

出國報告（出國類別：進修）

新加坡法官學院 105 年法官訓練課程

服務機關：法務部國際及兩岸法律司

姓名職稱：林明誼檢察官

派赴國家：新加坡

出國期間：105 年 10 月 9 日至同年月 15 日

報告日期：105 年 10 月 28 日

摘要

筆者本次所參加者係新加坡法官學院於 105 年為初任命為法官者所舉行的職前訓練課程，因為新加坡係英美法系，所以受任命為法官者多均有豐富的實務經驗。本課程除新加坡的法官外，同時有來自日本、泰國、緬甸等 6 國、共 11 位資深司法官一同參與。本課程內容包含（專為外國司法官開設的）新加坡法律導論、法官判決撰擬、法庭特殊情況應變、法庭程序管理、法官倫理規範等。透過此次的訓練課程，除了筆者在專業領域的職能外，更希望能透過研習過程中與各國法官的交流與互動，增加日後我國與東南亞諸國合作之契機與可能性，以配合新南向政策之深化與延伸。

目次

內容

壹、目的.....	3
貳、過程.....	4
一、10月10日下午—導論課程	4
二、10月11日	6
(一)與首席大法官Sundaresh Menon對談	6
(二)與現職法官對談之一	7
(三)與現職法官對談之二	9
(四)面對壓力	11
(五)本日課程總結：	13
三、10月12日	14
(一)法官在法庭內外的行為規範—BANGALORE法則.....	14
(二) 法庭程序的管理一	16
(三) 法庭程序的管理二	17
(四)模擬不易處理當事人之狀況	18
四、10月13日	20
(一)刑事程序重點提示	20
(二)評估證人的信用度	22
(三)法官在和解之角色	23
(四)改變中的新加坡風貌	24
10月14日	25
(一)判決寫作一（從上訴審來看的最佳實例）	25
(二)判決寫作二（草擬判決的實際作法）	26
(三)判決寫作三（判決評析與草擬判決）	27
(四) 維持法庭秩序	28
(五) 有效應用時間與資源	29
參、心得及建議.....	32

壹、目的

新加坡法官學院成立於 2015 年，並於該年首次舉行為初任命為法官及司法官員者的職前訓練課程（課表請參見附件 1）。本年度該學院除邀請本年度初任命的 11 位新加坡法官及司法官員參訓外，並邀請來自鄰近 6 國、共 11 位法官、檢察官一起參加本次訓練。

因為新加坡係英美法系，所以其受任命為法官者多均有豐富的實務經驗，而非只是考試及格者即可擔任法官。以今年參與訓練的新加坡法官而言，共計有 2 位最高法院司法委員(Judicial Commissioner，地位相當於是最高法院法官，只是任期僅為 2 至 3 年而非至 65 歲，惟受任命為最高法院法官前通常均會先任命為司法委員)、4 位最高法院助理司法常務官、3 位地方法院法官、4 位家事法院法官。特別值得一提的是，參與本次訓練的司法委員 Pang Khang Chau 之前是擔任新加坡總檢察署(Attorney-General's Chambers)國際事務司司長，並曾代表新加坡至國際法院開庭；司法委員 Audrey Lim Yoon Cheng 之前擔任總檢察署副首席立法顧問；助理司法常務官 Cheng Pei Feng 之前擔任律政部(Ministry of Law)國際法律處處長。

而此次參與訓練之外國法官、檢察官，則計有來自日本司法研習所的教官兼法官 1 位、孟加拉法官 3 位、杜拜國際金融中心法院法官 1 位、泰國最高法院法官 3 位、緬甸最高法院法官 2 位。

該等參訓國家雖係我國鄰邦，但彼此對相互間之法制與司法實務了解甚少。藉由本次訓練課程強調受訓學員的彼此互動、講座與學員間的討論與腦力激蕩，除了讓筆者了解同一議題上新加坡、日本、孟加拉、緬甸與杜拜的法制與實務作法外，也藉此機會介紹我國的法制給其他鄰邦法官認識。另因筆者服務於法務部國際及兩岸法律司，主要之工作內容即司法互助，也趁著與每位學員互動之過程中介紹目前之工作內容與態樣，希望能藉此種下日後雙方能進一步為司法合作之種子與契機。

貳、過程

一、10月10日下午一導論課程

授課講座：Tan Boon Heng 法官。Tang 法官畢業自國立新加坡大學，並取得美國柏克萊大學法學碩士，目前係在職的地方法庭法官（每週仍需開庭），且身兼新加坡法官學院執行長(Executive Director)與新加坡管理大學法學院兼任教授。

1. Tan 法官指出此導論課程係為了本次參與訓練的外國學員所設計，希望外國的司法官學員能在正式上課前對新加坡的法制與法庭現狀有基本的了解，這樣在實際上課時，才能與新加坡的法官學員立於相同的基礎上。
2. 新加坡的司法體系分為兩個等級、三個體系，分別是國家法院(State Court)、家事法院(Family Justice Courts)與最高法院(Supreme Court)。
 - (1) 以國家法院而言，主要又可分為治安法庭(magistrate)與地方法庭(district court)。而家事法院係因 2013 年時家事事件委員會認為新加坡的家事審判體系應予革新，遂於 2014 年通過家事事件法(Family Justice Act)後而設，並包含了家事法庭、青少年法庭與高等法院的家事部門。
 - (2) 至於最高法院則由高等法院(high court)與上訴法院(the Court of Appeal)二者組成，實際上不像我國另外有著獨立的最高法院(據來自孟加拉的法官表示，新加坡此等司法體系與星國類似)。高等法院的審理案件包含對地方法庭與治安法庭提起上訴的刑事與民法案件。至於上訴法院審理的對象，則是來自於對高等法院提起上訴的民事及刑事案件。
3. 為因應法官現今面對著日新月異的社會變遷與外界日益增加的期待，最高法院於 2015 年 1 月 5 日成立新加坡法官學院(Singapore Judicial College)，藉此提供充足的在職訓練及發展課程，讓法官得以回應其工作所需。該學院除致力於當地法官的需求外，也積極開展國際性的合作，包含廣邀外國司法官至該學院進修、該學院人員主動至其他國家介紹新加坡經驗。因為新加坡法官總人數小於 200 位，所以很多課程會廣邀其他國家司法官共同參與。因為最好的上課環境是 30 位左右的學員共同參與，且這能讓新加坡的法官汲取其他國家寶貴的經驗。本課程是為新加坡初任命為法官者所設計，但有不少的課程內容也適用在不同國家的司法官，並希望外國參訓學員也都能從中獲益。

