



CURRENT REFORMS IN ASEAN COUNTRIES – LESSONS AND EXPERIENCES

THE SINGAPORE’S EXPERIENCE

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Mr Chairman

Distinguished Delegates

Ladies and Gentlemen

It gives me great pleasure to be here today. I am also humbled by this opportunity to be able to share the Singapore experience in judicial reform as we, like many judiciaries in this region, continue to strive towards greater judicial excellence.

INTRODUCTION

2. The Singapore Judiciary as it was two decades ago has been described as “inefficient and inaccessible to many. It was marked by the common problems of delays, high costs, and antiquated methods. [It was a judiciary] that was inward looking, cloistered, and satisfied with itself”¹.

3. Our Judiciary has since undergone a sea-change of sweeping reforms. We have gained immensely from the rich experiences that other judiciaries have graciously shared to help us get to where we are today.

4. By sharing our experiences collectively, success formulas and stories can be emulated or adapted for use, without having to re-invent the wheel. It is through such congenial exchange that regional judiciaries can grow and strive towards greater judicial excellence together. It is in this spirit that we share the Singapore story and hope you will find it useful.

¹ See Waleed Haider Malik, *Judiciary-Led Reforms in Singapore – Framework, Strategies, and Lessons* (2007) (“the World Bank publication”): “Singapore is widely recognized as having one of the most efficient, effective judicial systems in Asia, perhaps in the world. Yet at the outset of the 1990s, its judiciary was inefficient and inaccessible to many. It was marked by the common problems of delays, high costs, and antiquated methods. So how did a judiciary that was inward looking, cloistered, and satisfied with itself come to change so successfully and so quickly? Could any lessons derived from the experience help policy makers elsewhere to design and implement judicial modernization?”

**WHY JUDICIAL REFORM IS NECESSARY**

5. Why did we embark on judicial reform? Many might be familiar with the Singapore as it is seen today but four decades ago, a bleak picture of Singapore's future and prospects was painted². This was even more poignant when we were separated from the Federation of Malaysia in 1965. We were a small country with no natural resources. We lacked a strong and diversified economy. Our domestic market was small. Our GDP per capita was US\$500. Our employment rate then was 14%. The growing population posed a plethora of challenges such as housing, health, transportation and education. Labour and social unrests were rampant. When the British decided to withdraw all her troops from Singapore later in 1967, the impact was a massive loss of some 70,000 jobs. We were living on the edge.

6. We quickly understood that no one owed us a living. To survive as a small young nation, we had to create a Singapore that is clean, safe, and efficient, with first-world standards of reliability and predictability. Important for investors and economic growth, is the rule of law implemented through an independent judiciary, an honest and efficient police force, and effective law enforcement agencies. As a non-homogenous society, the rule of law is also crucial for the maintenance of racial and religious harmony.

7. Singapore inherited a sound legal system from the British with its roots in an old and widespread common law. Clear laws, easy access to justice and an efficient legal system provided the basis for citizens to compete equally in the market and to grow the economy. However, by the 1980s, it was clear that the system of courts we inherited could no longer cope with the increased workload. By 1991, the most pressing and fearsome problem in our Judiciary was the backlog of cases. There were close to 2,000 suits begun by writ that were still waiting for hearing dates in the High Court. At the rate of disposal then, it would have taken at least five years for them to be heard. A similar problem was also festering in the Subordinate Courts.

8. We could not allow such a state of affairs to continue. Justice would be delayed, and such an inefficient court system would hinder the country's economic development. Singapore was striving hard towards becoming an international business and financial

² In the words of Dr Albert Winsemius, who headed the UN Industrial Survey Mission to Singapore in the 1960s, "The general opinion was that Singapore was going down the drain as it was a poor little market in a dark corner of Asia".



centre³. The importance of a modernised judiciary for both economic growth and social stability took on even greater urgency.

9. The former Chief Justice Yong Pung How heralded the first wave of reforms. He inspired and guided efforts to re-organise our Judiciary with the aim of building a responsive and efficient judicial system. He introduced sweeping reforms and innovative measures to improve the administration of justice and the service standards provided to the public. In the same spirit, my predecessor Senior District Judge Richard Magnus took on the unenviable task of transforming the Subordinate Courts into a first-class judiciary.

