

15TH SUBORDINATE COURTS WORKPLAN 2006/2007

“JUSTICE @ THE SUBORDINATE COURTS: THE NEW PHASES OF JUSTICE” ON THURSDAY, 18 MAY 2006

KEYNOTE ADDRESS BY THE HONOURABLE THE CHIEF JUSTICE CHAN SEK KEONG

Introduction

I am delighted to be here this morning to address the judicial officers in the Subordinate Courts, many of whom I have known for many years, on the Courts' workplan for 2006/2007.

The New Phases of Justice

2. The quality of justice, and how it is administered by the Subordinate Courts, affects the lives of ordinary Singaporeans. The Subordinate Courts are where most people have contact with the law. What you are doing is an important job because you deliver justice for those who come to the Subordinate Courts.

3. This is the 15th Subordinate Courts' Workplan. I note the tremendous achievements and progress made by the Subordinate Courts under the Workplans of the past 14 years approved by Chief Justice Yong Pung How. Since the inaugural Workplan in 1992, the Subordinate Courts have undertaken a wide spectrum of judicial reforms that were systematically implemented in the course of each work year. Best judicial case management and

organization practices were drawn from around the world and have been institutionalized. These reforms have steered the Subordinate Courts steadily towards achieving higher standards of excellence every work year. Today, the Singapore Subordinate Courts stand out as an outstanding judicial and administrative reformer and innovator amongst judicial institutions around the world whose work in providing timely access to justice and efficient in-court administration, has been acknowledged by several international bodies, such as the World Bank, the Asian Development Bank, the National Center for State Courts, the United Kingdom and other regional judiciaries. The Subordinate courts have also been cited as a model of modernization for Latin American countries.

4. Notwithstanding these achievements, we cannot sit still as rapid changes take place around us.

5. Accordingly, it is important for the Subordinate Courts to remain steadfast in its primary mission of dispensing justice and promoting the shared values of our people. A number of trends are already observable in Singapore society :-

- (a) Singapore has one of the highest Internet penetration rates in the world. According to the Annual Survey on Infocomm Usage in Households and Individuals for 2005, the proportion of households with access to the Internet at home has risen from 50% in 2000 to 66% in 2005. Our success in wiring up the nation will reap social and economic benefits, but we are also

beginning to see Internet-related social problems. The availability of cyberporn, for example, is a social issue as a result of the aversive impact of sexual media contents. Some of our young are especially vulnerable, for they face a different landscape from the generations before them. A recently published article 'Secret lives of S'pore teens' (ST, 26 March 2006) revealed "an apparently widespread culture" among Singapore teens to engage in sexual activities. There have also been several high-profile cases of men using the Internet to prey on young girls. In 2004, 66 persons were charged with 202 counts of offences for carnal connection with girls under 16 years of age except by way of marriage. In 2005, the numbers rose to 134 persons charged with 323 counts for such an offence.

- (b) Apart from the above trends, there has also been a rise in cases involving relational disputes. Quarrelsome neighbours are increasingly taking their cases to court to resolve their disputes. Last year alone, the Subordinate Courts heard 3,193 cases involving relational disputes, of which more than 300 were directly related to neighbourhood disputes.

- (c) In the area of crime and punishment, there has been a discernible shift in public thought towards greater emphasis on rehabilitation, particularly for young offenders and offenders with mental disabilities. Many

such cases are dealt with administratively by the Public Prosecutor through the exercise of prosecutorial discretion, but there is a need for an appropriate judicial response to such cases that are brought within the criminal justice system.

