

**KEYNOTE ADDRESS BY MS INDRANEE RAJAH S.C., SENIOR  
MINISTER OF STATE FOR LAW AND FINANCE, AT THE  
ASSOCIATION OF MUSLIM LAWYERS ANNUAL LECTURE 2016 ON  
18 MAY 2016, 6.20 PM AT THE STATE COURTS AUDITORIUM**

Presiding Judge of the State Courts, Judicial Commissioner See Kee  
Oon,

Mr Noor Mohamed Marican, President for the Association of Muslim  
Lawyers,

Judges of the State Courts and the Syariah Court,

Members of the legal fraternity,

Ladies and gentlemen,

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1. First, I would like to thank the Association of Muslim Lawyers for inviting me to deliver this keynote address. As President for the Association of Muslim Lawyers Mr Noor Mohamed Marican had said, we have spent much time and effort in recent years to promote Singapore as a premier commercial dispute resolution hub in Asia. In the last few years, we have been working on the Singapore

International Commercial Court, the Singapore International Mediation Centre and on the Intellectual Property Hub Masterplan. All of that is aimed at making Singapore a hub not just for domestic legal work, but for regional and international work as well. But for today, I thought we should look at something closer to home, which is the delivery of community justice. I would like to share what we have been doing, and where we would like to go with this.

## **COMMUNITY JUSTICE**

2. The average person in Singapore would typically encounter a number of disputes in the course of his or her life as an individual in society, and these can arise in their capacity as a family member, consumer, an employee, a neighbour or a “netizen”, just to name a few of the capacities. I will refer to these types of disputes collectively as “community disputes”.

3. One might say that “community justice”, like any other form of justice, is served by an outcome which enforces one’s legal rights in a fair and timely manner. While this is not wrong, I believe that the delivery of community justice is more nuanced than that. I would

venture to suggest that there are two defining features of community justice.

(a) First, you do not want an outcome which leads to continued or greater enmity between members of our society. In that situation, community justice is not served even if, strictly speaking, the outcome is legally correct. Whether parties like it or not, oftentimes their lives continue to be intertwined even after the end of a legal suit. Community justice should thus facilitate enduring relationships between parties as far as possible, rather than to emphasise strict enforcement of legal rights through an adversarial process.

(b) And second, community justice must be affordable and accessible by all, especially for the individuals who are the parties involved. Community justice is not served if individuals are forced to spend a disproportionate amount of time and money to resolve their disputes.

4. While these are the two features of community justice that I want to focus on today, I should say at the outset that by no means do they form an exhaustive or universal definition of “community justice”. I

would be hard-pressed to find such a definition, given that “community justice” is necessarily contextual, and depends on each society’s values and the fabric of that society.

## **RECENT DEVELOPMENTS IN COMMUNITY JUSTICE**

5. Now, let me touch on the recent developments in community justice. Many initiatives and innovations in our civil justice system in recent years were driven by the underlying objective of delivering effective and affordable community justice to the people of Singapore. Specialised forums have been established to handle disputes which commonly arise in the course of our lives, and in our multitude of roles as an individual.

(a) First, we have the Community Disputes Resolution Tribunal or the “CDRT” in the State Courts, which was established in October 2015 as a forum to resolve intractable neighbour disputes. Amongst other things, the CDRT can order parties to go for mediation and it can make non-traditional orders such as asking the neighbours to apologise to each other. The CDRT is arguably the first tribunal in the world of its kind to deal with neighbourhood disputes in this way.

(b) For family, we have the Family Justice Courts to resolve our disputes. Since the enactment of the Family Justice Act in 2014, family proceedings are “judge-led”, with more child-centred interventions, differentiated case management and continued emphasis on mediation and counselling. The family justice reforms are important because, too often, the child becomes the prize to be won in a war of attrition between parents. Where matrimonial proceedings involve children, the focus should be the best interests of the child. That is why the Family Justice Act gives Judges more power to intervene as necessary, and for family proceedings to be “judge-led”.

(c) In addition, the Tribunal for the Maintenance of Parents has also helped parents and children resolve maintenance issues through conciliation.

(d) Then, for the “netizens” and other people who are subject to harassment and other anti-social behaviour, we enacted the Protection from Harassment Act or “POHA”. This was passed in March 2014 to provide a range of self-help, civil and criminal remedies to better protect persons from harassment and other

anti-social behaviour, whether online or in the physical world. For both the CDRT and the POHA proceedings, we structured them such that individuals could bring actions themselves without the need to instruct lawyers. The cost of engaging a lawyer for a relatively small dispute does not seem justified. As such, the CDRT and POHA proceedings are structured in a way to allow litigants to appear in person, but also for issues to be put before the court in a comprehensive manner.

- (e) Now for employees, we will soon be able to turn to the upcoming Employment Claims Tribunal, which aims to provide all employees, including Professionals, Managers and Executives, with an expeditious and cost-effective way of resolving salary disputes with their employers.

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- (f) For consumers, we have the Small Claims Tribunals, which are a quick and inexpensive forum for resolving small claims between consumers and suppliers.

