

**KEYNOTE ADDRESS OF  
THE HONOURABLE THE CHIEF JUSTICE  
OF SINGAPORE**

**Third Asia-Pacific Courts Conference 1998, Shanghai**

**LEADING THE JUDICIARY IN THE  
21<sup>ST</sup> CENTURY KNOWLEDGE ECONOMY**

**Definitional Context**

1. Poised at the new millennium, a mere 452 days away, the Judiciary is faced with critical challenges. It is our responsibility to bequeath to the 21<sup>st</sup> century generation the traditions, culture, and meme of a dynamic 20<sup>th</sup> century Judiciary, jealously upholding the Rule of Law and seeking always to dispense and administer justice. How then does the Judiciary relate to the 21<sup>st</sup> century? What are the critical challenges in the 21<sup>st</sup> century? I had addressed in part these issues at the Singapore Subordinate Courts' Seventh Workplan in April this year and at the Sydney Conference last year.
  
2. The 21<sup>st</sup> century Judiciary must relate to three environments. One is its own organisation where it has control. Beyond that is the transactional environment, comprising its constituents over which it has influence. There

is then the wider contextual environment, which has important repercussions for the Judiciary, but over which it has limited influence. The major task for the Judiciary in this latter environment is to arrange its affairs such that it remains an effective institution whatever may happen there.

### **Reforming The Organisational Environment**

3. The ebbing years of the 20<sup>th</sup> century saw a self-reflecting Judiciary preoccupied with institutionalising internal reforms.
  
4. In Australia, there was the Sackville Report on Access to Justice. The government of the day had responded with the Justice Statement. The present government has set up the Australian Law Reform Commission chaired by the able Mr Alan Rose, who is one of the plenary speakers. Chief Justice Michael Black, who is also here, is a known proponent of the use of technology in the Australian jurisdiction. Justice Catherine Branson is rightly concerned with enhancing access to justice, which is the topic of her presentation at this Conference. The Australian Institute of Judicial Administration, under Justice Neil Buckley who is with us today, has been responsible in focusing topical judicial and court administration issues in Australia. In 1995, Sir Anthony Mason, the former Chief Justice of the High Court of Australia, spoke in a Singapore lecture on the “Procedural and

Substantive Changes and Refinement of Legal Principle” in Australia.

5. New Zealand has produced several reports ranging from restorative justice and domestic violence, to civil caseflow management system and judicial administration. Chief Judge Ronald Young, who is present this morning, will present his paper on court performance evaluation later.
6. Further afar in Canada, there was the Canadian Bar Association Task Force Report on Court Reform. Chief Justice Lamer, who visited Singapore in 1996 at my invitation to deliver a public lecture, spoke on the tension between judicial accountability and independence in the Canadian Judiciary. He had shared with me some of his thoughts on related subjects and proposed reforms for the Canadian Judiciary. Professor Carl Barr, an experienced Canadian court administrator, will share with us his perspective of a “Model Judiciary” at the plenary session.
7. In the United States, there was the Federal Court’s Long Range Plan. In May this year, the Chief Justice of the US Supreme Court William Rehnquist expressed concern over the growing interdependence of federal and state court systems and the increase in workload of the federal courts. In February this year, the Californian Chief Justice Ronald George, in his address to the Californian legislature, spoke on court funding,

facilities and staffing. The state judiciaries of Virginia, Hawaii, California, Massachusetts, Tennessee and Pennsylvania, have each produced strategic and long range plans. The representative from the National Centre for State Courts, Mr James Thomas, will speak on court performance measurement at the workshop.

8. In England, there was the Lord Woolf Report on the Civil Justice System in England and Wales. Mr David Gladwell of the Lord Chancellor's Department Civil Justice Division will present his Conference paper on enhancing access to justice in England. The Commonwealth Secretariat based in London has in this year organised two "Access to Justice" Workshops in Jamaica and Bangalore. Lord Chief Justice Bingham is reportedly concerned with criminal justice reforms, particularly on sentencing, in his country.
  
9. In China, I understand that the former and current Presidents of the Supreme People's Court have been concerned with judicial reforms. The incumbent, forward-looking President Xiao Yang has since April this year implemented various significant initiatives to enhance transparency of the justice process. These include making trial proceedings public, and the nationwide televising of an important intellectual property lawsuit. At this Conference, we will be able to hear from Vice-President, Shanghai No. 1 Intermediate's Court Zhen Zhao Fang; Judge Jiang Li Zhen

who heads the Intellectual Property Division of the same court; Solicitor-General of Hong Kong Special Administrative Region Mr Feng Huajian; and Mr Wang Qiu Liang from the Pudong District Court, on some of the recent legal and judicial developments in China.

10. At home in Singapore, over the last few years, we had to struggle with similar concerns of the other jurisdictions I have mentioned. We have been most fortunate to have strategic alliances with the other courts, and with foreign and local consultants who have unselfishly shared with us their reform experience. We have learnt much from the experience of the courts which have provided some of the forward-looking ideas.

