



The Court Administrator

OFFICIAL PUBLICATION OF THE INTERNATIONAL ASSOCIATION FOR COURT ADMINISTRATION



VOLUME 8; SUMMER 2020

SPECIAL COVID-19 EDITION

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*On the cover:
“Lady Justice Wearing a Mask”
design created by Jose Maria Rafael S. Carasig
specially for This Edition*

“THE COURT ADMINISTRATOR”



Sheryl Loesch, IACA President

I am pleased to present to you a Special Edition of IACA’s The Court Administrator focusing on the COVID-19 pandemic we are all currently facing. While the entire world is still suffering from the pandemic, this edition provides excellent information on how judiciaries around the world are managing to

keep the wheels of justice moving in spite of the challenges presented to all of us. These articles show that, although our countries may have unique laws and procedures, our judiciaries share the same goal of dispensing timely, fair, and equal justice to their citizens. The dedication to this goal is apparent by the efforts of those on the front lines – the judges, court administrators, and court staff.

I want to acknowledge and thank all the authors of the articles that are included. This edition showcases articles from many parts of the world – The Philippines, Finland, Brazil, Dubai, Austria, Mexico, Israel, Singapore, Germany, and India. I am sure you will find their articles informative as well as enlightening.

I also want to personally thank the dedicated editorial staff of The Court Administrator – Ralph DeLoach, Executive Editor; Eileen Levine, Managing Associate Editor; Dr. Susan Moxley, Associate Editor; and Kersti Fjorstad, Associate Editor – for their hard work and commitment to publishing this impressive publication. These individuals are all volunteers who devote their time and expertise to

this effort. I know the IACA membership looks forward to reading each edition.

As we continue to live through this seemingly never-ending pandemic, I think it is important to realize the positives that have come to judiciaries through this experience. Our courts have become more innovative in ways we never once considered. Many of our processes and procedures have become more efficient and streamlined. Cautiously navigating through it all, we have become better leaders and communicators. From the personal perspective, we have all spent more time with our families and have a greater appreciation for the outdoors and the beauty that surrounds each of our countries. I believe that it’s important to think of the positives during this time rather than dwell on the negatives. We will all get through this and be stronger for it.

Many thanks to those of you who responded to IACA’s recent survey on judicial approaches to the Coronavirus. I am pleased to announce the results have been compiled and the analysis completed. I especially want to thank IACA’s Past President, the Honorable Vladimir Passos de Freitas, for proposing this idea. I also want to recognize and thank those involved in preparing the survey and analyzing the data – Federal Judge Caio Marinho and Federal Judge Luciana Ortiz Zanoni, both from Brazil. They worked hard on this project and I know you will find their analysis of interest. Please click the below link to access the survey results and analysis:

SURVEY RESULTS ON JUDICIAL APPROACHES TO COVID 19 PANDEMIC

I hope that each of you enjoy reading this edition of The Court Administrator as much as I did. In the meantime, please stay healthy and safe.

Sheryl



EDITOR'S MESSAGE



*Ralph L. DeLoach
Clerk/Court Administrator
Kansas District Court (retired)*

We received many thoughtful articles about how the courts have responded to the COVID crisis. In fact, this is the biggest and most informative edition ever! Hopefully, there will be something in one of the articles that will help your court better manage the changes brought on by COVID. While

everyone is focused on adapting to the changes that have taken place at work due to COVID, we are also personally affected. We may be dealing with decisions about our kids and whether or not to send them back to school. If they cannot go to school, we may be wondering how we are going to supervise online instruction at home when both parents

work. Or we may have a parent who is isolated in a nursing home preventing us from making personal visits. Bottom line, our plates may be overflowing with things to manage and worry about. Hopefully, we will also pay attention to our emotional health and make sure that we provide mental health counseling options for our employees. We can only manage our courts after we have taken care of ourselves.

Special thanks to all our authors who graciously shared their expertise and insights by submitting articles for the 8th Edition of The Court Administrator. I also want to thank the editorial staff for their time and effort along with President Sheryl Loesch for highlighting all the important information contained herein that has been shared from across the globe.

I hope you enjoy reading this edition and encourage all of you to submit articles for the next winter edition. Take care of yourself and be safe.

Be safe,

Ralph DeLoach
Executive Editor
The Court Administrator

The Court Administrator Editorial Staff is both delighted and honored to showcase and to unveil our front cover and watermark artwork, "Lady Justice wearing a mask".

*We give full credit and our deepest thanks to the creator and designer,
Jose Maria Rafael S. Carasig,
13 yr. old son of the Honorable Belen G. Salespara-Carasig,
Presiding Judge Regional Trial Court Branch 296, Paranaque City Philippines.*

*Please note that this artwork has been specially designed for
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Her Honor, Judge Belen G. Salespara-Carasig,
Presiding Judge Regional Trial Court Branch 296
Paranaque City Philippines.*

The Lady Justice¹ Ushering in a New Better Normal: The Bayanihan² Way

By Hon. Belen G. Salespara-Carasig, Presiding Judge Regional Trial Court Branch 296, Paranaque City Philippines



Judge Carasig currently serves as a second level court Judge from the City of Paranaque Philippines. Prior to her ascent as a Regional Trial Court Judge, she was appointed to the Judiciary in 2012 as Presiding Judge of Metropolitan Trial Court Branch 88 also in Paranaque City. Judge Carasig held the post for 8 years which was highlighted by coveting the award as one of the Most Outstanding Judges for First Level Courts bestowed by the Supreme Court and the Society of Judicial Excellence in October 2019.

Judge Carasig's career in government service commenced in 2005 as Court Attorney at the Court of Appeals then moved on as COMELEC Lawyer at the Commission on Elections from 2005 to 2012.

Judge Carasig was an active member of the Metropolitan and City Judges Association of the Philippines Inc., (MeTCJAP) where she served as member of the Board of Trustees, Secretary General, Vice-President for the NCJR, and Liason Officer for International Judicial Organizations. Judge Carasig is likewise a member of the Philippine Women Judges Association and the International Association of Women Judges (IAWJ). Quite recently, the Judge became a member of the Board of Directors of the International Institute for Justice Excellence.

Her work as a magistrate has earned the recognition of her Superiors and acknowledged by private practitioners as well. As an advocate of rendering just, equitable, speedy, and accessible justice, she was designated as a member of the Technical Working Group of the Committee on Continuous Trial of Criminal Cases in 2017.

Aside from her judicial functions, Judge Carasig is also a member of the Faculty of the College of Law of the University of Perpetual Help Delta Systems, Las Pinas City Philippines.

Judge Carasig is an alumna of the University of the Philippines-Manila where she obtained her Bachelors Degree in Organizational Communication while she graduated from the Faculty of Civil Law University of Santo Tomas in 2004.

She is married to a fellow lawyer, Roy Alfert M. Carasig. They are blessed with two children Jose Maria Rafael S. Carasig 13y/o and Maria Rome Ysabel S. Carasig 11y/o - whom Judge Carasig prays to one day also serve in the Judiciary.

Judge Carasig may be reached at bcarasig@gmail.com regarding questions about this article.

Today, we find ourselves in an unprecedented global battle for survival. The COVID pandemic that has claimed the lives of many shook the entire planet. The new normal that we now all have to come to terms with means living in fear of an invisible enemy. Until a vaccine or a cure is discovered, every individual has to stand guard and observe all health protocols in order to survive. What is the approach of my country in order to overcome? We invoked the **bayanihan spirit** of our people – rallying everyone in the spirit of communal spirit to march on driven by a common goal: **to win the war against Corona Virus.**

What is Bayanihan? Why is it very significant to Us, Filipinos and how can it be transformed into a powerful weapon against this invisible enemy? Bayanihan means acting in consonance with the communal spirit. It envisions all sectors of the society joining forces as the nation faces one, if not, the most difficult challenge it has to contend with. We acknowledged that the contribution of each citizen – be it financial, or simply following health protocols, staying at home counts!

On January 28, 2020 the Executive branch immediately convened the Inter Agency Task Force mandated to give regular recommendations for the management of the

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¹ The digital image of the Lady Justice wearing a mask was created by Jose Maria Rafael S. Carasig, 13 yr. old son of the author.

² "Bayanihan" from the word BAYAN which means COMMUNITY, speaks of working together with community spirit.

2019 Novel Corona Virus Acute Respiratory Disease. On March 18, 2020, the Executive Secretary rallied the entire government workforce to adopt, coordinate and implement guidelines which the IATF may issue vis a vis the COVID pandemic that is consistent with the respective agency's mandate and relevant laws, rules and regulations³ – which includes the Philippine Judiciary. Thereafter, the **Bayanihan Act of 2020** was enacted into law.

The Philippine Judiciary and the Microsoft 365

Without comprising its Judicial Independence, the Supreme Court responded by the issuance of circulars geared towards ensuring that the wheels of justice will not come to an abrupt halt albeit the risk of exposing the magistrates, court personnel, prosecutors, lawyers, litigants and other stakeholders to the deadly virus.

On top of the Court's agenda is to facilitate the immediate release of Qualified Persons Deprived of Liberty to decongest the detention cells and prevent the spread of the virus among inmates and jail facility personnel as well. Thus, the Court promulgated OCA Circular No. 91-2020 .

With the courts in the entire country ordered to be physically closed and in order to efficiently address the need to decongest not only the jail facilities but also the courts' dockets, the Supreme Court rolled out the Microsoft 365 app as a platform to conduct virtual court hearings . Overcoming not only connectivity difficulties and logistical shortcomings, the courts and the other stakeholders stepped up to the challenge and conducted virtual court proceedings nationwide that enabled the Philippine Judiciary continuously to function while strict quarantine measures were implemented across the nation. As of July 10, 2020, Philippine courts conducting **both actual physical court proceedings and virtual trial were able to release some forty six thousand five hundred thirty six (46,536) persons deprived of liberty.**

Philippine Judges and their Socio-Civic contributions during the ECQ

Judges are not automatons. Although we are bound to our oath to act with propriety and maintain the integrity of our office, we did not turn a blind eye on the travails of our fellow Pinoy in time of COVID, especially our medical frontliners and those who have less in life.

The Philippine Judges Association (PJA), the Metropolitan and City Judges Association of the Philippines (MetCJAP); the Philippine Women Judges Association of the Philippines and the Philippine Trial Judges League Inc. - away from the limelight, have all undertaken various outreach programs as the numbers of those who have been infected with the virus continue to rise as well the large number of people who were suddenly displaced and unemployed.

Our judges embarked on various outreach activities – such as financial assistance for the procurement and distribution of Personal Protective Equipment (PPE's), masks, face shields, alcohol and other disinfectants and donation of food packs not only to the frontliners (medical, non-medical, judicial) but also to those daily wage earners who lost almost everything during this crisis.

The Lady Justice wearing a mask as She forays into Hybrid Court Proceedings

As we remain faithful to our solemn oath as Judges, we remain steadfast in discharging our judicial mandates despite the looming threat of exposure to Corona virus. The COVID pandemic and the transition towards the new normal is not enough for us to cower in fear and shirk in the performance of our duties no matter the cost, and so we have armed ourselves in order to overcome this battle.

Wearing masks, observing strict health safety protocols in our court rooms, we continue to hear and decide cases. Recognizing connectivity difficulties in our country as well as the lack of access of our indigent litigants to the internet and gadgets, our court proceedings are not limited to virtual court proceedings. While the ideal is to move forward towards contactless transactions and trial proceedings, we recognize that no system is perfect, that the blended or hybrid court proceedings that we now have to embrace is a continuous work in progress. We also have to be mindful of indigent litigants who may not have access to sufficient technological support in order to seek justice from the courts.

As we heed the clarion call to cater to the judicial needs of our litigants from all walks of life, we have to march on and perform our magisterial functions without fear, but with utmost caution. Significant and Revolutionary amendments to our Rules of Procedure and Evidence have been implemented as well so that speedy, efficient, and

continued

³ Omnibus Guidelines on the Implementation of Community Quarantine in the Philippines with amendments as of June 3, 2020.

just service can be availed of by all. These amendments incorporated rules that acknowledged the need to keep up with the demands of the numerous technological advances.

