

INTERNATIONAL FRAMEWORK FOR COURT EXCELLENCE

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Review of the IFCE – Developing the Third Edition

*The ICCE is currently developing the 3rd
Edition of the Framework. A
Consultation Paper was distributed to
ICCE members in October 2018 seeking
feedback on a range of issues.
Contributions from several members
were gratefully received and the ICCE is
now analysing and incorporating the
feedback.*

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

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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. It provides guidance to courts intending to improve their performance. The IFCE was first developed in 2008 and a Second Edition was published in 2013 by the International Consortium for Court Excellence (ICCE), consisting of organisations from Europe, Asia, Australia, and the United States. 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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Consortium update

Report from the ICCE Secretariat

The past seven months, since our last newsletter, have been eventful at the ICCE. The Secretariat has been busy responding to queries about the IFCE and has received a number of new membership applications. As you will read on pages 5-8, the *Court Excellence and Innovation Today and Tomorrow Conference*, held in Dubai on the 7-8 November, was a great success and attended by more than 300 delegates from around the globe. An Executive Committee meeting was held prior to the conference sincere thanks go to ICCE Executive Committee member, Ms Reem Al Shihhe, Deputy Chief Executive Officer of the Dubai Dispute Resolution Authority (DRA) for generously hosting the Executive Committee at lunch and the offices of the Dubai DRA.

Review of the IFCE 2nd Edition

The Executive Committee has undertaken a review of the IFCE, which is currently in its 2nd Edition. The Executive Committee would like to thank all respondents who provided feedback on the Consultation Paper in October 2018. The Review Team is incorporating the feedback, and work is underway to refresh the criteria statements and develop the 3rd Edition of the IFCE Checklist. The review, which is being led by the State Courts of Singapore, is expected to be completed by the end of this year.

Judicial Integrity Champions Network in APEC

Members of the ICCE Executive Committee have been involved in a United Nations Development Programme (UNDP) project, the *Judicial Integrity Champions APEC*, aimed at promoting judicial integrity in South East Asia region. Executive Committee members attended the first Network Meeting in Bangkok in March 2018, the *Pursuing Judicial Excellence* conference in Thailand in

September 2018 (see page 3 of this newsletter) and an ICCE representative will attend the second Network Meeting in Indonesia in late March 2019. Following the first inception meeting, Laurie Glanfield from the ICCE Executive Committee, drafted a Judicial Integrity Self-Assessment Checklist that can be used alongside the IFCE Questionnaire or Checklist. The Judicial Integrity Checklist does not form part of the IFCE itself. However, the Integrity Checklist enables jurisdictions wishing to self-assess the issue of judicial integrity to do so in a focussed way. The tool has been trialled with the Thai judiciary and the Malaysian judiciary as discussed on pages 3 and 4.

The Judicial Integrity Checklist enables courts and tribunals to self-assess against external aspects relating to the system of government, as well as internal aspects such as values, judicial independence, standards of judicial behaviour, corruption prevention, ethics training and support, and community confidence. The Checklist is currently in draft form but a link to the finalised Checklist will be placed on the ICCE website in coming months.

Integrity Checklist

EXTERNAL ASPECTS		SCORE					
		0 None	1 Limited	2 Developing	3 Good	4 Very good	5 Excellent
Our System of Government Provides...							
1	Constitutional guarantees of judicial independence. ¹						
2	Transparent process for merit appointment to judicial office and promotion of judges. ²						
3	Constitutional guarantees of security of tenure of office, remuneration and immunity from suit for judges. ³						
4	Fair process for removal from office or discipline of judges. ⁴						
5	Adequate resources for the court having regard to the financial resources available to government. ⁵						
INTERNAL ASPECTS		SCORE					
		0 None	1 Limited	2 Developing	3 Good	4 Very good	5 Excellent
Values							
6	Our judges adhere to a set of values that include the 'Bangalore' values of independence, impartiality, integrity, propriety, equality, competence and diligence. ⁶						
7	We observe our Judicial Code of Conduct and enforce it. ⁷						

Image: Example of the Integrity Checklist.