### **Influencing The Transactional Environment**

11. All the reforms in the courts worldwide have shaped a Judiciary better fit to move into the 21<sup>st</sup> century. There are already early signs of the Judiciary's desire to influence its transactional environment.
12. Some writers<sup>1</sup> have referred to a growing phenomenon of the judicialisation of politics in certain countries. In Latin America and Africa, constitutional rules and policies have been developed by the courts to protect new and fragile democracies from threats of military intervention, ethnic

conflict and revolution. The constitutional courts in France and Germany have also been able to influence legislators and executives to routinely alter their policies in response to or in anticipation of judicial pronouncements. In India, the courts have been privy to the shaping of public interest litigation, which entails the relaxation of the *locus standi* rule to enhance access to justice for the underprivileged and the oppressed. In England and the United States, the courts have frequently invoked judicial review powers to check administrative actions. All these involve judges developing legal principles against a complex and often changing socio-political and legislative background.

13. At this Conference, three plenary speakers, including Chief Justice Brian Martin, will identify some of the fundamental issues facing the Judiciary in the 21<sup>st</sup> century. Chief Justice David Malcolm's paper offers some guiding principles in reform and development relating to courts and society. Professor James Dator, who was responsible for leading the court futures planning movement in the Hawaiian courts, and later in other US state courts, mentioned in his paper that one of the five dimensions of the 21<sup>st</sup> century court is to be an institution of a changing society.

14. All these point to one conclusion. The Judiciary is changing. It has to change because its transactional environment is changing so rapidly that it will be obsolete if it

remains static. Change becomes an imperative, not a choice. What will enable the Judiciary to succeed in the longer term is a wish for immortality, or at least longevity; a consistent set of values based on an awareness of its own identity; a willingness to change; and a passionate concern for developing the capacity and self-confidence of its core inhabitants of judges and court administrators.

## **The 21<sup>st</sup> Century: A Knowledge Economy**

15. It is the universal consensus of governments, thinkers, sociologists, political scientists and industry leaders that the decisive factor for growth in the 21<sup>st</sup> century is the management of a nation's or society's knowledge resources. This is critical in developing new concepts, methods and practices across sectors, be it the manufacturing, service, public, private or people sector, and across age and literacy groups. It requires a mindset of continuous learning, to keep up-to-date and stay at or near the leading edge, as new products, services and ideas develop. This has been called the Knowledge Economy, the evolving contextual environment that the Judiciary will find itself.
  
16. The overarching implication of such an environment is that it will be prone to abrupt shifts as both the nature and content of relevant knowledge continually change, causing the world to become highly turbulent. Yet I am confident that the Judiciary will find its place in the Knowledge Economy of the 21<sup>st</sup> century. To put it starkly, this is because the Judiciary is in the "knowledge business", and has always been so. The evolution of the Judiciary shows its creative ability to provide insights into knowledge of human affairs. This is the singular core competency of the Judiciary. It was Holmes who said, "The life of the law has not been logic: it has been experience"<sup>2</sup>. Through the course of modern civilisation and

the evolution of the Judiciary, various wisdom have been established and are a heritage we must pass on to the 21<sup>st</sup> century.

### **Passing On The Wisdom**

17. *The courts must remain the central authority to administer justice.* Courts have been administering justice since ancient Athens, ancient Rome, and later in England and Continental Europe. In 12th century England, the *Curia Regis*, initially concerned with taxes paid by feudal inferiors to the King, evolved into permanent central courts with extended jurisdiction in response to the need for the King to intervene in private civil and criminal matters. In the Middle Ages, legislative assemblies, which later became courts, administered justice in the Romano-Germanic jurisdictions. Roman law provided the structures and solutions to the then complex and variegated socio-economic conditions. With the Bolshevik Revolution early this century, the birth of the socialist judicature and legal procedures reflected Marxist-Leninist view on the political function of the law. These laid the foundation for the now adversarial, inquisitorial and socialist justice systems.

18. *The administration of justice must then continue to be administered by a professional group of competent judges.* In 17<sup>th</sup> century, Sir Edward Coke, arguing that King James I of

England had no right to administer justice, echoed Sir John Fortescue's views that "His Majesty was not learned in the laws of the realm of England", and that "law is an act which requires long study and experience, before a man can attain to the cognizance of it". Earlier in 14<sup>th</sup> century France, professional judges, trained in the law and of bourgeois background, had replaced the clergymen, barons and noble courtiers in the Court of Paris. These judges were appointed for an indeterminate period. As the social fabric becomes more complex, and a specialised corpus of laws developed, the interpretation and application of technical and extensive laws have been, and should continue to be, left to professionally trained judges.