- (d) Sentences imposed by the courts in some types of offences have attracted widespread public interest and discourse. Although there have been calls for greater integration of ex-offenders into society, there are also calls for stiffer measures in some cases. A recent article in the Straits Times for example highlighted the need to “ensure sex predators are kept on a tight leash” (“Sex criminals: Is there enough interchange between arms of law?” ST Review, 4 March 2006). A section of the community has also spoken out strongly against animal abuse and cruelty. The case of the virus that killed 3 puppies reported in the Straits Times on April 17 drew an immediate response to the Forum calling for stiffer penalties for breach of pet-shop regulations (“Stiffer penalties needed to rein in pet shops” ST Forum, 20 April 2006). The moral indignation of the community against sexual offences against children and cruelty to animals is strong.
- (e) The number of people arrested for attempted suicide has also steadily increased in the last few years. In 2005, 870 people were arrested, compared to 745 in 2004 and 685 in 2003.

- (f) Within the family context, the number of divorce petitions filed in the Family Court has risen from 4718 in 2003 to 5733 in 2005. Family violence remains an area that must be closely watched.

- (g) The region remains very much a live target for terrorist violence. Maintaining racial and religious harmony in Singapore is a bigger challenge in the face of external pressures arising from terrorist attacks abroad.

6. The Workplan' theme "Justice @ the Subordinate Courts: The New Phases of Justice" reflects the qualitatively different context of the new work year and the need for new responses to meet the increasingly more complex challenges brought about by changes occurring domestically and internationally. More than ever, it is important for the Subordinate Courts to entrench the rule of law, enhance access to justice and deepen public trust and confidence in its work.

Establishment of a new Community Court

7. A justice system that enjoys the confidence of the public is one that pays proper heed to the needs of the community. As fundamental judicial reforms have been institutionalized, the time is right for the establishment of a specialist court that is responsive to the needs of the community. A new Community Court will be established. There will be sufficient linkages with community resources to allow for the successful re-integration of individuals

back into community settings. In appropriate cases, offenders who would ordinarily be prison-bound would be linked to long-term community-based treatment. Consistent with the current penal philosophy of rehabilitation and prevention, the Community Court will adopt a problem-solving approach that combines criminal justice and community resources for a comprehensive response to the following types of cases, namely (a) youthful offenders (aged 16 to 18); (b) offenders with mental disabilities; (c) neighbourhood disputes; (d) attempted suicide cases; (e) family violence cases; (f) carnal connection offences committed by youthful offenders; (g) abuse and cruelty to animals; and (h) cases which impact on race relations issues. These are fundamentally cases involving issues close the hearts of the community. The primary goals of the Community Court, like those of our other criminal courts, will continue to be to prevent and reduce the incidence of crimes, to ensure that those suspected, accused or convicted of crimes are dealt with fairly, justly and with a minimum of delay, to convict the guilty and acquit the innocent, to punish those found guilty in a suitable manner and where possible, discourage further offending, and to achieve these aims as economically, efficiently and effectively as possible.

8. To further enhance the administration of criminal justice, I will chair a review panel to look at how current sentencing and bail guidelines can be further rationalized.

Establishment of a new Family Relations Centre

9. Family and juvenile justice affects family relationships. The justice system and processes must be sensitive to the fact that we not dealing with cases, but with people. By the time families and children come to the Court's attention, the problems are serious. With every divorce comes a corresponding emotional and psychological impact on the children, whose young lives are often torn apart as they witness the ensuing battle between their once-loving parents. The scars can be deep and painful. Families affected by conflict, separation or divorce is a significant community issue.

10. The family and juvenile pathway, which was implemented in 2002, will be further strengthened. Towards this end, a new Family Relations Centre ('FRC') will be established to provide holistic, legal, relational and therapeutic solutions to divorcing couples in custody, matrimonial property and other ancillary matters. This process will be driven by specialist Family Court judges and trained counsellors supported by a network of helping agencies. This group of judges and counsellors will follow the couples through their case to the conclusion. By transforming the culture of family breakdowns from one of acrimony to one of cooperation, the FRC will serve as the front door for couples seeking help to unlock their implacable conflicts, resolve their disputes and rebuild the marriages that have fallen apart. Family litigation will be less adversarial and more co-operative to help these families.