Please see page 11 for a Membership Update.

International updates

Thailand

Pursuing Judicial Excellence in the Greater Mekong Sub-region Conference Bangkok 13-14 September 2018

The Supreme Court of Thailand hosted a conference in Bangkok on 13-14 September 2018 promoting judicial excellence. The meeting was sponsored by the UNDP as part of its Judicial Integrity Champions in APEC project. It showcased the IFCE as a tool to advance Judicial Excellence in the Greater Mekong Sub-region. Participants included leadership of the Supreme Court of Thailand, and the Chief Justices of countries in the Greater Mekong Sub-region: Cambodia, Laos, Myanmar and Vietnam. Also attending were international/regional participants, including judges from the United States, Australia and Singapore, and IFCE experts and country representatives from ASEAN Countries.

The purpose of the gathering was to discuss judicial excellence and the pursuit of excellence in court management. Participants exchanged knowledge and experience from their various countries. The IFCE was introduced as an international measure of court performance. The forum provided an opportunity to share how the IFCE has been adapted in different countries, including Singapore and the United States.

In her presentation, Deputy Presiding Judge and Registrar of the State Courts of Singapore Jennifer Marie noted that integrity is one of the IFCE Court Values and is key in many aspects of a court's activities. In running the court's administration and operations, the IFCE looks at different aspects of systems in a holistic manner. The IFCE has statements that relate to integrity, covering a wider-range of court-wide activities such as effective financial management, managing court records, engaging court users to obtain feedback on a regular basis, as

well as training needs of judges and court staff.

UNDP is working with courts in the region that want to be proactive on integrity and corruption prevention issues. In her remarks to the attendees, Elodie Beth, UNDP Program Advisor to the project, noted "corruption and a lack of integrity strike at the very foundation of court systems and the absence of fairness, due process of law, impartiality and due accountability fosters a lack of public trust and confidence in those courts. The Integrity Checklist provides a more in-depth and focused approach that will enable a court to readily identify measures for improving court integrity. Implementing these improvement measures will lead to increased public trust and confidence in the court."



Photo: Delegates at the Pursuing Judicial Excellence in the Greater Mekong Sub-region Conference dinner.

For the purposes of the UNDP Judicial Integrity Champions in APEC project, the IFCE was used together with the Integrity Checklist. Ms. Beth went on to say, "by adopting an integrated approach to the Framework and the Integrity Checklist, a court can delve deeply into issues of integrity and at the same time achieve a self-assessment outcome as a 'whole of court' score."

For those interested courts this enables a benchmark to be set for both a court's general performance against the Framework and the state of its judicial integrity.

Through its project, the UNDP, in close cooperation with the ICCE, offers support to courts in Indonesia, Malaysia, the Philippines, Thailand and Vietnam that wish to undertake a self-assessment based on the IFCE and the Integrity Checklists. The support is intended to help a court establish a process to drive the self-assessment including establishing a task force; preparing the self-assessment; and working with experts from the ICCE to organize workshops to develop an action plan that identifies priorities and opportunities for reform.

Following the conference, the ICCE worked with the UNDP to develop a one-day workshop held in Kuala Lumpur in October 2018 that applied the IFCE with the Integrity Checklist. The workshop is described in detail in the next article. Going forward, as part of the review of the IFCE which is underway, the ICCE is considering the introduction of additional criteria statements on integrity.

Malaysia

Supreme Court of Malaysia

Report by Ms Alicia Davis, National Center for State Courts



Photo: Ms Alicia Davis, NCSC

In September 2012, the Chief Justice Office of Malaysia conducted a workshop for the Judiciary introducing the IFCE in Putrajaya, Malaysia. The seminar introduced the concepts of the IFCE as a tool to improve the way justice is delivered to citizens of Malaysia and administered the Self-Assessment survey. The workshop was conducted by Ms Alicia

Davis from the NCSC, Justice Robert Torres of the Supreme Court of Guam and Judge Seah Chi-Ling, State Courts of Singapore.