19. *The independence of judges is a tradition we must pass on to the next generation.* England recognised the independence of judges following the 1688 Glorious Revolution, when John Locke, in his *Two Treatises of Government*, advocated a system of checks and balances in the three branches of government. To preserve judicial independence, judges are granted absolute immunity and have the inherent powers to punish for contempt of court. The protection of judges from external influence or personal criticism is related to the dignity of the justice process, essential for public trust and confidence in the Judiciary. This must have arisen out of the awareness that "the Judiciary is beyond comparison the weakest of the

three departments of power”<sup>3</sup>, as stated by Alexander Hamilton.

20. *The courts and the judges must therefore be separate from the other branches of government, as nation states evolve.*

The doctrine of the separation of powers and the Rule of Law originated from Aristotle. Philosophical energy has been devoted to the containment of absolute power, commencing with the Indian, Chinese and Greek philosophers through the ages until its present form. In France and United States, Montesquieu<sup>4</sup> and James Madison<sup>5</sup> respectively advocated the separation of the judicial from the executive and legislative branches of government. The doctrine of separation was popularised after the 1789 French Revolution, with the rise of constitutional governments. To ensure no excessive power concentration in any branch that could imperil the people, the Judiciary became the sole arbiter of the legitimacy of law.

21. *What is clear also is that the Rule of Law is inalienable, and justice must be dispensed according to law.*

Dicey’s definition is worth reiterating. The Rule of Law means, in one sense, "the absolute supremacy or predominance of regular laws opposed to the influence of arbitrary power, and excludes the existence of arbitrariness, or prerogative, or even of wide discretionary authority on the part of government”<sup>6</sup>. Millennia before Dicey, the Sumerian written laws, the Babylonian Code of Hammurabi, the Judeo-Christian

Pentateuch, the Hindu Code of Manu, the Roman Twelve Decemviral Tables, and the Chinese Code of Li k'vei, had all laid down the dignity and principles of law. In this millennium, the universality of the Rule of Law has again found expression in the 1215 Magna Carta, 1689 English Bill of Rights, and 1948 Universal Declaration of Human Rights.

22. *The Judiciary should constantly strive to make justice accessible to the aggrieved as part of its role as custodian of the Rule of Law.* The Magna Carta declared by King John still beckons to afford access to justice in its terms. The saying “To none will we sell, to none deny or delay right or justice”<sup>7</sup> establishes the principle of equal access to the courts for all citizens. Another saying “No free man shall be taken, nor imprisoned ... but by the lawful judgment of his peers, or by the law of the land.”<sup>8</sup> establishes that no one shall be punished save in accordance with due process. These words have re-echoed through centuries and in the history of the Rule of Law, and must continue to remain the cardinal guiding philosophies for the Judiciary.

23. These traditions and judicial culture of the previous millenniums, absent earth's collision with a comet, will be valid in the coming millennium. They have been accumulated and shaped by tribal, ethnic and religious conflicts, social upheavals, wars and revolutions. They have transcended the eras of Renaissance, Reformation and the Industrial

Revolution. Some of them predated the nation state. Law must therefore be venerated, the courts are temples of justice, the judges their oracles in the 21<sup>st</sup> century.

24. Within itself, the Judiciary has birthed an identity *sui generis*. It has arrogated to itself inherent jurisdiction and powers, being jealous for justice and its institutional integrity. It has constantly influenced the transactional environment by shaping jurisprudence and developing substantive and procedural laws in all areas of human affairs, currently identified in neat legal categories as tort, contract, criminal, family, admiralty, constitutional, private and public international, comparative, administrative, ecclesiastical and adjectival laws. A discussion on this is better left to another forum. For example, the Singapore Academy of Law held a Conference in 1995 to review the caselaw development between 1990 and 1995 on some of these areas.

25. As the present Conference does not permit a detailed examination of the substantive law and jurisprudence, I shall only highlight a few areas of the development in the Common Law, which I am familiar with. In this century, we see a gradual shift from Bentham's utilitarian positive law to Dworkin's rights thesis. We also see the emphasis on fairness of bargain over sanctity of contract, the creation of new categories of tortious liability to encourage social and professional responsibilities; the expansion of the range of

proprietary interests in goods; and the evolution of detailed principles of culpability in criminal law. These developments are in tandem with changing social and economic needs.

## **Knowledge Management For The 21<sup>st</sup> Century Judiciary**

26. These very same traditions and judicial culture must promote and not inhibit the Judiciary in the 21<sup>st</sup> century. I have mentioned previously that the administration of justice is as much a pragmatic enterprise as it is an idealistic endeavour. Courts should never neglect the practical side of justice. Just as the public has a legitimate interest to expect high standards from public services, the same is expected of the courts. These expectations are no different from those demanded of private enterprise. As the President of the Australian Law Reform Commission Mr Alan Rose put it, this is “perhaps the greatest challenge that the Judiciary faces today.”<sup>9</sup>

27. The management of the Judiciary, its administrative processes, resources and practices have not however been abreast of normative management best practices in the last seventy-five years. Some of the seminal ideas include: Abraham Maslow’s hierarchy of needs; Du Pont’s multi-divisional structure to cope with diversified products and services; Mary Parker Follett’s participatory management which calls for “power with”, not “power over”, employees; Elton Mayo’s emphasis on training and counselling of employees; Harry Markowitz’s resource management; Douglas McGregor’s “Theory Y” which challenges command-and-control and advocates softer management style; Jensen’s and Meckling’s agency theory on how the interest of an

organisation and stakeholders diverge; Kaplan's and Norton's balanced scorecard which combines financial and operating measures.