Truth to tell, the Novel Corona Virus presents a veiled threat to us Judges. The hazard that we have to face on a daily basis as we man the judicial frontline produces a chilling effect to the men and women of the judiciary. But we will not be cowered. **The mask that we don does not mean that justice is silenced.** The protective gears that has now become a vital component of our judicial robe and gavel are necessary tools in order for us to march on. Ensuring that courts are open is our miniscule but meaningful contribution to our

country's efforts to survive. We are one with our nation in our fight to overcome this crisis.

We shall, in unison with the entire global community endeavor to innovate and find ways to emerge victorious in this battle and to usher in a new and better normal. Judicial Continuity Plan. Digitization of Court Records. Sharing, Exploring and Adopting Best Court Practices to and from other jurisdictions. These are our antidotes against this pandemic. And that is our humble contribution to the healing of the world.



The Unwavering Administration of Justice in Singapore amidst the Unprecedented COVID-19 Pandemic

By Gawain Chew Zi Neng



Mr. Gawain Chew Zi Neng is the Assistant Director Strategic Planning, Policy and International Relations Directorate for The Supreme Court of Singapore. His role includes strategic planning, policy and international relations. Prior to joining the Supreme Court, Gawain was a paralegal dealing with intellectual property law.

The global health crisis has disrupted lives in all elements of society, including the judiciary. This article shares some of the key actions undertaken by the Singapore Judiciary to facilitate the uninterrupted dispense of justice during the pandemic whilst considering the safety of the community.

The author is located in Singapore. For those readers wishing to follow up with the author, he may be reached at Gawain_Chew@Supcourt.gov.sg

Introduction

2020 will forever be etched in history as the year of the COVID-19 pandemic. The pandemic has severely impacted the lives of populations around the world, affecting societies at their very core. Since its emergence in late 2019, the novel coronavirus has rattled the economic and social foundations of the global world order by severely affecting not only international travel, job markets and healthcare infrastructure, but also the delivery of justice. This article walks readers through the journey the Singapore courts have taken to ensure its unwavering commitment to upholding the administration of justice through the COVID-19 pandemic.

The Singapore Judiciary

Singapore's legal system has its roots in English common law and practice. The Singapore Judiciary is made up of the Supreme Court, State Courts and the Family Justice Courts. The Honourable Chief Justice is the head of the Judiciary. The current Chief Justice is Sundaresh Menon, or Chief Justice Menon.

COVID-19 Immediate Implications

Due to Singapore's policy of open borders and global workforce, Singapore was one of the early countries affected by COVID-19. What were some of the immediate implications considered by the Judiciary?

Swift Action - Singapore's Whole-of-Government Approach: Singapore formed a Multi-Ministry Taskforce on 22 January 2020 to plan and implement the country's response to the pandemic in a coordinated manner. The Judiciary's response to COVID-19 is calibrated in tandem with the Singapore's Government's approach at the national level.

The first confirmed case of COVID-19 was detected in Singapore on 23 January 2020. The number of cases was low initially but began to increase significantly from late March 2020. On 3 April 2020, the Prime Minister of Singapore and the Multi-Ministry Taskforce announced "circuit breaker" measures to be implemented from 7 April to 4 May 2020. Such measures included comprehensive safe distancing measures across the nation to curb the spread of COVID-19. On 21 April 2020, the "circuit breaker" measures were

continued

intensified and extended to 1 June 2020. As explained by the Prime Minister of Singapore, such measures could bring about short-term pain and inconvenience, but they were necessary in order to break the chain of transmission.

Safety First – Prioritising the safety of Staff & Court Users:

As equally important as upholding the administration of justice, the Singapore Judiciary maintained its obligation to ensure the health and safety of all, including judges, court staff, legal practitioners, the public and the media.

Telecommuting enabled the Singapore Judiciary to maintain the agility and nimbleness of its workforce: Telecommuting arrangements were implemented for staff since March 2020. In the first phase, 65% of staff were working from home on alternate weeks or when their presence in the office was not required. A second phase of tightened measures was implemented on 7 April 2020, in line with Singapore’s “circuit breaker” measures. Other than a core skeletal group of officers who were needed on-site to manage the essential and urgent matters, as well as to oversee security and building maintenance, all other staff telecommuted. Where the court administrators were unable to telecommute, they stayed at home when not rostered to be on operational duties/performing critical functions and were assigned projects and other work that they could do from home. Court administrators working on-site were required to maintain strict physical segregation arrangements. Judges were also segregated into different teams and Judges on the Court of Appeal bench heard matters from different courtrooms remotely, or offsite, when required. Social interactions at the workplace, including meal breaks, were strictly disallowed to minimise risk of infection. Frontline court administrators such as court interpreters who were in close contact with court users were required to wear masks and face shields. Where possible and subject to operational requirements, staff who were working on site followed staggered work hours so as to avoid concerns over close contact with other commuters on public transport during peak hours.

Healthy Boundaries Set for Physical Access: Access to court buildings were limited. A number of facilities were also closed to the public, including the Supreme Court Information Counter, Judicial Heritage Gallery, Community Justice Centre and the libraries in the Supreme Court and the State Courts. All court users and visitors were required to provide personal details and declare their state of health and travel

history in the past 14 days before they were permitted to enter the court building. Court users and visitors were denied entry if they were serving a Quarantine Order, Stay-Home Notice, or Leave of Absence, or had been in contact with a confirmed or suspected COVID-19 case the last 14 days, etc. Parties who were not permitted to enter the court building to attend scheduled hearings were given the alternative to attend hearings via video-conferencing (“VC”) or seek an adjournment.

Remote Staff Recruitment a “New Normal”: The Courts’ Human Resource Department also took steps to make adjustments to work processes such as recruitment. During the “circuit breaker” period, all candidates for new posts advertised were interviewed via VC. Since there could be no physical meetings or interviews during this period, if physical meetings of the candidates were necessary to ascertain their suitability, the recruitment for such positions would be put on hold.

Enhanced safety measures: The additional safety measures implemented across the three Courts include increased frequency in cleaning of courtrooms, work stations, common areas in the court buildings and common points of contact; putting up Perspex screens; provision of hand sanitisers; reduction in the capacity of courtrooms, chambers and meeting rooms; enforcing social distancing measures and monitoring the body temperature of court staff and users.

Measures Implemented

To ensure continuity in essential court operations, the Singapore Judiciary adopted a graduated approach in the evolving COVID-19 situation by progressively scaling up business continuity measures as the situation escalated. Remote hearings were accelerated in the Singapore Judiciary’s quest to minimise the disruptive effects which the pandemic posed to maintaining access of justice and access to courts. This was facilitated by the Electronic Filing System (“EFS”) introduced some two decades ago, which was upgraded to the Integrated Electronic Litigation System (“eLitigation”) in 2013.

Over the years, electronic filing and case management systems have been implemented through initiatives such as the integrated Family Application Management System (“iFAMS”) primarily used by the Family Justice Courts and the Integrated Case Management System (“ICMS”) which

continued

is a multi-agency paperless e-filing and e-workflow system for the administration of criminal cases in the State Courts. More recently, the Community Justice and Tribunals System (“CJTS”) was introduced to allow Litigants-In-Person (“LIPs”) to file online tribunal claims for small value contracts, neighbour and employment disputes. The CJTS has an integrated online dispute resolution module to help LIPs resolve their dispute amicably and obtain a court order without stepping into the court building. These efforts enabled judicial officers, legal counsel and LIPs with the capability to access e-documents and e-bundles online and work remotely.

Essential and Urgent Hearings Only: In line with the government’s approach, Chief Justice Menon directed the judiciary to hear only essential and urgent matters during the “circuit breaker” period. All matters not assessed to be essential and urgent were adjourned, but a party could submit a request for the said matter to be heard during the circuit breaker period.¹ Where physical hearings were conducted, measures such as staggered hearings and safe distancing within the court rooms were implemented. As “circuit breaker” measures were eventually intensified and extended to 1 June 2020, the Courts only resumed hearing most matters from 8 June 2020, a week after the end of the “circuit breaker”.

Leveraging Technology for Remote Hearings: Remote hearing technology had been utilised occasionally in the Singapore Courts prior to the pandemic. For example, VC hearings were conducted for some cases in the Singapore International Commercial Court (“SICC”). In order to provide temporary measures and deal with other matters relating to the COVID-19 pandemic, the Covid-19 (Temporary Measures) Act 2020 (“CTMA”) was enacted

into law on 7 April 2020. Specific to the Singapore Judiciary, the CTMA provides for judges, lawyers, accused persons, expert witnesses and witnesses of fact to participate in hearings or give evidence using remote communication technology approved by the Chief Justice. Due to the imposition of travel restrictions by many countries, the CTMA also provides that witnesses can give evidence from overseas if the Court is satisfied that sufficient administrative and technical facilities and arrangements are made, and it is in the interests of justice to do so.

In order to maintain access to justice without compromising safety, most hearings during the “circuit breaker” period were conducted online e.g. emails, VC or telephone conferencing, where appropriate. Comprehensive guidelines on the use of these platforms were made available on the Courts’ websites. Where hearings were conducted by VC, all court rules, practices and etiquettes continued to apply. To ensure smooth proceedings in the courts, court officers were also trained to familiarise themselves with the use of remote hearing technology to better support the Judges. LIPs who could not access or who experienced difficulties participating in remote hearings could notify the relevant Court Registry and proceed to “VC Rooms” located in courts for assistance. Some key examples whereby remote hearing technology was utilised include: -

Supreme Court:

- Hearing before a Judge or registrar may, to the extent suitable, be conducted with some parties attending physically and others participating through VC
- VC hearings for case management conferences, pre-trial conferences and chamber hearings

continued

¹ For more information on which cases are considered to be essential and urgent, please see:

-Registrar’s Circular No. 4 of 2020 ([https://www.supremecourt.gov.sg/docs/default-source/module-document/registrar/circular/rc-4-2020---updates-on-measures-relating-to-covid-19-\(coronavirus-disease-2019\)-from-7-april-to-4-may-2020.pdf](https://www.supremecourt.gov.sg/docs/default-source/module-document/registrar/circular/rc-4-2020---updates-on-measures-relating-to-covid-19-(coronavirus-disease-2019)-from-7-april-to-4-may-2020.pdf)).

Please see: Part 5 Temporary Measures for Court Proceedings and Syariah Court Proceedings (<https://sso.agc.gov.sg/Acts-Supp/14-2020/Published/20200407?DocDate=20200407#pr28->).

For more information on legislative changes in relation to the handling of the COVID-19 situation by the Singapore Judiciary, please see:

-Supreme Court Registrar’s Circular No. 3 of 2020 (<https://www.supremecourt.gov.sg/docs/default-source/module-document/registrar/circular/rc-3-2020---information-on-measures-and-other-matters-relating-to-covid-19-for-court-users-and-visitors-to-the-supreme-court.pdf>);

-Supreme Court Registrar’s Circular No. 4 of 2020 ([https://www.supremecourt.gov.sg/docs/default-source/module-document/registrar/circular/rc-4-2020---updates-on-measures-relating-to-covid-19-\(coronavirus-disease-2019\)-from-7-april-to-4-may-2020.pdf](https://www.supremecourt.gov.sg/docs/default-source/module-document/registrar/circular/rc-4-2020---updates-on-measures-relating-to-covid-19-(coronavirus-disease-2019)-from-7-april-to-4-may-2020.pdf));

-Family Justice Courts Registrar’s Circular No. 1 of 2020 (https://www.familyjusticecourts.gov.sg/docs/default-source/legislation/registrar-circulars/rc_2020_1_inforonmeasuresrelatingtocovid19.pdf);

-Family Justice Courts Registrar’s Circular No. 2 of 2020 (https://www.familyjusticecourts.gov.sg/docs/default-source/legislation/registrar-circulars/rc_2020_2_updatesonmeasuresrelatingtocov.pdf);

-State Courts Registrar’s Circular No. 5 of 2020 (<https://www.statecourts.gov.sg/cws/Resources/Documents/RC%205%20of%202020.pdf>);

- State Courts Registrar’s Circular No. 8 of 2020 (<https://www.statecourts.gov.sg/cws/Resources/Documents/RC%208%20of%202020.pdf>).