Photo: Chief Justice Richard Malanjum

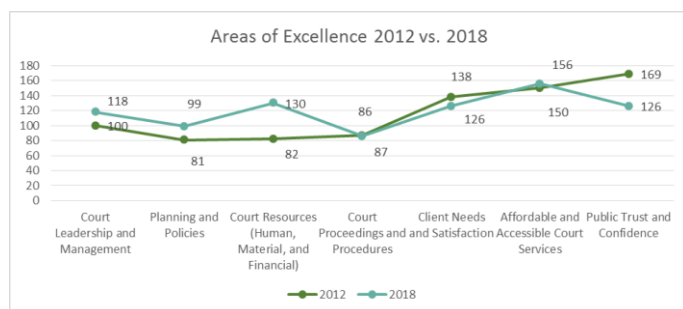
In order to respond to today's court challenges including resource limitations and reduced public confidence, Chief Justice Richard Malanjum charged a technical launch of the Framework in Malaysia in 2018 in order to infuse new energy into judicial reform efforts and to serve as the basis for development of a strategic plan. Chief Justice Malanjum opened the Workshop acknowledging the commitment and hard work of court professionals in Malaysia against the face of challenges.



Photo: Justice Robert Torres guiding participants in the workshop

The process leading to the workshop began with meetings held between the Office of the Chief Justice and the IFCE training team to identify areas of interest to the Office of the Chief Justice, consider past strategic planning and IFCE efforts and establish the agenda for the workshop. During the planning

conversations, it was determined that the same demographics applied as in 2012, allowing for some comparisons to be made. The surveys were sent to approximately 700 recipients, garnering 539 responses across all court levels.



The Judicial Integrity Self-Assessment Checklist was also administered for the first time in a workshop setting and the responses were discussed by participants in consideration of issues involving public trust and confidence.

Eagerness to identify points for comprehensive justice sector reform was demonstrated by enthusiastic participation from court judges, participants and the UNDP. The workshop benefited from approximately 60 court leaders throughout the courts of Malaysia.



Photo: IFCE workshop participants

The openness and engagement by participants in the workshop led to deep discussion of actionable plans to build a strategy that will lead to improvements within agreed upon priority areas. When discussing the areas needing improvement, participants expressed a high degree of consensus on the types of

strategies that should be implemented. Specific steps included: gathering attorney and stakeholder input on court functioning, improving communications with the public and working towards more direct funding mechanisms.

Since the workshop in October, the Office of the Chief Justice continues its forward progress, now working to establish a charter for a Judicial Strategic Planning committee to oversee the efforts and integrate the strategic plans throughout court levels.



Photo: ICCE representatives with the Chief Justice of Malaysia and staff of the Office of the Chief Justice.

Noticeable progress has been made by the Federal Court of Malaysia in effort to prepare to implement the IFCE. The Federal Court of Malaysia acknowledges that despite differences in funding and structure from other courts, all courts must judge fairly on the rule of law in a way that is binding, due to the broad role and effect the courts have on the values of a community. In taking this initial step, the Federal Court of Malaysia has exhibited leadership that will facilitate further efforts to implement the IFCE.

Regional forums

Dubai International Financial Centre (DIFC) Courts and ICCE conference 7-8 November 2018



The DIFC Courts hosted a major conference on court excellence in collaboration with the ICCE at the Ritz Carlton DIFC on 7-8 November 2018. The conference was a great success and a testament to the hard work of the organisers, notably Executive Committee member Ms Reem Al Shihhe and her staff, with special mention to Ms Amelia Byres.