在此必須指出，因為新加坡係英美法系國家，其法官的選取條件是擁有法律學位，且執業 7 或 10 年（前者為地方法院法官之條件，後者為高等法院法官之條件）並有卓著聲譽者。所以參與本課程之新加坡初任命法官，實際上都有很豐富的法律實務經驗。而本次參與受訓的外國司法官，除職係來自臺灣的檢察官外，其餘來自孟加拉、泰國、日本、緬甸與杜拜等學員，均屬各該國的資深法官。

4. 新加坡以科技法庭為傲，惟強調係以人為主、科技為輔而使司法體系運作更有效率。從提起訴訟、法庭本身、開庭審理、知識管理（含量刑系統）、法院的接近使用等，均強調全面的電子化。例如開庭時的記錄即以數位錄音轉由人工輸出為筆錄，再將筆錄上傳至法院的雲端系統，達成全面無紙化的法庭。又如新加坡有很多輕微犯行係由法官在夜間庭審理（例如違規停車），如果違反這些規定者在下午 5 點前上網選擇承認犯行，則其所應負之罰款就極為輕微；反之，如果交由法官審理且被認定確有該犯行，則罰款可能是承認之數倍之多。而訴訟當事人或被告就其應繳之訴訟費用、罰金或保釋金等，均可透過自動收費機(automated collection system)以現金、支票或信用卡等支付。就此，來自日本司法研修所的 Kiichi Hiraide 法官與職，都對新加坡如何確保相關資訊安全感到好奇，而 Tan 法官表示在新加坡導入法庭電子化的這 10 多年來未曾發生駭客入侵事件，只曾發生過因系統發生問題而無法操作的情形。
5. 隨後，Tan 法官即帶領此次參訓的外國學員參觀最高法院建築，並實地參觀法庭內部。



參訓的外國學員參觀新加坡法庭，惟此間法庭並非科技法庭

二、10月11日

(一)與首席大法官 Sundaresh Menon 對談

講座：首席大法官 Sundaresh Menon 畢業自國立新加坡大學法律系，嗣取得哈佛大學法學碩士，渠在就任首席大法官前曾擔任檢察總長。

1. 問：法官如何因應日益增加與專業性越來越高的商業訴訟？

答：了解商業背景是重要的，因為這才會了解商業上真正的癥結為何；且我鼓勵法官能多參加國際會議與發表文章，透過對話與交流可從中汲取很多的經驗與想法。

2. 問：如何處理民眾陳情？

答：如果是對訴訟結果不服的陳情，應以上訴處理而非陳情。如果是對法官訴訟指揮不公陳情，我則會親自介入調查看是否確有此事，並確認回應是否妥當，我會將陳情的處理當作取得司法回饋的機會。

3. 問：有關媒體關切的案件，應如何因應？

答：在新加坡也會有媒體（包含網路）關注的案件，為了讓媒體能正確報導，

讓大眾知道法院的運作及法律規定就很重要，所以我們會讓學生參觀法院以增進社會對法制的了解。我們在某些案件會事前寫好摘要，以確保媒體了解相關重點。

4. 問：新加坡如何讓司法免於政治干預？

答：制度是很重要的，只要有一個例外之門打開，則其他案件的案件就會要求比照辦理，所以法官都能堅守這個原則。此外，新加坡憲法保障司法獨立，所以這些都確保法官的審判不受干預。況新加坡是法治國家，其他政治部門也都尊重司法必須獨立審判，所以政治干預並未發生在新加坡。

5. 問：很多案件在孟加拉都進行很久，有些是律師拖延造成，請問新加坡如何增進訴訟效率？

答：新加坡以前也有類似問題，後來在 90 年代改進訴訟制度增強法官的訴訟指揮權，使法官能拒絕律師無理的拖延要求，並導入電子化法庭，這些都使效率大大增加。



首席大法官 Sundaresh Menon 與參訓學員對談

(二)與現職法官對談之一

講座：Kenneth Choo（地方法庭法官）、Janice Chia（地方法庭法官）、Paul Quan

(最高法院Assistant Registrar即助理司法常務官¹)

1. 問：初任法官的焦慮？

答：如果遇到資深律師過於強勢時，有時候可以暫停作筆記，用這種身體語言，讓資深律師知道不可以這樣作。而投入法官應作的準備工作（看書狀、研究法律、研擬爭點），很快就會知道要作什麼，這樣也會減少焦慮。

2. 問：由檢察官、律師、法制人員轉任法官所面對的挑戰？

答：

- (1) 要從全方位的視角來看案件與必須要有耐心這件事是一大挑戰，因為之前看事情的角度未必如此全面，且可依自己的進度來處理事情。但是當法官則不能如此，必須從兩造及公共利益的角度來思考案件，且遇到當事人不懂法律時，必須有耐心的解釋，這些都是新的挑戰。
- (2) 另外在發表論文時，外界很難將法官個人與法院分離，所以這些都可能造成外界持法官個人見解來攻擊主流法院見解，所以建議先與法院報備此事，得到許可再行發表。
- (3) 還有法律圈很小，有時手上的案件就是擔任律師同學或以前的同事所處理，如果仍有案件繫屬中，相關的聚會最好避免。擔任法官後必須要有自覺，因為工作很忙碌，所以以前的一些興趣或人際關係都無法繼續，但這是很有意義的工作，所以這樣的孤獨是值得的。
- (4) 此外，在使用社群網路(如 Facebook)也要格外小心，因為律師、當事人都會想辦法找到法官在社群網路所表示的意見，並以此探求法官的心證。
- (5) 而法官總會遇到不懂的事情，這時不是急於向當事人表現自己比他們聰明，而是擁有整個法院的後援，可向其他同事請教該問題的解答。

