members of the legal fraternity;

c) Invite members of the South Asian Judiciaries to share their respective experiences and participate in training programs for judges from the South Asia region;

d) Implement existing rules of procedure for environmental cases and develop the same where they do not exist, which may include a flexible approach to legal standing, special rules of evidence for environmental cases, expeditious disposal of cases, special remedies, injunctive relief, and other innovative environmental processes;

e) Ensure that judicial decisions on environmental cases are shared within the AJNE and made available to the public;

f) Encourage law schools to include environmental law in their curriculum;

g) Provide environmental law training to judges through judicial academies, including making such training available for members of lawyers' professional associations;

h) Develop a system to recognise whenever exceptional contribution is made by judges and environmentalists for the cause of environment;

i) Promote the idea of a South Asia Convention on Environmental Justice;

j) Establish green benches in courts for dispensation of environmental justice; and

k) Recommend that the right to clean and healthy environment be incorporated as a fundamental right in the Constitutions of their respective countries.

## IV. CONSULTATIONS

6. The Judiciaries recognize that it is important to arrange periodic consultations to review the progress in planning and implementing the aspects of the cooperation, nationally and regionally.

   They agree to hold a South Asia Judicial Conference on Environment annually on a rotational basis to foster cooperation on environment, as a sub-regional group of the AJNE, and to share the vision of this Memorandum of Understanding and the annual Conferences with members of the judiciary in their respective countries.

7. Technical staff of the Judiciaries will meet formally and informally, as required and as mutually agreed, to prepare an Action Plan to implement the cooperation described in paragraph 5 and make arrangements for its implementation.

## V. EXCHANGE OF INFORMATION

8. The Judiciaries recognize that effective cooperation depends on open, comprehensive, and regular exchange of information. They agree to make appropriate arrangements to share with each other and, as appropriate, among legal professionals, law schools, and the general public, information on South Asian countries' common challenges in enforcing, and complying with, environmental law through the AJNE.

9. The Judiciaries will, within a mutually acceptable period following the signing of this Memorandum of Understanding, prepare and share information on:

    a) Decisions of their respective courts on issues of environmental law;

    b) Elements of curricula for orientation for judges and training for prosecutors and law enforcement officers on environmental law;

    c) Elements of curricula for teaching environmental law in universities; and

    d) Rules of procedure for specialised environmental courts.

10. Consultation and exchange of information and documents pursuant to paragraphs 6-9 will be without prejudice to arrangements that may be required to safeguard the confidential and restricted character of certain information and documents. If any Judiciary regards any such information to be confidential or restricted, it will give written notice to that effect and the other Judiciaries will ensure the observance of such confidentiality and/or restricted circulation of such information.

## VI. FOCAL POINTS

11. The respective Chief Justices of each Judiciary shall designate their respective focal points for all purposes associated with this Memorandum of Understanding.

12. The respective focal points will be responsible for:

    a) Establishing effective communication and liaison with the other focal points;

    b) Facilitating the implementation of all aspects of this Memorandum of Understanding;

    c) Promoting this Memorandum of Understanding and the cooperation activities undertaken under it, within their respective Judiciaries and, as appropriate, with external partners;

    d) Convening the periodic consultations that are agreed to be held in accordance with this Memorandum of Understanding; and

e) Monitoring the implementation of this Memorandum of Understanding and jointly evaluating the cooperation activities that are undertaken among the Judiciaries.

## VII. TERM, AMENDMENT, AND TERMINATION

13. This Memorandum of Understanding shall take effect from the date it has been signed by the authorized representatives of all the Judiciaries.

14. This Memorandum of Understanding may be amended by mutual written consent of the Judiciaries.

15. This Memorandum of Understanding may be terminated by mutual agreement of the Judiciaries, following six months' prior notification in writing by one or more focal point(s) to all of the other focal points.

## VIII. DEALING WITH PROBLEMS

16. This Memorandum of Understanding has been developed and finalized in a spirit of mutual cooperation and assistance. It will be interpreted in light of its primary purpose, which is to enable the Judiciaries to ensure the achievement of their common aim of establishing a framework for cooperation to significantly improve the development, implementation, and enforcement of, and compliance with, environmental law. Any difference of opinion concerning this Memorandum of Understanding or any of the cooperation activities required to implement it will be resolved through amicable dialogue.

## IX. GENERAL PROVISIONS

17. This Memorandum of Understanding is not intended to create legal relations between the Judiciaries or to impose formal obligations on them.

18. No provision of this Memorandum of Understanding shall be construed so as to interfere in any way with the sovereignty and independent decision-making autonomy of the Judiciaries with regard to their respective affairs.

This Memorandum of Understanding is signed by the duly authorized representatives of the Judiciaries on this ___ day of August 2014 in Colombo, Sri Lanka.

**For the Judiciary of the Islamic Republic of Afghanistan**

Signature: _____

Name: _____

**For the Judiciary of the Kingdom of Bhutan**

Signature: _____

Name: _____

**For the Judiciary of the People's Republic of Bangladesh**

Signature: _____

Name: _____

**For the Judiciary of the Republic of the Maldives**

Signature: _____

Name: _____

**For the Judiciary of India**

Signature: _____

Name: _____

**For the Judiciary of the Islamic Republic of Pakistan**

Signature: _____

Name: _____

**For the Judiciary of Nepal**

Signature: _____

Name: _____

**For the Judiciary of the Democratic Socialist Republic of Sri Lanka**

Signature: _____

Name: _____