28. Specifically, since the 1970s to 1980s, the early beginnings of the Knowledge Economy, management and organisational ideas have been germinated and practised in the private sector and other public service institutions. In these sectors, new ideas, creative synergies and breakthrough processes are commonplace in leadership, managing people, production of goods and services, creating shareholder and corporate value, measuring results and in fiscal and monetary policies<sup>10</sup>. They have ensured the survival and pre-eminence of private enterprise and public service institutions that have sought to implement these ideas or their variations. I will highlight a few of these which I think the Judiciary can benefit from. Some of them you will be able to relate to immediately.

29. **Leadership** can be enriched with:
- a. scenario planning in strategic planning;
  - b. developing a corporate or organisational culture;
  - c. protecting stakeholders' or constituents' interests (in the case of the Judiciary, the public will be a constituent);
  - d. entrepreneurial management;
  - e. framework of corporate governance (in the case of the Judiciary, a defining framework of court governance);
  - f. vertical de-integration or flat hierarchical organisation;

- g. strategic alliances with sympathetic organisations, (such as strategic partnerships with forward-looking judiciaries); and
- h. envisioning the mission and vision of the organisation, (for instance, by having a Justice Statement).

30. **People management** can be improved by:

- a. quality, work or process improvement circles;
- b. cross-cultural or gender awareness training;
- c. change management;
- d. being a learning organisation;
- e. management and special attention of the professional core or the top team in the organisation (such as continuing legal education for judges); and
- f. being a flexible organisation with flexible working hours, working from home or remote sites.

31. **Promotion of goods and services** can be ameliorated by:

- a. value-added services (in the case of the Judiciary, in offering free mediation and counselling for civil and family cases respectively, for example);
- b. growing focus on customers (or court users in the case of the Judiciary);
- c. virtual database (or virtual courts in the case of the Judiciary);
- d. customisation of services (individualised to different users of the court and its services);

- e. electronic commerce (in the case of the Judiciary, electronic payment of court fines or spousal and child support payments); and
- f. resurgence of brand equity (or the core values in the justice system, in the case of the Judiciary).

32. **Corporate value** can be enhanced by:

- a. recognising and establishing core competencies (for example, what are the core competencies of the Judiciary?);
- b. growing attention on service management (in the case of the Judiciary, dispensing justice at the doorstep through the Multi-Door Courthouse, for example);
- c. top quality management;
- d. benchmarking (of trial court and judicial service standards, for instance, through a Courts Charter);
- e. ISO standards (in the administrative processes in the Judiciary);
- f. time-based competition (in case disposition timelines);
- g. process-reengineering (of workflow in the Court registries);
- h. outsourcing (such as in court technology, logistics support and court building maintenance);
- i. service chain management (for example, in the concept of the Multi-Door Courthouse); and

- j. “virtual organisation” (for example, the Automated Traffic Offence Management System (ATOMS) in Singapore).
33. **Measuring results** can be accomplished through:
- a. return on investment (for example, having a cost per case or cost per hearing day index);
  - b. performance measurement systems (for example, introducing caseflow management, differentiated case management or group case management, and the National Centre for State Courts’, Wollongong University’s, and Singapore’s Trial Court Performance Standards);
  - c. activity-based costing (this is possible if the Judiciary operates as an autonomous agency like in Singapore);
  - d. integrated information management and control systems (like the Integrated Criminal Justice Systems (ICJS), the Subordinate Courts Criminal Records and Information Management System (SCRIMS) in Singapore); and
  - e. knowledge-capital measures (like having continuing judicial education and social context programmes for judges).
34. In the dynamic organisations in other sectors, all this creative management thinking has already been operational for some time. The Judiciary as a whole has been slow, and should be more aggressive in adopting these management practices. It is also necessary for the Judiciary to exploit technological

innovations more comprehensively and earnestly. The Internet, intranets and extranets are today ubiquitous. These management practices are capable of being adapted creatively and intelligently in the Judiciary. Only a handful have attempted to do so.

### **The Singapore Judiciary's Experience**

35. I had to practise what I now preach. The Singapore Judiciary experimented and applied these management and organisational ideas vigorously, which have impacted the three environments. I have provided in the Annex to this Address some of the applications of each of these ideas. In my Keynote Address at the Sydney Conference, I had identified the various approaches to reforms of the Singapore Judiciary. The internal organisation and structure of the Judiciary have been strengthened. This has enabled the Judiciary to influence the Singapore economy and public life, its transactional environment, and in turn impact the economic competitiveness of Singapore within the contextual environment. Our efforts have borne fruit. The Singapore Judiciary has been consistently ranked high in local business and community surveys evidencing public trust and confidence in the Judiciary, as well as in international surveys by the Political and Economic Risks Consultancy (PERC) Group, the World Economic Forum (WEF) and the International Institute for

Management Development (IMD). A lot more needs to be done. This is an ongoing process for the Singapore Judiciary.

