

# INTERNATIONAL FRAMEWORK FOR COURT EXCELLENCE

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## Framework Users –

### Your feedback is requested

The Executive Committee is committed to ensuring the Framework and the associated tools, including the ICCE website, are as beneficial as possible for Consortium members and users. Please send any feedback about the Framework and how we can improve the website by email to Liz Richardson at the ICCE Secretariat.

### Want to know more about the Framework?

Interested in holding an IFCE Regional Forum in your region? These workshops give an:

- explanation of the Framework;
- overview of the self-assessment questionnaire;
- overview of how to interpret and analyse the results of an assessment; and
- an explanation of how to develop an action plan for improvement.

Please contact the ICCE Secretariat for further information.

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## International Consortium for Court Excellence Newsletter Issue 6 – April 2016

### What is the Framework?

The *International Framework for Court Excellence* (IFCE) is a resource for assessing the performance of a court against seven detailed areas of excellence and provides guidance to courts intending to improve their performance. The IFCE was first developed in 2008 by the International Consortium for Court Excellence (ICCE), consisting of organisations from Europe, Asia, Australia, and the United States. A Second Edition was published in 2013 along with a shortened version of the IFCE in *Thinking of Implementing the Framework for Court Excellence*. The IFCE uses the term 'court' for all bodies that are part of a country's formal judicial system including courts and tribunals of general, limited or specialised jurisdiction, as well as secular or religious courts.

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#### International updates

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- Dubai Courts – In 2016 the Dubai Courts have advanced 103 ranks in the World Bank *Enforcing Contracts Index*.

#### Report on the 'Judiciary of the Future' conference

Read about the:

- Highlights of the recent conference hosted by the State Courts of Singapore *'Judiciary of the Future' A Conference on Court Excellence*, held on 28-29 January 2016 – page 5-6.
- *Closing Remarks* from the Conference by Judicial Commissioner See Kee Oon, Presiding Judge of the State Courts of Singapore - pages 6-10.

#### Regional forum reports

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# Consortium news

## Expanded Executive Committee

The Executive Committee of the Consortium is pleased to announce that it has expanded membership of the Executive Committee to include two new term members: the District Courts of New Zealand and the Judiciary of the Republic of the Marshall Islands. The ICCE Governance Policy provides for the expansion of the Committee by up to three Implementing members to enhance geographical representation on the Committee beyond the four founding members. These two members were invited on the basis of their advanced implementation of the IFCE, having completed full self-assessment under the IFCE at least once and having conducted (or in the planning stages of) a second round of self-assessment.

The representatives that will sit on the Executive Committee nominated by the respective courts are Chief Justice Carl Ingram of the High Court, Republic of the Marshall Islands; and Judge Colin Doherty, National Executive Judge of the District Courts of New Zealand. Both Chief Justice Ingram and Judge Doherty bring with them the rich experience from their respective judiciaries and fresh insights to the Consortium.

The expanded Executive Committee convened for the first time at the International Conference on Court Excellence on 27 January 2016 in Singapore.



***The Executive Committee of the International Consortium of Court Excellence with the Honourable Chief Justice Sundaresh Menon, Supreme Court, Singapore and Judicial Commissioner See Kee Oon, Presiding Judge of the State Courts, Singapore at the Judiciary of the Future - International Conference on Court Excellence, The Clifford Pier, Singapore, 28 January 2016.***

*From Left to Right* Judicial Commissioner See Kee Oon, Presiding Judge of the State Courts, Singapore; The Honourable Chief Justice Carl Ingram, High Court, Republic of the Marshall Islands; Judge Colin Doherty, National Executive Judge, District Courts of New Zealand; Professor Gregory Reinhardt, Chairman, ICCE, Executive Director of the Australasian Institute of Judicial Administration; The Honourable Chief Justice Sundaresh Menon, Supreme Court, Singapore; Mr Laurence Glanfield, Deputy President, Australasian Institute of Judicial Administration; Ms Jennifer Marie, Deputy Presiding Judge/Registrar, State Courts, Singapore; Mr Daniel J. Hall, Vice President, Court Services Division, National Center for State Courts, United States. [Absent: Ms Beth Wiggins, Research Division, Federal Judicial Center, United States].

## Membership update

There are currently 30 members of the Consortium and interest continues to grow. In December 2015 the categories of membership to the Consortium were changed. There are now three categories of membership open to judicial institutions to reflect the different ways in which courts and tribunals and affiliated institutions utilise the Framework:

- Implementing Members.
- Associate Members.
- Affiliated Judicial Institutions.