6. While these dispute resolution forums were established to deal with types of disputes which are very different from each other, there are

common characteristics that make these forums particularly well-equipped to handle community disputes.

7. First, proceedings in these forums tend to be streamlined and less formal. The procedures are tailored to suit the peculiarities of the type of community dispute in issue, rather than to strictly adhere to the usual form and formality of the civil process.

8. Let me share a recent harassment case which illustrates the importance of having bespoke procedures to handle problems which affect the heart of the community. It involved the online harassment of a school teacher by a person of unknown identity. The anonymous harasser alleged on social media platforms that the school teacher had engaged in paid sex with an underage girl.

Postings by the anonymous harasser containing false allegations even appeared on the Minister for Education's official Facebook wall. The school teacher applied for a Protection Order under the POHA, and was able to serve court documents on the anonymous harasser through his online moniker. This special procedure is not available in ordinary civil procedures where you have to identify the other party in the case. A Protection Order was granted by default

when the anonymous harasser failed to turn up in court, and the harassment subsequently ceased.

9. Second, as opposed to the zero-sum approach of adversarial proceedings, there is generally a heavy emphasis on conciliatory dispute resolution processes in these forums.

(a) In relation to applications for Protection Orders under the POHA, out of 203 Protection Order applications filed as at 30 April 2016, 38 Protection Orders were granted by consent while 73 applications were withdrawn, suggesting amiable resolution of the disputes.

(b) The outcomes of cases filed in the CDRT have also been encouraging. An article published in the Straits Times in February narrated a case filed in the CDRT against neighbours with young children, who were allegedly making too much noise in the evenings. The parties were ordered to go for mediation. After undergoing mediation and three case management conferences in the CDRT, the parties were able to reach a mutual agreement. The family with young children agreed to install carpets and put rubber studs on their chairs, while the



applicant agreed to be more tolerant of noise that occurred before 9pm. This is the type of give-and-take solution that is only achievable through a conciliatory approach.

- (c) There was also a story published in Lianhe Zaobao in April concerning a family dispute, where a divorced couple fought bitterly over the custody of their 20 year old daughter and 15 year old son. In deciding the case, the Judge spoke directly to the children and took into account each child's preference. This led the Judge to award custody of the daughter to her mother, and the son to his father, contrary to the more common practice of awarding custody of both children to a single parent. In hearing the case, the Judge urged both parents to put in more effort to communicate with their children. To me, this illustrates how a pro-active Judge plays a key role to mend broken families, or at least ameliorate the pain suffered by its members from legal disputes.

10. Third, proceedings in these forums are designed to be friendly to and to be navigable by the layperson, bearing in mind the large number of unrepresented individuals in community disputes. For CDRT and POHA proceedings, unrepresented individuals may also

receive the benefit of pre-filing assessment to help them clarify their understanding of the law and procedures, as well as to ascertain if they have the necessary evidence to support their application.

11. We have received positive feedback on these initiatives, and will continue to monitor their effectiveness in delivering community justice to all.

### **CHALLENGES AHEAD FOR COMMUNITY JUSTICE**

12. Now, what are the challenges ahead for community justice? I think we can safely say that we are ahead of the curve in building up our community justice infrastructure. However, there are challenges in ensuring that our community justice “eco-system” remains effective.

13. As our population grows, it is foreseeable that we will experience an increase in the number of community disputes in future.

14. We are also likely to witness the emergence of novel, unprecedented community disputes in the near future. Technological advancements, especially disruptive technologies, are the key driving forces here. They have the potential to change

the manner in which individuals interact and to create new spheres of interaction, both in the online and physical world. Just a few examples.

15. Increasing ownership and usage of drones and personal mobility devices are already creating flashpoints in our community in ways which had not been previously foreseen. Imagine that a drone appears at your window, you can imagine that an incident like that would spark many issues. Our vision of a “car-lite” future will involve pedestrians and users of personal mobility devices sharing common spaces. Some of you may already have encountered people on personal mobility devices speeding on pavements. Of course, there is no speed limit, no red lights in the use personal mobility devices, unlike cars. You can see how this is already giving rise to some discomfort in the community.

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16. Rapid advances in artificial intelligence and computing power will lead to increased integration of autonomous systems in our daily lives. Already, it has been reported that driverless “pods” are reaching our shores before the end of this year. This is very exciting for our “Smart Nation” vision, but at the same time we will have to be ready to tackle novel legal issues which will inevitably

arise. For example, how will the introduction of driverless cars impact the manner and speed at which a pedestrian injured in a motor accident seeks recourse? Who would you sue, the manufacturer or the person who was responsible for placing the driverless car on the road? These issues will emerge and we will have to think about them.

17. The rise of the “sharing economy” has also led to the proliferation of online peer-to-peer services such as Uber, AirBnB and private car-sharing services like iCarsclub. “Crowdsourcing” has also enabled outsourcing of tasks traditionally performed by an agent or employee to a large group of persons, usually through an open call online. Many of these peer-to-peer services have private dispute resolution mechanisms in place for their users, but we should consider whether more needs to be done to ensure effective redress. The blurring of lines between suppliers and consumers, an absence of clarity of one’s employment status in performing “crowdsourced” tasks all raise questions on how such disputes would fit into our community justice framework.