Family Justice Courts:

- Continuing to conduct substantive hearings during the “circuit breaker” period, including family violence and maintenance trials where they were essential and urgent, using VC technology such as Zoom. About 30-40% of the Family Justice Courts’ users attended hearings from Zoom rooms during the circuit breaker period. This enabled the Family Justice Courts to hear about 33% of their caseload – or more than 2,400 cases – during the circuit breaker period in spite of the movement restrictions
- Counselling and mediation were conducted through VC where appropriate

State Courts:

- Criminal trials conducted physically in court with VC for the witness serving a Stay-Home Notice
- Court mediations and pre-trial conferences in relation to criminal cases, small claims, employment claims, neighbour disputes and harassment cases are conducted by VC unless there are special reasons

Active Public Communication and Stakeholder

Engagement: Microsites dedicated to announcements and updates arising from the COVID-19 situation were published by each of the three Courts in order to ensure practitioners and court users remain updated on the changes to court operations during this period. On a regular basis, Chief Justice Menon also addressed practitioners and court users to share updates such as the successful implementation of remote hearings as alternatives to physical hearings, and steps undertaken by the Judiciary to keep the community safe. ² As the President of the Singapore Academy of Law (“SAL”), Chief Justice Menon also addressed the legal profession through a YouTube video to emphasise solidarity

with its members and announced a S\$1.9 million holistic Member Support Package to assist members’ learning and development needs. ³ All in all, the Singapore Judiciary was able to lead the legal sector towards achieving a sustainable level of resilience and adaptability, with the strong support of the Bar, the Attorney-General’s Chambers and Singapore Prisons.

SG United Mediation Initiative ⁴ – On 29 May 2020, the Supreme Court in collaboration with the Singapore Mediation Centre (“SMC”) officially launched the SG United Mediation Initiative, in which the Supreme Court would identify cases suitable for mediation and refer them to SMC without charge, or at no costs. The chief motivation of this SG United Mediation Initiative was to help litigants resolve their disputes quickly and suitably amidst the economic hardships brought about by the global pandemic. The initiative was in effect between 1 July 2020 and 31 August 2020. ⁵

Forging Ahead – Post Pandemic Judiciary

The COVID-19 pandemic has provided a powerful reality check on many fronts, testing the resilience in Singapore’s social, economic and justice systems. The pandemic has also provided a burning platform for change. Court users and court administrators are now used to, and are comfortable with, remote hearings. Within the Judiciary, strategic planning groups comprising the leadership of the three Courts have been established with the ultimate aim of emerging stronger from the crisis brought about by the pandemic. These groups will continue to explore and refine measures that were implemented and build upon the advances made during the past few months to further strengthen access to courts, through and after the pandemic. As emphasised by Chief Justice Menon, “COVID-19 must become the occasion to re-forge and refine our processes for administering justice”.⁶

² To view Chief Sundaresh Menon’s messages, please see:

-Message from Chief Justice Sundaresh Menon - The Singapore Judiciary’s response to COVID-19, issued on 26 March 2020 (<https://www.supremecourt.gov.sg/docs/default-source/default-document-library/message-from-cj-on-covid-197292f832fc614700a0e435c6c75292a4.pdf>);

-Message from the Chief Justice – The Judiciary’s response to the extension of the “Circuit Breaker” period, issued on 24 April 2020 (<https://www.supremecourt.gov.sg/docs/default-source/module-document/message-from-chief-justice--the-judiciary-s-response-to-extension-of-circuit-breaker-period.pdf>); and

-Message from the Chief Justice – The Judiciary’s response to the exit of the “Circuit Breaker” period, issued on 29 May 2020 (<https://www.supremecourt.gov.sg/docs/default-source/default-document-library/chief-justice-message--judiciary-s-response-to-exit-of-the-circuit-breaker-period.pdf>).

³ To view SAL video, please see: <https://www.youtube.com/watch?v=KT7uxqF4DqM>

⁴ For more information on SG United Mediation Initiative, please see:

-Media Release (<https://www.mediation.com.sg/wp-content/uploads/2020/05/Media-Release-SGUnited-Mediation-Initiative-FINAL.pdf>); and

-Rules for the Mediation Procedure (<https://www.mediation.com.sg/wp-content/uploads/2020/06/Mediation-procedure-under-the-SGUnited-Mediation-Initiative-1-June-2020.pdf>).

⁵ For more information on the legislative provisions provided, specifically the “COVID-19 (Temporary Measures) Act 2020”, please see: <https://www.mlaw.gov.sg/covid19-relief/>

⁶ See remarks by Chief Justice Sundaresh Menon at the Judicial Integrity Network in ASEAN Webinar: “Justice in Times of Covid-19,” delivered on 28 May 2020, para 8, (<https://www.supremecourt.gov.sg/docs/default-source/default-document-library/undp-webinar703e7e87220c43348baced546e2c70a.pdf>).

The Brazilian Judiciary and COVID-19

By Fausto De Sanctis, Federal Appeals Judge



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Judge De Sanctis holds a Doctorate in Criminal Law from the Sao Paulo's School of Law University (USP) and an advanced degree in Civil Procedure from the Brasilia's Federal University (UnB) in Brazil. He was a Public Defender in São Paulo from 1989-1990, and a State Court Judge, also in Sao Paulo, from 1990-1991, until being appointed to the Federal Courts. Judge De Sanctis was selected to handle a specialized federal court to exclusively hear complex cases involving financial crimes and money laundering. He was selected by his colleagues all over the country to join a triple list to the President to choose a justice for the Brazilian Supreme Court in 2010, 2014 and 2017. In 2012, he was a fellow at the Federal Judicial Center in Washington, DC.

Judge De Sanctis has 30 publications and has lectured extensively around the world. He is a member of the Portuguese Language Jurists Community and the Advisory Council of the American University Washington College of Law on its legal program Brazil-US. In 2016, Judge De Sanctis was awarded for distinction in International Law and Affairs in January 2016 by the New York State Bar Association.

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The judiciary of Brazil has responded to the challenges and chaos wrought by the new coronavirus COVID-19 with important efforts to provide essential court services while protecting the safety of judges, court personnel litigants and the public.

The judiciary is undergoing a cultural and behavioral change in the post-pandemic period. The courts have successfully embraced remote work and the use of videoconferencing to carry out court cases. The judicial system's use of technology is setting an example of professionalism and productivity. These efforts and methods vary, depending upon local capacity and resources. High Courts' weekly or byweekly sessions are conducted virtually, as are proceedings in many of the country's lower federal courts. In contrast, the majority of hearings in Brazil's less technologically equipped regional courts have been postponed.

Public Engagement

There are no easy solutions for preserving normalcy given the scale of the pandemic in Brazil. Nations around the world hope for the arrival of a vaccine that will protect their citizens from COVID-19. But, there is keen awareness that this is not be possible in the short term and the emergency has been transformed from a dormant volcano to one which

is about to erupt and cause or intensify social, economic, and political crises. The pandemic, and the increase in social and economic needs that it has created, have contributed to political instability, great anxiety among citizens, and growing distrust of public officials.

But the judiciary must work to live up to the needs and expectations of the public. The National Council of Justice (CNJ) response is being coordinated with open public dialogue to be responsive to the community's needs and interests. Justice sector policy must evolve in close collaboration between the authorities and the affected populations. It must also avoid conflicts between politics and medical science. The Brazilian judiciary has been called on and has responded, despite the peculiar situation that the country is facing.

Court Technology

The National Council of Justice (CNJ) has provided a secure digital platform for all courts in the country to hold hearings and trial sessions by videoconference. The "Emergency Video Conferencing Platform for Procedural Acts" authorized judges to expand their work while the COVID-19 pandemic has made face-to-face work unfeasible.

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The project stemmed from a Technical Cooperation Agreement signed with Cisco Brasil and did not impose any costs or financial commitments on the CNJ. The duration of the Agreement will parallel the special period caused by the pandemic.

This videoconferencing tool has allowed the creation of virtual courtrooms by magistrates to hold judgment sessions, hearings or meetings. It also enables them to engage with all of the actors in the judicial system, including public and private lawyers or defenders, members of the prosecution, judges, court staff. If necessary, technical support in virtual and live mode is also possible. This technology enabled the first CNJ session to be held by videoconference, on March 31, 2020, an example of early efforts to respect social distancing.

Criminal Justice System

With a new coronavirus pandemic, the Department of Monitoring and Inspection of the Prison System and the System for the Execution of Socio-Educational Measures of the National Council of Justice (DM/CNJ) has been investing in technology to consolidate initiatives already underway and to prepare new strategies. Under CNJ Recommendation 62/2020 courts have been required to report biweekly to the CNJ about local pandemic conditions. A new reform initiative, the Present Justice Program¹, has authorized online meetings and remote activities. Technology is supporting the dissemination of knowledge with the support of local teams. The Program's guidelines address electronic monitoring and alternatives to incarceration in accordance with new guidelines issued by the CNJ. A series of virtual meetings was held with the participation of representatives from different institutions across the country, including courts, police bodies and of penitentiary administration, sections of the Brazilian Bar Association, the Prosecution and the Public Defender's Office.

Health Emergency Law

A new Health Emergency Law was enacted on February 6, 2020 to address emergency situations like COVID-19 and protect public health during such periods. The new law set forth rules addressing quarantine, mandatory testing, and

medical care and also established a process for authorizing the importation of pharmaceutical products. The law also sets guidelines for procurement of goods, services and health supplies needed for crises. Although there was a provision requiring coordination of infection data between federal and state public administration bodies, there are no provisions about sharing accounting information on the movement, payment and destination of public resources.

In May, Brazil's government adopted provisions for bid waivers for health care-related products and services, enabling greater flexibility for public managers to plan and carry out essential services. Such public contracts must be properly managed with transparency. The law, however, releases public officials from liability, except in cases where gross error can be established, a very high standard under Brazilian law. This tenuous situation will likely lead to a new legal challenges for the Brazilian courts to address.

Corruption

Brazil is also confronting COVID-19-related challenges regarding the intersection of public administration and law enforcement. A Health Emergency Law was enacted to address public health concerns. Its span extends to the authorization of quarantine, mandatory testing, and a massive public procurement process for medical supplies and other coronavirus-related needs. Law enforcement bodies are struggling to investigate large scale fraud and other economic crimes, while constrained by the pandemic's accelerating spread through the country.

One of the larger investigations in progress concerns the acquisition of 3,000 respirators from China, made by São Paulo State Government. The São Paulo government announced the payment of R\$ 550 million (about \$110 million dollars) for the equipment, which became the target of the State Prosecutor and the State Court of Auditors (TCE-SP). Then, Governor João Doria explained that problems with suppliers caused the order to be cut by more than half. The new terms provide for the transfer of 1,280 respirators at a total cost of R\$ 261 million (\$52 million dollars). Even with the renegotiation, inquiries to ascertain the content of the original agreement continue.²

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1 In Brazil, the magnitude of the criminal and penitentiary issues is immense. Significant prison overcrowding requires coordinated efforts. The National Council of Justice (CNJ) has started a process of formulating proposals and created the Present Justice Program. This program, supported by the United Nations Development Program, brings together the judiciary, law enforcement, executive branch, and civil society to collaborate on efforts to address prison overcrowding and other criminal justice priorities.

2 See PEIXOTO, Guilherme. Corrupção ataca R\$1,48 bilhão destinados ao combate à COVID-19. In O Estado de Minas, https://www.em.com.br/app/noticia/politica/2020/06/11/interna_politica,1155732/corruptao-ataca-r-1-48-bilhao-destinados-ao-combate-a-covid-19.shtml, published on June 11, 2020, accessed on June 18, 2020.

Similar investigations of public contracts are taking place in the states of Rio, Santa Catarina, Ceará, Amapá, Roraima, Pará, Maranhão, Acre and Rondônia. For example, a federal investigation, named Placebo, authorized search and seizure warrants at 12 addresses in Rio de Janeiro and São Paulo related to the embezzlement of funds for the construction of field hospitals in Rio de Janeiro to assist patients infected with the coronavirus, with severe symptoms of COVID-19. The orders were issued by the minister Benedito Gonçalves of the Superior Court of Justice (STJ) in Brasília, the capital, due to evidence that pointed out for the existence of a corruption scheme involving a social organization contracted for the installation of field hospitals.

