

OVERCOMING HERCULEAN'S TASKS WITH PYGMALION'S WILL: ENHANCING ACCESS TO JUSTICE IN THE SINGAPORE CONTEXT

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“For who would bear the whips and scorns of time,
Th' oppressor's wrong, the proud man's contumely,
The pangs of despis'd love, *the law's delay*,
The insolence of office, and the spurns
That patient merit of th' unworthy takes,
When he himself might his quietus make
With a bare bodkin?”

(Act III, scene i, *Hamlet*)

INTRODUCTION

1. In William Shakespeare's "Hamlet", "the law's delay" is one of several social evils that drove Hamlet to the verge of suicide. One could immediately see why "Justice delayed is justice denied", and how denial to justice can be catastrophic to aggrieved individuals. It is an interesting thought that if Shakespeare had lived today, he would probably still use "the law's delay" in Hamlet's famous soliloquy to express his hopelessness and frustrations, since delays continue to be a major problem of justice systems after all these years.

2. Having said that, access to justice has become a main preoccupation of common law judiciaries in recent years¹. Measures to tackle delays and backlogs have been

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¹ In England, there is the 1996 Final Report to the Lord Chancellor on the Civil Justice System in England and Wales, entitled "Access to Justice" by the Rt. Hon. Lord Woolf, MR. In USA, there is the 1996 Rand Report "Just, Speedy and Inexpensive? An Evaluation of Judicial Case Management under the on the Civil Justice Reform Act" on the civil justice reform programmes implemented in Federal District

devised and experimented. The concern over delays in the justice process has even prompted doubts over the wisdom of adversarial ethics², and invited suggestions of importing inquisitorial elements³ in litigation. It has been rightly pointed out by one writer that, “The traditional adversary process was never primarily motivated by the desire to avoid delaying justice. It was propelled by other forces which had little, if anything, to do with ensuring that the general public could obtain quick access to, and speedy relief from, the courts of law.”⁴ There is also no general philosophy that backlogs should be avoided so as to ensure that civil litigants could have their cases heard with reasonable expedition.⁵ Consequently, parties and lawyers have been allowed to dictate the pace of adversarial litigation since courts do not act *ex proprio motu* and adjudicate only when called upon.

3. The traditional adversary process may work well in less litigious societies but certainly cannot not survive the modern, fast-paced world. Since the 1970s, the “Third Wave”⁶ has swept the world, bringing about unprecedented changes to lifestyles and societal norms. As more laws are created to regulate the increasingly complex social framework, caseloads are constantly rising and there is resulting pressure on the courts to perform efficiently. As society now demands more of the justice system, the modern judiciaries have to find their new niche while not act beyond their constitutional role and functions.

courts. In Australia, there is the 1994 Report on “Access to Justice: An Action Plan” by Federal Judge Ronald Sackville. In Canada, there is the Canadian Bar Association Task Force Report on Court Reform in Canada. New Zealand has also produced several reports ranging from restorative justice and domestic violence, to civil caseload management system and judicial administration.

² See for instance Craig Down, “Crying Woolf? Reform of the Adversarial System in Australia” (1998) JJA 213 at 216.

³ See Jeffrey Pinsler “Reforms in Civil Procedure: An Analysis of the Amendments to the Rules of Court” in Review of Judicial and Legal Reforms in Singapore between 1990 and 1995 (1996) at pg. 31.

⁴ Note 3, at pg. 6-7.

⁵ Ibid.

⁶ “The Third Wave” is a book written by renown futurist Alvin Toffler. He has referred to the emerging knowledge-based world as a third wave of development in human civilisation.

4. This paper is not just about how problems of delays and backlogs can be resolved to foster greater access to justice. It will first outline how the Singapore Judiciary, comprising the Supreme Court and the Subordinate Courts (see Synopsis at Annex A), successfully freed itself from backlogs accumulated since the earlier days to realise its vision of becoming a world-class court. All the barriers of access to justice will then be identified, and the measures taken to dismantle these barriers will be discussed. In this regard, this paper will focus on some of the major development in the Singapore Subordinate Courts, simply because this writer is better acquainted with the processes there, and also because the Subordinate Courts have been referred to as the place where the Rule of Law has practical meaning for most people⁷. Having said that, it must be emphasised that the Supreme Court and Subordinate Courts share a common value system, and the Supreme Court has also undergone significant changes which can easily form the subject matter of another paper. This paper will conclude by attempting to summarise some of the main principles of enhancing access to justice drawn from the Singapore experience.

THE REORGANISATION OF THE SINGAPORE JUDICIARY IN THE 1990S

5. In recent years, the Singapore Judiciary has achieved international acclaim in the administration of justice⁸. These tangible results are largely achieved by a conscious and concerted effort that commenced since the early 1990s. It might be unthinkable that barely seven years ago, like most other jurisdictions, the Singapore Judiciary was still grappling with the twin evils of backlogs and delays.

⁷ Singapore Chief Justice Yong Pung How has made this reference in a few of His Honour's keynote addresses. See note 13.