36. The Singapore Judiciary has cleared all backlog of cases and established strict timelines in the disposition of cases; ensured timely rendering of decisions and judgements; institutionalised case and differentiated management; refined its organisational structure and work processes; set case, trial, service and financial performance standards; kept legal costs affordable; applied technology strategically; developed a collegiate culture and a learning organisation; entrenched core values in the administration of justice; instituted strategic or scenario planning, and made the “judge-manager” a norm. All these continue to be complemented and supported by competent judges and administrators despite limited staffing, budget and accommodation. This internal environment is defined by the trilogy of court governance comprising the Justice Statement, the Strategic Framework, and the Judiciary’s Core Competencies. The Justice Statement identifies timeless and immutable universal justice values. The Judiciary’s Core Competencies provide the knowledge capital and catalogue which will drive the Judiciary into the 21<sup>st</sup> century. The Strategic Framework provides a reference or benchmark against which future activities, particularly in fluctuating transactional and contextual environments, should be assessed.

## **Preparing For The Contextual Environment**

37. The recent public lecture in Singapore by Sir Gerard Brennan, the former Chief Justice of the High Court of Australia, alludes to the contextual environment when he said that “municipal courts have been called on to implement a changing international legal order” and that “when international law speaks to matters within the domain of municipal law, the question whether and to what extent municipal law responds must be answered by national courts and legal professions.” In another public lecture in Singapore, Lord Chief Justice Taylor of England addressed the relationship of the Judiciary with a component of the contextual environment, the media, and the challenges in this relationship. In last year’s Sydney Conference, the courts in this region had the occasion to ponder over managing change in a rapidly changing environment. I had then referred to the global forces of Trade, Tribe and Technology, and how they will impact and shape future societies. To prepare for the 21<sup>st</sup> century, the Judiciary needs to work out alternative scenarios for the 21<sup>st</sup> century world, and use these scenarios to stimulate its thinking about possible contingencies and strategies<sup>11</sup>.

38. In the wider contextual environment where nations relate with one another, the United Nations saw the need to establish post-Second World War the permanent International Court of Justice. This was to meet changing political and social order and to provide certainty in the relationship of nations and

organs of state. This year, we saw the birth of the International Criminal Court, intended to be a permanent tribunal with universal jurisdiction over individuals responsible for international crimes. If human rights are to be meaningful in the 21<sup>st</sup> century, there must be at least a minimum threshold of enforcement in relation to the most serious *jus cogens* crimes such as genocide, crimes against humanity, war crimes, and aggression.

39. On a yet global scale, the 21<sup>st</sup> century was studied by the United Nations University Millennium Project's global network of nearly 250 futurists, scholars, and policy makers from 60 countries. Their "1998 State of the Future: Issues and Opportunities"<sup>12</sup> provides an independent, inter-institutional, multinational, and interdisciplinary set of early warnings and analyses. A total of 15 emerging issues and 15 opportunities were identified. I shall briefly mention only those which the Judiciary must relate to.

40. Organised crime groups are becoming global enterprises. The severity of religious, ethnic and racial conflict is increasing. Uneven distribution of wealth among nations brings threatening consequences. Globalisation is rapidly evolving, requiring an improved legal framework. It bears repeating that on a national level, these issues pose new threats and challenges to a country's social and public institutions, including the Judiciary. There is acceptance of global long-

term perspectives in policy making to improve conditions for current and future generations. Increasing affluence and global communication systems allow for new ideas to be rapidly assessed via widely different disciplines and epistemologies. With the growing complexity of global issues and the numbers of people involved in the decision-making process, institutions like the Judiciary are challenged to find new approaches to management, decision-making and judicial redresses. Some of these decisions and redresses must necessarily be made without full knowledge of factors that will affect their outcome. It is important, therefore, that existing institutions be modernised and strengthened. I am confident that the Judiciary, given its history and adaptability, has a mature corpus of judicial principles and an array of innovative approaches to apply to the enormous task of reshaping the Judiciary for the 21<sup>st</sup> century.

### **Looking Ahead**

41. The instinct to look ahead is profoundly human. The critical challenges for the 21<sup>st</sup> century Judiciary are not so much technical or rational as they are cultural<sup>13</sup>: how to lead the Judiciary that create and nurture knowledge; how to know when to set our machines aside and rely on instinct and judgment; how to live in a world in which the Judiciary and its judges have increasing visibility; and how to maintain, as individuals and public institutions, our ability to learn. The

continuing challenge for judges and court administrators is not technology, but the art of human and humane management, as well as knowledge management<sup>14</sup>.

