



SUMMARIES OF SELECT PRESENTATIONS FROM KUALA LUMPUR ROUND TABLE MEETING, 05.2007

Topic: *New Developments in the Reform of China's Judicial Procedures*
Presenter: Justice Jing Hanchao, Justice of the Supreme People's Court of the People's Republic of China

In aid of China's ongoing judicial reform program an initial five year plan was developed for 1999 – 2003. This was followed up by a further five year plan for the period 2004-2008. These plans were developed with the aim of preserving social order and enhancing social harmony through the development of an efficient, fair and authoritative socialist system of justice.

Specific measures that have been adopted to promote greater transparency and fairness in the trial process include improving the ability of litigants to test evidence; requiring greater explanation of judgments from the bench; greater use of technology to increase public access to decisions made by the judiciary; reducing the cost of litigation; provision of legal assistance for parties whom are unable to fund litigation; and publishing rules in relation to procedural matters for taking a matter to court. In civil disputes mediation is actively pursued and is proving beneficial in relation to family law matters. New case handling measures are also being pursued at the local village level with administrative disputes being managed by local committees.

Topic: *Case Management Reform – Experience of the Supreme Court of India and Lessons Learned*
Presenter: Justice P.K. Balasubramanyan, Justice of the Supreme Court of India

The Supreme Court of India has original, appellate and 'supervisory' jurisdiction. Consequently it has a massive annual caseload that requires constant attention to ensure the efficient administration of justice. For example as of 1 April 2006 there were 35,201 cases pending in the Supreme Court. Increasing prosperity in India has impacted on the volume of litigation and hence approaches to the Supreme Court. Some of those matters are however frivolous and thus an unnecessary burden is created.

Technology is being used in innovative ways to manage the caseload burden with e-filing of cases and resort to video conferencing in certain circumstances. Cases are also classified under 26 heads for more efficient disposal. Matters that are similar are also considered conjointly so that the principle that is determined relating to the common legal issue can be applied to more than one matter thus increasing the rate of case disposal. Additional sitting days have also assisted in addressing case backlog along with changes to the Rules of Procedure which allowed Registrars to hear matters.



Topic: Case Management and Backlog Reduction Project

Presenter: Justice Paulus Lolutong, Justice of the Supreme Court of Indonesia

Case management and backlog reduction are important aims of the Supreme Court of Indonesia. Backlog in the Court is significant given the size of the Indonesian population (220m) which results in many matters being heard and breadth of matters heard by the Court as a result of the four heads of jurisdiction of the Court – namely: General and Ordinary Courts (Civil and Criminal); Religious Courts (Syariah Courts); Military Courts and; Administrative Courts. Additionally there is no limitation on the cases that can be heard by the Court. Consequently it receives approximately 7,500 cases per year. By 2006 this meant that there were 12,000 cases pending in the Court. However the reforms implemented by the Court saw a reduction from 16,000 cases pending in 2005.

The Case Management and Backlog Reduction Project which is supported by Australia and the Court itself with implementation assistance provided by a non-government organisation is aiming to obtain accurate data on case distribution; expedite the backlog of cases; and develop a better case management system for the Court. The Action Plan to date has identified the need to provide a more definitive definition of what is a 'backlog' case; install a new case tracking system; and improve e-version judgment productivity by establishing performance standards and procedures.

Topic: Towards Enhancing Efficiency in the Malaysian Courts

Presenter: Chief Justice Tun Ahmad Fairuz, Chief Justice of the Federal Court of Malaysia

The legal system in Malaysia has its roots in the English Common Law. Apart from the secular legal system a parallel system of Shariah Courts exists which are predominately concerned with the administration of administrative and family law matters for the approximately 60 per cent of the population whom are Muslim. Its criminal jurisdiction is limited to breaches of the Islamic Code of Conduct. The secular legal system has no jurisdiction over matters that fall under the Shariah Court's jurisdiction and hence an internal 'conflict of laws' exists.

In recent times the Courts have been challenged by the need to ensure swift disposal of ever increasing case loads. In response a 'pre-2000' cases campaign was launched to dispose of criminal matters within 6 months and civil matters within 12 months. The campaign involved issuing directives which limited the reasons for which a case could be adjourned and priority was given to listing old criminal cases. Old civil cases were called up for case management. The campaign required a concerted effort from judicial officers and registries. The success of the campaign led to as much as 99 per cent of civil matters pending before the Sessions Court being disposed of. In subsequent years the campaign principles were applied to pre-2004 cases. By early 2007 the follow-up campaign led to the disposal of up as much as 91 per cent of criminal matters pending before the Magistrate's Court.

The success of these campaigns was underscored by the introduction of the pre-trial case management rules; limiting appeals on interlocutory applications; fast tracking interlocutory applications; new trial procedures; uses of technology to monitor case management; uptake of video and teleconferencing in appropriate circumstances; and implementation of a Night Court to enhance access to justice.