Day One of the conference was opened with a keynote address from Justice Michael Hwang, Chief Justice of the DIFC Courts. He outlined the role and jurisdiction of the DIFC Courts before introducing the themes of the conference: judicial excellence – worldwide connectivity – innovation – technology and service excellence. Ms Reem Al Shihhe, Deputy Chief Executive Officer of the Dubai Dispute Resolution Authority welcomed delegates by

precising the DIFC Courts’ vision for the conference. Mr Dan Hall, Chair of the ICCE Executive Committee, followed by explaining to the audience what the IFCE is and clarifying its benefits to delegates. He noted that the IFCE is a simple framework that gives courts flexibility but noted that the journey towards to excellence is a marathon not a sprint. A presentation from His Excellency Tareh Eid Al Mansouri, Director General of Dubai Courts, completed the first session. His Excellency emphasised the importance of the conference to Dubai and the local judicial system.



Photo: Mr Dan Hall, Chair of the ICCE speaking to delegates

The topic of the first panel discussion of the day was ‘The Path to Excellence: Strategy, Structures and Governance’. Panel members, Judge Jennifer Marie, State Courts of Singapore, Mr Dan Hall, NCSC, Professor Liu Jingdong, China Academy of Social Sciences Institute of International Law, Ms Sia Lagos, Federal Court of Australia, and Mr Essam Al Tamimi, Al Tamimi & Co discussed how courts can add value, highlighting the importance of governance and judicial leadership. Mr Dan Hall noted that courts are best described as “Loosely Coupled Organisations” which presents challenges around leadership and management. Mr Al Tamimi highlighted that in international commercial cases lawyers have choices about where to take their matters. Courts will therefore be competing with other bodies that are available to help parties resolve their disputes.



Photo: Members of the ICCE Executive Committee Judge Jennifer Marie and Mr Dan Hall, presenting at the conference.

Other presentations on the first day of the conference introduced delegates to virtual hearings at the Small Claims Tribunal at the DIFC, the UAE/Gulf Cooperation Council Judicial System, the Commercial Court of Dubai, the Abu Dhabi Global Market courts and the use of bench experts in Bahrain. In the session on the evolution of international courts towards court excellence, the audience heard about using principles of procedural justice, and the benefits of the ICCE as a national health check of courts from speakers Judge Victoria Pratt from the Newark Community Court in the United States, Judge Barney Thomas, from the District Court of New Zealand and Lord David Hope, Chief Justice of the Abu Dhabi Global Market Courts.



Photo: Panel members on stage speaking about opportunities for courts to collaborate.

Opportunities for courts to collaborate were the subject of discussion by Mr Mark Beer, President of IACA, Judge Barney Thomas of the District Court of New Zealand and Mr Michael Black QC, Barrister London. In their discussion, Mr Black highlighted how important it was for judges to be in touch with

practitioners. Judge Thomas noted that there are numerous opportunities for the courts to collaborate, be it in relation to extradition treaties and mutual assistance treaties or in therapeutic courts.

A constant theme throughout Day One was the benefits of court technology to aid litigants and court administrators. Though, as Ms Jessica Der Matossian from the Federal Court of Australia highlighted, ‘working digitally’ does not necessarily mean that courts must expend large sums of money to see improvements. Much can be achieved with simple technologies that most courts already have. Mr Roger Bilodeau from the Supreme Court of Canada brought attention to the importance of good governance and management practices in courts.



Photo: Panel members discussing the UAE/GDD Judicial System Experience

Professor Richard Susskind gave an excellent presentation on online courts. He noted the importance of courts seeking to understand what the needs of their end users are. He asked this fundamental question: is a court a service or a place? Increasingly courts are seen as a service and we are seeing physical/virtual/online courtrooms evolve as the idea of courts as a place becomes less powerful.



Photo: Professor Richard Susskind speaking about online courts.

In the final session of Day One, Mr Mark Beer, Justice Tun Azmi, DIFC Courts, Justice Dominique Hascher French Supreme Judicial Court, Justice Jeremy Cooke, DIFC Courts discussed the meaning of a dynamic judiciary. The words and concepts used by the speakers to explain the idea of dynamic judiciary included humanity, innovation, minimising delay, judges who take control and set the pace, and accessibility.