11. Another significant development is the enactment of the Women's Charter (Matrimonial Proceedings) Rules 2005 ('MPR') which came into operation on 1 April 2006. Among other things, the MPR consolidates the existing Women's Charter (Matrimonial Proceedings) Rules 2003, the Women's Charter (Matrimonial Proceedings) (Amendment) Rules 2005 and the Women's Charter (Matrimonial Proceedings – Fees) Rules so that court users will refer to just one comprehensive set of procedural rules.

12. Both the FRC and MPR are part of a constant process of refinement of the family justice system to enhance the quality of justice and rules of procedural fairness. In addition, a review panel to be chaired by a High Court Judge will be set up to review and recommend changes, if necessary to the workings of the Family Court to enhance its services to the public.

Pre-Action Protocol for Medical Negligence Cases

13. Access to justice is a fundamental cornerstone of any civil justice system.

14. Much has been done by the Subordinate Courts to enhance access to justice to individuals and small businesses. The provision of information through the Multi-Door Courthouse or such mediums as the Subordinate Courts' website directs litigants to appropriate means of resolving disputes and enables them to understand how to progress their cases. The civil justice process also saw the effective application of pre-action protocol for non-

personal injury motor accident (NIMA) cases. The NIMA protocol introduced a costs and case management regime which enables parties to obtain information earlier and promotes settlement. The Primary Dispute Resolution Centre (PDRC), which provides court-based alternative dispute resolution, has helped to encourage a culture of openness and co-operation between parties from the outset. There will however be a continuing need for the civil justice system to improve its processes.

15. One area that we would need to pay heed to is the relation between costs of litigation and awards for medical negligence. For instance, it was noted in a 1996 Report that the costs of medical negligence in the UK were so high that smaller claims were rarely litigated.¹ The UK experience would be relevant in the context of the Subordinate Courts where awards for medical negligence would not exceed \$250,000, and the cost of litigation could potentially deter indigent litigants from pursuing their claims.

16. In this regard, the Subordinate Courts is leading a Workgroup on Medical Negligence with the focus on lowering the costs of litigation. Currently, alternative dispute resolution is being pursued in individual hospitals and at ADR centres such as the Singapore Mediation Centre and the Subordinate Courts' Primary Dispute Resolution Centre. The Ministry of Health is also studying ADR in the healthcare context.

¹ Access to Justice, Final Report, By The Honourable the Lord Woolf, Master of the Rolls, July 1996.

17. To ensure enhanced accessibility, medical negligence cases will be managed differentially in the civil justice division. A pre-action protocol for medical negligence cases will be introduced to allow potential claims arising from adverse or unexpected outcomes in medical procedures to be dealt with expeditiously and effectively without having to file a court action. This builds upon what has been done in the civil justice division and follows up on the success of the pre-action protocol for NIMA cases.

18. Under the new pre-action protocol, patients or their next of kin will be afforded a chance to seek explanations or discuss their cases with the doctors or hospital without having to file a writ to get their attention. This is to encourage early communication between the parties so as to ensure that any appropriate apology or explanation is always offered at the earliest instance. Where liability is disputed, a reasoned answer should be provided by the doctor or the hospital as soon as possible. By encouraging a more co-operative approach, cost and delay will be minimized. The ultimate aim of the protocol is to advance the interest of justice by facilitating early settlement of meritorious claims and discouraging claims which are frivolous or devoid of merit.

Litigants in Person

19. Our courts are beginning to encounter civil cases where litigants appear in person. These cases create their own set of issues. The court must attempt to meet the litigant in person's legitimate needs while not compromising the rights of a party

represented by a lawyer. The judge will have to take time to explain court procedures and evidentiary rules to him and the reasons for the ruling or verdict. As a result, a trial with a litigant in person will often take more time, but he has this right and we will need to manage such cases properly so that he is not denied the justice due to him.

20. The Small Claims Tribunal was set up in response to the need of such litigants for a quick, informal and inexpensive forum for dealing with relatively small and simple civil claims. The jurisdiction of the Small Claims Tribunal was recently expanded to hear disputes arising from any contract for the lease of residential premises that does not exceed two years. Landlords seeking to recover unpaid rent, as well as tenants who have disputes over rental deposits, will also have access to the SCT. This change will benefit both landlords and tenants.