¹ 司法常務官(Registrar)是星國最高法院的司法官員，地位近似法官，一般亦以法官稱之。因為星國最高法院（即高等法院、上訴法院）法官席次甚少，所以司法常務官之地位尊崇。其又可分為司法常務官、副司法常務官、資深助理司法常務官、助理司法常務官。某些星國高等法院之民事案件，即由（助理）司法常務官處理。



由左至右為：Tan Boon Heng 法官、Kenneth Choo 法官、Janice Chia 法官、Paul Quan 法官

(三)與現職法官對談之二

講座：Hoo Sheau Peng (Judicial Commissioner即司法委員²，Hoo院長為新加坡國立大學畢業，劍橋大學法學碩士)

1. 作出選擇：Hoo 法官認為必須在人生的各種選項中，作出各種優先劣後選擇，例如人生的選項中包含了工作(work)、家庭(family)、社會活動(social)、社群活動(community)、自己的興趣(self)等。找出自己的優先選項，才會懂得安排時間。以 Hoo 法官而言，家庭是排在最前面的選項，而社會與社群活動則排在最後，至於自己的興趣則是盡量找尋能在家中進行者。
2. 找到平衡的秘笈：
 - (1)專心作好眼前的事：例如在陪家人時盡量避免去接觸與工作相關的事情（例如检查工作電子郵件）。有時候工作太忙時，必須要學會找到家庭的支援與諒解，可是必須時時感謝家人所給予的包容。
 - (2)不要成為完美主義者：雖然我們在工作上盡可能想要讓理由達到完美的程度，也想盡量照顧好自己的家庭，但這會讓我們失去人生各種選項的平衡。不追求完美不代表不追求高品質，但不要让追求完美花了過多而不必要的時

² 實際上司法委員擁有和法官一樣的權力，且由新加坡總統任命，請參見 <http://www.supremecourt.gov.sg/about-us/the-supreme-court-bench/judges-judicial-commissioners-and-registrars> (105 年 10 月 11 日造訪)。

間與精力。

3. 公共與私下的形象

- (1) 將法官的形象與思考模式留在工作中，也不要將工作上的包袱帶回家中。
 - (2) 如果下班後還是對凡事持著批判性的思考，或是使用法庭上的用語、嚴竣的態度等，都會對工作外的生活造成負面影響。
4. 照顧自己：如果沒有好好照顧自己，就無法兼顧前述各點，所以這點也非常重要。



Hoo Sheau Peng 司法委員與學員分享經驗



(四)面對壓力

講座：Sophia Ang (家事法庭諮商與心理部主管)

1. 人生時時刻刻都會有壓力，有時候塞車、徵求意見等日常生活事項也都會產生壓力。我們應該將壓力當作警示系統，並適時的調節自己的生活節奏。如果生活中有著一連串的緊急狀況要處理，將會產生傷害性的持續壓力，而過大的壓力會降低人體的抵抗力而傷害人體對抗疾病的能力，並會產生高血壓等病症。
2. 依美國心理學家Zimmerman如何減少法官壓力一文³，要減少法官的壓力必須由教育訓練及心理治療兩方面著手，且鑒於法官在社會的角色，相關的協助應特別考量敏感、機密與隱私性。所以大家應多關注法官的心理健康，所屬機關並應提供相關的協助。
3. 簡言之，壓力是個人綜合了生活中的事件、外在環境（如藥物、食物、溫度等）、情況（會產生害怕、挫折、擔心之情況）等所產生。其中個人因素（individual make up）來自於個性、精神狀態。
4. 講座提供了附件 2 的壓力量表，供參訓學員自行評估之用。倘分數已達壓力值過高的時候，就要勇於尋求外界的支援。
5. 消除壓力的方法有：學會將所見所聞事務予以過濾、能健康的自我對話、改變負面的陳述或溝通方式、創造停止壓力的時間、學會放鬆的方式（如運動）。

³http://www.judicialfamilyinstitute.org/~media/Microsites/Files/JFI/Resources/Zimmerman_901JudgesDistress.ashx (105 年 10 月 11 日造訪)。



Sophia Ang 主管依美國研究提出面對壓力的調適方法



各國參訓學員在中間休息時間交換各國法制的梗概與經驗



最高法院首席大法官 Sundaresh Menon 與全體參訓學員合影

(五)本日課程總結：

講座：Foo Chee Hock 院長，Foo 院長現為新加坡最高法院司法委員(Judicial Commissioner)，並兼任最高法院所屬法官學院(judicial college)院長。

1. 今天課程在提供初任法官相關的經驗傳承，但 Foo 院長提醒大家，擔任法官久了有時候會覺得自己說的都是對的，結果反而不敢面對自己退休後的生活。其實法官退休後就是個平常的市民，所擁有的就是自己的生活，不要緬懷自己在法官任內有多少豐功偉業，因為那終究只是過去而已。有了這樣的認知，就能認真但以平常心來作好法官的工作。
2. 法官是壓力很大的工作，因此維持自己的興趣非常重要，因為每週只要能有一小段時間能作自己感興趣的事，就會消除整週的倦怠。
3. 法官生涯中總會遇到些不如意的事情，但要學會「讓它去」(let it go)，否則不斷纏繞心頭非但於事無補，只會增加自己的壓力而已。