*Implementing Members:* are courts and tribunals who are advanced in their implementation of the Framework. Applicants are required to demonstrate significant use of the Framework as outlined in the Membership Policy. They must have an active interest in the Framework, assist the Consortium in fulfilling its objectives; share information, experiences and ideas with the Consortium and promote use of the Framework.

*Associate Members:* are courts or tribunals who are less advanced in their implementation of the Framework. They may have implemented the Framework in a limited way, or are beginning their implementation of the Framework or have firm plans to implement the Framework. They must also have an active interest in the Framework, assist the Consortium in fulfilling its objectives; share information, experiences and ideas with the Consortium and promote use of the Framework.

*Affiliated Judicial Institutions:* are institutions that provide active support and assistance to judges, courts and court systems but do not have direct responsibility for implementing the Framework in courts or court systems. They support the goals of the Consortium and implementation of the Framework and seek to assist and support the promotion of the Framework.

Judicial institutions wishing to become members must complete the application form and provide the Consortium with sufficient details supporting their application. The Executive Committee will consider each application based on the information provided. Full details about the membership policy and requirements for membership applications can be found on the Consortium website (link below) or contact the ICCE Secretariat for further information:

<http://www.courtexcellence.com/Members/Membership-Policy.aspx>

## Latest Publications

There are three new ICCE publications that have been published since the October 2015 newsletter:

- **ICCE Governance Policy** – December 2015 - The ICCE Governance Policy has been revised to reflect the new membership categories.  
<http://www.courtexcellence.com/Members/Executive-Committee.aspx>
- **ICCE Membership Policy** – December 2015 - The Membership Policy has been revised to include the expanded range of membership categories.  
<http://www.courtexcellence.com/Members/Membership-Policy.aspx>
- **Global measures of Court Performance – Brief Version** (January 2016) – Ingo Keilitz and Laurie Glanfield have published a concise summary of the forthcoming second edition of the Global Measures of Court Performance due out later in 2016.  
<http://www.courtexcellence.com/~media/Microsites/Files/ICCE/Global%20Measures%20Court%20Performance%20Summary%20-%20Jan%202016.ashx>

## New Resources

There are a number of new resources and articles relating to the IFCE that have been recently uploaded onto the ICCE website under Resources from the Courts

(<http://www.courtexcellence.com/Resources/Other-Resources.aspx>). These include:

- Family Court of Australia and Federal Circuit Court of Australia – Court Users Satisfaction Survey 2015.
- Federal Circuit Court of Australia – Report on Implementation of the IFCE 2014.
- Family Court of Australia – Report on Implementation of the IFCE January 2016.
- Family Court of Australia and Federal Circuit Court of Australia International Framework for Court Excellence 2009-2015.
- Federal Circuit Court of Australia – Court Excellence Self-Assessment Questionnaire.

A recent article on the IFCE has been published in the *Journal of Judicial Administration*:

E Richardson, P Spencer and D Wexler, 'The International Framework for Court Excellence and therapeutic jurisprudence: Creating excellent courts and enhancing wellbeing' (2016) 25 *Journal of Judicial Administration* 148. The article will be discussed in the June 2016 edition of the ICCE Newsletter.



## Recent events

Greg Reinhardt and Liz Richardson from the ICCE Secretariat presented a paper on recent developments and future directions for the IFCE at the Sir Zelman Cowen Centre Courts and Tribunals Academy, Victoria University in Melbourne, Australia on 15 February 2016. The event was a Research Colloquium designed to provide an opportunity to meet Visiting Fulbright Professor Ingo Keilitz and to discuss research on courts and tribunals. In addition to the paper on the IFCE, researchers presented papers on the everyday work of courts and the judiciary, courts and technology, use of tablets by juries, faith-based appropriate dispute resolution, Pacific court administrators' education, Victoria's jury management system, juries in sexual violence cases, the effect on courtroom design on juror's verdicts and iPads in the jury room.

## International updates

### Dubai

The latest member to join the Consortium is the Dubai Courts. Dubai Courts has recently informed the Secretariat that the United Arab Emirates advanced 103 ranks in the World Bank *Enforcing Contracts Index* to reach the 18th rank worldwide in the 2016 report compared to 121 in 2015, placing it at the top of the Arab countries. The enforcing contracts indicator refers to the time and cost for resolving a commercial dispute through a local first-instance court. The *Doing Business 2016* report notes that the United Arab Emirates made enforcing contracts easier by 'implementing electronic service of process, by introducing a new case management office within the competent court and by further developing the 'Smart Petitions' service allowing litigants to file and track motions online.' The Consortium extends its congratulations to the Dubai Courts for this achievement.