42. Knowledge is different from other kinds of resources. It constantly makes itself obsolete, with the result that today's advanced knowledge is tomorrow's ignorance. All healthy organisations generate and use knowledge. The Judiciary should be no exception. As the Judiciary interacts with the other environments, it absorbs information, turns it into knowledge, and takes action based on it in combination with its experiences, values, and internal rules. The Judiciary senses and responds. Without knowledge, the Judiciary could not organise itself; it would be unable to maintain itself as a functioning enterprise.

43. I see that this Conference has on its agenda various matters that can generate considerable discussions. The workshop topics: "The Role of the Trial Judge", "The Role of Technology in the Justice System", "Enhancing Access to Justice" and "Evaluation of Measures in Judicial Efficiency and Efficacy" are organisational environment issues that should arrest the immediate attention of the Judiciary. I believe the more general plenary session topics: "Fundamental Issues Facing the Judiciary of the 21<sup>st</sup> Century", "The Role of the Courts in Society" and "The Model Judiciary" will deal with transactional and contextual environment issues that the

Judiciary, to stay relevant in its social and global contexts, must equally be cognizant of. The exchange of ideas in this Conference is itself a knowledge creating and nurturing process.

44. In the final analysis, with the same insight, judgment and creativity that shaped laws, with the same traditions that endure generations, with the same passion of ever administering justice and always safeguarding the Rule of Law, the Judiciary must learn and boldly adapt knowledge management for effective judicial administration. The search for knowledge should be a never-ending quest. Then and only then, can the 21<sup>st</sup> century Judiciary provide the essential leadership, predominate the organisational environment, prevail over the transactional environment, and preponderate in the contextual environment.

## **Conclusion**

45. What happens between now and two decades later will be of enormous significance for the future of humanity. The 21<sup>st</sup> century will comprise a new generation of people and leaders without the personal experiences of the last two world wars and in search of new models for growth and governance structures. How to confront the multiple challenges in the Knowledge Economy is the core issue for the developed world as well as the emerging economies that will join in. If we as

judges and court administrators make sensible and humane decisions in the way we live our daily lives, then the Judiciary, the society, and the world which we inhabit will become more sensible and humane. By ordering the affairs of the Judiciary in a way that enables it to cope with change, we will provide greater certainty for our communities. This is entirely consistent with the *raison d'être* of the Judiciary to administer justice according to law, since law is itself a social instrument to ensure certainty and predictability of human affairs. The more we understand about the way the world is changing in the next century, the greater the chance we have of securing the Judiciary's future in the years beyond.

46. The new millennium will coincide with the Year of the Dragon according to the lunar calendar. The dragon, in Chinese mythology, symbolises leadership. We are here in China to consider the Judiciary's leadership. I congratulate the organisers for having decided on a most appropriate venue, time and theme for this Conference. Shanghai used to be known as the "Paris of the East". Jules Verne, writing in 1879, referred to an ancient Chinese proverb. It reads:

"When swords are rusty and spades bright, when prisons are empty and granaries full, when temple-steps are worn by the footprints of the faithful, and courts of justice are overgrown with grass, when doctors go on foot, and bakers on horseback, then the Empire is justly governed."<sup>15</sup>

47. I shall leave you to contemplate the reality and the implications of courts of justice being “overgrown with grass” in the 21<sup>st</sup> century.

Thank you.

## Endnotes:

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- <sup>1</sup> Neal Tate & Torbjorn Vallinder (editors), *The Global Expansion Of Judicial Power*.
- <sup>2</sup> Holmes, *The Common Law* (1881) I.
- <sup>3</sup> Alexander Hamilton, *The Federalist No. 78*.
- <sup>4</sup> Montesquieu, *The Spirit Of The Laws*.
- <sup>5</sup> James Madison, *The Federalist No. 51*.
- <sup>6</sup> Albert Venn Dicey, *An Introduction To The Study Of The Law Of The Constitution*.
- <sup>7</sup> Clause 40, *Magna Carta*.
- <sup>8</sup> Clause 39, *Magna Carta*.
- <sup>9</sup> Alan Rose, “The Model Judiciary – Fitting In With Modern Government” at page 18.
- <sup>10</sup> Harvard Business Review (September – October 1997), “75 Years Of Management Ideas & Practice” provides a useful synopsis.
- <sup>11</sup> Philip Kotler, *Rethinking The Future*.
- <sup>12</sup> Jerome Glenn and Theodore Gordon (co-editors), *1998 State of the Future: Issues and Opportunities*.
- <sup>13</sup> Ibid.
- <sup>14</sup> Thomas Davenport & Laurence Prusak, *Working Knowledge*.
- <sup>15</sup> Jules Verne, *Les Tribulations D’un Chinois En Chine* (The Tribulations Of A Chinaman In China). The novel was published in English in 1883. The writer, a 19<sup>th</sup> century Parisian, more fondly known as “The Father of Science Fiction”, had predicted with astounding accuracy, 20<sup>th</sup> century inventions like submarines and spaceships.