Foo Chee Hock 院長總結 10 月 11 日課程。

三、10 月 12 日

(一)法官在法庭內外的行為規範—BANGALORE 法則

授課講座：Tan Boon Heng 法官

1. 聯合國就法官的倫理規範訂有BANGALORE法則（附件3），各國多接受該法則為法官的倫理規範，新加坡也不例外。然BANGALORE法則的內容簡潔，如果要知道該法則的進一步闡釋，則必須參考Bangalore法則註釋書(Commentary on The Bangalore Principles of Judicial Conduct)。
2. 假設情景之一：如果法官應邀至扶輪社演講，在演講結束後，該法官所審理案件的當事人上前表示感謝這場精彩的演講，此時該法官應怎麼處理？如果該扶輪社會員致藥品的樣本來表示感謝，可否接受？
 - (1) 就第一種狀況而言，尚屬社會禮儀可容許的互動，所以並無不當。然而如果該當事人想要提到案件內容，即應明確而禮貌的告知此非合宜並離開。如果我們將此問題延伸到該當事人上前要求握手並拍照合影，此時即應委婉拒。
 - (2) 以第二種狀況而言，因為扶輪社的演講當非官方所指派，且藥品樣本亦非扶輪社所致贈的紀念品，所以不能收下。就此可參考BANGALORE法則4.14⁴、4.16⁵，

⁴ A judge and members of the judge's family, shall neither ask for, nor accept, any gift, bequest, loan or favour in relation to anything done or to be done or omitted to be done by the judge in connection with the performance of judicial duties.

與BANGALORE法則註釋第111⁶、181⁷段。

3. 假設情景二：高等法院法官X的家人，其家人的財產迅速增加且無法交代來源。目前並無直接證據證明這些財產與X法官所為的司法行為(judicial activities)有關。試問X法官是否應就其家人所增加的財產負責？

(1) 依據BANGALORE法則4.7點所示⁸：法官有責任告知其家庭成員，不可利用其法官之身分而獲取不當之利益。如果該法官與其家庭成員有不睦等無法勸說的情形，則必須主動告知其所服務之法院。

(2) BANGALORE法則註釋第177段另詳細闡述⁹：儘管無法期待法官能掌握其家庭成員所為的所有經濟活動，但法官仍應告知其家庭成員，不能接受他人欲響法官判決所給之禮物、遺贈、借款或好處。

4. 假設情景三：單身的A法官到性交易合法的B國旅遊，並與B國的性交易工作者C為性交易，試問A法官的行為是否違反法官倫理？

(1) 此問題並無標準答案，因為A法官在B國的性交易並不違法，且該行為不直接

⁵ Subject to law and to any legal requirements of public disclosure, a judge may receive a token gift, award or benefit as appropriate to the occasion on which it is made provided that such gift, award or benefit might not reasonably be perceived as intended to influence the judge in the performance of judicial duties or otherwise give rise to an appearance of partiality.

⁶ Propriety and the appearance of propriety, both professional and personal, are essential elements of a judge's life. What matters more is not what a judge does or does not do, but what others think the judge has done or might do. For example, a judge who speaks privately and at length with a litigant in a pending case will appear to be giving that party an advantage, even if in fact the conversation is completely unrelated to the case. Since the public expects a high standard of conduct from a judge, he or she must, when in doubt about attending an event or receiving a gift, however small, ask the question, "How might this look in the eyes of the public?"

⁷ A gift to a judge, or to a member of the judge's family living in the judge's household that is excessive in value raises questions about the judge's impartiality and the integrity of the judicial office and may require disqualification of the judge where disqualification would not otherwise be required. Therefore, such gifts should not be accepted. It is possible for a judge politely to refuse such a gift or offer of a gift. Sometimes such gifts are offered spontaneously without an appreciation of the rules and conventions that bind a judge. The offer of a subscription to a health club after a judge performs a marriage or citizenship ceremony where this act is permitted by law, may be well intentioned but the judge should refuse the offer explaining that acceptance might be represented as involving receipt of a fee or reward for the performance of a public function. On the other hand, the presentation of a bottle of whisky or of one or two compact discs of the judge's favourite music would probably cause no offence.

⁸ A judge shall inform himself or herself about the judge's personal and fiduciary financial interests and shall make reasonable efforts to be informed about the financial interests of members of the judge's family.

⁹ A gift, bequest, loan or favour to a member of the judge's family or other persons residing in the judge's household might be, or appear to be, intended to influence the judge. Accordingly, a judge must inform those family members of the relevant ethical constraints upon the judge in this regard and discourage the family members from violating them. A judge cannot, however, reasonably be expected to know, still less control, all of the financial or business activities of all the family members residing in the judge's household.

涉及法官的司法活動，所以端視每個國家對法官的要求為何而定。在對法官要求較高倫理規範的國家而言，此行為仍非合宜。

- (2) 不過如果A法官是到美國拉斯維加斯的賭場小賭一番，因為拉斯維加斯的賭場合法，而法官至該處小賭無違社會期待，所以無違法官倫理規範。



Tan Boon Heng法官以具體案例說明BANGALORE法則及其註釋書

(二) 法庭程序的管理一

講座：Foo Chee Hock院長

1. Foo院長提供其要求兩造於庭前應出具之訴狀如附件4所示，使爭點得以明確而讓審理程序更有效率。而法官在開庭前，則應再度檢視附件4之爭點一覽表(List of issues)，才能確保訴訟指揮的有效與正確性。因為唯有確實掌握爭點，才能去限縮無謂的爭執事項，甚至讓當事人拋棄枝節的爭議。掌握最重要的待證事實，能讓法官不會忘記問重要的問題，所以法官在問完重要的證人後就可以了解待證事實的實際狀況。
2. 在開庭時要注意自己的肢體語言，因為當事人、律師都在觀察法官。所以法官如只對一造的說詞點頭、微笑或不耐煩，都會影響當事人對法官的信任。
3. 法官審理時應適時作必要的筆記，例如案件的本質、事實概要、法律爭點、要問律師的問題、依據爭點所作的初步裁定。
4. 如果一件案件的審理程序時間超過預期，必須適時的中止該次程序或延至當

日下午繼續，否則會影響到其他的案件。



Foo Chee Hock院長與學員分享法庭程序管理的經驗

(三) 法庭程序的管理二

講座：See Kee Oon司法委員暨國家法院首席大法官(Presiding Judge of the State Courts of Singapore)