His Highness Sheikh Maktoum bin Mohammed bin Rashid Al Maktoum with the Dubai Courts' team charged with the preparation of the World Bank Report's Enforcing Contracts Survey.

The World Bank *Enforcing Contracts Index* is based on three indicators: Time, Cost and Quality of Judicial Processes. The Quality of Judicial Processes indicator was introduced for the first time this year, and indicates whether each economy has adopted a series of good practices that promote quality and efficiency in the commercial court system. Four areas are measured under the Quality of Judicial Processes measure: court structure and proceedings; case management; court automation and alternative dispute resolution. Each area contains a range of measures which are outlined in the table below, extracted from the *Doing Business 2016* report:

|  |
|--|
| <b>Court structure and proceedings index (0–5)</b>   |
| Availability of specialized commercial court, division or section  |
| Availability of small claims court or simplified procedure for small claims  |
| Availability of pretrial attachment  |
| Criteria used to assign cases to judges  |
| <b>Case management index (0–6)</b>   |
| Regulations setting time standards for key court events  |
| Regulations on adjournments and continuances   |
| Availability of performance measurement mechanisms   |
| Use of pretrial conference   |
| Availability of electronic case management system for judges   |
| Availability of electronic case management system for lawyers  |
| <b>Court automation index (0–4)</b>  |
| Ability to file initial complaint electronically   |
| Ability to serve process electronically  |
| Ability to pay court fees electronically   |
| Publication of judgments   |
| <b>Alternative dispute resolution index (0–3)</b>  |
| Arbitration  |
| Voluntary mediation or conciliation  |
| <b>Quality of judicial processes index (0–18)</b>  |
| Sum of the court structure and proceedings, case management, court automation and alternative dispute resolution indices |

Table 13.16 What do the indicators on the quality of judicial processes measure? (Source: World Bank. 2016. *Doing Business 2016: Measuring Regulatory Quality and Efficiency*. (Washington, DC: World Bank). DOI: 10.1596/978-1-4648-0667-4. License: Creative Commons Attribution CC BY 3.0 IGO)

More details about the *Enforcing Contracts Index* and the quality of judicial processes indicator can be found in the World Bank's Report *Doing Business 2016: Measuring Regulatory Quality and Efficiency* and on the [Doing Business website](http://www.doingbusiness.org/data/exploretopics/enforcing-contracts#close): <http://www.doingbusiness.org/data/exploretopics/enforcing-contracts#close>

# International Conference on Court Excellence – ‘Judiciary of the Future’ 28 to 29 January 2016, The Fullerton Hotel Singapore



The International Conference on Court Excellence took place in Singapore from 28 to 29 January 2016. The theme of the conference was *‘Judiciary of the Future’*, and the Keynote Address, entitled *‘The Aspiration of Excellence’*, was delivered by The Honourable Chief Justice Marilyn L Warren AC of the Supreme Court of Victoria. Over the two-day conference, 189 participants heard from distinguished speakers on a range of topics, including leadership, innovations in court procedures and processes, good governance and judicial ethics, delivering court services of the future, and courts of the future.

This Conference was an opportunity to hear from speakers who have used the IFCE consistently since its launch. Chief Judges, Judges, and Registrar of the Land and Environment Court of New South Wales, Australia; the Family Court of Australia; and the

District Courts of New Zealand, spoke on their experience in implementing the IFCE, providing inspiration and practical tips to courts which were either thinking of, or had already implemented the IFCE. All respondents who provided feedback agreed that the Conference had promoted their awareness of the IFCE, and encouraged the use of the IFCE as a resource to promote judicial reforms and improve court performance.

Members of the Executive Committee of the International Consortium for Court Excellence spoke on the latest developments in the Membership policy of the Consortium, and the recently-launched International Framework for Judicial Support Excellence. This Framework is aimed at Judicial Support Organisations that provide broad support services and specific services such as research,



performance management, records management, education, technology, finance, asset or personnel services to courts. (<http://www.courtexcellence.com/~media/Microsites/Files/ICCE/IFJSE%20-%20Final%20Sep%202015.ashx>)

In his Closing Remarks (see below), Judicial Commissioner See Kee Oon, Presiding Judge of the State Courts, poses the question, *'How can the Judiciary better prepare itself to meet the needs of Court Users of the Future?'* This Conference has given much food for thought, and as Judicial Commissioner See notes, one's vision of a Judiciary of the Future is highly contextualised.

The State Courts of Singapore wishes to thank the founding members of the Executive Committee for supporting this event, distinguished speakers for their time and effort to share their knowledge and experience, and all participants who travelled from afar and participated actively in this conference and contributed to its success.