18. There will be further expansion of commerce into the digital space. By that, I do not only mean purchase of consumer goods like

clothing and gadgets online. It is foreseeable that there will be more disputes over ownership of virtual goods in online games and communities, which may be sold in online marketplaces and “cashed out” for real currencies. Disputes arising out of transactions which employ virtual currency such as Bitcoin may also become more commonplace. To what extent can, and should, our existing forums take jurisdiction over and enforce agreements relating to virtual goods and currencies?

19. These challenges have been hotly debated both within and outside Singapore, but much of it has been centred on their impact on our regulatory environment. Little attention has been devoted to how dispute resolution will be affected. These are issues that we will have to grapple with.

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**FUTURE OF COMMUNITY JUSTICE**

20. It also leads me to reflect on how the existing community justice infrastructure in Singapore would fare under the pressures of these new challenges.

- (a) Given the likely resource pressures from increased and new community disputes in future, how can we ensure that individuals in our society continue to have access to affordable and accessible justice?
- (b) Our existing community dispute resolution forums were each set up to tackle specific pockets of community disputes. Will novel community disputes be effectively absorbed into the existing infrastructure, and how may we achieve this?

21. In an age where rapid, unpredictable change is the new norm, it is perhaps timely to start thinking about how we may “future-proof” our community justice framework to ensure that it continues to be affordable and effective.

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***Seeking long-term solutions***

22. A possible idea is to develop platforms for online dispute resolution. There is a commendable initiative by the State Courts of Singapore to incorporate online dispute resolution processes. Parties involved in small claims disputes may negotiate their disagreements through online conciliations, before the claim proceeds to the Small Claims

Tribunals. I see enormous potential to expand the reach of online dispute resolution in the 21<sup>st</sup> century, both in private settings and in the courts. This will help manage the resource pressures arising from increased volume of community disputes, as well as adjudicate novel types of disputes such as those over virtual goods. Of course, we should consider how online dispute resolution may be enabled with technology to provide the same level of social and emotional interactivity as face-to-face processes. We may wish to study the experiences of other countries, such as Canada, which have been successful in broadening access to justice through online dispute resolution.

23. In the longer term, another idea that could be explored is to build up a “one-stop shop” for the resolution of community disputes. Any individual who finds himself or herself embroiled in a community dispute may approach a single, centralized forum which has jurisdiction to handle all types of community disputes. This could be preferable to setting up a separate, specialised forum each time a new pocket of community disputes emerges. Perhaps a “menu” of procedures, including online dispute resolution, could be offered at the “one-stop shop” to cater for a broad range of community

disputes. This could allow greater predictability and accessibility for the public when seeking community justice.

24. These are ideas that we are looking at. They are not concrete yet, but we are trying to look ahead and anticipate what infrastructure will be required to deal with these issues. As members of the legal fraternity, I hope that you will think about them too. If you have ideas and suggestions, please let us know as people's experiences on the ground are important and useful to us.

### ***Review of our civil justice system***

25. Now, in charting our roadmap for community justice, we should not forget that it is but one part of the larger civil justice system.

26. In his speech during the Committee of Supply Debate earlier this year, the Minister for Law announced that the Ministry of Law will be undertaking a broad-based review of the entire civil justice system in Singapore, from the time a dispute arises until it is resolved.

27. As part of this broad-based review, the Ministry of Law has established the Civil Justice Review Committee to make



recommendations to the Government on how to enhance our civil justice system. I chair this Committee, and it comprises representatives from the Judiciary, the Attorney-General's Chambers, senior members of the Bar and the Government.

28. The Committee has been tasked to put up recommendations to ensure that access to justice continues to be advanced through our civil justice system, bearing in mind the core values of the Singapore civil justice system of fairness, affordability, timeliness, simplicity and effectiveness. And the Committee acknowledges the importance of enabling access to justice for all, including individuals who do not have legal representation and small and medium enterprises.

29. On behalf of the Committee, I would like to say that we are very excited at the potential of our recommendations to enhance access to justice for our people. The Committee will be consulting with stakeholders over the course of the next few months. More details will be released. I encourage you to be part of that process by providing your views and suggestions, whether through email or any platforms we may organise.

## **CONCLUSION**

30. In conclusion, I hope to have an open conversation with the legal fraternity on the present state of community justice, and suggestions as to how it can be delivered in a more effective and efficient manner in light of the trends and driving forces which impact our social fabric.

31. Regardless of the direction we eventually take, what is certain is that the legal fraternity will continue to play an integral role in the delivery of community justice in Singapore. Even as we move towards encouraging a self-help approach for community disputes, a high standard of advisory work and mediation advocacy continue to be key success factors for our community justice framework. That is where the lawyers must play their part.

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32. I look forward to hearing your views and receiving feedback over the course of this event. Thank you once again for inviting me to this event.