1. 審理程序拖的越長的案件，越需要適時控制與管理訴訟程序，但祭以「藐視法庭」應是最後手段。以「藐視法庭」的案件而言，之前新加坡係以案例法的方式存在，而在今年通過保護司法管理法Administration of Justice (Protection) Act 2016，就是將案例法的要件成文化¹⁰。該法將「藐視法庭」罪分為4種型態—即危害公平的審判(Prejudicing a Fair Trial)、不遵守法院命令、干擾法庭程序、誹謗法庭。
2. 在複雜、爭議而受公共矚目的案件中，如果在網路或媒體有些誤解的言論，其實法官不應忽視，因為這些都可能讓大家誤解訴訟的進行，所以法官在審理時即可提早就此說明，且判決時亦應就大眾可能誤解的部分詳加闡釋。另在此類案件開庭時，必須作好法庭程序之管理，例如想要旁聽的人很多，應

¹⁰ 參見

<https://www.mlaw.gov.sg/content/minlaw/en/news/announcements/administration-of-justice--protection-act-2016---separating-fac.html> (105年10月12日造訪)。

優先讓家屬或媒體進入；要確保法庭的秩序與安全；如果需要播放或資訊系統時，應確認這些設備都能正常運作；要知道參與律師的人數等，確定大家都有位子可以坐等等。

3. 在案件管理上，必須要作重點的筆記與摘要，且要檢視相關證據，並就爭點議題、事件、交易、文件等予以檢視、對照和分析。
4. 在有多數當事人的案件中，要有完整而持續的審理計畫，事前作好庭期的安排。另外一開始審理的時候一定有很多文件資料，要透過閱卷與開庭過濾掉不相關資料，最後所剩資料才是本案所應參考者。
5. 而法官也要事先準備判決之撰擬，並作好各時程的規劃，並把握言詞辯論的時間來確認仍有疑義之處。
6. 最後，講座期勉大家一定要作到公平、正直、溫心、耐心與絕對的清廉。



See Kee Oon 司法委員暨國家法院首席大法官強調管理訴訟程序之重要性

(四)模擬不易處理當事人之狀況

授課講座：Foo Chee Hock 院長、Tan Boon Heng 法官

1. 此課程設計分為民事、刑事與家事三種情境，並由現職的法官扮演態度惡劣的當事人，而由參與課程的學員擔任法官進行訴訟指揮。這些狀況其實在臺灣的法庭或偵查庭並非鮮見，而講座建議的處理方式亦與我國之模式相似。
2. 簡言之，必須適時的打斷這些當事人的陳述、主導整個訴訟程序，可是過程

必須心平氣和、態度堅定而溫和。且當事人一但願意好好陳述即應認真傾聽，而不可隨意打斷，否則反而會讓當事人認為法官有偏頗或不公。另當事人如果出現不理性的舉動，必要時即應請保全人員（在我國係由法警負責）出面處理，而這也不失為讓當事人冷靜下來的方法。



模擬家事庭審理中情緒失控當事人之法庭指揮



模擬民事庭審理中情緒失控當事人之法庭指揮



模擬刑事庭審理中情緒失控當事人之法庭指揮



扮演情緒失控當事人之法官講評

四、10月13日

(一) 刑事程序重點提示

講座：Shawn Ho (地方法庭法官)

1. 新加坡法官在定法定刑後，仍有權利酌減其刑。惟在被告觸犯數罪的情形，究竟應先就個別犯行減刑再定應執行刑，抑或先定應執行刑再決定是否減刑，

在實務上存有爭議。目前新加坡上訴法院之見解係應先就個別犯行減刑再定應執行刑，惟Ho法官及多數學員均認為如果被告能接受法官所定之應執行刑，即無再行就個別犯行減刑。

2. 另新加坡法官應於判刑時決定被告應自何時開始服刑，例如應立即服刑或在前案服刑期滿後接續執行。如果被告尚因另案正在服刑，而法官卻下令就本案立即服刑，則被告就本案之服刑即等同被扣減，所以這都是法官在判刑時應注意之點。



Shawn Ho法官（最左者）與學員討論法官之定刑。



學員利用中午用餐時繼續討論上課中的議題

(二)評估證人的信用度

講座：Tan Boon Heng法官

1. 決定證人信用度的幾項要素是行為(demeanor)、記憶(memory)、現存證據(contemporary evidence)、可能性(probabilities)，並綜合各種狀況以判斷之。不過就行為與記憶兩項而言，有時會與證人的知識、觀察能力、表達能力習習相關，因此需以現存證據、可能性兩項加以檢驗；此處之可能性是指證人所述與現存的其他條件是否相符，如果相符的話即可認為此可能性確屬存在。
2. 惟新加坡在評價證據的信用度時，仍注重在客觀證據而非證人之證詞，因為證人縱屬並未說謊，仍可能因記憶錯誤等問題而導致其證述與事實不符。而在評價證人信用度時，亦是以其證詞是否與其他獨立的客觀證據(包含書證)相符，而非單純由證人證述時之行為舉止判斷。這不是說新加坡法官不能觀察證人的行為舉止來評價其信用度，而是不能只以這些觀察結果作為法官判斷證人信用度與是否誠實之依據。法官應由客觀的證據進行合理的推論，並將純由證人舉止而判斷其證明力之情形降到最低。因為人的記憶方式原則上只會記得一個大綱式的圖像，其他則是靠想像來填充，因此並不可靠。
3. 除此之外，證人證述時是否可能有其他動機，也必須詳加考量，因為這也是判斷證人信用度的重要參考。且就證人之證詞而言，法院不一定要全部採信或全部不採信，可以只採信其中一部分，也可以在不同的待證事實賦予該證詞不同之證明力。