10. The dramatic transformation of the justice system did not go unnoticed. As noted in the World Bank's publication:

“Over the past 15 years, Singapore's judicial system has been transformed from one that many viewed as characterized by inefficiencies, delays, and inadequate administrative capacity to one widely seen as the most efficient and effective in the world.”

11. The efficiency and quality of the Singapore judicial system have also been noted in a number of regional and international publications. For example, the Political and Economic Risk Consultancy's Asian Intelligence Report of August 2007 made these observations:

“Singapore's judicial system gets very high marks from foreign banks and companies that use the island base for their business. They consider the system to be fair, transparent and efficient. It is one of the main reasons that Singapore has been able to develop as a regional and international business centre.”

12. In 2008, the Swiss-based International Institute for Management Development analysed and ranked 55 countries in the world on their ability to create and maintain the competitiveness of enterprises. One assessment component is whether the legal and regulatory framework encourages the competitiveness of enterprises. Singapore's legal framework was ranked first, followed by Hong Kong and Denmark.

13. We are heartened that the first phase of reforms has since yielded results, and enabled us to gain high level of public trust and confidence of our people that we now enjoy⁴. We are also deeply humbled by the accolades bestowed upon us, inspiring

³ See the Singapore Government's "The Strategic Economic Plan – Towards A Developed Nation" (1991) which set the goal for making Singapore a first-rank country in the world.

⁴ In an independent survey commissioned by the Subordinate Courts in the fourth quarter of 2007, 97% of the respondents had full confidence in the fair administration of justice, 99% of the respondents felt that the courts



international confidence in our Judiciary that is much needed in today's global village with prevalent cross-border activities.

14. However, yesteryear battle plans cannot equip us to fight the battles that loom ahead. We understand that change is the only constant and if we do not continue to improve, we would be engulfed and defeated by it. We have not and do not intend to rest on our laurels. The appointment of the incumbent Chief Justice Chan Sek Keong has ushered in a new phase of justice. Whilst maintaining the previous high standards in court administration and the dispensation of justice, our Judiciary is all geared up for the next phase of judicial reforms. At the Subordinate Courts, we are riding this next wave and introducing new reforms that will help us better serve our people, especially in these uncertain times.

TAKING STOCK: THE FIRST PHASE OF OUR JUDICIAL REFORM

15. Before I share some of our current judicial reforms, it may be useful for me to first give you some background of the groundwork that have been previously done which puts us in good stead to embark on our current reforms. I would like to briefly touch on two aspects – how we dealt with the backlog problem and how we harnessed technology.

A. Clearing the backlog

16. It is not an exaggeration to say that the bane of all growing judiciaries is the backlog of cases which they have to face. Very often, the number of cases increases at an exponential rate ahead of the judicial resources that are required to cope with the increase. When we first embarked on our judicial reform, our immediate priority was to clear the backlog and reduce the waiting time for the disposal of cases. We had reached a point where it was clear that the courts could no longer be indifferent to the consequences of delay in the proceedings.

17. The familiar precept that justice delayed is justice denied needs no formal introduction. However, it bears repeating that in some cases, as a result of the delay in proceedings, defendants had become insolvent over time and substantial claims had to be abandoned. In other cases, plaintiffs themselves went under when they could not recover substantial funds which were stuck in claims before the courts. In still other cases, death or disappearance of parties or witnesses occurred, or relevant documents and other evidence were lost, resulting in prejudice to either one or the other party who then had to

administer justice fairly to all regardless of language, religion, race or social class, and 99% of the respondents felt that the courts independently carry out justice according to the law.



abandon, admit to or compromise on the claims. In criminal cases, time is all the more of the essence if justice is to be done not only to the victim of a crime, but also to the accused person regardless of whether he is eventually found guilty. The link between an efficient judiciary and the competitiveness of an economy has also been widely acknowledged⁵.

18. Our objective was therefore clear - to rid the system of its backlog and to ensure that backlog will not build up again. Some things had to change.

(i) Jurisdictional Reform

19. Recognising the limited and valuable resources of the High Court, the caseload was re-distributed such that the High Court focused and heard only the more complex cases. The other cases were transferred to the High Court Registrars and the Subordinate Courts. To this end, the civil, criminal and matrimonial jurisdictions of the Magistrates' Courts and the District Courts were also enlarged to enable the Subordinate Courts to hear more cases.