The Brazilian government faces an emergency and mobilized to quickly secure and disburse needed public health supplies. But criminal elements took advantage of systemic vulnerabilities in the procurement process at a time when government bodies are less able to maintain needed oversight. The judiciary is handling these cases as they are filed and the situation is increasing caseloads that are already overburdened because of inevitable slowdowns caused by the pandemic.

Conclusion

Facing the pandemic crisis, Brazil's judicial system is making use of technology to maintain productivity and judges are hard at work to adjudicate a series of complex corruption cases. During the COVID-19 pandemic, Brazil's courts are open to the public, but in a different way. Although full physical reopening is not expected until 2021, the judiciary is committed to address this myriad of new and unexpected challenges.

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Global Judicial Integrity Network Continues to Support Judiciaries through New Remote Methods

By Melissa Evans, Tatiana Balisova, and Roberta Solis



Melissa Evans, Tatiana Balisova, and Roberta Solis all currently work for the United Nations Office on Drugs and Crime, (UNODC). Ms. Evans is a Consultant, Ms. Balisova is a Crime Prevention and Criminal Justice Officer and Ms. Solis is a Crime Prevention and Criminal Justice Officer and Judicial Integrity Team Leader.

Officially established in April 2018, the Global Judicial Integrity Network at the United Nations Office on Drugs and Crime aims to promote peer learning and support activities, facilitate access to relevant tools and resources related to judicial integrity, and support the further development and effective implementation of principles of judicial conduct and the prevention of corruption within the justice system.

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Clockwise Melissa Evans, Tatiana Balisova and Roberta Solis

In the face of COVID-19 and physical distancing, the Global Judicial Integrity Network at UNODC has started organizing more activities online, as well as supporting judiciaries through the new challenges to judicial integrity that COVID-19 presents.

The novel coronavirus (COVID-19) has affected the international judicial community indiscriminately. Judiciaries worldwide have had to adjust their normal operating procedures to ensure that justice is served and judicial integrity is upheld, all while protecting citizens from the spread of the virus. Similarly, the Global Judicial Integrity Network at the United Nations Office on Drugs and Crime

(UNODC) has adapted its operations in the face of the ongoing challenges.¹ The Network was devised as a platform to bring the international judicial community together. Thus, in the face of COVID-19 and physical distancing, the Network has started organizing more activities online, as well as supporting judiciaries through the new challenges to judicial integrity that COVID-19 presents.

As a network dedicated to serving as an international hub for promoting judicial integrity, the Global Judicial Integrity has been working to keep judiciaries connected during the COVID-19 pandemic. Judiciaries have suddenly been confronted with new challenges, and the Network has

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¹ Officially launched in April 2018, the Global Judicial Integrity Network aims to assist judiciaries across the globe in strengthening judicial integrity and preventing corruption in the justice sector, in line with article 11 of the United Nations Convention against Corruption.

continued to serve as a platform for judges to share their experiences and learn from each other's successes.

As part of these efforts, the Global Judicial Integrity Network has produced and widely disseminated a survey of judicial responses to COVID-19. Thus far, 145 responses from 65 countries have been received. Approximately 80% of those surveyed work in the judiciary directly, either as judges or judicial administrators. The responses to the survey demonstrate a need for increased cooperation to tackle new challenges. For instance, a majority of respondents indicated that they were facing challenges due to imposed physical distancing. As judiciaries switch to online operations to respect physical distancing, more than a third of participants said that their jurisdictions did not have adequate equipment or technological resources. Approximately 36% of those surveyed acknowledged that COVID-19 measures have decreased the public's access to the courts and roughly 27% think that guidelines should be developed for any similar emergency situations in the future. The virus has also raised questions of judicial independence, with approximately one third of respondents indicating that the executive or legislative branch is responsible for determining current emergency response measures for the judiciary. Through this survey, the Network hopes to not only identify and address emerging concerns related to COVID-19, but to foster a sense of community and solidarity among judges in this difficult time.

In a similar vein, the Global Judicial Integrity Network has published a series of opinion pieces on judicial responses to COVID-19 written by judges and judicial experts to promote knowledge sharing. The Network website is constantly being updated with new resources, including opinion pieces, but this is the first time that the opinion pieces have been structured around a specific topic. These accounts identify practical issues currently facing the authors, as well as identify potential judicial integrity concerns that could arise from COVID-19 emergency measures. The series began with an article from Judge José Igreja Matos, a Network Advisory Board Member and International Association of Judges Vice President. Judge Matos cautions that judiciaries should be vigilant in considering the implications of emergency laws

on judiciaries' independence.² To date, there are 13 articles in total that examine a variety of topics, such as women's access to justice, the digitization of court practices and ensuring the safety of court staff. In his opinion piece on judicial independence, United Nations Special Rapporteur on the Independence of Judges and Lawyers Diego García-Sayán advocates for the use of technology to maintain access to justice:

"Within the judicial system, for instance, the use of 'electronic filing' of judicial processes can and should be accelerated. As this may be a medium-term goal for many institutions, the purpose is that, at least, many actions, proceedings and court hearings can be conducted using digital communications, especially if freedom or other constitutional rights are at stake."³

Acknowledging the necessity of switching to digital options itself, the Global Judicial Integrity Network has also begun to conduct more of its meetings and other events via videoconferencing.

This includes hosting a webinar series on various key and innovative topics of judicial integrity that were identified by participants. In this manner, the Network has been able to continue supporting judiciaries despite travel restrictions. It has also become easier to engage with experts worldwide and has enabled the participation of a greater number of people at little to no cost. Thus far, the webinar series has had 6 sessions with approximately 150 participants per session. The topics discussed have included financial disclosures, gender bias, judicial misconduct, artificial intelligence, public confidence in the judiciary and judicial independence during COVID-19. Video recordings of all webinars are being made available on the Network website, so that additional participants can watch them at their convenience. Further sessions are planned for 2020. These virtual sessions have managed to contribute to peer-to-peer learning in a time when members of the judiciary cannot travel internationally to attend events.

Following the success of the virtual webinar series, the Global Judicial Integrity Network also hosted a virtual meeting of the focal points of the Judicial Conduct and Ethics training sites to promote cooperation among the training

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2 José Matos, "Access to Justice in Times of Judicial Lockdown" UNODC <https://www.unodc.org/dohadeclaration/en/news/2020/03/access-to-justice-in-times-of-judicial-lockdown.html>

3 Diego García-Sayán, "Courts, States of Emergency and Rule of Law" UNODC <https://www.unodc.org/dohadeclaration/en/news/2020/05/courts--states-of-emergency-and-rule-of-law.html>

sites committed to the joint purpose of making judicial ethics training more effective.⁴ The training tools aim to provide members of the judiciary with a solid understanding of the Bangalore Principles of Judicial Conduct and the requirements of article 11 of the United Nations Convention against Corruption. Of the 57 training sites, 39 training focal points were able to attend a virtual meeting. The meeting featured both a plenary session and breakout sessions that were organized by language. The plenary session was centred around lessons learned from experienced training sites, whereas the breakout sessions gave focal points an opportunity to discuss good practices and challenges in the implementation of the training tools in their jurisdictions. Judiciaries have continued their implementation of the training through the pandemic. As it is readily accessible

online, the e-learning component has seen a significant increase in completion during this time. Judiciaries were also given the opportunity to provide feedback to UNODC at the end of the meeting regarding further training activities. Ultimately, this meeting helped to connect new training sites and focal points with their counterparts and facilitated peer-to-peer support.

During this period when judiciaries worldwide are faced with similar and seemingly insurmountable challenges, international cooperation and the provision of support to judiciaries is paramount. The Global Judicial Integrity Network serves to continue to assist judiciaries remotely to promote judicial integrity and prevent judicial corruption.



Melissa Evans, Roberta Solis, Tatiana Balisova

⁴ Judicial Conduct and Ethics Training Tools, UNODC https://www.unodc.org/ji/en/judicial_ethics.html

The Challenge Of The Judiciary Of The State Of Guanajuato Facing The Pandemic Caused By COVID-19

By Pablo López Zuloaga, Judge Counselor, State of Guanajuato, México



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Having served in the Federal Judicial Power, the Office of the Federal Prosecutor for the Consumer, and as Public Defender, he entered the Judicial Power of the State of Guanajuato in 1995. He has occupied different positions such as Court Secretary and Judge, being part of the first generation of Judges in the New Criminal Justice System. On April 27th, 2017 he was appointed Judge Counselor of the Judicial Power of the State of Guanajuato.

Judge Counselor Zuloaga continues to be involved in the New Criminal Justice System and has been a professor at the Judiciary's School and private Universities. He has lectured in several forums for attorneys and participated with his colleague judges in meetings to promote the right understanding of the new procedure scheme. Recently, he was invited by the Friedrich Neumann Foundation to Germany where, along with Judges, Prosecutors, Attorneys, and Public Security staff, studied their penitentiary system. Judge Counselor Zuloaga has also been invited as a speaker at the Forum "Mexican Federalism: the unsolved problem" hosted by the Center of Economic Teaching and Investigation.

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1. Background

To speak of the Judiciary of the State of Guanajuato is to speak of a solid Institution, committed to the legal work, conformed by women and men who work on a day to day basis, to comply with the constitutional imperative¹ of delivering justice in a short time, with strict adherence to the Constitution and the laws that derive from it² in a uniform and understandable way to those to whom it is addressed, that is, in a simple language, clear and therefore, sufficient, so that the citizens in need to stand before a Court, understand the reason of the decision and, in this way, can debate it or not. The Judiciary of the State of Guanajuato works every day to achieve its constitutional task with quality and efficiency; thus, in our State, derived from population growth, it is clear that the needs of the material and human resources to carry out this great task, have been increasing exponentially, which

certainly implies dynamism, innovation and with it, the use of new technologies. Therefore, when we think of these, we do not only do so for what we see and understand around us but because as women and men committed to complying with the Constitution we must use these technological tools according to what our country's Fundamental Charter requires in terms of the third paragraph of article 6, where the State undertakes the task to ensure access to them, which certainly obliges the Judicial not only based on that numeral but the basis that, as an authority, it is committed to guaranteeing it as provided for in the third paragraph of article 1.

We intend to outline the actions that the Judiciary of the State of Guanajuato (committed to that quality and efficiency to comply with the constitutional imperative of delivering justice) has assumed facing the pandemic caused by the

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¹ See article 17 of the Political Constitution of the United Mexican States.

² Ibid Articles 14 and 16.

SARS-CoV-2, which has spread in the detriment of human beings with consequences in life, health,³ and economy where the latter could not even be compared to the impact caused by the Great War. That is why globally, all public and private institutions and individuals, facing an economic crisis and risking health and life itself, have had to take different actions to be able to continue with its functions.

2. The challenge

The Judiciary of the State of Guanajuato is no exception, along with the spread of the SARS-CoV-2 virus, it is unquestionable that we must look forward, assume the responsibility that corresponds to it, as a guarantor for the resolution of the social conflicts that submitted before it, to transform, strengthen and thus, providing the society to which it serves, proactively, with a vision for the future, and justice with quality, to which it is bound in terms of the Fundamental Charter which compels the authorities to stick to the framework of their obligations.

Attending to the dynamism that we have been talking about, women and men who serve within the Institution are always ready to face challenges, innovate, and therefore provide a better service to society, we have undertaken the challenge of transformation, which cannot be another that to guarantee the health and life itself of all those who somehow have contact with the Institution, either because they work within it or because they come to it in demand for service; with this new vision, which protects health, we must guarantee that the Institution fulfills the constitutional imperative to deliver justice in the terms that we have already referred. Because of this, with a broad, committed, and certainly responsible vision from the Presidency of this Public Authority, necessary actions have been adequately coordinated to assume the social commitment that corresponds, we find that the Judiciary in our State, represented by the Judges and Magistrates responsible for resolving the conflicts and to all those who are responsible for

providing the material and human resources for the former to fulfill this work, I mean the Council of the Judiciary of the State of Guanajuato, which, as such, assumes this responsibility to ensure the health of individuals in charge the various functions that are carried out inside and by the Institution, assume the provisions of the Health Authority and taking the measures required for preventing the spread of the virus.