Tan Boon Heng法官講授評估證人信用度所應權衡者

(三)法官在和解之角色

講座：地方法庭Kevin Ng法官

1. 新加坡有調解法(mediation act)，而其基礎源於亞洲式的紛爭解決機制與對政府機關的尊重，希望藉此維持社會秩序與和諧，並避免當事人失去顏面。相對來講調解的訴訟性較低，在1990年代時曾作為解決積案的方法。而調解在全球以各種方式出現，並被用作有效的案件管理方式。在新加坡進入調解程序的案件中，在國家法院階段者有85%案件被解決、家事法院階段者有80%被解決、高等法院階段者有70%案件被解決、上訴法院階段者則有35%案件被解決。
2. 美國維吉尼亞大學的Robert Emery教授作研究指出，夫妻如果是透過調解程序離婚，在12年後仍有52%的父母會和其未同居的子女聯絡；如果是透過訴訟程序離婚者，在12年後僅有14%的父母會和其未同居的子女聯絡。由此足見調解之好處。
3. 新加坡家事庭法官會自行擔任調解者的角色，不過要面對的挑戰是要如何妥適扮演不失中立、不偏頗而不代為決定的調解者角色。所以法官必須要受相關調解、社會科學的課程及訓練，並學習家庭暴力危險評估、兒童發展與依附理論，才能作好調解者的角色。
4. 但也有批評之聲音指出，法官必須專注在審判者的角色，且調解者的角色並非人人能作，法官只需作好依法裁判、確保人人都有接受裁判之機會即為已足。不過講座認為在新加坡，法官擔任調解者的好處仍大於批評者所指摘者，且律師與社會大眾已逐漸接受家事法庭擔任調解者的角色，且新加坡的文化背景也適用此制，因此並無不妥。惟這部分要取決於每個國家的文化及社會環境而論，並無標準答案。



Kevin Ng法官介紹新加坡法官在和解程序中的角色

(四)改變中的新加坡風貌

講座：Peter Ho（新加坡文官學院前主任、未來策略中心資深顧問）

1. 隨著人民教育程度的提升與社交網路的發達，新加坡政府已不能像以往一樣自認為政府總是幫人民作最好的決定，所以人民都會支持政府；而必須加強與人民的溝通，強調政府的決定是大眾的智慧。
2. 但是新加坡的挑戰很多，有已知的問題(know known)、已知還不了解的問題(know unknown)，甚至還有不知道且不了解的問題(unknown unknown)。然而未來的挑戰，就是隨時會有無法預期但影響重大的黑天鵝(black swan)現象產生，作為公務員要怎麼樣避免自身盲點，並跳出舒適圈以找到解決問題之途徑就很重要。
3. 講座認為政府法律部門不能老是說作什麼不合法，而應該告訴其他政府部門，怎麼樣是合法的，這樣才能讓政府有辦法規劃對人民有利的政策。



Peter Ho資深顧問介紹新加坡的現狀與未來挑戰

10月14日

(一)判決寫作一（從上訴審來看的最佳實例）

講座：上訴法院法官Andrew Phang（哈佛大學法學博士、前新加坡國立大學法學院教授）

1. 講座指出每位法官有自己的風格，本堂課不在教大家如何寫作。且判決的好壞也不在上訴審是否維持，因為上訴審也可能作出錯誤的判斷，因此講座建議大家好好的寫判決、建構判決理由，但完成判決後就不要再想了。
2. 寫作判決的心法：以正直的心適用法律作出判決，釐清案件中的事實與法律問題，掌握整個判決重點與理由作成大綱。尤其應注意法官不是法學教授，所以只要討論必要的法律問題即可，不用就枝節法律問題長篇大論，且要善用標題幫助看判決的人掌握重要。
3. 有些判決厚到像教科書一樣或許是必要的，因為律師並未集中焦點而隨意爭執；但如果不是這樣的情形，那就表示法官未真正掌握爭點，才會在枝節部分花那麼多的力氣。但另一方面判決也要考慮到以後如果有其他人在看這份判決時，因為未參與審理過程，所以判決仍應作出必要的說明與論述，才能讓大家看的懂。



Andrew Phang法官由上訴審的角度來評析何謂好的判決

(二)判決寫作二（草擬判決的實際作法）

講座：上訴法院法官Steven Chong(前新加坡檢察總長)

1. 在言詞辯論程序結束時，要作出當事人所同意議題之清單。首先由法官草擬該份清單，並給予當事人修改這份清單的機會。這份清單的目的在於讓當事人能聚焦在相同的議題上，並在必要時請當事人提出書狀說明，以期將這些書狀聚焦在具備關連性與重要性的議題上，同時預先解決在書狀中未被出的爭議問題。
2. 以管理言詞辯論程序而言，要確保言詞辯論程序能順利進行，並在證據與審理時所得印象均記憶猶新時開始撰擬判決。
3. 判決架構：前言、事實背景、程序過程、確認法律與事實爭點、簡化當事人的立場、有系統的整討論每項議題、結論（並重申實質的決定理由）。
4. 判決應避免從當事人所未提出予法院之論理作為判決之主要理由。若該等理由確屬關鍵，應要求當事人在這些重要爭點上提出書狀說明。
5. 判決不宜過長，但就關鍵議題必須給閱讀判決的人清楚的概念，而判決中所處理重要或新穎的法律議題則可花較多篇幅論述與強調。

(三)判決寫作三（判決評析與草擬判決）

講座：上訴法院Vinodh Coomaraswamy法官

1. 法官判決的寫作是一種辯明方式的寫作(explanatory writing)，但其核心可謂是有說服力的寫作(persuasive writing)，最重要的法則就是要寫得清楚與簡明。永遠都要確保所有閱讀判決的人，包含當事人、律師、上訴法院、法律社群（實務工作者、學術界、學生）、可能引用本判決的其他法官、大眾（包含媒體）、特殊的利益團體（包含社群媒體），都清楚知道法官的論點。
2. 在判決的結構上可分為下列數層：前言、事實、議題、法律及其分析、結論。
 - (1) 在前言中必須指出本案最核心的議題為何，其中必須考量要提供多少細節、是否透露出本案的決定與理由¹¹、如何吸引讀者的目光。
 - (2) 事實的書寫上，必須移除不必要的事實而強調重要的事實，並採取敘事體來說明事實的經過。
 - (3) 法律及其分析中，必須模擬和敗訴的一方對話，即敗訴方可能會提出什麼質疑、為什麼敗訴方會相信你的答案、敗訴方可能會提出什麼反論？此時使用有意義的標題就很重要，並使用傘狀的論述法(umbrella paragraph)¹²與編號的寫法（即第一點、第二點...）。在句子的結構上，宜使用簡單、直接的句構（即主詞+動詞+受詞）來避免佶屈聱牙的句構，並將長而複雜的句子分成不同句子。另宜使用主動式的句法而避免使用被動式的句法，且讓「主詞與動詞」、「動詞與受詞」能靠近一些。