## **International Conference on Court Excellence 2016: Judiciary of the Future – Closing Remarks**

### **Judicial Commissioner See Kee Oon, Presiding Judge, State Courts, Singapore**

#### **Introduction**

In 1998, I was privileged to participate in the Asia-Pacific Courts Conference held in Shanghai, China. The theme of that Conference - 'The Judiciary in the 21st Century' – bears some passing resemblance to ours. At a workshop at the Shanghai conference, I spoke about the changing role of the trial judge emphasising his role as a case manager. I also made reference to Sir Thomas More's 'Utopia', where it was said that people would plead their own cases before the courts. There would be no barristers to be 'over-ingenious' about points of law as the 'very few' laws which needed to be in operation would be plain and straightforward. Whatever our views may be about this 16th-century description of an ideal republic, quite a few 'over-ingenious' lawyers are still in our midst today and we have had to grapple with more laws, not less, over time.

## **The End of Judges?**

Fast forward some 10 years to 2008. Professor Richard Susskind in his hugely influential book 'The End of Lawyers?' (note: with a rhetorical question mark) spoke of ten 'disruptive legal technologies'<sup>1</sup>, many of which would sideline lawyers and fundamentally alter the way legal services are provided in the future, and also impact on how judiciaries might operate. In his more recent book published in 2013, 'Tomorrow's Lawyers', Susskind distils his arguments and spells out 13 disruptive technologies in all<sup>2</sup>. He foretells a future where e-working, IT-enabled courts, Online Dispute Resolution ('ODR') and virtual courts will dominate our courtroom environment. Fortunately for those of us working in the courts, there is no suggestion yet that the courts will outlive their usefulness and wither away out of existence.

That is not to say however that the status quo will simply remain unaltered; there are fundamental changes that have already swept our legal and judicial landscape in this new century. Technology is a key driving force for change and is easily the single biggest major disruptor. Susskind has already hinted that we may see 'The End of Courtrooms?', at least in the conventional sense that we are generally accustomed to where a judge holds court over proceedings in a courtroom setting. Susskind observes very pertinently and persuasively that we should all ask this fundamental question: is court a service or a place? Does it still make sense to adhere to the mindset that disputes should invariably be resolved in a courtroom setting with litigants congregating to plead their cases before a judge? After all, alternative models of dispute resolution have long been in existence and some disputes can be resolved out of court effectively, and perhaps more quickly and cheaply. ODR has also been used to facilitate resolution of disputes on e-Bay or PayPal.

As Chief Justice Marilyn Warren AC has previously noted in a paper delivered in April 2015 titled 'Embracing Technology: The Way Forward for the Courts'<sup>3</sup>, we may not be that far away from a future court system where litigants need not attend court at all and the court is both paperless and 'people-less' to some if not to a large extent.

CJ Warren has also rightly noted that while new courtroom technologies have been employed and electronic filing and case management systems are fairly commonly-used, the uptake has generally been slow and not uniform. If judiciaries do not keep pace with the changes of the times and shy away from

<sup>1</sup> (i) Automated document assembly; (ii) Relentless connectivity; (iii) The electronic legal marketplace; (iv) e-learning; (v) online legal guidance; (vi) legal open-sourcing; (vii) closed legal communities; (viii) workflow and project management; (ix) embedded legal knowledge; (x) online dispute resolution.

<sup>2</sup> In addition to the above 10: (xi) intelligent legal search; (xii) big data; (xiii) AI-based problem solving.

<sup>3</sup> 23<sup>rd</sup> Biennial Conference of District and County Court Judges, Australia and New Zealand, 19 April 2015.

exploring and exploiting technology to their advantage, they risk becoming irrelevant and redundant. Perhaps Susskind's next book will then be titled 'The End of Judges?'

We may pause for just a while to reflect over this scenario, however unlikely we think it might be that it will ever come to pass. But in today's fast-paced, highly dynamic and constantly changing environment we cannot risk pausing for too long. The acronym VUCA, which stands for 'volatile, uncertain, complex and ambiguous', once little-known outside the US military, is now more commonly understood and indeed apt for contextualising the unpredictable environment we live in. It is no wonder that present-day management consultants routinely do not claim to offer any clear-cut solutions to the problem of growing complexity other than to suggest that complexity must be embraced, and to emphasise that nuanced and calibrated responses are needed. So the advice the consultants offer today is to 'expect surprise, but reduce uncertainty'<sup>4</sup>. The challenge remains: how do we go about doing so? In organising this Conference, we do not pretend to be able to provide all the answers but I would venture to suggest that the Conference has provided some grist for the mill and a number of useful pointers.