# **ANNEX**

**Application Of Management And Organisational Ideas  
In The Singapore Judiciary**

	<b>MANAGEMENT AND ORGANISATIONAL IDEA</b>	<b>INSTANCES OF APPLICATION</b>
<b>1. LEADERSHIP</b>		
A	Scenario planning in strategic planning	<ul style="list-style-type: none"> <li>• Annual strategic workplans and bi-annual review of strategic planning by the Justice Policy Group</li> <li>• Strategic Framework</li> </ul>
B	Developing a corporate or organisational culture	<ul style="list-style-type: none"> <li>• Justice Statement</li> <li>• Code of Ethics</li> <li>• “<i>Dignus Honore</i>” (Worthy of Honour) as motto</li> <li>• Collegiate programmes</li> <li>• Court sittings and working beyond office hours (without remuneration)</li> </ul>
C	Protecting stakeholders’ or constituents’ interests	<ul style="list-style-type: none"> <li>• Four Justice Models:               <ul style="list-style-type: none"> <li>- Criminal Justice: Protecting the Public</li> <li>- Civil Justice: Effective and Fair Dispute Resolution</li> <li>- Family Justice: Protecting Family Obligations</li> <li>- Juvenile Justice: Restorative Justice</li> </ul> </li> <li>• Enhance access to justice by various measures to reduce procedural and economic barriers</li> </ul>
D	Entrepreneurial management	<ul style="list-style-type: none"> <li>• Group Management of Courts (GMC) for criminal cases</li> <li>• Differentiated Case Management (DCM) for civil cases</li> <li>• Use of piece-rate and macro-based funding approaches</li> </ul>
E	Framework of corporate governance	<ul style="list-style-type: none"> <li>• Framework of court governance comprising:               <ul style="list-style-type: none"> <li>- Justice Statement,</li> <li>- Strategic Framework</li> <li>- Judicial Core Competencies</li> </ul> </li> </ul>
F	Vertical de-integration or	<ul style="list-style-type: none"> <li>• Strengthen community links: eg. through</li> </ul>

	flat hierarchical organisation	<p>community focus plan and tapping of community resources</p> <ul style="list-style-type: none"> <li>• Peer Advisors Scheme: involvement of student peers in juvenile justice process</li> <li>• Regional Multi-Door Courthouse</li> <li>• Regional Justice Centres</li> </ul>
G	Strategic alliances with sympathetic organisations	<ul style="list-style-type: none"> <li>• Strategic partnerships with other forward-looking judiciaries</li> <li>• Strategic link with Australian Judiciary, Australian Institute of Judicial Administration, National Centre for State Courts, World Futures Studies Federation, World Bank, Commonwealth Magistrates and Judges Association</li> </ul>
H	Envisioning the mission and vision of the organisation	<ul style="list-style-type: none"> <li>• Justice Statement</li> <li>• Annual Workplans</li> <li>• Envisioning of being a World-Class Court</li> </ul>
<b>2. PEOPLE MANAGEMENT</b>		
A	Quality or work or process improvement circles	<ul style="list-style-type: none"> <li>• Project groups: committees on legislation, sentencing, juvenile justice, new Judiciary building etc.</li> <li>• Staff suggestion schemes and work improvement teams</li> </ul>
B	Cross-cultural or gender awareness training	<ul style="list-style-type: none"> <li>• Through continuing judicial education</li> </ul>
C	Change management	<ul style="list-style-type: none"> <li>• Application of concept of “leading change” (by John Kotter)</li> </ul>
D	Being a learning organisation	<ul style="list-style-type: none"> <li>• Continuing legal education for judges: eg. refresher courses and seminars</li> <li>• Video-conference with foreign experts</li> <li>• Social context programmes for judges and administrators</li> <li>• Management and financial programmes by the Institute of Public Administration and Management of the Civil Service College</li> </ul>
E	Management and special attention of the professional core or the top team in the organisation	<ul style="list-style-type: none"> <li>• Training Road Maps for Judges and Court Administrators</li> <li>• Judges are sent for overseas courses and workshops</li> <li>• Judges attend Masters Programme in foreign and local universities, and are</li> </ul>