21. 65 cases have been lodged since 15 February 2006 when the expanded jurisdiction came into effect. These cases are differentially managed and have resulted in tenants, including foreigners, being able to recover their deposits. This and other processes in the Subordinate Courts have addressed some of the concerns of foreign labourers in Singapore.

22. The Subordinate Courts' Multi-Door Courthouse ("MDC") was another response to the needs of litigants in person. Established in 1998, it provides litigants in person with information about where to get assistance, what will be expected in court, and answers queries regarding in-court procedures. In the next few

months, the MDC will be introducing a “Moving Concierge” service in the form of a court administrator clad in a distinct maroon jacket, moving around the courts to attend to court users and especially litigants in person. It will also look into the feasibility of setting up various hand-on facilities to guide those who are not technologically savvy, as well as those who are unable to access Subordinate Courts’ e-services because they are illiterate, visually impaired or deaf or have no computer access.

23. As a further measure to enhance access to justice, there will be a pilot for litigants in person to be assisted by a ‘*McKenzie* friend’ for maintenance and support cases in the Family Court. A *McKenzie* friend is someone who assists a litigant in person in court by helping the litigant to take notes and organise the papers, and providing moral support and advice to the litigant.

24. The term ‘*McKenzie* friend’ has its origin in a divorce case *McKenzie v McKenzie* (1970) 3 WLR 472 heard in England. In that case, the English Court of Appeal said:

“It is ... in the public interest that litigants should be seen to have all available aid in conducting cases in court surroundings, which must of their nature to them seem both difficult and strange.”

25. The discretion to allow or exclude a *McKenzie* friend lies with the court. In *Wee Soon Kim Anthony v UBS AG* [2003] 1 SLR 833, Kan Ting Chiu J set out the following broad principles:

“A *McKenzie* friend who takes his responsibilities seriously is a help not only to the litigant who seeks his assistance, but also to the court. He should be permitted to stay. On the other hand, one who abuses the privilege by disregarding the direction of the court, who pursues an agenda beyond helping the litigant, or who uses the privilege as a back door to a legal practice he is not qualified for, should not be allowed to carry one.”

26. These principles should provide some guidance to our judges in the Subordinate Courts as they establish a working protocol in consultation with the Law Society and Judicial Commissioner Sundaresh Menon as its adviser on pro bono work. This will ensure that the impact of such a scheme would be carefully considered with the necessary safeguards put in place to prevent possible abuse.

27. No litigant should be allowed to leave the courtroom with the conviction or feeling that he has not been given a fair hearing. It is important for all judges to treat everyone who comes before them, in whatever capacity, in equal terms. It is not merely of some importance but is of fundamental importance that justice should not only be done but should manifestly and undoubtedly be seen to be done.²

28. The Subordinate Courts’ Equal Treatment Bench Guide, which provides guidance to Subordinate Courts’ judges on all aspects of equal treatment in the courts as they deal with litigants

and witnesses from diverse cultural and ethnic backgrounds, will be reviewed and updated to take into account developments since 2003 when it was first published.

29. To ensure that the Subordinate Courts are connected with the communities they serve, Justices of Peace are invited to mediate in disputes within the Criminal Justice Division, Family and Juvenile Justice Division and Small Claims Tribunals. These JP mediators have helped to divert and resolve many of the minor criminal, family and small claims disputes in a harmonious manner and without parties having to go through a trial, thereby preserving relationships, saving public time and expense, and engendering public trust and confidence in the justice system.

Information Technology

30. The Subordinate Courts have made strategic use of technology in improving access to justice, resource utilization and planning, administration, efficiency, and transparency of the justice system. We must continue to stay ahead of technology so as to harness the best in technological advances for the benefit of the administration of justice.