⁸ As an illustration, the International Institute for Management Development's World Competitiveness Yearbook 1998 ranked Singapore fourth in the world in respect of the confidence level of the international business community in the administration of justice in the society. In terms of legal framework, which includes the entire set of laws and the way they are administered and adjudicated by the Judiciary, Singapore was ranked first in the world for the second year running. In 1997, another international survey body, Political and Economic Risk Consultancy rated Singapore best in the region for the quality of her Judiciary, the legislature and the police.

6. By way of a short constitutional background, Singapore attained independence and became a sovereign republic in 1965. The nation inherited a common law justice system from the British that dates back to the Second Charter of Justice of 1826⁹. Given a relatively short history and an uncertain national destiny, certainty weighed over creativity in most areas of public administration¹⁰. The same was true of the courts. It may be of interest that until 1991, after a quarter of a century since national independence, judges in Singapore were still addressed formally as “My Lord” and “Your Lordship”, and High Court judges and counsel appearing before them continued to wear the wig¹¹. There was a final right of appeal to the Privy Council of the Judicial Committee from decisions of the Singapore Court of Appeal and Court of Criminal Appeal. Queen’s Counsel could be admitted freely¹². British precedents were heavily relied upon in most areas of legal practice.

7. In January 1991, it took approximately five years for civil cases to be heard by the High Court, and an appeal would take another two years, whereas in the Subordinate Courts, the waiting period for both criminal and civil cases was about two years¹³. The problem of backlog appears to date back as early as 1949¹⁴. This problem was impeding

⁹ See Kevin Tan, “A Short Constitutional History of Singapore” in The Singapore Legal System (Ed by Walter Woon).

¹⁰ At the speech delivered at the Chief Justice’s Welcome Reference on 8 October 1990, Chief Justice Yong Pung How said,

“... we in Singapore are the fortunate inheritors of a legal system which has its roots in a wider common law, with several hundred years of sustained development behind it. In adapting it to our own purposes, we have been mindful at all times of the need for the Rule of Law, and we have been careful not to deprive ourselves of access to the wealth of learning and precedent to support it, which have been made available to us. This has been so even after we became an independent nation and sovereign state.”

¹¹ All these practices have been abandoned by 1994 in favour of more contemporary address and court attire. Judges are now addressed as “Your Honour” in court and “Judge” in social gatherings. The practice of wearing wigs has been dropped.

¹² By Act No. 40 of 1996 (Legal Profession (Amendment) Act), Queen’s Counsel can now be admitted on an *ad hoc* basis subject to certain conditions.

¹³ Speeches and Judgments of Chief Justice Yong Pung How at pg. 72.

the efficiency of the courts, and rendered the courts' position incompatible with the growing status of Singapore as an efficient international commercial hub. At the local level, the delays in proceedings caused considerable feelings of frustrations to all those who need to seek judicial redress. Statistically, the High Court was handling about 3,000 cases, while the Subordinate Courts were dealing with no less than 300,000 cases annually¹⁵. A continuing backlog would cripple the responsiveness of the justice system and lead to an overall loss of public trust and confidence in the Rule of Law.

8. This unsatisfactory state of affairs led to a series of judicial reforms in the 1990s that eventually transformed the legal landscape of Singapore. The reform movement was inspired by two developments. First, Singapore was a rapidly emerging regional financial hub by the late 1980s. In order to stay competitive, there was a need for fundamental paradigm shifts and a reorientation of values. It soon became clear that Singapore requires a modern judiciary that can meet the rising expectations of the demanding populace and international business community, in order to keep pace with her escalating socio-economic development. It was felt that the slowness of the court system should not drag on the court's future development¹⁶. Greater accessibility to the justice system was anticipated, not least because of growing commerce and hence commercial-related disputes. As society develops, there is also attendant rise in social ills that manifest themselves as problems of growing complexity that eventually find their way to the courts.

9. Secondly, the move towards the creation of an autochthonous legal system compatible with Singapore's sovereign status also provided the impetus for a modern judiciary. First came the creation of a permanent Court of Appeal as the highest appellate tribunal in the land¹⁷ in 1993. Next, the abolition of all rights of appeal to the Judicial

¹⁴ In His Honour's speech delivered at the Opening of the Legal Year 1993, Chief Justice Yong mentioned that a backlog problem was reported as long ago as 1949 according to the Attorney-General's legal research. Note 13, at pg. 71.

¹⁵ Note 13, at pg. 63.

¹⁶ Note 13, at pg. 45.

Committee of the Privy Council was effected by legislation¹⁸. Thereafter, the issuance of a Practice Statement on stare decisis in Singapore by the Court of Appeal clarified the powers of the Court of Appeal to depart from precedents when justice so requires or when there is a need for the development of Singapore jurisprudence¹⁹. Finally, the enactment of the Application of English Law Act clarified which of the English statutes continue to be applicable in Singapore²⁰. By 1994, when the historical transition of the Singapore Judiciary was completed, the modernisation efforts continued.