With this vision of health, a general strategy was defined from the outset with the vision of service of the President of the Institution, aimed at expanding virtual procedures and services; by agreement of *16 March 2020*⁴, *the Council of the Judiciary of the State of Guanajuato*⁵ addressed the provisions of the Fourth Extraordinary Meeting of the State Health Safety Committee, held on the same date, defining the internal preventive protocol and providing measures for employees and users to prevent the spread of the virus; *on 19 March*⁶, agreed to suspend all activities in the judicial field (which is not the case in the administrative field, which implies that the Judicial School now teaches classes remotely, buildings are still being built and the operation of the entire structure of the institution is generally maintained), with the exception of the processing of urgent cases, exempt vulnerable staff from showing up to the workplace and preferring work from home for all; it carried out an extensive campaign to promote the use of *e-mailbox*⁷ (which allows electronic notification and remote consultation of the judicial file) and electronic signature (of which the Judiciary is certifying authority)⁸; *on April 23*⁹, it approved the use of real-time videoconferences for criminal hearings throughout the State (*prior to which, meetings were generated with the prison authorities, prosecutor's office, public defender's office and private lawyers of the State*), thus reducing the transit of persons to prisons and Criminal Courts in the State.

Having listened to the expert opinion of Magistrates and Judges, the Council has broken down the strategy for the regularization of judicial activities in four stages, the *first* by

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3 <https://www.who.int/emergencies/diseases/novel-coronavirus-2019> consulted on 28 July 2020.

4 <https://poderjudicial-gto.gob.mx/pdfs/guardias/COMUNICADO%20COVID-19%2016%20DE%20MARZO%202020.pdf?v=1597257115>

5 See article 28 of the Organic Law of the Judiciary of the State of Guanajuato in <https://www.poderjudicial-gto.gob.mx/pdfs/Ley%20Organica%20del%20Poder%20Judicial%20del%20Estado%20de%20Guanajuato.%20mayo%202020.pdf> See <https://poderjudicial-gto.gob.mx/pdfs/guardias/ACUERDO%20GENERAL%20DEL%20CONSEJO%2019%20DE%20MARZO%20DE%202020.pdf?v=1597257115>

6 See article 28 of the Organic Law of the Judiciary of the State of Guanajuato in <https://www.poderjudicial-gto.gob.mx/pdfs/Ley%20Organica%20del%20Po> See <https://poderjudicial-gto.gob.mx/pdfs/guardias/ACUERDO%20GENERAL%20DEL%20CONSEJO%2019%20DE%20MARZO%20DE%202020.pdf?v=1597257115>

7 See article 224 of the Civil Procedure Code for the State of Guanajuato, the Law for the use of technology and electronic signature for the State of Guanajuato and its regulation for the Judiciary.

8 Idem

9 See <https://poderjudicial-gto.gob.mx/pdfs/medidascovid19/AcuertoGeneraldelConsejo.pdf?v=1597257115>

agreement of **29 April 2020**¹⁰ for the issuance of pending judgments; **May 19, 2020**¹¹, the *second*, provides the scheme for receiving new claims by appointment for the Civil and Commercial Courts¹², on **May 28**¹³, a third stage, widens the scheme for the receipt of new claims and opens the mediation and conciliation services upon electronic appointment and providing for the issuance of judgment in new cases; **On 02 June 2020**¹⁴, the *fourth stage*, resumes judicial activities in criminal matters throughout the state from June 08, while in civil and commercial courts was from June 16 and, to avoid crowding of the buildings, establishes a scheme for consultation of files and presentation of promotions in Civil Matters, from June 8 to 12; the Health Security Protocol and the Health Contingency Plan are authorized, as indispensable documents for the restart of activities, which were endorsed by the Ministry of Health of the State of Guanajuato.

On **July 9**¹⁵, the use of real-time videoconferences for the Family Orality System is approved; on July 15th provides that promotions are received from 9:00 to 24:00 hours; on **23 July**¹⁶ agreed on an appointment program to expand judicial services in civil and commercial matters.

In legislative matters, a reform of the Organic Law of the Judiciary¹⁷ was promoted to allow virtual sessions of the State

Court¹⁸ (from when all sessions were carried out that way), as well as those of the Council of the Judiciary, which has facilitated the development of its administrative activities.

The necessary and sufficient resources have been provided for the purchase of plastic masks, face masks, latex gloves, 70% gel alcohol, sanitizing liquid; dividing acrylics were placed in spaces of public attention, marks on the floor for healthy distance, access filters in all facilities (gel alcohol is applied to those who enter, body temperature is taken, preventing entry to those who report symptoms) and sanitizing mats, obliging to the use of face masks and healthy distance for admission; sanitization services were contracted and the staff was distributed at different times to fulfill their duties. All of which have been supervised by the administrative areas of the judiciary¹⁹.

Today, work continues in various projects ranging from legislative reforms in order to fully implement the electronic file, to the reorganization of the whole Institution throughout the State, for it is undeniable that we are forced to improve the service and therefore we understand that some of the actions taken facing the pandemic, came to stay.

10 See <https://poderjudicial-gto.gob.mx/pdfs/guardias/ACUERDO%20GENERAL%20DEL%20CONSEJO%2029%20DE%20ABRIL%20DE%202020.pdf?v=1597257115>

11 See <https://poderjudicial-gto.gob.mx/pdfs/medidascovid19/I.%20ACUERDO%20GENERAL%20CONSEJO%2019052020.pdf?v=1597257115>

12 See articles 4, 98, 99, 104, 108, 112, 113, 117 and 120 of the Organic Law of the Judiciary of the State of Guanajuato.

13 See <https://poderjudicial-gto.gob.mx/pdfs/medidascovid19/I.%20ACUERDO%20GENERAL%20CONSEJO%2028052020.pdf?v=1597340059>

14 See <https://poderjudicial-gto.gob.mx/pdfs/medidascovid19/I.%20ACUERDO%20GENERAL%20CONSEJO%2002062020.pdf?v=1597340059>

15 See <https://poderjudicial-gto.gob.mx/pdfs/medidascovid19/ACUERDO%20GENERAL%20CONSEJO%2010072020.pdf?v=1597340059>

16 <https://poderjudicial-gto.gob.mx/pdfs/medidascovid19/I.%20Acuerdo%20General%20230720.%20Promociones%20subsecuentes.pdf?v=1597340059>

17 <https://poderjudicial-gto.gob.mx/pdfs/medidascovid19/II.%20Acuerdo%20General%20230720.%20Reforzamiento.pdf?v=1597340059>

17 On May 18, 2020, see http://periodico.guanajuato.gob.mx/downloadfile?dir=anio_2020&file=PO%2099%202da%20Parte_20200518_1653_9.pdf

18 See articles 4 and 16 of the Organic Law of the Judiciary of the State of Guanajuato.

19 Judicial Visitary and Comptroller of the Judiciary

Re-Engineering Access to Courts Services COVID-19 and How The DIFC Courts Has Responded to Challenges

By Mrs. Amna Al Owais, Chief Registrar, Dubai International Financial Centre (DIFC) Courts



Amna Al Owais is currently the Chief Registrar of the DIFC Courts and overseas operations and quality management, supervising the Courts' Judicial Officers and Registry personnel, as well as the delivery of a comprehensive suite of court public services. Amna also spearheads special projects across DIFC Courts operations, particularly in the field of technology and innovation, harnessing digital transformation for core courts services, including a major partnership project across blockchain with Smart Dubai and a court tech R&D initiative with Dubai Future Foundation.

In her article, Mrs. Al Owais underscores that in this new era of legal technological disruption, working to replace outdated processes with digital technology is the key to creating real legal efficiency and certainty for court users, even during these uncertain times. Expectations from the private sector increasingly require the bold engagement of public service. The DIFC Courts' ambition, through continued innovation, is to re-engineer the way commercial justice is accessed and delivered.

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Does society want people to feel confident in solving their problems in a court? If so, give them access to one from their mobile phone. Let them beam into a courtroom and give evidence from a smartphone. But there are those that would argue that, of all the industries that are most critical in delivering open, secure societies, the legal profession has arguably been the most resistant to digital disruption.

The physical nature of traditional courtrooms has cemented their place over time as an intimidating, restricted institution that is growing increasingly unfit to solve complex and far-reaching disputes. How do you establish a court that can solve these problems? The only way is through technology. We need technology to allow parties to come together in a forum which best serves their interest in finding a solution – in other words – we need to stop making the courts a place and focus more on making it a service.

For too long, courts in many jurisdictions have taken the view that they are a necessity, that citizens must use them, and, with that mind-set, many have lost sight of their role in serving the community. Significantly, research shows that

the settlement rates in commercial cases are higher where the courts provide a positive user experience.

Expectations from the private sector increasingly require the bold engagement of public service and of regulatory agencies. The DIFC Courts' ambition, through continued outreach to global judicial systems, is to contribute in creating a level-playing field between businesses, by re-engineering the way commercial justice is designed and delivered.

In an era of significant disruption, companies are investing massively in emerging technologies to stay ahead of the curve. Instant access to information has perhaps had the biggest influence on the way businesses run their operations, particularly within the legal sector where hordes of data need to be easily available.

The current coronavirus pandemic has propelled the world into a new, digitally reliant era as people move en masse towards remote working and distance learning. As a part of the UAE Government's commitment to effectively employ advanced technologies and digital platforms to continue services to the public, entities have implemented

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and introduced various digital mediums to stay connected with clients and customers with the ultimate goal to ensure that together we are all working towards strengthening the economy.

From March 17, 2020 – May 31, 2020, the DIFC Courts closed all physical premises as part of government directives. Through existing digital transformation implementations, the Courts were able to maintain full operational capacity across all services, utilizing its digital infrastructure for a range of services, including, general enquiries, complaints, customer service, filing of documents, service of process, case progression, filing of bundles, applications and hearings, circulation & issuing of Orders/Judgments, Pro Bono Programme enquiries, the registration of practitioners, and, the registration of Wills.

Early tech adoptions are now the bedrock that fortunately enables the DIFC Courts to maintain all core services during COVID-19. By increasing utilization of our existing videoconferencing and teleconferencing facilities for applications and hearings, we are enabling court users and the public to access extensive eServices remotely from any smartphone, tablet, or desktop devices.

So, what digital transformation made this possible? In 2016, after fruitful collaboration with Microsoft, the DIFC Courts launched the Smart Small Claims Tribunal (SCT), enabling parties to resolve disputes from any location by participating via smartphone, tablet or desktop device. Only the judge need be present in the purpose-built facility in Dubai, with screens showing the parties and a control panel making it possible to either open the virtual courtroom to all, or switch to private mode. In July 2018, the Smart SCT was named among the world's Top 10 Court Technology Solutions by the US-based National Association for Court Management.

In a move designed to help people and businesses resolve disputes more quickly, the DIFC Courts Small Claims Tribunal (SCT) now offers claimants the option to use direct and instant messaging (like WhatsApp or Facebook messenger) to give defendants notice as part of an expanded range of e-services. During COVID-19, in an effort to alleviate costs for our court users, applicants filing a claim at our Small Claims Tribunal (SCT) can request a fee suspension. This facility enables eligible applicants the

flexibility of paying the courts' fees after the SCT case has concluded.

In 2017, the DIFC Courts went one step further and developed a cutting-edge Case Management System (CMS) in-house, replacing its legacy eRegistry and providing users with a faster and superior way to find case information. In line with UAE Vision 2021 and the Dubai Smart Government initiative to develop a knowledge-based economy, the DIFC Courts' new CMS utilizes the latest technology to connect various departments and functions within our organization and allows the public to access even more information as soon as it becomes available.

Technology allows for greater fairness, for instance by ensuring both sides are informed of court matters at the same time, while enhancing accessibility through modern Case Management Systems (CMS) that allows for 24-7 operations and the ability to conduct hearings via video link from anywhere in the world. Increasingly sophisticated smartphone/device technology means this trend is only likely to accelerate in the future.