31. In this connection, we will try to revive the Integrated Criminal Justice System ("ICJS") project which was suspended some years ago for lack of competitive service providers to design, execute and manage the system. The ICJS's objective was to link

² *R. v. Sussex Justices, ex parte McCarthy* [1924] 1 K.B. 256.

all the agencies involved in the criminal justice process, including the Judiciary, the Attorney-General's Chambers, the Ministry of Law, the Ministry of Home Affairs and other law enforcement agencies. It envisaged an integration of the case management systems of the participating agencies to facilitate on-line data sharing and electronic document interchange, subject to confidentiality and legal constraints. Although the concept of the ICJS was fundamentally sound, it was an idea ahead of its time. Since then, technology has evolved at a rapid pace and there are probably more service providers in the market. Given the current advances of technology, the time is right to review the ICJS. An IT-savvy team will be put together for this purpose.

32. In the immediate term, the Subordinate Courts will be rolling out an enhanced version of the Singapore Case Recording and Information Management System ("SCRIMS II"). The enhanced system, when implemented, will establish connectivity and flow of case information between the Subordinate Courts and the Home Team agencies.

33. An enhanced version of the Automated Traffic Offence Management System ("ATOMS II") will also be introduced. ATOMS II will be established on an Internet platform to broaden its reach and enhance accessibility. This will be available in both English and Chinese. When implemented, offenders of minor traffic and parking offences will be able to settle their traffic or parking fines online in the comfort of their homes or from anywhere in or outside Singapore. ATOMS II will also extend the time of pleading guilty to 5.00 pm on the day of mentions from the current

time of 12 noon. In addition, the facility will also be extended to minor traffic and parking offenders who have previous convictions.

34. Technology can be a great leveler. Not too long ago, the physical size of a law firm's law library gave one a competitive edge. Today, small firms conducting digital research through Lawnet have access to the same resources as large firms. As such, the Subordinate Courts need to constantly explore how new technologies can improve the court system and processes. In the circumstances, there will be a Proof-of-Concept Lab to allow for the experimentation of cutting-edge technologies such as the use of 3-G mobile devices to allow lawyers to conduct pre-trial video conferences on the move without physically having to come to court. This will be set up together with a new Innovation Hub to spark ideas on how to further enhance the administration of justice.

Engaging the Media

35. In recognition of the crucial role played by the media in educating the public, the Subordinate Courts will be expanding its internship programme to graduating SPH scholarship holders as well as fresh journalists. These journalists will have a more intimate understanding of the issues involved in the administration of justice, as well as the many considerations which must be taken into account in every case before the court. This will allow them to better explain the decisions of the court to the general public.

Relationship with the Bar

36. The Subordinate Courts has a fine tradition of engaging the Bar in the administration of justice and eliciting feedback and suggestions from the Law Society and the Forum of Senior Counsel to improve the justice process. A recent example is the joint publication of a number of articles in the Law Gazette on criminal, family and civil practice areas. This is one of the many efforts to develop the litigation bar. The close collaboration between the Subordinate Courts and the Bar has enabled many difficult, but necessary, judicial reforms to be successfully implemented.

37. In the new work year, the Subordinate Courts will continue to strengthen and deepen this relationship. There will be a series of substantive law, procedures and practice lectures on the Subordinate Courts' practice areas for the Bar and their paralegals as part of the continuing effort to develop the litigation bar in civil, criminal and family practice. These lectures will be conducted jointly by the Subordinate Courts' judges, registrars and court administrators and practising lawyers, and will supplement those conducted by the Singapore Academy of Law. Apart from these lectures, the Subordinate Courts will also be publishing a series of Practitioners' books. These include the Practitioners' Library on Commercial Fraud, Practitioners' Library on Law of Corruption in Singapore, Coronial Practice in Medical Negligence Cases, Sentencing Law in Singapore and Enforcement of Judgments. The Practitioners' Library on Family Practice will also be updated. These books will be an invaluable resource for lawyers,

academics, law enforcement officers and the regulatory authorities. In addition, the Subordinate Courts will, in collaboration with the SAL, continue to broaden its engagement with the Bar.

