



Judicial Reforms - Lessons & Experiences

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When one talks of judicial reforms, the first thing that usually comes to mind is that this refers to the aspect of changes in the law with regard to judicial matters. Whilst this is one way of effecting a judicial reform, there are other means of achieving this reform without which the required end or reform would be far from being done.

Whatever judicial reforms thought of or done in any jurisdiction, there is a common thread in the aims that these reforms would bring. These aspirations can be illustrated in the speech of The Honourable Chief Justice of Singapore, (IN HIS WELCOME ADDRESS AT THE THIRD ROUNDTABLE MEETING OF THE ASIA-PACIFIC JUDICIAL REFORM FORUM ON 20 JANUARY 2009) where he said,

“How can the courts adjudicate disputes fairly, speedily and efficiently? How can we provide better access to justice for everyone? How can the courts maintain their relevance to litigants? How do we ensure that the administration of justice has the confidence and respect of the people who rely on the courts for the protection of their liberty and enforcement of their legal rights? These common issues bedevil our courts, regardless of the respective state of our economic, social or political development.....”

What can be learnt from that speech is that it can be said that the purpose of making judicial reforms can be broadly divided into these 3 objectives:

- Ensuring accessibility to justice
- Maintaining timeliness in case disposal and
- Safeguarding the quality of justice

It is suggested that this can be improved by providing:

- the court building more user friendly
- ease of access to information
- ease of online access to court services
- transparency of process and decisions



To achieve these objectives, in the last three years, some changes have taken place in Brunei Darussalam.

The Supreme Court and the Subordinate Court used to be housed in the same building until May 2006. This had given rise to some logistical problems from time to time as there were occasions when there were not enough courtrooms for the judges and magistrates to sit at one time and this had caused some cases to be adjourned. Ever since the Supreme Court and the Subordinate Court are under different roofs, this problem has now become a thing of the past. This is a significant progress in providing better accessibility to the courts and to reduce downtime of court proceedings due to a shortage of courtrooms.

The Judiciary had also launched a new website at the opening of the legal year 2009. This provides a better access to information on the courts and their services, access to daily-updated cause lists of the court proceedings, making enquiries and giving customers' feedback and so on. This is part of the ongoing process to improve the courts' services.

For court users in the building, there are now LCD screens to show the proceedings for the day so that parties and other interested visitors know exactly where to go for a particular case. This is much more convenient compared to the situation before where the names of the cases for the day only appeared outside the courtrooms where these matters are to be heard. These LCD screens have provided a necessary convenience. More public-friendly uses of them will be made available in the future.

Seeing the importance of ICT (Information & Communication Technology) for the purpose of realising our goals, the courts are all now equipped with computers which are networked which are to prepare for the upcoming changes in the court's administration with the help of ICT.

We have assigned a courtroom as a Technology Court which, once fully fitted and functional, will be able to make use of the benefits offered by today's technology. These are facilities such as Video-Conferencing which can be used for witnesses outside the country and for the purpose of extension of remands of the accuseds in detention, Video Link for vulnerable witnesses like children and victims of sexual cases and so forth.

Another useful apparatus in civil cases is e-filing. It is a legal cliché by now as it has been used in many jurisdictions for a long time now but is nevertheless an essential tool for a more efficient management and conduct of civil cases. This is one feature which is in the process of being adopted in our jurisdiction.



The other project which is under way is the e-Case Management System.

The e-Case Management System (e-CMS) is essential as part of the courts' IT development process. This system is needed to facilitate the management of cases by the usage of emerging technologies to enhance the efficiency of the litigation process and the administration of justice in its various aspects, namely the timeliness of justice and the quality of justice. This is accomplished by being able to do, among other things, the following matters:

- Tracking of cases against milestones at different stages of the litigation process
- Enabling automatic alerts if timelines are breached
- Having a system with auto-generation of statistical report
- Tracking the times taken by the litigating parties (lawyers) to prepare a case for trial
- Monitoring the time taken for cases to be heard or concluded.

Also to facilitate the above 3 objectives, there had been recent enactments, among which, of two statutes in particular, namely the:

- 1. Small Claims Tribunals Order 2006**
- 2. Children & Young Persons Order 2006**

Small Claims Tribunals Order 2006

Currently, all civil cases of up to B\$50,000 go to the Magistrates' Courts, regardless of how small the claim is. This may put additional burden not only to the Courts' timetable, but to the litigants' costs as well. The Small Claims Tribunals Order 2006 allows for there to be a prescribed limit (which is to be determined in due course) where the subject matter within this limit can be brought to the tribunal before an adjudicator. The advantages are shorter waiting period, simpler processes and cheaper costs.

This will undoubtedly improve accessibility to justice, attain a good standard of timeliness of the disposal of cases without compromising the quality of justice.

Children & Young Persons Order 2006

As for the Children & Young Persons Order 2006, this confers more powers and discretions to the courts in dealing with youthful or juvenile offenders. Currently, the courts have very limited powers when dealing with them which is mainly empowered by the Section 262 Criminal Procedure Code (Chapter 7). In short, in lieu of imprisonment or fine, the court only has the alternative of sentencing them on probation for good conduct, where the



circumstances support such a sentence. This shortcoming in sentencing powers, without going into detail, is properly remedied in the new 2006 Order.

In conclusion, as the pace of judicial reforms is subjective to a particular jurisdiction, Brunei Darussalam acknowledges its importance and is continually thinking of where improvements can be made in this area. A continual check on the necessary judicial reforms should always be on the agenda and this is a lesson which has been discovered from many legal jurisdictions.

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