10. From 1992 to 1997, the Singapore Judiciary embarked on what is today known as the nine main streams of reforms²¹. Ranging from structural overhauling to futures planning, these reforms have been classified as:

- Restructuring from within
- Rethinking the role of the judge
- Redefining justice models
- Refining service standards
- Redeploying community resources
- Re-engineering through info-technology
- Re-setting and re-evaluating intermediate goals
- Re-aligning the paradigm of our value system
- Repositioning the courts

¹⁷ This was effected by Act No. 16 of 1993 to amend the *Supreme Court Judicature Act* (Cap 322).

¹⁸ The *Judicial Committee Act* (Cap 148) was repealed by Act No. 2 of 1994 (which came into operation on 8 April 1994).

¹⁹ The Practice Statement was pronounced on 11 April 1994.

²⁰ *The Application of English Law Act 1993* (Cap 7A) was introduced by Act No. 35 of 1993.

²¹ Chief Justice Yong has referred to these nine streams of reforms during His Honour's keynote addresses at the Asia-Pacific Courts Conference in Sydney in August 1997, and the Introduction of the Seventh Subordinate Courts' Workplan in April 1998. A list of all the reform measures can be found in the Singapore Academy of Law Newsletter (Issue 54, May/June 1998) at pgs. 9 to 11.

It is beyond the scope of this paper to delve into the specifics of each approach. These initiatives are the products of careful planning, prudent administration, and sound management. Taken together, they have critically reshaped the Singapore justice system.

11. To take the Singapore Subordinate Courts for example, the formulation and implementation of annual operational workplans have seen the gradual progression of the Subordinate Judiciary. It is interesting to note the direction taken over the last seven years. When the first workplan was introduced in 1992, the pressing problem then was backlogs and delays. By the second workplan, the emphasis was on case management methodology. By the third workplan, performance measurement became the main focus. The establishment of core values to guide the courts in the administration of justice was the concern for the fourth workplan. This was then augmented with the emphasis on expedition and timeliness in the fifth workplan. Last year, the sixth workplan ventured into the envisioning of being a world-class judiciary. This year, the seventh workplan has taken on the strategic dimension of how to lead justice into the new millennium.

12. The approaches taken in these workplans show a systematic and logical development over the years. At each workplan, a milestone is laid and the whole organisation was mobilised towards the accomplishment of all the targets embodying that milestone. It is an intricate process involving strategic alignment and operational deployment. The direction taken is largely the result of futures planning that took place since 1993 under the leadership of Chief Justice Yong Pung How and the able management of the Senior District Judge Richard Magnus²².

ACCESS TO JUSTICE AS AN OBJECTIVE AND CORE VALUE

13. In 1997, during the Introduction of the Sixth Workplan, a Justice Statement, encompassing the mission, objective, goals and corporate values of the Subordinate

²² Richard Magnus, "Futures Planning of the Courts for the 21st Century – The Envisioning Process" (1995 – 1996) 5 JJA 94. This article is reproduced from a paper presented by Senior District Judge Mr

Courts, was adopted as a reference point for the courts to navigate towards its vision of being a world-class judiciary. The twin objectives of the Subordinate Courts are “To Uphold the Rule of Law” and “To Enhance Access to Justice”. Referring to the second objective, Chief Justice Yong said,

“...we must be conscious of the need to **enhance access to the courts** for those who desire to and are required to use them. Those who need to resort to the courts must be able to resolve their disputes without undue hardship, cost, inconvenience or delay.”

14. Prior to this, during the Introduction of the Fourth Workplan, “Accessibility” and “Expedition and Timeliness” were two of five values identified as core or timeless values that must endure notwithstanding changes in work systems and processes. To a certain extent, these two values are closely related. In His Honour’s keynote address, Chief Justice Yong said,

“... What then are the Subordinate Courts values? **The first must surely be accessibility**. Courts should conduct their business openly. There should not be any economic or procedural barriers. Access to courts should not only be for those who have legal representation but also for all litigants, victims, witnesses and relatives of litigants and the general public. Court facilities must be safe, accessible and convenient to court use. Judges and court staff must be courteous and responsive to the public and the public must be treated with respect. Next, the court’s business and the trial process must be conducted with **expedition and timeliness**. This means that there must be prompt resolution of cases where the court’s functions are performed expeditiously. At the same time, there must be **expedition and timeliness** in anticipating, adapting to, and implementing changes in the law and procedure.”²³

Richard Magnus during the first Asia-Pacific Intermediate Courts Conference held in Singapore in July 1995.

²³ Note 13, at pg. 137.