		selected for Advanced Management Programme (eg. in Harvard, Oxford, Cambridge universities)
F	Being a flexible organisation with flexible working hours, working from home or remote sites	<ul style="list-style-type: none"> <li>• Night Court for departmental / statutory offences</li> <li>• Night Mediation for family and small claims cases</li> <li>• Field Magistrates and Coroners are available for activation anytime outside office hours</li> <li>• Reserve Judges and Magistrates are available to charge accused persons who cannot be brought to Court within 48 hours</li> <li>• Half-day work schemes for staff members who have other commitments (eg. Family problem, pregnancy etc)</li> </ul>
<b>3. PROMOTION OF GOODS AND SERVICES</b>		
A	Value-added services	<ul style="list-style-type: none"> <li>• Provision of free Mediation in civil and family cases and free counselling for family cases</li> <li>• Free procedural advice at Multi-Door Courthouse</li> </ul>
B	Growing focus on customers	<ul style="list-style-type: none"> <li>• Court users as “customers”</li> <li>• Use of pamphlets to disseminate service information</li> <li>• Service chain management</li> <li>• Public Affairs Section: publicity of court services and latest developments</li> </ul>
C	Virtual database	<ul style="list-style-type: none"> <li>• Judicial Officers Database: for electronic access to compendiums and working papers on various areas of practice</li> </ul>
D	Customisation of services	<ul style="list-style-type: none"> <li>• Multi-Door Courthouse: screening of cases to see which forum the matter should be referred to</li> <li>• Family Protection Unit: provides support for family violence victims</li> <li>• Court Counselling Unit: provides counselling for estranged couples and their children</li> <li>• Vulnerable Witness Support Programme: provides assistance and emotional support for such witnesses before and during court proceedings</li> </ul>

		<ul style="list-style-type: none"> <li>• Differentiated management of civil and criminal cases</li> <li>• Criminal mediation for relational disputes</li> </ul>
E	Electronic commerce	<ul style="list-style-type: none"> <li>• Electronic payment of court fines or spousal and child support payments</li> </ul>
F	Resurgence of brand equity	<ul style="list-style-type: none"> <li>• Constant emphasis on the core values in the justice system: <ul style="list-style-type: none"> <li>- Accessibility</li> <li>- Expedition and Timeliness</li> <li>- Independence and Accountability</li> <li>- Equality, Fairness, and Integrity</li> <li>- Public Trust and Confidence</li> </ul> </li> </ul>
<b>4. CREATING CORPORATE VALUE</b>		
A	Recognising and establishing core competencies	<ul style="list-style-type: none"> <li>• Catalogue of core competencies of the Judges, Court Administrators and of the Judiciary as an entity</li> </ul>
B	Growing attention on service management	<ul style="list-style-type: none"> <li>• Customer Service Division</li> </ul>
C	Top quality management	<ul style="list-style-type: none"> <li>• Senior Judges and Court Administrators are given training in management tools and cross-referencing with government ministries and private sectors</li> </ul>
D	Benchmarking	<ul style="list-style-type: none"> <li>• Setting trial court and judicial service standards, eg. Courts Charter</li> <li>• Annual Reports</li> </ul>
E	ISO standards	<ul style="list-style-type: none"> <li>• Local and business public perception surveys</li> <li>• International rankings (PERC, IMD, WEF)</li> </ul>
F	Time-based competition	<ul style="list-style-type: none"> <li>• Case disposition timelines</li> <li>• Timelines for submission of grounds of decisions</li> </ul>
G	Process-reengineering	<ul style="list-style-type: none"> <li>• Redesign workflows in the court registries</li> <li>• Business Process Reengineering of systems of the work</li> </ul>
H	Outsourcing	<ul style="list-style-type: none"> <li>• Court technology</li> <li>• Logistics support</li> <li>• Court building maintenance</li> </ul>
I	Service chain management	<ul style="list-style-type: none"> <li>• In the concept of the Multi-Door</li> </ul>

		Courthouse
J	“Virtual organisation”	<ul style="list-style-type: none"> <li>• Bail Videolink: dispenses with accused’s physical attendance in court through “virtual” appearance from remand premises</li> <li>• Vulnerable Witness Videolink: enables such witnesses to give evidence from remote site</li> <li>• Automated Traffic Offence Management System (ATOMS): accused persons can plead guilty and pay fines at nationwide electronic kiosks</li> <li>• Virtual Multi-Door Courthouse</li> <li>• Virtual Consultation in Small Claims Tribunals</li> <li>• Subordinate Courts Webpage</li> <li>• Access to Internet and Government Intranet</li> </ul>
<b>5. MEASURING RESULTS</b>		
A	Return on investment	<ul style="list-style-type: none"> <li>• The cost per case or cost per hearing day index</li> <li>• Balanced Scorecard on the basis of piece-rate and macro-based funding approaches in case accounting</li> </ul>
B	Performance measurement systems	<ul style="list-style-type: none"> <li>• Annual workplans</li> </ul>
C	Activity-based costing	<ul style="list-style-type: none"> <li>• Autonomous Agency</li> <li>• Balanced Scorecard</li> </ul>
D	Integrated information management and control systems	<ul style="list-style-type: none"> <li>• Integrated Criminal Justice System</li> <li>• Subordinate Courts Criminal Records and Information Management System</li> <li>• Judicial Officers’ Database</li> </ul>
E	Knowledge-capital measures	<ul style="list-style-type: none"> <li>• Continuing judicial education</li> <li>• Social context programmes</li> <li>• Review by consultants</li> </ul>