Day Two of the conference was opened by Mrs Amna Al Owais, Chief Executive Officer of the DIFC Courts, who noted that the aim of the DIFC Courts is to be a trustworthy not intimidating service and to stay ahead of the curve in an age of digital disruption. Since 2004, the DIFC has grappled with technology to develop a cutting edge customer service system. This system is a mobile compatible CMS that provides an exclusive portal for judges and legal representatives at any point of time, worldwide. The Smart Small Claims Tribunal is another innovation where only the judge needs to be present and the parties can be remote and virtually available.

This presentation was followed by Mr Steve Crown from Microsoft who spoke about access to Justice through technology and by Ms Nour Kirk - DIFC Courts spoke about the proposed use of blockchain technology for certifying judgments. On the topic of court excellence in the digital age Judge Seah Chi-Ling, State Courts of Singapore, discussed the Community Justice and Tribunals System in Singapore (CJTS) which provides innovative online case management and online dispute resolution service which is fully online and there is no need to engage a legal professional as the completely private negotiation facilitated by technology. Mr Kyle Snowden from Tyler Technologies continued with the theme of access to justice using technology, noting the importance of a sustainable business model, supportable programs and scalable solutions.

Other presentations on Day Two covered topics such as the importance of mediation as a conflict avoidance tool, robotics, cyberlaw, electronic

evidence and cybersecurity, Artificial Intelligence (AI) adjudication of cases, and technology and access to justice. The conference was formally closed by Ms Reem Al Shihhe.

After the close of the conference a Q&A session on the IFCE framework was conducted by Mr Dan Hall and other representatives of the ICCE, explaining the IFCE further and answering queries from different jurisdictions about the IFCE and the Consortium. The session highlighted that the conference had generated significant interest in the use of the IFCE in different areas of the globe, including other countries in the Middle East.



Photos: IFCE information and Q&A session with Dan Hall and other Executive Committee members

Feature Article:

Addressing Judicial Wellbeing – Hauora Kaiwhakawa

By Chief Judge Jan-Marie Doogue, District Court of New Zealand, Member of ICCE Executive Committee

The introduction of the IFCE to the District Court in New Zealand was accompanied by a questionnaire field which was directed broadly at judges' welfare. The questions were originally limited, and general, and notably did not address judicial stress or associated wellness issues specifically. Rather, the questions considered physical safety and security issues and posed a general, non-specific enquiry as to judges' health and wellbeing. There were questions as to individual levels of satisfaction with judicial induction programmes and continuing education. But these did not delve beneath the surface in any sense.

Times have changed. Judicial stress and attendant well-being issues have emerged as a clear and present phenomenon that demands attention. It is a particularly compelling proposition for our court given the breadth of its jurisdiction and the diversity and size of our bench of nearly 200 judicial officers. So we have determined to make changes, to address judicial stress issues, in response to recent research and publicity.

The factors that drive the changed landscape for us are, first, the significant recent international publicity, including academic research, on the subject of stress and well-being in the legal industry. This has related predominantly to practising lawyers, where there are evident high levels of stress and depression, although some United States academic research has over the last decade extended to the judiciary in the United States specifically.

Secondly, and more importantly, judicial stress and well-being has been the subject of publicity and academic attention closer to home for us. In Australia, there have been personal statements by

judges publicly on the existence for them of stress and trauma issues arising on the job. There has been public recognition and acknowledgement of evident suffering on the part of some judicial officers. There have been recently two tragic suicides of magistrates in Victoria. Self-evidently, these are matters of high public interest which demand attention.

In addition, there has been telling research recently undertaken in Australia by Carly Schrever, Judicial Wellbeing Advisor at the Judicial College of Victoria. Ms Schrever's work, the most comprehensive work of this nature undertaken in the southern hemisphere, is understood to be Australia's first empirical and psychologically grounded research into judicial stress. Five courts from summary to appellate level participated in the study with 152 judicial officers participating in a survey investigating the nature, prevalence and severity of work related judicial stress. In addition, 60 judicial officers participated in individual interviews, exploring the perceived sources of stress and their experiences of stress.