15. During this year's Introduction of the Seventh Workplan, Chief Justice Yong defined the Strategic Framework that will guide the Subordinate Courts to lead justice into the new millennium. Access to justice can be found in three of the eight elements of the Strategic Framework²⁴. They are:

- *“The justice system must maintain human dignity, uphold the rule of law, and **enhance access to justice.**”*
- *“All persons will have **ready access to justice** in the Subordinate Courts, which will provide a range of effective and expeditious means of dispute resolution, without undue cost, inconvenience, or delay.”*
- *“Technology will be strategically employed to **increase access**, convenience and ease of use of Court services, and to assist the Courts in enhancing the quality of justice.”*

16. It is therefore clear that the Singapore Judiciary has placed much emphasis on access to justice as an objective, a core value, and as key elements in the Strategic Framework. The question here is what have been done to fulfill the objective, uphold the value and adhere to the elements? To answer this, it is necessary to identify the barriers of access to justice. Broadly, barriers can be divided into economic, procedural, physical and temporal. These categories are not distinct and some barriers, eg. physical and temporal, may overlap. Only when all the barriers are torn down can the pathway to justice be clear and accessible.

²⁴ Singapore Academy of Law Newsletter (Issue 54, May/June 1998), at pg. 3.

DISMANTLING THE ECONOMIC BARRIERS

17. Lord Woolf has observed that, “The problem of costs is the most serious problem besetting our litigation system.”²⁵ Indeed, if certain segments of society who cannot afford litigation costs are denied access to the justice system, the standard of justice is compromised. There is also a limit on how much the state can finance litigation for the indigent through legal aid. Economic barriers can deter potential plaintiffs who may have a valid cause of action but without the financial means to pursue their case. It may also compel the financially weaker defendants who have a valid defence to settle claims. To a large extent, it amplifies the unequal bargaining power of the litigants and does nothing to equalise parties’ positions in the proceedings. At a macro level, high litigation costs is an unjustifiable economic wastage to society.

18. One way of preventing costs of litigation is to leave litigation as a last resort measure by resorting to alternative means of dispute resolution. This is an emerging development in many jurisdictions²⁶. The introduction of alternative dispute resolution (ADR) encourages consensual settlement, places emphasis on interest rather than position, while minimising costs²⁷. In this regard, the Subordinate Courts have successfully introduced mediation into various court processes. For instance, mediation has been used to resolve civil, family-related, as well as relational disputes. The mediation process helps to filter out cases that could be settled and help the parties in these cases to save costs.

19. In 1995, the Subordinate Courts introduced the free service of Court Dispute Resolution by creating the Court Mediation Centre, (recently renamed as the Primary Dispute Resolution Centre (PDRC)). Civil cases are referred for mediation in the Centre

²⁵ 1996 Final Report to the Lord Chancellor on the Civil Justice System in England and Wales, entitled “Access to Justice” by the Rt. Hon. Lord Woolf, MR at pg. 78.

²⁶ For instance, Australia, UK, and USA.

²⁷ See Lim Lei Theng & Joel Lee, “A Lawyer’s Introduction to Mediation” (1997) 9 S.Ac.L.J. Part I 100. To emphasise the growing importance of mediation, an International Mediation Conference was organised by the Subordinate Courts in August 1997.

with a view to settlement before the cases are set down for trial. As a result, fewer cases proceed to trial and there are substantial costs savings for the parties concerned. On 1 May 1998, the Multi-Door Courthouse (MDC), the first of its kind in the Commonwealth and the Asia-Pacific, was set up as an extension of the PDRC to increase public awareness of dispute resolution processes and to assist users in selecting the most appropriate dispute resolution mechanism²⁸. The services provided by the MDC are also free of charge.

20. In the Family Court (which is part of the Subordinate Courts), free counselling and mediation are provided for divorce and ancillary matters, as well as for maintenance and family violence disputes. These free services have achieved positive results of settlement. Wives and children who are not properly maintained may, instead of commencing costly civil action against defaulting husbands and fathers, resort to a quasi-criminal procedure to apply for fresh maintenance or enforcement of maintenance arrears at a nominal fee²⁹. A Legal Clinic is also run on specified evenings of a week by volunteer lawyers to provide free legal advice to indigent persons on family law. The provision of these free court services to the general public has ensured that no one is denied access to justice simply because he lacks financial means.

21. Sometimes, claims can be of a small quantum that simply does not justify recovery through the normal means of civil litigation. Without an alternative, some of these small claimants may choose inaction over unjustified legal costs. From the perspective of social justice, the justice system should also provide a solution to small claimants.

22. The Small Claims Tribunals (SCT), set up in 1985, started life as a subordinate court where small consumer claims up to the limit of \$2,000 were heard. There has since been two further upward revision of their monetary limit such that claims in respect of

²⁸ Singapore Academy of Law Newsletter (Issue 54, May/June 1998) at pg. 7.

²⁹ Section 79, *Women's Charter* (Cap 353)

sale of goods and provision of services up to the sum of \$10,000, and if parties' consent, up to \$20,000, can now be heard in these Tribunals. A claimant can file and serve a claim at a nominal fee. The matter will first be fixed before a Registrar for consultation. If consultation fails, the matter then proceeds for adjudication before a Referee, with a right of appeal to the High Court on issues of law and jurisdiction only. This inexpensive means of pursuing small claims has gained popularity in the country, as evident from the higher monetary jurisdictions and the establishment of two regional Tribunals.