But aside from strengthening the accessibility of case documents, the upgraded software provides a unified platform for court user registration, case filing, payment processing, managing case events and reporting. It has been carefully developed based on industry best practices for courts and arbitration centres and designed specifically for the DIFC Courts — it is extensible to all claim types, including our Small Claims Tribunal, Court of First Instance, Court of Appeal, including arbitration and enforcement cases.

The DIFC Courts, like an increasing number of our peers around the world, understand that fast, efficient and professional service can make a real difference to outcomes and achieving court excellence. While this new CMS is a comprehensive, flexible, extensible, and scalable piece of software, it is just one of the tools we have introduced to support the cost-effective efficient and final resolution of commercial disputes. By allowing the public to interact with the courts and instantly obtain information using real-time data and analytics, our ultimate aim is to become more business friendly to remain a leader in court administration.

In addition, there is an exclusive portal designed specifically for judges and legal representatives so they can access relevant information about any ongoing cases they are handling. This

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makes work faster, simpler and more efficient, ultimately increasing productivity. Similarly, the speed in which parties can search for data has improved, as documents can now be easily filtered with a search function by using keywords, just like a Word document.

In 2018, as part of ongoing CMS infrastructure, the DIFC Courts became the first courts in the Middle East to introduce a new secure cloud-based technology to allow court documents to be uploaded from anywhere in the world. The eBundling service enables judges, lawyers, and courts staff to access case information in various formats, across multiple locations and share with numerous users in real time. In April 2020, in an effort to alleviate costs for court users, all charges related to the use of our digital paperless e-bundling service were suspended.

During COVID-19 the DIFC Courts has also injected fresh digital systems for the registration of Wills. A joint initiative of the Government of Dubai and the DIFC Courts, the Wills Service has now re-engineered its digital service offering in light of the current pandemic and the Government's nationwide initiative to Stay Home and curb the spread of the virus.

With individuals and businesses across the UAE currently operating remotely, the new video conferencing facility can be accessed via a smartphone, tablet or a desktop device,

allowing residents of the UAE to register their Will remotely, from the safety and comfort of their own home.

The registration process now also allows a Testator and two Witnesses to join via video conferencing call from different locations, rather than having to be in the same place, as was previously the case. Wills can then be directly uploaded on to the system and electronic signatures can then be affixed to verify and witness the will. Once registered, it is stored as an encrypted file for 120 years on the DIFC Courts system.

This digital offering is in addition to an existing Virtual Registry, which allows those living overseas to create and register a DIFC Courts Will. Investors and former residents can access it from anywhere in the world and be connected, via video link, to a compliance officer sitting in Dubai.

The DIFC Courts also provides an online automated will drafting service for certain Will categories, with comprehensive explanatory notes, should one wish to draft the will themselves.

Whilst we cannot predict when the worst impacts of COVID-19 will subside, the DIFC Courts remains confident that it has the capacity, resources, and expertise, to re-engineer how services are delivered to the public, should external stress factors require such flexibility.



The Coronavirus and How The National Courts Administration of Finland Has Assisted The Courts To Respond To The Challenges It Has Presented

By Noora Aarnio



Ms. Noora Aarnio is a Senior Specialist in International Affairs in the Tuomioistuinvirasto, the National Courts Administration of Finland (NCA). Currently, her responsibilities relate to maintaining a high level of quality in the exercise of the judicial powers by the courts and the efficient and appropriate organization of their administration. These responsibilities all have one thing in common – an international aspect. Ms. Aarnio sees her position as a bridge for great ideas and good practices to and from Finland.

In this article, Ms. Aarnio has introduced to readers some of the actions taken by the NCA to assist the Finnish Courts to respond to the challenges the COVID 19 has presented. The NCA has always emphasized that even in the state of emergency the independence of the judiciary was not affected. Located in Vantaa, Finland, Ms. Aarnio may be reached at noora.aarnio@oikeus.fi.

1) Introduction of the National Courts Administration

The National Courts Administration of Finland (NCA) began operation on 1 January 2020. The NCA is led by a Board of Directors and a Director-General. NCA has a staff of 46 people. It consists of three departments, responsible for finances, development, and administration. In addition, there is a Head of Communications and a Head of Court Support and Public Relations.

The objective of the NCA is to make central administration of the courts more effective and to help the courts to focus on their core task - exercising judicial powers.

When the COVID-19 virus reached Finland, the NCA had been operational for only a few months and was still in the phase of consolidating its procedures and networks. However, the staff began to think about how they could use their expertise to assist and support the courts during these exceptional times and decided to act quickly. In this article I will introduce some of the actions taken by the NCA.

2) Context

The first COVID-19 infection in Finland was confirmed at the end of January 2020 and by mid-March the situation

had escalated to 155 confirmed infections. The first death occurred on 20 March. By now there have been close to 7,750 confirmed infections and 333 deaths.

Up until very recently, the majority of the confirmed infections have been in the capital region (Uusimaa). In addition to the other measures taken (such as closing the schools and cultural and sport venues and ordering people to work remotely whenever possible) in an attempt to contain the spread of the virus, at the end of March the Government requested, and the Parliament approved, restrictions of movement to and from the Uusimaa region.

The restrictions of movement remained in force until 19 April and other restrictions have been eased gradually during May (schools) and June (cultural and sport venues).

3) Actions taken by the NCA

i. Independence of the courts

Strengthening of the independence of the courts and the impartiality of the judiciary were one of the core principles behind the creation of the NCA, and the COVID-19 crisis did not change this. When giving advice, NCA emphasized that even in the state of emergency the independence of the

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judiciary was not affected, and the advice is not binding. The NCA did not give advice on exercising judicial powers.

ii. First advice

At the beginning of March and again in mid-March 2020, the NCA issued advice to the management of the courts.

This advice discussed issues such as internal and external communication of the courts, ensuring customer service, personnel issues including paid/unpaid sick leave and distance working, and meetings and trainings. It also discussed the possibilities for organizing remote trial sessions without the physical presence of the parties. As a general guidance, NCA stated that the courts should continue to handle cases if it was possible with the available resources and without endangering the health of the participants. However, physical presence at the courthouses was to be limited to parties of urgent cases. The NCA continued to support the courts in making full use of the possibilities to handle cases using modern technology (such as Skype and video conferencing, for example) whilst emphasizing that the decision as to whether to use such technology or not was always that of the judge. NCA emphasized that the publicity of the trials still applied.

Around mid-March NCA also issued guidance on the prioritization of cases, should the need arise.

iii. Knowledge-based management

As early as the beginning of March, the NCA requested the courts to regularly provide statistical data on the stalling of cases due to the epidemic and also began publishing this information on its webpage. In the future, this information can be used, for example, in the negotiations for the budget.

iv. Regular weekly Skype meetings

At the end of March, the NCA started hosting weekly remote meetings for the management of the courts. These meetings included a summary of the situation in the courts based on the data they provided to the NCA. Also, the NCA's experts on personnel issues gave presentations on different relevant issues such as, for example, the stipulations and their modifications related to sick leave and remote work as well as the applicability of the occupational health care. The meetings were a platform for the heads and managers of courts to discuss and share experiences. It was also a great opportunity for the courts to give feedback to NCA and

express the kind of support they needed, and for the NCA to provide information to the courts.

v. Crisis communication

At the beginning of April, NCA issued concise and practical guidance to the courts on crisis communication and provided the contact details of the Head of Communication of NCA for further assistance.

vi. "Remote guide" and training

In mid-April, NCA published "A guide for the courts on using remote connections at a trial". The intention was to lower the threshold for using remote connections and offer experience-based advice on how to resolve practical difficulties.

The guide covers a comprehensive range of issues to be considered when making use of remote connections in a trial. Although not a technical manual, it also touches upon certain technical aspects of using remote connections, such as the equipment available in the courts.

The guide explicitly notes that it was drawn up only for the current exceptional situation, and was not intended to change existing policies, instructions, or recommendations. However, the law already allows the wide use of remote connections, although it is always at the discretion of the Judge to decide whether they will use them in a specific case.

In the spirit of cooperation and to ensure the usefulness of the guide, Chief Judges and several Trade Unions related to the justice sector were all offered a chance to comment on the draft.

To complement the guide, NCA organized online training sessions on remote trials. In one session, for example, a judge and a legal secretary shared their experience and gave tips on organizing a large trial with several defendants and another judge shared his experiences in organizing a remote preparatory hearing in a civil case. Judges were also offered a video-recorded lecture series by legal psychologist Dr Julia Korkman on the scientific evidence regarding witness testimony, the recording of pre-trial investigations and the hearing of persons remotely.

vii. Additional equipment

No matter how willing and able the court staff were to use the remote connections, they needed equipment for this. As the courts were not designed to mainly function remotely, it

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was soon discovered that their technical capacities were not sufficient. NCA negotiated for additional budget to acquire more equipment for remote hearings. The coordination of NCA ensured that these additional acquisitions were in line with the already existing plans on increasing these capabilities.

viii. Recovery plan

As it became clear that the epidemic was going to continue and the judiciary couldn't just wait it out, NCA started to draft a recovery plan, in consultation with occupational health care professionals. This cooperation ensured that the plan provided information that is both relevant and reliable. This plan was published at the end of May.

The plan is intended to assist in arranging the work of the courts during the epidemic and recovery from it. But just as the previous guidance, the plan notes that the responsibility for arranging the work of the courts lies with the courts themselves and they may have to deviate from the procedures described in the plan based on their specific circumstances. The guidance provided is twofold: firstly, it highlights the employer's responsibilities towards the safety of the employee as it discusses issues such as risk management, work safety and internal preparedness. Secondly, it examines the functioning of the courts whilst the epidemic continues, including customer service and serving summonses. It describes very concretely and step by step the interactions in the courthouse – arriving at the courthouse, security checks

and waiting areas, and the positioning of different parties to the proceedings in the courtrooms – and advises on how to manage them safely. The plan ends with a reminder of the importance of communication with customers and stakeholders, as a means to create trust among other things.

ix. Premises

As the courtrooms were not designed to meet the current requirements for safe distances, when large trials resume the courts are going to need much bigger courtrooms. Here, the NCA may be able to assist by leasing temporary spaces.

x. International cooperation

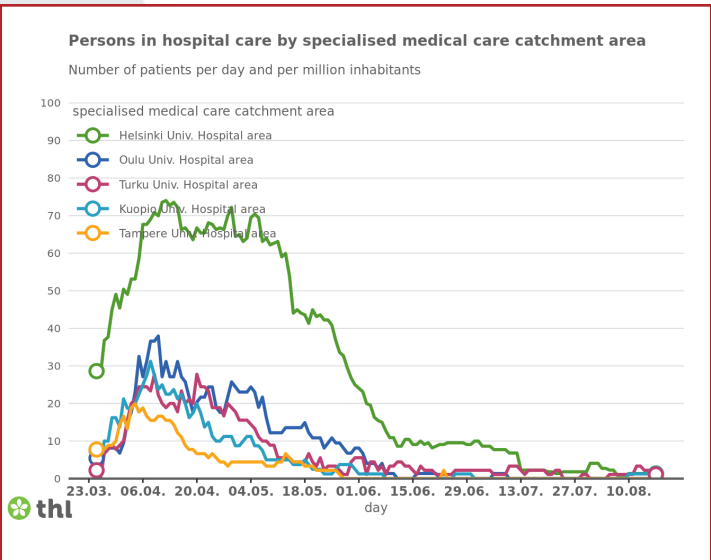
As the modern administration of justice often has crossborder elements to it, the NCA shared information and situation updates, particularly with colleagues in other EU countries.

4) Conclusions

The feedback from the Finnish Courts relating to the actions taken by the NCA has been overwhelmingly positive. We are looking forward to continuing our fruitful cooperation with the courts and encourage other Court Administrations to seize opportunities for cooperation to assist the courts in coping with these exceptional times.



National Courts Administration in Finland; an old silk factory recently converted into offices.



The graph shows the number of people in hospital care due to having contracted COVID-19 in relation to a million residents by catchment area. Graph updated on 17 August.

Source: The Finnish Institute for health and welfare (THL) webpage <https://thl.fi/en/web/infectious-diseases-and-vaccinations/what-s-new/coronavirus-covid-19-latest-updates/situation-update-on-coronavirus> as seen on 19 August 2020.