## A Recap – Some Key Discussion Points

Over the last two days, we have heard our speakers and panellists share their experience and insights. It has been a richly enriching and lively discussion. I shall briefly recap a few key points. Chief Justice Marilyn Warren AC began her excellent keynote speech with a timely reminder to look after our **judicial well-being** and stay in good health even as we strive hard to achieve our goals, whether these are self-imposed, individual or organisational in nature. This must apply not only to judicial officers tasked with the responsibility of adjudication but to court administrators as well, especially as they are often the first point of contact with courts users at the 'frontline' of our courts, serving lawyers and court users daily. We need good heads and minds as well as strong hearts and guts on our ongoing journeys towards court excellence.

In yesterday morning's opening session, Judge of Appeal Chao Hick Tin, Chief Justice Chris Kourakis and Chief Judge Brian Preston have all emphasised the need for strong and effective **leadership**. Leadership in the context of the delivery of justice entails a strategic approach towards judicial reform in guiding our judiciaries into the future. We must be clear-minded and resolute in our focus on our core mission to administer justice and uphold the Rule of Law, firmly and fairly. And it is imperative for judicial

leadership to have the trust and respect of judges and court administrators as well as court users and all stakeholders in the justice system.

We subsequently heard from our speakers in the afternoon yesterday as they spoke about various **innovations in court procedures and practices**, both technological and non-technological. I am entirely in agreement with Judge Michael Jarrett's observation in particular that the idea of innovation should not be associated solely with IT-related innovation. There can and will be innovative improvements to be made in our judiciaries which have nothing whatsoever to do with IT. Having said that, technology has already transformed the way we work and live; we should continue leveraging on technology as a key enabler and working in collaborative partnership with other organisations and justice stakeholders. I am heartened to note that paperless systems for criminal cases are already in use in other jurisdictions, as we saw from Chief Magistrate Steven Heath's overview of the magistrate's court system in Western Australia.

In **implementing the IFCE**, judiciaries recognise the need to constantly monitor and measure performance and work on raising standards and improve accountability. Whether in its current form or in some modified version, the IFCE is designed precisely to facilitate the important task of performance measurement and improvement. After all, what is not measured often does not get done. And in the words of Chief Justice Robert Torres, we must be counting what counts and measuring what needs to be measured. Adopting the IFCE as a 'health check', we can determine that the stronger our governance structures, processes and operational capabilities, the more we are likely to be able to manage uncertainties and withstand shocks. At the same time, we must be prepared to change and build up resilience to be able to bounce back from unforeseen events or disruptors.

You would recall Justice Lee Seiu Kin speaking about the Court of the Future project that the Singapore courts embarked upon last year. This offers a glimpse into potential areas where we can **tap on technology** to change the ways that we deliver justice. That future is not all that far away. We can expect to work in future courts where the use of technology is pervasive, but we should act now to review and reform outmoded and inefficient practices and procedures, to simplify processes and enhance access to justice. In Bill Gates' words, 'automation applied to an inefficient process magnifies the inefficiency; automation applied to an efficient process magnifies the efficiency'. We must keep looking for new and better ways to operate, and innovate in improving our processes.

<sup>4</sup> Martin Reeves et al, HBR Jan-Feb 2016 p 46.

The court of the future must keep pace with the technology of its times and not lag behind. Many judges are hardly neo-Luddites and are keen to embrace technology which will clearly bring practical benefits to their daily work. Professor Richard Susskind notes however that in England and Wales at least, progress in terms of IT-enabled courts may have been modest or even disappointing, largely due to insufficient funding. But there is hope for a future where court and justice systems can be transformed through technology. Already courts harness IT to support much routine work, going beyond rudimentary 'e-office' or 'e-working' uses such as email or word processing. More encouragingly, various courts have developed case management and e-filing systems, and the possibilities for other uses remain to be explored e.g. document assembly utilising Technology-Assisted Review ('TAR').

Looking further, courts of the future may operate more as virtual courts (i.e. without requiring the physical presence of litigants or their lawyers in a courtroom setting). Court attendance may be the exception rather than the norm and even then it should occur only when attendance is necessary. There may also be increased resort to ODR provided there is sufficient evidence to show that disputes can be handled and resolved more swiftly, efficiently and cheaply in this manner. In addition, with increasingly sophisticated data analytics and AI systems to process big data, there is potential for AI-assisted research and the use of predictive technologies to aid in decision-making. Auto-transcription and auto-translation are not unimaginable, just as electronic presentation of evidence or holograms may become commonplace in a court of the future.