Topic: *Access to Justice Initiatives – Implementation of Reforms in the Philippines*

Presenter: Justice Angelina Sandoval-Gutierrez, Justice of the Supreme Court of the Philippines

Access to justice has two goals – human rights development and capacity building. Human rights development focuses on the achievement of human rights standards such as independence, due process, freedom from torture, and guarantees in relation to arrest and detention. Capacity building includes building on existing strengths to enhancing problem solving. Access to justice involves convenience, availability and affordability.

In the Philippines access to justice is hindered by delays in proceedings, erroneous decisions by inferior courts, prohibitive costs of litigation and asymmetry of information pertaining to the legal system. The Action Program for Judicial Reform is making headway in addressing these hindrances and is specifically focussing on access to justice by providing legal assistance to marginalised persons. Additional component areas to the Action Plan include system and procedural reform; institutional and human resource development; strengthening infrastructure; and reform of support systems. Projects which have contributed to the reform process include participatory research with inmates to determine issues impacting on access to justice for marginalised persons; examination of affordability constraints for the poor in relation to accessing justice; institutional strengthening for the Shari'a justice system; and a project to address jail congestion for overstaying prisoners by providing training to judicial officer to help increase their capacity to respond to these inmates and filing petitions with the aim of effecting the release of overstaying prisoners.

Topic: *Judicial Education, Judicial Reform and Reforms in Judicial Education*

Presenter: Justice Ameurfina A. Melencio Herrera, Chancellor, Philippine Judicial Academy, Supreme Court of the Philippines

The Philippine Judicial Academy plays a pivotal role in the provision of continuing judicial education for justices, judges, court personnel and lawyers in the Philippines. The aim of judicial reform which the Academy promotes through its provision of continuing legal education is the creation of a more credible, competent, independent judiciary and the more satisfactory and efficient resolution of disputes and improved access to justice. Judicial reform through education is achieved by more than just the infusion of knowledge; it is achieved through the introduction of new paradigms, and influencing the development of new approaches such as the exercise of judicial discretion.

Judicial education is also undergoing a period of reform. This includes the formation of a new code of judicial conduct and acquisition of new skills facilitated through pilot testing case management, increasing the utility of technology in the courts, and the greater use of Alternative Dispute Resolution (ADR). The advent of ADR has had a profound impact on the efficiency of case flow. There have been 113 Mediation Centres established throughout the Philippines and 402 Mediators accredited by the Supreme Court this has led to 70 per cent less cases proceeding to the Supreme Court. Judicial education is the common supporting thread that runs through judicial reform in the Philippines and is evidence of strong and healthy judicial institutions.



Topic: Court and Tribunal Administrative Reform

Presenter: Justice Phattarasak, Secretary-General to the President of the Supreme Court on Court and Tribunal Administrative Reform

The advent of the 1997 Constitution of Thailand saw the implementation of a new administrative structure for the Courts of Justice. The Constitution detached the structure of the judiciary from the executive thus guaranteeing decisional, individual and institutional independence of the Courts and judiciary.

The Judicial Commission also plays an essential role in ensuring judicial independence by supervising and monitoring judicial selection, appointment, transfer, promotion, removal and disciplinary action. The Judicial Commission is complimented by the Judicial Administration Commission (JAC) which is chaired by the President of the Supreme Court and is composed of five additional Commissioners who are elected from judges at all levels of the Courts of Justice. The JAC oversees the judicial administration of the Courts. The Commission for Judicial Service is the third Commission which contributes to the transparency of Justice in Thailand and is responsible for the appointment, transfer, promotion and discipline of judicial service officers.

Topic: Self Administration – the Vanuatu Experience

Presenter: Chief Justice Vincent Lunabek, Chief Justice, Republic of Vanuatu

Since 1980 Vanuatu has had a written constitution as its supreme law. Article 47(1) of the Constitution vests the administration of justice to the judiciary who are subject only to the Constitution and the Rule of Law. Article 48 created a Judicial Services Commission which provides advice to the President of the Republic of Vanuatu regarding the nomination, transfer and removal of members of the judiciary. The Commission is composed of the Minister responsible for Justice and the Chief Justice among others.

In 1986 the Parliament enacted the *Courts Act 1986*. However, the Act did not contain specific provisions relating to court administration. The resultant affect was that the Courts were administered by the Public Service Commission between 1980 and 2000. From the late 1990s the Courts explored options for self-administration. This culminated in the *Judicial Services and Courts Act 2000*. That Act implemented a hybrid self-administration model whereby the administration of the Courts was left in the hands of the judiciary in conjunction with the Judicial Services Commission. The Judiciary led by the Chief Justice and with the assistance of a Chief Registrar held responsibility for court administration. The model has led to a need to expand the Registry to take up the central management role outlined in the Act.

The establishment of self-administering courts in Vanuatu was prompted by the belief that self administered courts provide independence and accountability among the judiciary which ensures a greater emphasis on and willingness of the judiciary itself to contribute to the effective and efficient operation of the courts.