(ii) Procedural Reform

20. Our procedures and processes were also fine-tuned. Our Rules of Court have been progressively updated to simplify the rules of procedure and reduce delays in court, such as:

- (a) the use of opening statements to assist the court in identifying the issues in dispute for determination at trial;
- (b) the use of affidavits of evidence-in chief for witnesses which reduces the time spent on examining witnesses in court;

⁵ See eg Ibrahim F I Shihata, "Judicial Reform in Developing Countries and the Role of the World Bank" (World Bank Technical Paper No 280, 1995): "Private investors in particular, whether domestic or foreign, and their financiers even more so, take into account in their investment decisions, along with the primary questions of financial returns and political risks, such questions as whether the legal system allows investors' rights to be enforced routinely and disputes arising out of their activities to be resolved in an evenhanded, expeditious and efficient manner." See also the World Bank publication: "Much research has been conducted on the economic costs of a badly working legal system and the benefits of reform. World Bank (2004) finds that a healthy business climate helps to attract the economic investment necessary for growth, and scholars, from Hobbes in the sixteenth century until modern times, have espoused the importance of judicial systems in enforcing the credibility of commitments and contracts (North 1990). Such statements have been tested empirically, such as in a World Bank survey of 3,600 firms in 69 countries, in which more than 70 per cent of respondents felt that an unpredictable judiciary is a significant obstacle to efficient business operations (World Bank 1997). Deficiencies in judicial credibility cost up to a quarter of the variations in per capita income growth among developing countries."



- (c) the introduction of hearing fees and costs orders for delays caused by a lawyer's default or omission to ensure the efficient and effective use of valuable court time; and
- (d) automatic discontinuance of cases in which no steps in the proceedings has been taken in the past 12 months.

(iii) Case Management

21. Another key strategy was to adopt a rigorous Judge-led case management system. In the past, the progress of the cases was left largely to the parties or their lawyers. We decided to take the bull by its horn and actively manage the cases.

22. This was done by holding Pre-Trial Conferences ("PTCs"), which serves two purposes. First, they bring together the parties to a civil dispute to explore the possibility of an amicable settlement. Second, PTCs allow the court to narrow the issues in dispute, assess whether parties are ready for trial and to allocate trial dates. This minimises the occurrence of cracked trials and enables the court to have a better assessment of the duration of the trial. The concept of peremptory orders (or 'unless' orders) was also introduced to ensure that parties comply strictly with the time-lines fixed by the court to complete certain tasks.

23. Once a hearing date is given, a strict no adjournment policy is adopted. We have taken the position that trial dates are inviolable unless there are compelling reasons to vacate them⁶.

24. We have also adopted the practice of 'double-fixing' cases, which involves fixing of more cases for hearing than there are judges available to hear them. The excess cases are placed on a stand-by list. When a scheduled case has been settled or adjourned with compelling reasons, the stand-by case will then be assigned to be heard in its place so that judicial time allocated for the hearing of the first case is not wasted.

25. In managing cases, we recognise that cases vary in their complexities. Hence, we adopt a differentiated case management approach where different internal case tracks are assigned to cater for different case types.

(iv) Night Courts

26. We realised that precious judicial resources and time in the day were utilised to hear and dispose of minor departmental and regulatory cases. Two night courts were set

⁶ See eg *Chan Kern Miang v Kea Resources Pte Ltd* [1999] 1 SLR 145 (Singapore Court of Appeal).



up to hear such cases, which would otherwise have to be heard in the day, freeing the much needed judicial resources and time to hear more (important) cases in the day.

27. Night courts were also introduced to make it more convenient for offenders to resolve their departmental and regulatory cases without having to take leave from work.

(v) Mediation

28. To reduce the number of litigated cases, parties are encouraged to explore mediation to resolve their disputes through three key mediation initiatives established in the Subordinate Courts. First, the Primary Dispute Resolution Centre was established to provide court-based civil dispute resolution before a dedicated Settlement Judge. Second, mediation is also used at the Family Court to transform the dynamics of familial relationship break-downs from one of acrimony to one of eventual civil co-operation. Third, magistrates hearing magistrates' complaints of minor criminal transgressions arising out of relational disputes may refer the parties for mediation at the Community Mediation Centre with a panel of trained mediators, to a Justice of the Peace who is a respected member of the community, or to a trained Judge, to enable parties to explore the possibility of settling their disputes amicably.