¹¹ 新加坡的判決不似我國有主文欄位，所以有些法官會在前言即說出結論，有些法官則會在判決最後才作出結論。

¹² 這是英美法系法律寫作下的論述方法，即摘要各方的論述，並強調法院必須在其中作出決定的議題。



Vinodh Coomaraswamy法官從判決的結構與文法娓娓道來如何寫出好的判決

(四) 維持法庭秩序

講座：Foo Chee Hock院長

1. 場景一：如果被告在法庭上出現脫序行為（例如不斷咆哮法院審理不公、逕自拿出行動電話通話），法官應如何處理？可否論以藐視法庭罪(contempt of court)？

講座建議：在這種情形下若直接論以藐視法庭罪，除是否已合致要件容有疑義外，也可能引起法官與當事人間更大的衝突。比較好的方法當係請保全人員制止該當事人的侵略性行為；如果保全人員不在法庭，則應按下緊急按鈕，並在保全人員抵達法庭前暫時不要處理該當事人之脫序行為。

2. 場景二：如果當事人在法庭上叫囂法官貪汙？此時可否論以藐視法庭罪？

講座建議：法官必須堅定的制止該當事人的侵略性或藐視法庭行為，否則將以藐視法庭論處。如果該當事人願意停止其行為並道歉，此時即無需發動論處藐視法庭罪的程序。反之，若該當事人不聽勸阻而持續其辱罵、威脅或藐視法庭之舉止，法官若認為該舉止已構成藐視法庭罪時，即應通知該當事人將進行藐視法庭罪之程序。依新加坡法律規定，藐視法庭罪最高可處以3個月有期徒刑或科或併科500元新加坡幣，不過法官宜謹記在心應宜處以較低之刑罰，即宜處1個月以下之拘役。



Foo Chee Hock院長講授維持法庭秩序的方法



法官學院院長Foo Chee Hock法官、執行長Tan Boon Heng法官與全體學員合影

(五) 有效應用時間與資源

講座：首席大法官Sundaresh Menon

1. 首席大法官通常利用早上8點至10點來處理電子郵件，同時加以分類，並處理

重要而需要立即回復的信件。有些很有趣而需要思考的信件，則會帶在身上，並利用通勤等時間思考。

2. 將要作的事情作成清單，這樣才能好好規劃自己的時間。另在工作中不要瀏覽網際網路，這只會成分心和工作效率降低。當然新聞還是要了解，但每天只要給自己30分鐘來瀏覽新聞網站也就足夠了。
3. 要給自己足夠的時間來作重要的事，例如閱讀和寫文章。還有散步也是很適合用來思考的時間，講座提及在其擔任檢察總長的時候就常常利用散步時，思考一些複雜的問題應如何解答。
4. 另外擔任法官的人必須要有決斷力，如果一直猶豫不決是無法作好法官的工作，雖然從結果來看有時候我們作的決定不見得是正確的，但這是因為我們都是人所以都可能犯錯，只要過程都盡力作好即可，不可因為怕犯錯反而不敢作出判斷。
5. 在閱卷與審理過程中，必須要作筆記，這樣除可掌握該案重點外，也能快速回想該案件的內容。
6. 至於是否可以同時寫2份判決呢？這部分是因人而異，但講座表示如果是在寫複雜的案件時，他就會專心寫這份判決而不寫其他判決，否則可能會混淆不同案件的內容。

7. 交流時間

- (1) 問：每天都會收到很多電子郵件所交辦的事情，但忙到沒時間看完，有無辦法解決？

答：講座表示他每天會收到80至100封電子郵件，看不完的會利用週五晚上及週日早上看完，否則到週一時又會有其他電子郵件湧入。這多少可以減輕一些工作負擔，但確實是不容易的事情。

- (2) 問：要如何平衡工作與生活？

答：這也是不容易作到的事，尤其是現在這個時代因為通訊設備發達，讓大家隨時會被找到而幾乎全年無休。但往好處想，這也讓大家有部分的工作能在家處理。以講座而言，他每天只會檢查一次電子郵件，這樣才會有時間好好休息，否則人很快就累壞了。

- (3) 問：本課程安排用心，但新加坡的法院系統可分為刑事、民事與家事三者，部分課程是否可將三者分流上課，這樣收穫會更大？另外團體互動的討論課程可否增加？甚至增加至法院旁聽的課程設計？

答：這是新加坡司法官學院第二次舉辦法官職前訓練課程，以往新加坡法官並無相關職前訓練課程，後來有法官表示應有經驗傳承的機會才設計這些課程，所以學員的反應均會納入考量。



學員就課程提出心得與建議



最高法院首席大法官Sundares Menon與全體最高法院法官宴請參訓學員

參、心得及建議

(一) 配合新南向政策之伸化與延伸

臺灣地處東南亞與東北亞之樞紐，原應與東南亞各地之往來密切，不過除了經貿上的合作外，尚乏較為深化的交流與合作。舉例而言，此次派員參訓的各個國家（除日本及新加坡少數資深的法官外）幾乎都不知道臺灣是英美法系或大陸法系法制；反之，職也對這些鄰國（如泰國、緬甸、孟加拉）的法制缺少認識。由於法體系是一個國家對倫理道德的規範具體化與實踐，見微之著，在彼此欠缺法律制度與法文化的認識下，一旦雙方發生爭端即會對如何解決產生歧異。此時平常透過交流所灑下由點至線甚而到面的種子，就可能是日後讓爭端能順利解決的契機。