Commercial Law of Singapore

38. The development of our commercial laws is critical to meet the legal needs of the business and financial sectors of the economy.

39. Since 1999, the Subordinate Courts has systematically put in place a series of measures to build up the judicial expertise and resources to handle complex commercial cases within the jurisdiction. A specialist cluster of courts, the Commercial Civil and Criminal Courts, was set up on 1 October 1999 to deal with specialised commercial civil and criminal cases such as financial fraud, money laundering, computer claims, offences involving intellectual property and complex commercial civil cases.

40. These courts are presided over by specialist judges. To enhance the quality of judicial decisions, the judges are sent for training in leading business schools such as Harvard, Stanford, INSEAD and to undertake specialist postgraduate law degrees in Intellectual Property and Business Law from local and overseas universities. Two of our judges have also been sent to undertake the Public Management Programme in the Lee Kuan Yew School of Public Policy.

41. The Subordinate Courts have tried several complex commercial cases under the Securities and Futures Act, the Companies Act and the Penal Code, and have laid down several sentencing principles which have influenced market behaviour and helped shape the commercial and corporate governance practices of businesses and investments in Singapore.

42. The Subordinate Courts will develop on its corpus of jurisprudence by rendering grounds of decision as a matter of course for complex commercial cases.

Judicial Studies Board

43. Public trust and confidence in the justice system depends upon a fair and competent judiciary that will apply the rule of law impartially. Just as the legal landscape has changed significantly in recent years, so too has the demand and expectation for the quality of the justice administered by the Subordinate Courts.

44. Our continuing professional education must facilitate a strengthening and deepening of the skills and knowledge of our Judicial Officers. In this regard, we will study the feasibility of establishing a Judicial Studies Board to provide high quality multi-disciplinary training for incoming Judicial Officers and for continuing judicial education.

45. Our Judicial Officers must be equipped with a diversity of skills sets and knowledge to enable them to discharge their duties

effectively. It is not enough that they have a sound grounding in the law. It is just as important for them to develop a keen appreciation of developments in the wider contextual environment. This is because the law does not exist *in vacuo* but within the social, political, economic and cultural setting in which it operates.

46. A comprehensive approach is therefore required to develop and enhance the management, leadership and diversity skills of our Judicial Officers, and to provide them with a good understanding of what is really required of the courts and what could be the impact of their judicial decisions.

47. A study will be conducted of the French and UK systems to see if these can serve as useful models for our own.

Judicial Governance

48. The transformation of our justice system is the culmination of many years of hard work in judicial reform. Even as we set our eyes to the future, we must maintain our current high standards in court administration and the dispensation of justice.

49. In collaboration with the National Heritage Board and the Lee Kuan Yew School of Public Policy, the Subordinate Courts will publish a book that will capture and elucidate the public policy thinking and governance aspects of these reforms. The book will be an invaluable reference for judges, court administrators, public policy students and future generations of Singaporeans.

Conclusion

50. The constitutional role of the courts and the judges cannot be better expressed than in the judicial oath taken by a newly-appointed judge. The judge swears to:

“do right to all manner of people after the laws and usages of the Republic of Singapore without fear or favour, affection or ill-will”

51. The essential elements are all there. First, the judge must do what he holds to be right. But secondly, and vitally, he must do right according to the laws and usages of Singapore. Thirdly, the judicial oath makes clear that in administering the law the judge must act with complete independence, seeking neither to curry favour nor to avoid any form of victimisation. And fourthly, so far as humanly possible judges must decide cases with total objectivity, having no personal interest beyond that of reaching a just and legally correct solution.

52. I am confident that the Subordinate Courts will continue to uphold the high standards of administration of justice and achieve the right balance between efficiency and justice.

53. The wide ranging justice initiatives that will be implemented in the course of this work year will pave the way for the new Workplan next year when we shall focus on the development of our law and jurisprudence.

54. On this note, I extend to the Senior District Judge and all the judges and officers of the Subordinate Courts my best wishes for a fruitful Workplan.