(vi) Manpower

29. There are limits to robust and effective case management and use of advanced technology to improve productivity. Ultimately manpower has to be increased to achieve greater efficiency in the judiciary. Thus we had to attract good people with sharp, analytical legal minds and the right judicial temperament to the Bench. To this end, judicial salaries were made more competitive. Efforts were also made to attract and recruit young law graduates with excellent academic credentials and to groom them to become judicial officers in the High Court and the Subordinate Courts.

B. Harnessing Technology

30. By the mid-1990s, with the backlog problem firmly behind us, we looked towards leveraging on technological innovations to further improve the efficiency of our operations.

31. The Electronic Filing System ("EFS") was one such innovation and heralded the advent of paperless litigation. The EFS allows law firms to file and serve court papers electronically for civil and family matters 24 hours a day 7 days a week directly from the office or anywhere else in the world to multiple parties at the click of a button. In terms of court administration, it enables us to search case dockets and transfer files with electronic ease and provides a cost-effective method of storing voluminous court documents.



32. Another innovation is the Automated Traffic Offence Management System (“ATOMS”), which comprises interactive payment kiosks situated all over Singapore. It allows accused persons to plead guilty to minor traffic and parking offences and pay the court fines at any time of the day, without having to attend court. ATOMS is also available on the Internet.

33. Video-conferencing is another technology that we have used extensively to benefit court users. For instance, accused persons attend their mentions remotely at the remand prisons when their cases are mentioned via video-link, so that they need not be physically present in court. This saves manpower and resources as well as eliminates the risk of remandees escaping during transportation. Bail applications are also processed in chambers via video-link for accused persons who are offered bail and are remanded in the lock-up within the court premises. Vulnerable witnesses can also opt to give evidence remotely so as to lessen the trauma of having to physically face the offender in court. Such facilities also enable us to offer cross-border dispute resolution services where judges from other jurisdictions can be engaged to co-mediate civil cases with our Settlement Judges. We also conduct interactive dialogue sessions with foreign jurists and judges regularly via video-conferencing. This enables our Judges to exchange knowledge and views with their foreign counterparts and keep abreast of developments in other jurisdictions.

34. JusticeOnLine (“JOL”), another strategic initiative, enables lawyers and prosecutors to conduct multi-party court hearings and other business remotely with the courts from the convenience of their offices. The active use of JOL lessens the traditional emphasis on the brick-and-mortar courthouse. This equates to substantial savings in terms of reducing travelling and waiting time, enhancing productivity and quality of work, as well as reducing the stress of having to physically attend court.

35. To ensure that we continue to keep up with the breakneck speed at which technology is developing, we established a Proof-of-Concept Innovation Lab called “iCourtLab” in July 2006, where cutting-edge technologies are experimented and their possible deployment in the courts are considered.

CURRENT REFORMS AND THE WAY FORWARD

36. I now turn to our current reforms. It would appear that much of our focus previously was on ensuring that the dispensation of justice was not delayed. What then is the focus of our next wave of reforms? We have inherited from the first wave of reforms a very efficient court system. However we are also keenly aware that just as we cannot delay justice, neither can we hurry it to the extent of breeding injustice. It is thus very important to



calibrate the speed of dispensing justice so that higher quality of justice and standards of court services can be delivered to the people whom we serve⁷.

A. A Culture of Public Service

37. Our people are getting increasingly educated and with this comes growing public expectations. We now live in a service-centric world, where the consumer is regarded as very important and has come to expect certain service standards. Public institutions are now also constantly challenged to raise the bar of their service standards, likewise for the courts.

38. A shift in mindset is therefore necessary. It used to be that judges were revered and viewed with awe by virtue of the authoritative position which they hold, as well as the power which they exercise. With the new generation of court users, respect for the court's authority is earned when parties leave the court feeling that the judicial process was fair although the final decision might not necessarily be in their favour. It is a given that the decisions we render must be fair and just. However, the process by which we arrive at our decisions is equally important for if the manner, disposition and conduct of the judge are perceived to be biased, the outcome, however objectively fair and just, will similarly be perceived to be otherwise. A service-centric Court is not a misnomer; we can be civil and courteous, yet firm and strict.