I will briefly share my recent experience in dealing with a lengthy commercial fraud trial which spanned 140 days and involved voluminous documentary evidence, numerous submissions, case authorities and exhibits. Real-time court transcription was employed, while documents and exhibits were tendered in electronic form even though the charges were filed before we implemented the Integrated Criminal case Management and filing System ('ICMS') in 2013. This resulted in tremendous savings in both time and cost. With the consent of the parties and the appellate court registry, I adopted the same 'paperless' approach in arranging for the collation of the record of proceedings in preparation for the appeal hearing. The entire record is contained in two DVDs of just over 7 GB in all. If we had prepared the appeal record in the conventional manner, the same 7 GB would have translated into mountains of paper; there was an estimated 25,000 pages of trial transcripts alone (or 50 reams of paper).

I should add a caveat against over-reliance on technology: we agonise whenever our computer systems hang or fail, or worse, when servers crash. Going 'paperless' for real-time proceedings may work well but only if there are backup measures in place. And at the moment, technology still comes at a premium for many, and some may be priced out altogether. But the good news is that costs are bound to be lower as newer technologies emerge, and for many judiciaries keen to start harnessing technology, it is not always critical to work with state-of-the-art systems or software. More often than not, we can operate optimally with those that are fit for purpose.

Design thinking should guide us in planning and designing IT systems whether they are for public-facing or back-end use. In designing and implementing the State Courts' recently-launched ICMS, we kept these principles in mind and consciously sought to address the needs of the system users, whether internal or external. The successful launch of the ICMS on-time and within the allotted budget attested to the balanced, disciplined and collaborative approach adopted to ensure there was general support for funding needs and buy-in from all users. I hope it has also helped improve our standing with the Ministry of Finance and that they may be more prepared to fund future projects aimed at enhancing efficiency and improving the quality of justice.

IT or management consultants may advocate designing a service or process to be 'digital by default'. That is an alluring catch-phrase that has intuitive appeal, much like calls for the courts to go completely paperless. But we should bear in mind that whatever may be said about the impressively high levels of Internet or smartphone penetration in our respective societies, there is still bound to be a digital divide with the concomitant risk of alienating a smaller but still sizeable proportion of court users, notably the elderly, impecunious or less technologically-savvy. We must ensure that justice remains accessible to them as well.

As the speakers in one of this morning's sessions shared, to afford better access to justice for litigants-in-person, especially the indigent, there is much scope to build on community partnerships to assist them in finding more holistic solutions to legal issues. The Community Justice Centre came into being as a collaborative partnership to draw on the efforts of businesses, government and civil society, adopting an innovative socio-legal approach that goes beyond the provision of pro bono legal services to include social services, tapping on volunteer efforts drawn from the wider community.



The final session for the Conference earlier this afternoon was titled 'Courts of the Future'. The presentations touched on both the physical and the metaphysical aspects of the court. In Justice Robert McDougall's paper accompanying his presentation, there is a fitting reference to Franz Kafka's 'The Trial', first published in 1925. Ninety over years on, I am sure we have begun to understand that the courts do bear a huge responsibility to assist litigants who struggle to navigate a complex and bewildering judicial system. Much as we may have tried to simplify our rules and processes and make things easier for laypersons to understand, it will still be a challenge for those unaccustomed to these rules and processes, particularly when they are in court for the first time.

The traditional view of courthouses was that they should perform a symbolic function as the 'tangible locus of justice in a community' and inspire a sense of awe and more importantly, compliance to their authority. Some have grand or even grandiose designs. However the reality is that in more recent times, many court interiors have been fairly rudimentary. What remains important in my view is that courts should be dignified and fit for purpose and this must be reflected in courthouse design. I would venture to suggest that there will still be a place for the courthouse in the future, even though it is likely, if not inevitable, that the modalities for delivery of court services will change to more convenient and accessible and less costly forms for court users.

## Questions and Reflections

How can the Judiciary better prepare itself (be future-ready) to meet the needs of Court Users in future?

One way might be to think like the Internet generation, accustomed to smartphones and adept at navigating the Internet. Plan and coordinate strategically while retaining autonomy and flexibility to address specific functional and operational needs.

What areas of opportunity (incremental and transformational) are there to be more efficient and effective in its processes? I would suggest to start by right-sizing operations to be proportionate to their needs as we may have overcapacity or buffers that are not needed. Another aspect is right-siting – to ascertain where court services are best located, and this need not necessarily be within the court premises.

What can we learn from the best practices in other jurisdictions? We will benefit from being open to continued networking, engagement and connecting with other judiciaries, as aptly highlighted by Mr Mark Beer, Registrar DIFC.