23. Civil legal aid by the State is available to persons who cannot afford the costs of litigation and who has no other alternative but to proceed with the action, if such persons could satisfy certain prescribed requirements³⁰. The Legal Aid Bureau under the Ministry of Law runs the system. For indigent accused persons, members of the Law Society under a voluntary Criminal Legal Aid Scheme provide criminal legal aid. In capital cases, the State will also assign two defence counsels to the accused under the Assigned Counsel Scheme. Suffice to say that in the last resort if counsel is really required, there are various avenues available to an impecunious party.

REMOVING THE PROCEDURAL BARRIERS

24. Backlogs and delays are prime examples of procedural barriers. Prolonged waiting periods can have deleterious effects on witness' memories and psychological effects of overhanging litigation on the parties. Over time, this may impact on the costs of litigation and would not be fair to the economically weaker party. In criminal proceedings, this could mean the ugly fact that being remanded for a protracted period before he gets to protest his innocence in court punishes an innocent man.

25. The Singapore Judiciary began by investing efforts to clear the backlog that was impeding access to justice. By January 1993, the waiting period for both civil and criminal cases was cut down to no less than six months in both the High Court and the

³⁰ Under the regime of the *Legal Aid and Advice Act* (Cap 160).

Subordinate Courts³¹. To prevent creeping backlogs and delays, there was then a transformation of the procedural philosophy. To summarise, existing rules were modified and new ones introduced to expedite civil procedure, a system of pro-active judicial management of cases replaced the traditional model of passive adjudication, and a new policy of case management and administrative re-orientation was implemented³².

26. Today, the waiting periods for both criminal and civil cases in both the High Court and the Subordinate Courts have shortened considerably, thanks to effective case management systems and constant supervision of the court workflow and processes. If one cannot believe that justice can be dispensed in a day, it may be of interest that tourist claims are generally dealt with within 24 hours in the Small Claims Tribunals from the time of filing to eventual disposal³³.

27. In civil procedure, the provision for the use of affidavit evidence-in-chief for trials³⁴ has resulted in savings of precious time of both the parties and the courts. Issues also become more apparent and better defined when raised in affidavits and this avoids unnecessary obfuscating of the issues at hand by way of oral evidence-in-chief. Cross-examination of witnesses can also be more focused, as reference can be made and attention directed at once to matters raised in the affidavits. The other innovation is the summary disposal of points of law and documentary construction³⁵. Some of the other reforms include provisions on offers to settle³⁶, pre-trial conferences³⁷, and the fairly

³¹ Note 13, at pgs. 72 and 75.

³² Note 3, at pgs. 12 to 23.

³³ The established timelines and waiting periods are published in the Courts Charter and in Judiciary annual reports.

³⁴ Order 38, rule 2, *Rules of Court 1996*.

³⁵ Order 14, rule 12, *Rules of Court 1996*.

³⁶ Order 22A, *Rules of Court 1996*.

³⁷ Order 34A, *Rules of Court 1996*.

recent introduction of the Mediation-Arbitration (Med-Arb) process³⁸. All these measures assist in expediting the civil procedure.

28. As mentioned earlier, the adversarial ethics is now critically under examination in many jurisdictions. It would appear that the introduction of inquisitorial elements and pro-active judicial management is gaining widespread acceptance³⁹. The evolution of the judge-manager has been a major development in the Singapore courts. In fact, a Singapore judge must be prepared to assume the concurrent roles of a manager of cases and a leader of change, in addition to his traditional role of an adjudicator. As Chief Justice Yong observed,

“The judge must bear ultimate responsibility for the progress of a case. Concepts of case management are gaining acceptance in the judiciaries world-wide. The Judge-Manager is a logical evolution, as well as a necessary modification to the “adversarial ethic.”⁴⁰

29. In the Subordinate Courts, the more senior district judges are designated Group Managers to manage and assign criminal cases within groups of judges⁴¹. Individually, judges ensure that no adjournments of trials or interlocutory hearings are granted as a matter of course, but only upon the furnishing of good grounds. They also conduct pre-trial conferences to ensure that issues are narrowed down to ensure a more focused trial that does not unnecessarily expend precious court time. Differentiated case management was introduced in 1995 for civil cases⁴². Cases are put on different time-tracks under a customised approach depending on their nature and complexity, so as to ensure

³⁸ The procedure used is found in Order 36, *Rules of Court 1996*.

³⁹ Note 2, at pg. 218.

⁴⁰ Singapore Academy of Law Newsletter (Issue 51, Nov/Dec 1997) at pg. 4.

⁴¹ The concept of group management of cases was first introduced in 1992 for civil cases in the Subordinate Courts. Note 13, at pg. 96.

⁴² Note 13, at pg. 212.

expeditious disposition of cases of less complexity. The judges perform a managerial role in ensuring that the cases comply with prescribed timelines from filing to disposition.

30. Procedural obstacle may also take the form of complicated rules of court procedures. Without the assistance of counsel, contrived rules can be intimidating to the layperson who wishes to seek redress in the courts. The lack of procedural knowledge can therefore be a deterrent to proceed further with the case. One way of obviating this difficulty is of course to minimise court procedures and only provide the most essential ones. After all, procedure is supposed to complement and not impede the determination of substantive rights.