39. To this end, a dedicated Service Relations Unit has been established to provide first class services to court users, solicit feedback from them, handle complaints and correspondence from the public, as well as enhance the overall quality of our services.

B. *Kaizen*

40. Processes and workflows are meant to help make operations more efficient and effective so as to service the court users better. However, as an organisation grows, there is often a fervent desire to put in place a protocol or procedure for just about anything. It will not be long before the organisation finds itself getting ensnared by 'red tape' and getting too unwieldy.

⁷ See Chan Sek Keong CJ's Response during his Welcome Reference in 2006: "[T]he fearsome backlog of cases which was the driving force behind the relentless waves of court reforms has been eliminated more than 10 years ago. Efficiency is vital in court administration but it should not be pursued to the point when it starts to yield diminishing returns in the dispensation of justice. The Judiciary must always give priority to upholding the fundamental values of the legal system, such as due process or procedural fairness, equal protection of the law, consistency and proportionality in sentencing, and rationality in decision-making. We should now be confident enough to give greater emphasis to the basics of judicial decision-making without the recurrent fear of a resurgent backlog."



41. Unfortunately, we are not spared of this phenomenon either and have consistently been battling to cut red tape and bureaucracy. We have recently adopted the *Kaizen* methodology to cut red tape to make our workplace more efficient, productive and less bureaucratic. *Kaizen* (改善, Japanese for “improvement”) is a Japanese philosophy that focuses on continuous improvement.

42. One of our first applications of the *Kaizen* methodology yielded encouraging results. We were able to reduce our bail processing waiting time from one working day to one hour. Bail procedure involves many parties and a myriad of processes. We examined the entire workflow and engaged the relevant stakeholders. At each stage, we asked ourselves whether the process was necessary and whether it could be done differently to reduce waiting time. This methodology was applied to all the procedural steps in the bail workflow.

43. We expect to reap greater benefits when there is widespread application of the *Kaizen* methodology to all our existing processes and workflows.

C. Learning Organisation

44. For us to deliver high standards of justice and quality service, we have to work together as a cohesive team. We must think as one organisation and not as individuals performing independent roles. Individual officers are trained for better performance. Collectively as an organisation we also go through a learning journey to enrich our institutional knowledge. In this regard, we have instituted the “learning organisation” culture.

45. A learning organisation is one that learns through individuals who learn. It is an organisation comprising individuals with a shared vision who are able to grasp the ‘bigger picture’ and see the organisation as a whole. A learning organisation values its employees as individuals on the ground who are *au fait* with the day-to-day running of the organisation and are therefore in a better position to understand and resolve the problems that may arise.

46. Where the Subordinate Courts is concerned, it is our judicial officers and court administrators who deal with our court users daily at the front line and they know the problems and issues faced by our court users. When our officers can identify themselves as part of a learning organisation, we can respond swiftly and effectively to new challenges and changes on the ground. It is in this way that we grow as an organisation. To this end, learning organisation sessions are held with judicial officers and court administrators



regularly to discuss and brain-storm solutions to problems which the organisation encounters from time to time.

D. Strategic Planning & Training

47. Strategic planning is critical to guide the organisation as it sails into uncharted waters. We have set up a dedicated unit to ensure that we are constantly reaching for greater heights. As we continue to invest in our people, this unit will also be responsible for planning comprehensive training programmes for our judicial officers, court administrators and staff to prepare us for the new challenges that lie ahead.

E. Re-organisation

48. The Subordinate Courts have growth significantly over the years. It is therefore necessary and timely to reorganise its structure, so as to re-energise and to establish greater synergy to meet new challenges. To this end, we have established three main service and operations divisions – criminal, civil and family - supported by a unified court and corporate services division.