Main Measures Taken by the Israeli Judiciary in Response to COVID-19

By Judge Dr. Yigal Mersel*



Judge Dr. Yigal Mersel is the Director of Courts, Israel. In his article, the author summarizes the response of the Israeli Judiciary to the challenges of the pandemic.

Located in Jerusalem, Israel, Judge Dr. Mersel may be reached at Ronibiv@court.gov.il for those readers wishing to follow up on this article.

In different judiciaries worldwide, the primary goals of an effective response to Covid-19 include maintaining both the continuity of judicial services, especially essential services, as well as the health and safety of those responsible for providing those services to the general public.¹ Similarly, the primary goal of the Israeli Judiciary throughout the Covid-19 pandemic outbreak was, and still is, to meet general safety guidelines while simultaneously maintaining court operations to the maximum extent possible. Thus, throughout the Covid-19 crisis in Israel, all courts and tribunals across the country have remained open and continue to function, albeit to a limited extent, subject to the limitations arising from the instructions of the Ministry of Health.

In Israel, emergency legislation was already in place to limit court hearings in the event of an emergency (i.e. "Emergency Regulations"). The Emergency Regulations stipulate, inter alia, that the Minister of Justice can issue a notification, due to a "Special Emergency Situation", reducing court hearings for the period stated in the notice (in accordance with the regulations, which list the types of hearings that will take place during this period). Accordingly, the primary response

of the Israeli Judiciary was to reduce in-person practices and to hold only the most essential proceedings in courts, as an alternative to revoking access to the courts altogether.

In mid-March 2020, the Minister of Justice, in coordination with the Chief Justice of the Supreme Court and the Director of Courts, applied the Emergency Regulations, initially for a short period. Later on, the Emergency Regulations were continually reassessed and re-authorized, extending their application until May 17, 2020. Throughout this period, the Courts Administration of Israel invested vigorous efforts in order to increase court activity and provide various solutions to deal with the effects of Covid-19 on court operations while simultaneously ensuring public safety. Increasing the scope of courts' activities was crucial in order to ensure the right of access to the courts, not only as part of a regular working routine, but specifically in order to ensure the maintenance of a functioning judicial system in an unprecedented crisis like the one we are facing today.

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*Director of Courts, Israel. I wish to thank Adv. Roni Bivas, legal assistant to the director, for her significant contribution and assistance with this summary.

The Emergency Regulations empower the chief judges (presidents) of the courts (any court) to determine that a particular procedure will or will not be adjudicated despite the Minister's notice. In addition, the regulations empower the Director of Courts to determine which additional cases are to be heard in courts despite the "Special Emergency Situation". Accordingly, notices by the Director of the Courts had been amended and updated from time to time in order to allow more and more cases to be heard in courts. As the pandemic progressed, these notices significantly extended the types of proceedings that could be held in courts, to a point where on May 17th 2020, the end date of the "Special Emergency Situation" described earlier, almost all proceedings were heard in Israeli courts, including evidence trials in criminal matters.

During this period, it should be noted that the Israeli Court Administration implemented social distancing in all courts and required the use of masks (for judges, employees and the general public), alongside continuing in-person hearings in a limited capacity. Until today, anyone who wishes to enter any court is required to have their body temperature taken, wear a mask and practice social distancing, maintaining a distance of 6.5 feet between one another. Additionally, the courts are scheduling hearings with sufficient "lapse of time" between them to maintain social distancing and using demarcating floors to show participants where to stand during hearings, as well as Plexiglas partitions to protect workers and judges during the hearings. All of these instructions expanded the courts' activities and functioning in several stages in compliance with the Ministry of Health's guidelines to ensure public health.

On May 17th, 2020, the Emergency Regulations were not extended, so that the "Special Emergency Situation" described above ended as well. Accordingly, the Israeli Judiciary returned to full activity on May 18th 2020, while adhering to amendments made in different legislations and new emergency legislations that were added during this period (including the guidelines outlined above to ensure public health, and that of court employees and judges). Since then, cases of all types - in all courts around the country - are conducted physically (except those held remotely as detailed below).

During the past two months, as the Covid-19 pandemic has unfortunately risen again throughout the country, there have been an increasing number of cases where a person who entered a court building was later diagnosed with the Covid-19 virus (including court employees, lawyers, witnesses and judges). In an attempt to prevent widespread infection, the Israeli Court Administration issued detailed procedures on the matter, in order to ensure adherence to public health instructions. According to these internal procedures, each court's Chief Judge appoints a "Corona Monitor" to oversee, conduct and compile a comprehensive investigative report after each suspected incident, and disseminate it to all Chief Judges and senior court administrators. From these investigations, the Court Administration obtained a greater understanding of the importance of adhering to the public health guidelines - wearing masks, placing partitions, maintaining social distance, monitoring temperature, and restricting unnecessary public access to the courts.

Accordingly, the Israeli Courts' Administration is periodically refining internal Covid-19 procedures, holding meetings on the matter, and making sure that all courts/tribunals know exactly how to proceed during these times and what they should do in order to prevent contagion. Consequently, most of those incidents ended with a relatively small number of individuals being forced to self-isolate and even a smaller number having been diagnosed with Covid-19. As a result, court operations and caseloads were barely affected during the last couple of months and even vice versa - during this period, the courts reduced most of the backlogs that were caused at the beginning of the pandemic (when the courts weren't fully operating yet).

As an alternative to in-person hearings, the Israeli judiciary also adopted a virtual, limited in-person format in some cases, as another effort to maintain operational continuity, while reducing transmission, and complying with health and safety directives. Since March 2020, several regulations were amended, enabling various courts to hold legal hearings remotely in certain matters through the use of video-conference (VC) technology or by telephone. The VC system is based on Skype for Business (SFB) as this software already exists on the courts' secure independent servers and is maintained for the exclusive use of the Courts'

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Administration (however, we are now examining the option of switching to ZOOM instead).

Today, the Israeli Judiciary is able to hold remote hearings in most criminal proceedings regarding suspects remanded in custody. In addition, the Administration of the Courts in Israel began a pilot program using video-conferences in civil cases, in five courts in the Central Judicial District. In the beginning, this program included only the following procedures, all subject to the consent of the parties: preliminary hearings, hearing for urgent judicial remedies including temporary orders, and approvals of consent decrees in family court in which both parties are represented by counsel. During the month of May 2020, this program expanded to include more courts and many more procedures, however, its use is still subject to the consent of the parties.

Another measure taken by the Israeli Judiciary to deal with the rising caseload, was to shorten the regular annual summer recess stipulated by law, during which the courts normally operate on a limited basis. In addition, it was decided to increase the operating hours of the Magistrates' Courts for a limited period, and every judge in the Magistrates' Courts across the country was asked to take a second shift once a week and hold hearings till 18:30 pm. Having an afternoon

shift in the Magistrates' Courts, which are busier in terms of size and audience, helped regulate the number of people present in those courts. This way, it was possible to schedule hearings with sufficient "lapse of time" between them, in order to maintain social distancing and limit crowds and at the same time to reduce the accumulated backlog caused due to Covid-19. Consequently, the Israeli Judiciary was able to conduct physical hearings while conforming to regulations that governed crowd size in public areas in and around the courts.

In conclusion, like other legal systems worldwide, there is an ongoing struggle in Israel with the Covid-19 crisis and its consequences. The Israeli Judiciary is constantly trying to find the balance between the need to protect the public's health and the necessity to ensure the right of access to the courts, while continuing to operate the legal system whenever and wherever possible. Achieving this balance, especially in a changing reality, depends on the managerial and organizational ability to maintain ongoing assessments and maximum managerial flexibility, through the use of technology and by paying attention to the needs of the public, including lawyers and litigants. It seems that the experience gained in different legal systems in this matter, which is a common problem for all, can be helpful as always.



As always, IACA continues to educate our readers about judicial systems around the globe.

What And Who Is A “Rechtspfleger”? Background Information Of The Profession

By Dipl.-Rpfl. Thomas Kappl



Dipl.-Rpfl. Thomas Kappl is the Director of the International Institute for Justice Excellence. (IIJE) He is also the Honorary President of the European Union of Rechtspfleger.

Mr. Kappl's extensive article entitled "A European Rechtspfleger For The European Union" has been published in the IACA Journal and may be downloaded at:

<https://www.iacajournal.org/articles/abstract/10.18352/ijca.112/>

"In an effort to advance cooperation among the various European judicial systems to (i) improve and unify the jurisdictional and administrative frameworks of those systems, and (ii) achieve greater efficiencies and effectiveness in the administration of justice, the European Union of Rechtspfleger ("EUR") has prepared and submitted a Green Paper for the European Rechtspfleger to the European Commission's Directorate-General for Justice, Freedom and Security. This is a joint effort undertaken with the Department of Civil Justice. In doing so, the EUR seeks to support the European Union's ("EU") efforts to create a greater and more consistent organizational framework among the member states for the administration of justice.

Doing so will promote the pursuit of justice in individual freedom, safety, and rights pursuant to the EU's by-laws. These goals accord with the judicial-political mandate regarding the creation, development, and harmonisation of the law on the European and the international levels."

Located in Munich, Germany, Mr. Kappl may be reached at Eu-thomas.kappl@gmx.de.

Definition:

Independent body of the judicial power at the courts for non-contentious cases, like inheritance, guardianship and care, insolvency, bankruptcy, enforcement, forced sale, land register, commercial register and others. The profession "Rechtspfleger" cannot be translated. It is a term sui generis.

Rechtspfleger is

- independent – competent – close to the citizens-

How to become a Rechtspfleger

Typically, a Rechtspfleger student would graduate from high school and then proceed to a course of study of three (3) years at the university, including an internship at the courts and at the public prosecutor's office. Students are taught in scientific foundations and methods, as well as the practical skills and knowledge that are required to fulfill the later tasks

as a Rechtspfleger. During their studies, the Rechtspfleger learns the basics of constitutional law, criminal law, labor law and commercial law. They are also taught thorough knowledge in civil law, non-contentious jurisdiction (law for land register, family law, inheritance law and register law), law in civil procedure, in enforcement, in foreclosure and in bankruptcy law and in enforcement of judgments in criminal law.

After passing the state examination, the academic degree "Diplom-Rechtspfleger" (graduate Rechtspfleger) is awarded.

Rechtspfleger - independent body of justice

Rechtspfleger perform the tasks of the third power (Juridicum) independently assigned to them by the Rechtspfleger Act. These are essentially tasks previously performed by judges and that transferred to the Rechtspfleger.

continued

This is how Rechtspfleger represent the court alongside the judges.

Rechtspfleger are objectively independent, only subjected to their conscience and the law and are not bound by any instructions. Due to the transfer of fixed areas of responsibility, the Rechtspfleger are the second pillar of the third power (Juridicum). All decisions of the Rechtspfleger can only be reviewed with appeals to the courts' instances (regional court, higher regional court).

Tasks of the Rechtspfleger

The delegated tasks are those of the non-contentious jurisdiction, the foreclosure and the enforcement of judgements in civil and criminal cases.

In the family and guardianship courts, the Rechtspfleger act when appointing, engaging and dismissing legal attendants and legal guardians, monitoring the activities of the appointed guardians. They approve important legal transactions, carried out by parents, guardians, and careers in the context of the care for assets and property, for those who are cared. They fix the guardian's remuneration.

In the inheritance Court, they lead appointments for the opening of the will; they identify heirs, determine the right of inheritance and issue inheritance certificates. They lead negotiations in probate and proceedings for death declaration.

In the court for land registry, they decide on applications for the registration of property in land and condominiums, mortgages and land charges for securing loans, leasehold and usufruct rights, etc.

In the court for register, the Rechtspfleger are responsible for maintaining the commercial register, property rights register, cooperative register, partnership register and association register as well as the ship register.

In the court for enforcements, the Rechtspfleger conduct foreclosure proceedings for land, condominiums and ships, conduct court appointments in insolvency proceedings, decide on garnishment of wages and make decisions in enforcement proceedings.