What is your vision of the 'Judiciary of the Future'? I do not propose to offer any suggestions as the Conference materials would have provided many ideas and the answer is highly contextualized.

What does this vision entail and how do we get there?

This calls for clarity of focus and alignment of the strategic direction across the judiciary. The process may be more important than the outcome but we should keep our eyes on the outcome as well.

I am quietly confident that the courts have evolved and progressed since the time of Charles Dickens and will continue to do so. I am certain that the judiciary of the future will benefit from greater engagement, collaboration and sharing of best practices. Indeed this was how the IFCE came to be developed through the consortium. We have much to learn from each other. Many of these best practices involving performance measurement and assessment are transferable or exportable, much like processes or procedures aimed at improving efficiency.

But we need to be careful in adapting them judiciously and pragmatically to suit our particular contexts and not mindlessly import or transplant them wholesale. We should also be careful not to let performance measures and key performance indicators become the be-all and end-all, or ends in themselves. Like technology, properly harnessed, they are tools to help us improve performance. They are not magic bullets or miracle cures. They are not one-size-fits-all and may need customisation or major adaptation to suit specific jurisdictional or societal needs.

We deal with an increasingly demanding public with high expectations of the court system and service delivery, coupled with greater 'democratisation' of information and knowledge. We face resource constraints and pressures in terms of budgets, manpower and infrastructure. As noted by Mr Amit Mukherjee from the World Bank, there are continuing pressures on independence and calls for accountability on the part of judiciaries and having one without the other will not be acceptable.

In our respective judiciaries, we will need to make considered and sometimes tough choices and judgment calls about what to do, but equally importantly, about what not to do. We may not always have the luxury of time to indulge in meticulously-measured deliberations; some situations will call for fast and 'roughly right' decision-making<sup>5</sup>.

By clearly defining the role we want our judiciaries to play and the purpose we serve in our societies as key state institutions, we can work on a firm and principled foundation.

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<sup>5</sup> Rita Gunther McGrath, HBR June 2013, p 70.

The more challenging and perhaps never-ending task is to build up the capacities of our courts to thrive in an increasingly complex world and ensure that we retain a high level of public trust and confidence.

The IFCE is a key resource to assist courts in evaluating and assessing where they stand in the journey towards court excellence and to point them towards areas of improvement. Complementing the seven areas of court excellence originally identified for measurement in the IFCE, I suggest a broad capacity-building governance framework which centres around 4 'Ps'.

First, we should have in place key **policies** or directional guidelines to ensure sound governance. Second, focus on our **people** and developing their potential and talent, empowering them and encouraging them. Third, constantly review and improve our **processes** for core activities including court and administrative procedures and service delivery, as well as communication and collaborative processes and learning, innovation and IT frameworks. Finally, **plan** strategically and continually to be prepared and to be in time for the future.

What we do now will lay the groundwork to equip us for what we are able to do in the future. The future is not fixed – this is a phrase popularised by Hollywood – you can find similar themes in movies such as 'The Terminator' with its bleaker outlook or the more upbeat 'Back to the Future' movies. Incidentally, it was in 'Back to the Future II' (1989) where the hoverboard first made an appearance. We now have hoverboards retailing both online and in brick-and-mortar outlets. I shall not critique their functionality or usefulness or the safety issues here, but this serves as a good reminder that yesterday's science fiction could be tomorrow's future.

We should articulate a vision for our respective judiciaries and map out a strategic action plan to work towards realising that vision. To paraphrase a quote often but possibly wrongly attributed to the economist John Maynard Keynes, we should also be prepared to change our minds when the facts change. In the planning context, if we are serious in aiming to be future-ready, we should keep planning but be ready to adapt and change our plans when the context changes.

## Regional forums

### Singapore

#### Report from District Judge Boon Heng Tan, Executive Director, Singapore Judicial College.

The Singapore Judicial College (SJC) is pleased to report that in the first quarter of 2016, more judges and court officials from various jurisdictions have been introduced to the IFCE. They include:

#### (a) *The Guangdong Judicial Group, People's Republic of China on 15 Jan 2016*



The SJC conducted its lectures fully in Mandarin on 'Developing Better Judicial Education' and the 'IFCE' for 25 judges from the Guangdong Judicial Group. The delegation was headed by Judge Zhong Jianping (钟建平院长, Maritime Court of Guangzhou City (广州海事法院)).

#### (b) *The Omani Judiciary from 18 – 20 Jan 2016 in Muscat, Oman*



Topics covered in Oman include Case Management, eFiling, Introduction to the 'IFCE' and 'Developing Better Judicial Education'.