49. In order to serve the court users better we also established more specialist courts:

- (a) the Community Court, which deals with cases in which the offenders require special needs, such as the mentally and physically challenged, the intellectually deficient as well as the young offenders. These offenders have to be specially managed with the assistance of our in-house court psychiatrist. Very often they require treatment and rehabilitation rather than to be punished or deterred. Community-based sentences are often more suitable for such offenders;
- (b) the Neighbourhood Court which hears private summonses involving relational disputes and focuses on addressing the root cause(s) of the breakdown in the relationship of the parties giving rise to the dispute so that future disputes do not occur; and
- (c) the CHILD Court, which deals with child custody dispute cases where the interests and welfare of the child are often not adequately addressed as the parents usually have their own self-serving agendas. In the CHILD court, the judge focuses on the interests and well-being of the child. The proceedings are less adversarial, less confrontational and more therapeutic.



50. In the same spirit, we have re-organised our criminal trial courts into four specialised offence clusters, namely the Commercial Crimes, Intellectual Property Offences and Immigration-related Offences Cluster, the Public Order and Community Court Matters Cluster, the Crimes Against Persons and Drug Offences Cluster, as well as the Property Offences and Employment-related Offences Cluster. This enables us to build strong teams of specialist judges who are able to provide closely-reasoned judicial considerations and sentencing principles which are both offence and offender-specific, giving rise to greater consistency in sentencing and treating like cases alike.

F. Continuing Technological Efforts

51. We always try to leverage on technology to enhance our work performance. I shall briefly describe two interesting systems that we are currently working on – the Subordinate Courts Recording and Information Management System II (“SCRIMS II”) and the Integrated Electronic Litigation System (“IELS”).

(i) SCRIMS II

52. SCRIMS II is our second-generation case management system that tracks criminal and juvenile cases from registration to disposal. It will be integrated with the systems of relevant external agencies to facilitate the exchange of electronic data. For instance, SCRIMS II will be integrated with the case management systems of the Singapore Police Force to automate the case registration process and with the Prisons Department to speed up the transfer of sentencing information. Future extensions of such electronic interfaces will pave the way for an integrated electronic criminal justice system.

(ii) iELS

53. I mentioned the Electronic Filing System or “EFS” earlier. That system is more than a decade old and we are upgrading it to a new system, the iELS, to replace the existing EFS. The EFS is premised on a document-centric model. Whilst documents can be filed and stored electronically, the system is unable to make use of information or data that is found in the documents. All this will change with the iELS, which will use a completely new paradigm that deals with information, and that flexibly re-uses that information.

54. iELS will provide users with a library of electronic court forms, which can understand the information typed into them. Information in the court form need not be typed again and there will be no separate online form to complete. Information need only be typed in once and will be re-used thereafter. Once the court form is prepared, it is ready for filing. With the new underlying platform, iELS will also be more intuitive in that most



mistakes can be identified before the forms are filed resulting in less documents being rejected and filing fees deducted. This will take us to a higher level of sophistication and efficiency in case management⁸.

CONCLUSION: LESSONS LEARNT

55. I would like to share some final thoughts with you. First, we are grateful to the many judiciaries that we have consulted and the kind assistance they have rendered. In this regard, we have always readily welcomed delegates from other jurisdictions who come to study our systems and processes. Such gatherings provide us with an excellent opportunity to learn, consult and exchange views on how things can be done better.

56. Two, it is futile to resist change. Neither can we ignore the fact that change is here to stay. We can ill-afford contentment or to live in the past of our previous achievements and let change wash over us. There is no rest for the weary. The quest for judicial excellence is a long and arduous journey without an ending in sight.

57. Third, we should be mindful that technology alone does not improve the system. It is the people, assisted by technology, which make the justice system tick. Efficiency as an objective should never be achieved at the expense of justice. When looking to technology, we should not overlook the needs of those who may not have access to technology.

58. Last, we must never forget that ultimately, the Court's public face is its judicial officers and court administrators. They are the most important and valuable assets to the organisation. There is never too much that can be done to ensure that the welfare of our people are well looked after. On the other hand, they have to appreciate that heavy responsibilities lie upon their shoulders, in particular the judicial officers. They must constantly exhibit the highest standards of probity, conscientiousness and independence in the discharge of their judicial duty.

59. In conclusion, I look forward to learning from your experiences.

⁸ For more details about the features and benefits of iELS, see *Inter Se* (January-June 2009 ed), "The Next Step in E-litigation" at p65-68.