31. The SCT, where counsel is not allowed⁴³, is a court with limited procedures. After the filing and service of a claim, a consultation is fixed for parties before the Registrar to see if settlement can be reached⁴⁴. If the settlement attempt fails, the matter is referred to a Referee for adjudication⁴⁵. For this purpose, the Small Claims Tribunals Act only emphasises on adherence to the principles of natural justice⁴⁶, and does not prescribe any cumbersome procedural rules dictating how the adjudication process should be conducted⁴⁷. In fact, Referees are not bound by rules of evidence⁴⁸ or strict legal forms and technicalities⁴⁹, and may inform themselves of matters in a manner that they deem fit to ensure that the case is decided fairly and justly⁵⁰. The party dissatisfied with the

⁴³ Section 21(3), *Small Tribunals Act* (Cap 308).

⁴⁴ Section 17, *Small Tribunals Act* (Cap 308).

⁴⁵ Section 18, *Small Tribunals Act* (Cap 308).

⁴⁶ Section 27, *Small Tribunals Act* (Cap 308).

⁴⁷ Section 20(1), *Small Tribunals Act* (Cap 308) states that proceedings before a tribunal shall be conducted in an informal manner. Section 27 of the same Act states that a tribunal shall have control of its own procedure in the hearing of claims.

⁴⁸ Section 25(1), *Small Tribunals Act* (Cap 308).

⁴⁹ Section 12(4), *Small Tribunals Act* (Cap 308).

⁵⁰ Section 25(3), *Small Tribunals Act* (Cap 308).

decision of the Referee has a right of appeal to the High Court on matters of law or jurisdiction⁵¹. The effectiveness of the Tribunals can be seen from their transition from a court primarily for the resolution of consumer disputes, into a court that deal with mercantile disputes involving even large corporations.

32. Chief Justice Yong has observed that, “Public awareness of the Singapore justice system fortifies public access to justice.”⁵² In this regard, the Subordinate Courts have done much. To educate the public who may not have come into contact with the keen edge of legal procedures, the Subordinate Courts provide free information pamphlets that are easily available at the information counters to provide some assistance to parties who wish to use the court services. Those who do not know where to initiate a certain court process could approach the Case Administrator at the Multi-Door Courthouse to request for referral of their cases to the most appropriate channel. Although not externally mandated like in the case of some other jurisdictions, the Singapore Judiciary of its own accord publishes annual reports to chronicle the developments that have taken place in the courts⁵³.

33. Last year, a Courts Charter setting out the established waiting periods and service standards that the public can expect, was launched and copies of the Charter are distributed free to the public. A second Courts Charter that embodies enhanced values and more stringent service quality standards is in the process of planning and should be available by end of this year. The Subordinate Courts also have a website⁵⁴ where the public can access general information about the courts at the comfort of their homes. Computer terminals known as Justnet Autokiosks are variously located in the court building so that members of the public can seek clarification or make enquiries on

⁵¹ Section 35, *Small Tribunals Act* (Cap 308).

⁵² This was mentioned in His Honour’s Address at the opening of the Supreme Court Exhibition-cum-Open House in December 1997. Singapore Academy of Law Newsletter (Issue 52, Jan/Feb 1998) at pg. 12.

⁵³ Ibid.

⁵⁴ At <http://www.gov.sg/judiciary/subct>.

information relating to court processes. In the pipeline are community outreach programmes that are aimed at educating the public⁵⁵ and to seek community support in court initiatives.

OVERCOMING THE PHYSICAL BARRIERS

34. At the most literal level, physical barriers means the remote physical location of the courthouse which causes inconvenience to persons intending to use court services. One way to remove the barriers is to create more courthouses in more dispersed locations. The Small Claims Tribunals are now scattered over three locations, with a headquarters and two regional centres, so as to better serve an increasing population. The establishment of regional centres has brought justice closer to the neighbourhood and community. The localisation of justice is also in line with the emerging trend in some leading jurisdictions that community resources should be tapped to aid the administration of justice.

35. The Subordinate Courts have successfully harnessed technology to enhance physical accessibility. During His Honour's keynote address at the Technology Renaissance Courts Conference held in September 1996 in Singapore, Chief Justice Yong has mentioned that one of the technology criteria is that,

“Technology should foster greater access to the courts; there should be easy access to justice via consumer-friendly technology that is comprehensible and requires little or no training, for example, telephone and television.”

36. In the foreword for the Judiciary Annual Report 1996, His Honour stated that,

“In our pursuit of ever more effective means for the public to access the justice system, we will increasingly offer more of our services for remote access by

⁵⁵ For instance, an Open House cum Exhibition for the Supreme Court was held in December 1998. A similar programme will be organised by the Subordinate Courts this year.

electronic means from homes, workplaces, public kiosks and through the Internet.”