**(c) ADR for ASEAN Judges from 23 – 25 Feb 2016, Singapore**



The participants were Judges and Judicial Officers from Brunei, Cambodia, Indonesia, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam. In these 3 days, besides the seminars, panel discussion and interactive activities on mediation and arbitration, the participants had Learning Journeys that covered the Supreme Court, Singapore Mediation Centre, State Courts, Maxwell Chambers, Singapore International Arbitration Centre and Singapore International Mediation Centre. An introduction to the IFCE was also included in this workshop.

**(d) First Indonesian Court takes up membership with the ICCE**

From 6 – 10 Apr 2015, Chief Judge Edward Simarmata from the Kepanjen District Court of the Republic of Indonesia attended the 5-day course on the 'Strategies of Case Management: Challenges, Solutions and Innovation' (6 – 10 Apr 2015) wherein the participants were introduced to the IFCE. Congratulations that the Kepanjen District Court of the Republic of Indonesia has become the first Indonesian court to receive membership to the ICCE. The SJC is thrilled that it has played its part in increasing Chief Judge Simarmata and his colleagues' awareness of the ICCE through our workshops.

**(e) Institutional Exchange with the UK Judicial College on 2 Mar 2016**

The SJC had an institutional exchange with the UK Judicial College on 2 Mar 2016 at the Highgate House in Northamptonshire, England. Besides sharing the work of the SJC, we also introduced the IFCE to the representatives of the UK Judicial College including Judge John Philips, Ms Sheridan Greenland (Executive Director) and Ms Michelle Austin (who oversees leadership and management training of the judges).

**(f) Strategies of Case Management: Challenges, Solutions and Innovation 4-8 April 2016**

A 5-day training programme titled 'Strategies Of Case Management: Challenges, Solutions And Innovation' was held in Singapore and attended by 31 judges and court officials from 27 countries as follows: Bangladesh, Belize, Bhutan, Brunei Darussalam, Cook Islands, Cambodia, Fiji, Guyana, Grenada, Jordan, Kazakhstan, Kiribati, Lithuania, Mauritius, Malaysia, Maldives, Nepal, Nigeria, Solomon Islands, Seychelles, Sri Lanka, Sudan, Thailand, Timor-Leste, Trinidad and Tobago, Uganda and Vietnam.

The programme was funded by the Singapore Cooperation Programme. A wide-range of topics on case management were covered including the strategies employed to clear the backlogs in the early 1990s, the differentiated tracks of case management to deal with the different categories of cases and the innovative legal infrastructure put in place to institutionalise healthy and sustainable case management. For complex cases with voluminous documents, the participants were introduced to Singapore's eDiscovery regime.

The participants were introduced to the IFCE. In this course, we also set aside time for an activity on the IFCE ie working through the Leadership Checklist. To complement what the participants had learnt in the mornings, learning journeys were held in the afternoons to the Supreme Court, State Courts and Family Justice Courts for the participants to see case management in action in the respective courts.



**(g) What's up post-April 2016?**

The 'End to End Court Technology: A Compendium Survey' course will be held 11 – 15 Jul 2016 at which time judges from a wide and diverse range of jurisdictions will also be introduced to the IFCE. In addition, from April to June 2016, the SJC will be conducting 4-day workshops on the IFCE for judges and court officials in Cambodia, Myanmar, Lao PDR and Vietnam.



## Other news

### Conferences

#### European Association for Court Administration Conference      Regional Conference      International Court Administration Conference

May 18 – 20 2016, The Hague, World Trade Center.

More details: <http://iaca2016.eu/>

#### Eighth International Association for Court Administration Conference

Washington DC, USA, Sunday, July 9 to Thursday, July 13, 2017 - to be held in conjunction with the National Association for Court Management and will be held at the Hyatt Regency Crystal City.

More details: <http://www.iaca.ws/upcoming-conferences.html>

### Next newsletter

The next ICCE newsletter will be published in June 2016. Contributions include:

- International updates from the District Courts of New Zealand and NCSC Costa Rica.
- Discussion of the recent article E Richardson, P Spencer and D Wexler, 'The International Framework for Court Excellence and therapeutic jurisprudence: Creating excellent courts and enhancing wellbeing' (2016) 25 *Journal of Judicial Administration* 148.

Those members wishing to submit articles to the October 2016 edition of the ICCE Newsletter for consideration by the Secretariat on their experiences implementing the Framework are invited to contact Liz Richardson about their submission.

## Want to know more?

For enquiries about the Framework please contact Liz Richardson at the ICCE Secretariat:

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