Ms Schrever's research (to be published in full early this year) is the subject of a short precis review of key research outcomes and implications published late last year (Current Issues. Guest Editor: Carly Schrever 2018 92 Australian Law Journal 1).

Ms Schrever's key observations include these:

1. Workloads are an issue for almost every judicial officer, a high and increasing workload being a major source of stress.
2. Most judicial officers feel the sources of stress are increasing. Those sources of stress include:
 - a. Increased media scrutiny;
 - b. Attorney-Generals no longer taking up the cudgels on behalf of the judiciary;
 - c. More litigants in person;
 - d. Poorer resourcing;
 - e. Increases in complexity of work;
3. The stressors of injustice are felt the most keenly. Ms Schrever notes that this may be the most

significant, and perhaps unexpected, qualitative finding from the study: that judicial stress peaks when the demands of the job are accompanied by feelings of grievance or unfairness.

Stressors of “injustice” are stated to include:

- a. Media criticism based on inaccurate reporting of the facts;
 - b. Appellate review – when remarks are unduly personal and cruel;
 - c. Perceptions of inequity of work ethic and workload distribution within a court, and perceptions that hard work and innovation is not recognised;
 - d. Ill-prepared and incompetent or difficult counsel;
 - e. Tensions with court administration – a feeling that “timeliness” is the sole measure while quality is not valued.
4. Discussing stress and seeking support remains stigmatised, with some signs of a culture among judicial officers of denying stress and a reluctance to seek help.
5. Nevertheless, alongside experiences of stress, there is a deep sense of job satisfaction. Indeed, Ms Schrever notes that sources of satisfaction within the judicial role were seen by many judges as compensatory for the sources of stress.

So, it is against the above landscape that we are currently refocussing our NZ IFCE assessment. The Judicial Statements section of our proposed NZ IFCE 2019 Assessment currently includes questions to address:

- a. Workload scheduling protocols (CAPs) (introduced following the IFCE 2015 assessment) – their effectiveness, adherence to them;
- b. Allocation of judgment writing time (again, introduced following the IFCE 2015 assessment) as effective assistance for judges;

c. How well judges feel served by the induction process and mentoring programmes for new judges, and existing educational programmes;

d. The availability and use of the pastoral panel and peer review process (also established following the 2015 assessment): we ask judges whether those services had been accessed and if not the judge’s reasons;

e. How well supported judges feel they are to deal with adverse media or community reaction, complaints against them or to maintain their level of competence;

f. What, if any, from a list of items are work-related drivers of stress and/or unwellness for judges – the list specifically includes matters noted by Carly Schrever in her precis preview of her research. We ask also about the relative seriousness of particular identified drivers of stress and perceptions of increase in intensity in the judge’s experience on the bench. We seek comment from judges on a range of measures that might assist judges dealing with drivers of stress and/or unwellness.

This particular section of the 2019 Assessment and responses from our judges will inform the work of our newly established Judicial Wellness Committee, titled *Hauora Kaiwhakawa*. The Committee’s primary focus is to design an integrated, strategic and empirically-based programme for our judicial officers – a bespoke programme which meets the unique social and cultural needs of our judges and community magistrates.

The establishment and work of *Hauora Kaiwhakawa*, and the related refocussing of our 2019 Assessment, are matters of high priority for us in endeavouring to meaningfully and positively address judicial stress and attendant wellbeing issues for the District Court.

Membership update

The ICCE now has 50 members consisting of implementing members, associate members and affiliated judicial institutions. Courts, tribunals and affiliated judicial institutions who have implemented the Framework and who wish to become members must complete the application form and provide supporting evidence of their implementation of the IFCE.

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](#) or contact the ICCE Secretariat for further information.

New Members:

- Tegal District Court, Indonesia – Associate Member
- Purwokerto District Court, Indonesia – Implementing Member

Other news

Next newsletter

The next ICCE newsletter will be published in July 2019. Those members wishing to submit articles on their experiences implementing the Framework for consideration by the Secretariat are invited to contact Liz Richardson.

Want to know more?

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

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