37. The Automated Traffic Offence Management System (ATOMS) is amongst the first innovation by the Subordinate Courts that has virtually “brought” justice to the community⁵⁶. It is a system that allows persons accused of traffic offences to plead guilty and pay off the fines electronically at ATOMS kiosks located islandwide. The innovation, the first in the world, has reduced the inconvenience caused to traffic offenders who would otherwise have to attend court personally. It results in the overall saving of time and effort for the offenders and the court. The Subordinate Courts are looking into extending the system for other types of statutory offences this year. The ATOMS is a manifestation of the meta-concept of Virtual Court, which is in the strategic information-technology plan of the Subordinate Courts.

38. Other Virtual Court innovations that bear mention are the Bail and Witness Video-link Courts⁵⁷. The Bail Video-link Court makes use of video-conferencing technology to enable accused persons to “appear” in court for mentions visually on a big screen, while they remain in remand premises⁵⁸. This helps to reduce the security risk while resulting in overall costs and time savings of bringing accused persons to court from remand prisons. The Witness Video-link Court allows vulnerable witness to give evidence in trials in a remote environment removed from the court where the accused person is present⁵⁹. This is to ensure that vulnerable witnesses can give oral testimony

⁵⁶ ATOMS was commissioned on 1 November 1996. The legislative source is section 137, *Criminal Procedure Code* (Cap 68).

⁵⁷ The legislative source is section 364A, *Criminal Procedure Code* (Cap 68) read together with section 62A, *Evidence Act* (Cap 97). The actual operational details are found in Practice Directions and Registrar’s Circulars. Under section 36A, *Evidence Act* (Cap 97), subsidiary legislation can be made to provide for the filing, receiving and recording of evidence and documents in court by the use of information technology. See Charles Lim, “Information Technology and the Law of Evidence – Recent Legislative Initiatives” (1997) 9 S.Ac.L.J. Part I 119. Also see Chin Tet Yung, “Presenting Evidence in the Technology Court: Challenges for the Law of Evidence” (paper presented at the Technology Renaissance Courts Conference 1996).

⁵⁸ See Subordinate Courts Practice Directions No 1 of 1995 for operational details.

⁵⁹ See Subordinate Courts Registrar’s Circular No 1 of 1996 for operational details.

freely without being subject to fear by the sheer presence of accused persons. Video-conferencing capabilities have been extended to civil cases as well. Early this year, a Med-Arb session was conducted via video-link with a witness being physically present in Norway. It is expected that with increasing international commercial disputes, there will be correspondingly more of such sessions which can help to save costs and time for the parties in civil litigation. Virtual counselling and mediation for family cases, and virtual counselling for SCT cases are also in the pipeline⁶⁰.

39. At another level, user-unfriendly courtroom environment can also be a form of spatial obstacle. While the dignity of the courts must be retained, there is much to be said about a courtroom without appropriate acoustics, where a witness has to repeat himself three times before the judge can hear what he says. Similarly, to put family disputants in a courtroom designed primarily for offenders may not achieve the desired effects. Without the availability of purpose-built facilities, the court may also be severely limited in providing effective and better quality justice.

40. In the Family Court, facilities ranged from small, cosier courtrooms with better acoustics, to counselling and mediation rooms, and even children's playrooms. Last year, a Family Protection Unit was set up to take charge of family violence cases. This Unit has partitioned interview areas to enable victims of family violence to provide input on their cases to the Counsellors. All these personalised facilities have supported the more holistic Family Justice system that does not simply focus on the cold and faceless adjudication of family disputes. This is consistent with the growing awareness that the courts, although constitutionally an organ of state, are public institutions that owe a public duty to provide quality services to the masses⁶¹. Plans are underway for the

⁶⁰ This was mentioned by Chief Justice Yong at this year's Introduction of the Seventh Subordinate Courts' Workplan. See Singapore Academy of Law Newsletter (Issue 54, May/June 1998) at pg. 6.

⁶¹ During the Asia-Pacific Courts Conference in Sydney in August 1997, Chief Justice Yong has said that,

“Notwithstanding the judiciary's constitutional independence, the courts of the 1990s work in a world in which their position and performance are judged by public opinion. In the last resort, they require the support and goodwill of their constituent communities. Just as the public has a

construction of a new Subordinate Judiciary, which should be ready in seven to ten years' time. The strategic direction taken is that the new building must have all the facilities and equipment befitting a world-class courthouse of the 21st Century to provide better access.

DIMINISHING THE TEMPORAL BARRIERS

41. "Temporal" barriers refers to the fixed and rigid opening hours of the courthouse that may not always be to the convenience of the court users. Attendance in court actually takes away productive economic time from individuals that can be better employed elsewhere. As most gainfully employed people work in the day, requiring them to attend court in the day by applying for half a day's leave just to pay the fine for a parking offence is counterproductive. Similarly, it would be a waste of precious time if one who wishes to use the courts' services or find out more about certain court procedures have to apply for leave from their work just for this purpose.