In the trial court, the Rechtspfleger issue orders for payment and enforcement, including cross border orders within the European Union. They are responsible for the procedure of granting legal aid, for the procedure of fixing the maintenance of underage children, for the fixing of legal fees for lawyers as well as for the compensation of court and lawyer costs between plaintiff and defendant.

As the service center for applications and advice, they deal with the concerns of citizens within the framework of legal care and provision. They formulate lawsuits, requests for injunctions and orders, response to the applications, etc., mediate in the event of legal problems and provide immediate legal information free of charge.

In the court for criminal procedures and at the public prosecutor's office, the Rechtspfleger are responsible for the enforcement of criminal judgements, including the issuing of arrest warrants and profiles, and for the granting of suspensions of criminal judgments.

In court administration, they are responsible for other tasks in judicial management.



Part II of Special Series: Rich Indian Judicial System-from Vedas to Present Day

By Panchaksharayya C Mathapati



Panchaksharayya C Mathapati (“Panch”) currently works as a Court Manager, with High Court Mumbai, Maharashtra, India. He has been posted at the Family Court, Mumbai, since 2013.

Panch shares with our readers the history of the Indian judicial system, the oldest in the world. Rich in principles derived from sages through Shruti, Smriti (remember and pass on to the next generation), commentaries, customs and refining of basic laws to tune to the requirements of the generations, Panch takes us through the Indian Judicial System and the Rule of Law as it continues to evolve and upgrade throughout the times.

In Part II of this series of articles, the author delves into the history of the Jury System in India. He takes us into the minds of judges and to the law of witness. Panch clearly explains to our readers, the history of legal interpretations, the systems of substantive law and how ancient customs and dispute resolutions in the past have shaped the legal system of India in the present day.

As we are introduced to the history of court administration in India, we understand how we learn, borrow, and incorporate systems and methods from the past. Sharing our histories and cultures helps court administrators better understand the present.

The Series will conclude with Part III that will appear in our next edition of The Court Administrator.

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1.4 Jury system:

Trial by Jury: In India, Trial by Jury has been in existence for more than 2200 years. This method of Trial by Jury in the ancient judicial system was considered as a fountain of an impartial and acceptable system for administering justice in Popular Courts. It was manifest from the court scene in the *Mrichbhakatika* that Trial by Jury was quite popular in the third century A.D.123. This Trial by Jury was of either seven, five or three persons known as the 'examiners of the cause'¹.

It is found that a jury system existed in Manu's period² and Manu recommended the king to give the power of Judicial administration to Brahmins in his absence. Jurors were called as 'sabbhasada' or councilors who acted as assessors or adviser of the King. They were the equivalent of the modern jury, with one important difference. The jury of today consists of laymen- "twelve shopkeepers"- whereas the councilors who sat with the Sovereign were to be learned in law.

Yajanvalkya³ (Yajnavalkya [sanskrit: याज्ञवल्क्य] was a Hindu Vedic sage) mentions: "The Sovereign should appoint as assessors of his Court persons who are well versed in the literature of the law, truthful, and by temperament capable of complete impartiality between friend and foe." These assessors or jurors were required to express their opinion without fear, even to the point of disagreeing with the Sovereign and warning him that his own opinion was contrary to law and equity.

Katyayana⁴ (2nd Century BC) says: "The assessors should not look on when they perceive the Sovereign inclined to decide a dispute in violation of the law; if they keep silent they will go to hell accompanied by the King." The same injunction is repeated in an identical verse in Shukranitisara (शुक्रनीतिसार). The Sovereign - or the presiding judge in his absence - was not expected to overrule the verdict of the jurors; on the contrary, he was to pass a decree (Jaya-patra) in accordance with their advice. Shukranitisara (शुक्रनीतिसार) says: "The King after observing that the assessors have given

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1 https://shodhganga.inflibnet.ac.in/bitstream/10603/7888/9/09_chapter%202.pdf

2 <https://www.iilsindia.com/blogs/2015/01/15/judiciary-in-ancient-india/>

3 https://en.wikipedia.org/wiki/Y%C4%81j%C3%B1avalkya_Sm%E1%B9%9Bti

4 <https://en.wikipedia.org/wiki/K%C4%81ty%C4%81yana>

their verdict should award the successful party a decree (Jaya-patra).” Their status may be compared to the Judicial Committee of the Privy Council which “humbly advises” their Sovereign, but their advice is binding. It may also be compared to the peoples’ assessors under the Soviet judicial system who sit with the professional judge in the People’s Court but are equal in status to him and can overrule him. However, if the decision of the Sabhyas (Judge) were fined and removed from the post, banished their property was also forfeited. They were compelled to make good the loss. If the decision of Sabhyas is promoted by greed, fear, friendship, etc., each one was fined twice.

1.5 Judicial Psychology

Manusmriti has specified the part of the judge’s function to probe the heart of the accused and the witness by studying their posture, mind and changes in voice and eyes. Chapter VIII, 25 (Para) - By external Signs let him discover the internal disposition of men, by their voice, their color, their motions, their aspect, their eyes, and their gestures. 26 (Para) - The internal (working of the) mind is perceived through the aspect, the motions, the gait, the gestures, the speech, and the changes in the eye and of the face. This is unique as it is the only ancient legal text that is the first code of law to take account of judicial psychology. It is further held that his flattering voice, licking the corner of his lips, speaking incoherently, loss of color of his face and frequent coughing indicate the probability of his untruthfulness in the eyes of the Mitaksara of the Yajanvalkya Smriti.

1.6 Law Relating to Witnesses

In ancient India hearsay was not allowed, but a witness in a foreign country could give his evidence in writing before a learned man in the three Vedas. The writing sent by the witness may be read in the Court. As regards the number of witnesses, it is said that this number may be multiple. But a single witness is not accepted as the facts cannot be collaborated. But NāradaSmṛiti [Naradasmṛiti is a part of the Dharmasāstras] states that a single witness may be accepted if it is approved by both the parties. Kautilya [also known as Chanakya, c. 350-275 BCE] states that a single witness can be accepted if the very transaction has been taken in secret. Qualifications for witness: he should be a man of good character, trustworthy, knows Dharma and acts up to it. Witness from the same caste is to be prepared, and in cases relating to women a woman can be witness. Regarding

the nature of incompetent witnesses, it may be said that the persons having no faith in the Dharma; the persons who are very old persons, minors, oil pressers, an intoxicated person, a distressed or inattentive person, gamblers, etc. may be considered as incompetent witnesses. Narada further gives us five-fold classification of incompetent witnesses: (1) the learned Brahamanas, and ascetics practicing austerities. (2) Thieves, robbers, gamblers (3) witnesses are to be rejected on the ground of contradiction in their evidence (4) one who comes of his own accord for leading an evidence is also treated as incompetent, (5) When a person dies, he names some persons as witnesses for the transaction, they can come as witnesses and the person who is informed by the parties in a general way and not in a specific way is not to be admitted as a witness. Ordinarily the witnesses are to be examined in the presence of the parties and never behind their back. Further, a witness should be examined by his tone, change of color, eyes gestures etc.. The judge should address a Brahmana witness by “speak and swear by veracity”. He should address the Ksatriya witness as speak the truth and he should swear by the animal he rides and his weapon. A Vasisya should swear by kine, (cows) gold, and grain and a Sudra should swear by all grave sins. The view of majority witnesses shall be prepared, in case where there is no majority opinion is possible, and then the quality of statement made by the witnesses is to be taken into consideration. The claim is not said to be established when witnesses depose more or less than that mentioned in the statement or pliant of plaintiff and the disposition has not taken place at all and in such a case no fine is to be imposed. When there is conflict among the witnesses as regards time, place, property, amount, then the dispositions are as good as not taken place. Generally, no ordeals (divyas) are to be resorted to when the witnesses are available. The oaths are to be employed in the disputes of small value and the ordeals are to be resorted to in serious disputes of crimes. Punishment for false witnesses, (a) where a witness denies deposing in the Court matter, after giving promise to that effect along with other witnesses, (b) if for unfavorable circumstances, a witness denies to depose, (c) if a witness gives false evidence frequently. In all these cases, witness shall be punished with fine and in last case physical punishment can also be imposed on such witness.

1.7 Classification of Vivada (disputes)

Apart from eighteen (18) subject matters of legal proceedings (as classified by Manu), distinction has been

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made between Artha-Vivada (civil dispute) and Himsra samudbhava Vivada (criminal disputes). Amongst criminal dispute there are four (4) subdivisions (i) Danda Parusya (assault and battery) (ii) Vak- Parusya (Defamation) (iii) Sahasa (Murder and other violation) and (iv) Strisangrahana (adultery). A cause of action arises when a person, being harassed in a way contrary to the rules of Smriti and usage, lodges a complaint. The judicial proceedings usually comprise four parts, namely complaint, reply, evidence, and judgment. There are usually four types of replies: and these are admission, denial, a special plea, or evidence relating to a former judgment. Three types of evidence are mentioned: documents, physical possession, and witness. Regarding the rules for summoning, it is evident that the opponent or the defendant, against whom the suit is filed, must be summoned to the Court. Even other persons connected with the defendant (in the suit) may also be summoned. When, however, some persons, for example, soldiers, agriculturists, cowherds, are fully occupied with their work and are unable to appear, their representative may be allowed to appear before the Court, as held by the Narada-Smriti. In serious matters, however, the persons are allowed to appear in person before the Court, particularly with proper safeguards. In more serious matters like Murder, or Adultery as held by the Mitakashara on the Yajanvalkay Smriti, no representative is allowed. But in such matters, the concerned must appear before the Court. It should be noted that the presence of any of the following persons is actually condoned: deceased, over 70 years old, involved in calamities, engaged in religious rites, in King's duties, or a woman whose family is in bad condition. If, however after serving the summons defendant fails to come before the Court the King should wait for 30 days or 15 days and pass the Judgment in favor of the plaintiff. But if there is an invasion by enemy or famine, or epidemic, then the King should not fine the defendant who is thus prevented from coming to the Court, however agents can be allowed to represent on behalf of his disabled Master.

1.8 Representation by lawyer:

The question also arises whether in ancient India, the system of lawyers was allowed or not. The views of Narada, Katyayana and Brhaspati show that the skilled help was required in the litigations. The commentary of Asahaya on the Narada Smrti indicates that those who were well-versed in the Smriti literature could afford help for monetary

consideration to the parties that have appeared before Court. (Which is also recognized in order iii rule 2 of code of Civil Procedure) Fees of such skilled persons were also fixed and he was appointed by parties not by Court.

1.9 Interpretation of Legal Documents:

Arthashastra and Manusmṛiti are considered as significant treatises as far as the legal system is concerned. In ancient Indian societies, an independent school of legal practices existed. Some general principles in connection with the judicial proceedings state that in case of disagreement between two texts of Smriti, justice according to usage is to be followed. In case of conflict between a text of Smriti associated with the Dharma and one relating to Artha, the former prevails. The former one sets rules regarding things unnoticed or otherworldly, while the latter one is more concerned with everyday matters. Judges were required to decide cases, criminal and civil, according to law (samyak, yath-shastram, shastro ditena vidhina सम्यक यथशास्त्रं शस्त्रो दतिन वधिनि). This involved interpretation of the written text of the law- a task which created many problems such as the elucidation of obscure words and phrases in the text, reconciliation of conflicting provisions in the same law, solution of conflict between the letter of the law and principles of equity, justice and good conscience, adjustment of custom and smritis, and so on. This branch of law was highly developed, and a number of principles were enunciated for the guidance of the Courts. The most important of them related to the conflict between the dharm-shastra and the artha-shastra.

Three systems of substantive law were recognized by the Court, the Dharma-Shastra, the Arth-shastra, and custom which was called sadachara or Charitra (character). The first consisted of laws which derived their ultimate sanction from the smritis and the second of principles of Government. The border line between the two often overlapped. But the real distinction between the smritis and Arth-Shastra is uniformly secular, but that of the Dharma-Shastra not always so. In fact so remarkably secular is the Arth-Shastra in its approach to the problems of Government that this has induced some writers to advance the theory that the Arth-shastra (literal meaning: the science of 'Artha' or pursuit of material welfare), did not evolve from the Dharma-Shastra but had an independent origin and developed parallel to it.

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