42. The Subordinate Courts are dedicated to the improvement of service quality. In 1991, Night Court was introduced on a pilot basis, to deal with minor statutory offences and departmental summonses⁶². Since then, two Night Courts have been in session on a daily basis from 6 pm to 9 pm⁶³. It may be of interest that the judges who sit in Night Courts are the very same judges who sit in court hearings in the day. In addition to the Night Court, the Family Court now runs Night Mediation sessions for divorce and ancillary matters⁶⁴. Beginning July 1998, the operation hours of the Family Registry will also be extended to the evening.

legitimate interest to expect high standards from public services, the same is expected of the courts."

See Singapore Academy of Law Newsletter (Issue 51, Nov/Dec 1997) at pg. 2.

⁶² Note 13, at pg. 49

⁶³ These are Court 13N and Court 23N. There is no resident judge in Night Courts, as all judges sit in these courts on a rotational basis.

⁶⁴ This was a service introduced in 1996.

43. Technology has also been strategically employed to remove temporal barriers. The ATOMS kiosks, which operate 24 hours daily, allow traffic offenders to plead guilty electronically anytime at their convenience. In the SCT, electronic lodging of claims has been introduced to allow claimants to use the telephone, the fax, or the internet to lodge their claims⁶⁵. Respondents may also admit to the claims electronically or in writing⁶⁶. In fact, consultations before Registrars and proceedings before tribunals can be conducted by electronic means⁶⁷. In March 1997, the Electronic Filing System (EFS) was launched to pave the way for a paperless court⁶⁸. When it is finally operational, the system will save time for lawyers, who until now, must themselves or through their service clerks attend physically at the court registries to file documents. Plans are also underway for the electronic filing of maintenance claims and complaints for family violence cases⁶⁹.

CONCLUSION

44. From the outline of the various measures taken to remove barriers and enhance access to justice in the context of the Singapore Subordinate Courts, the following general principles have been established:

- That justice can be made much more affordable to all those who seek legal redress.
- That the justice process can be made swift and efficient.

⁶⁵ Section 15(6), *Small Claims Tribunals Act* (Cap 308) and Parts IIIA and IIIB, *Small Claims Tribunals Rules* (Cap 308, Rule 1).

⁶⁶ Section 18A, *Small Claims Tribunals Act* (Cap 308).

⁶⁷ See sections 17A and 22A, *Small Claims Tribunals Act* (Cap 308).

⁶⁸ The legislative framework is already in place. See section 36A, *Evidence Act* (Cap 97), Order 63A, *Rules of Court 1996*, and the Supreme Court Practice Direction No 2 of 1997.

⁶⁹ These form part of the Seventh Workplan and should be operationalised this year.

- That the court processes can be less complicated and contrived whilst not compromising the essence of justice.
- That the public can have greater awareness of the court processes and services.
- That the court's processes and facilities can be made convenient to the public and users.

45. In a time period of seven years, the Singapore Judiciary has successfully achieved all of the above to fulfill its objective and uphold its value of enhancing access to justice. This can be attributed to four main factors, namely an able and visionary leadership, the willingness to learn and adapt, the support and goodwill of the Bar and Legal Service, and perhaps most importantly, the ability to manage change. In an age of fleeting changes, an organisation must be adequately equipped to allow it to change and prevail with the times. The only way to manage change effectively is to plan ahead and be proactive. As Chief Justice Yong put it,

“To sustain the momentum, the whole organisation must have the right attitude with which to embrace change. Any organisation that effects change only in reaction to circumstances becomes the slave of circumstances. It dooms itself to running around making urgent change after change because it allows circumstances to catch up with it. The environment must be one which induces continuous change which will improve the organisation and the system as a whole. This working environment must not only allow, it must encourage and even demand change when the status quo is clearly unsatisfactory. All these involve the creation of a pro-change organisational culture. Everyone from the Chief of the Judiciary right down to the officer manning the service counters must be an activist for change.”⁷⁰

⁷⁰ In His Honour's keynote address at the Asia-Pacific Courts Conference 1997. Singapore Academy of Law Newsletter (Issue 51, Nov/Dec 1997) at pg. 5.

In the process of managing change, the Singapore Judiciary has adapted and modified the practices of other jurisdictions to retain what is suitable for local circumstances, as well as relied on its own ideas and resources.

46. Access to justice is an important factor in ensuring public trust and confidence in the justice system and the ultimate observance of the Rule of Law, which is a condition precedent to the prevalence of a democratic society. As can be seen in this paper, delays and backlogs are not the only barriers to justice. Costs, inconvenience, as well as ignorance of court processes and services are also impediments to justice that should be minimised or removed. This is especially so in a rapidly moving and competitive world where speed and knowledge are given premium. To stay relevant, the judiciary must continuously strive to maintain the balance between institutional conservatism and the need to respond to change. As Chief Justice Yong said, any judiciary with Pygmalion's will can and should be able to succeed even with the most Herculean of tasks⁷¹.

47. The Singapore experience has shown that the question is not one of "can be" or "should be". As Hamlet says, "To be or not to be, that is the question"⁷².

⁷¹ Ibid, at pg. 7.

⁷² Act III, scene i, *Hamlet*. This is in fact the commencement line of the excerpt of Hamlet's soliloquy quoted on pg. 1 of this paper.