(二) 增強司法官的專業職能

新加坡法官學院本次的訓練課程雖是為初任命為法官者所設計，惟我國係大陸法系國家，檢察官除職司公訴業務之外，亦主導調查程序。因此本課程所設計書類撰擬、法庭特殊情況應變、法庭程序管理、法官倫理規範等，讓擔任檢察官的筆者亦收穫良多。尤其筆者已擔任9年之檢察官，在聽課的過程中不斷思考自己過往作法，並對照講座及其他學員所提出之意見，更讓自己感同深受且亟思精進之作法。

(三) 在外交困境中堅守司法正義的實現

隨著中國大陸的崛起，中國大陸對鄰近東亞諸國在政治、經濟、外交之影響力無不與日俱增。但是除去我國與中國大陸敏感的國際地位不論，在今日全球化的普及與網路的超越國境現象，司法正義已須跨國合作方能獲得實現。雖然司法主權帶有高度的主權象徵意義，而使我國在對外簽署司法互助協議等國際協定的推展上遇到困難。然而每件國際司法合作個案都涉及人民權益之保障，在國際司法互助協定簽署不易之情形下，我國現階段即以個案國際司法互助的方式以期達成相同成效。在這種情形下，利用研習的機會讓其他國家的法官了解我國的司法制度，加深對我國的信賴感，希望能透過這些累積的努力助助日後雙邊國際司法互助的運行。

(四) 司法的全方位國際合作

在與多位新加坡的法官交談過程中，渠等均不避諱提及因為新加坡是個小國，所以必須在很多策略上保持彈性，並注重與大國間的合作與關係。在新加坡法官學院的課程中，本課程雖對所有外國學員收費，但有部分課程則是免費提供給孟加拉、緬甸等國之法官參與；且新加坡法官學院亦曾主動前往緬甸、斐濟等國，向當地的法官授課，這些都是加深新加坡在該等國家影響力的好方法。而據參與本次研習的2位緬甸最高法院法官表示，因緬甸與日本有司法合作計畫，所以渠等之法學碩士學位均在日本的大學取得；而該等碩士課程係以英語授課，為期1至3年，僅須於前3月修習日文作為日常生活所需。是以，日本在東南亞國家的法治上亦著力甚深。而來自泰國的3名最高法院法官中，其中有2位是留學美國、1位留學法國；來自孟加拉的其中1位法官則留學英國。由此可知，美國、英國、法國等強權國家原本即對東亞、南亞諸國擁有學術及司法實務的極強吸引力，但要如何讓這些國家的司法人員願意增加與我國合作之意願，新加坡、日本之前揭作法或許可為參考。



SINGAPORE
JUDICIAL COLLEGE

Supreme Court of Singapore,
1 Supreme Court Lane, Singapore 178879, t: (65)-6332-1053

附
件
1

ADMINISTRATIVE BRIEF FOR PARTICIPANTS OF JUDICIARY-WIDE INDUCTION PROGRAMME FOR NEWLY APPOINTED JUDGES AND JUDICIAL OFFICERS

Dear Sir/Madam,

Thank you for registering for the above programme. As the training draws near, we would like to share the following administrative details and information that may be useful to your stay in Singapore.

<p>Date and Venue</p> <p>Venue:</p>	<p>Pre-Course Programme: 10 October 2016 (Monday) Singapore Judicial College Business Centre (Level 1) Supreme Court 1 Supreme Court Lane Singapore 178879 (Please see Appendix A for map)</p> <p>Induction Programme: 11 – 14 October 2016 (Tuesday – Friday) B1 Conference Room (Level B1) Supreme Court</p> <p>Please note that there is security screening at the entrance of the Supreme Court building.</p>
<p>Event Details</p>	<p>Organised by the Singapore Judicial College, the annual Judiciary-Wide Induction Programme for Newly Appointed Judges and Judicial Officers.</p> <p>During the 4-days, a wide range of topics will be covered and they include judicial wellness, judicial ethics, best practices/pitfalls when conducting hearings in trials / chamber matters, handling querulous litigants, assessing credibility of witnesses, judgment writing, procedural law, cyber security and the judge, maintaining judicial authority in the courtroom and contact with the media. Instructors include The Honourable the Chief Justice Sundaresh Menon (CJ Menon), Judges of the Supreme Court, members of the judiciary and experts in specific fields.</p> <p>This year's participants will include Judges and Judicial Officers from Bangladesh, Japan, Myanmar, Singapore, Taiwan, Thailand and UAE (Dubai).</p> <p>To date, a total of 24 participants have been registered (please see Appendix B for the list of participants).</p>
<p>Programme</p>	<p>Please refer to Appendix C.</p>

***Our Vision:** Excellence in judicial education and research.*

***Our Mission:** To provide and inspire continuing judicial learning and research to enhance the competency and professionalism of judges.*

Working Language	The official language of the meeting will be English and all documentation will be in English.
ID Badge	An ID Badge will be issued to you. ID Badges should be worn and visible at all times.
Dress Code	<ul style="list-style-type: none"> • Training – Office Attire (jacket is optional) • Group Phototaking – Court Attire (tie and jacket for men, jacket for ladies)
Meals	Daily Halal certified coffee breaks and lunches will be provided.
Secretariat Support	<p>Enquiries on general secretariat issues may be directed to:</p> <p>Jam Chee Chong Deputy Director, SJC DID: 6334 1053 jam_chee_chong@supcourt.gov.sg</p> <p>Ng Shun Geng Assistant Director, SJC DID: 6334 4052 ng_shun_geng@supcourt.gov.sg</p>
General Information	Please refer to Appendix D.

Draft Programme

PRE-COURSE PROGRAMME
10 OCTOBER 2016, SINGAPORE JUDICIAL COLLEGE, BUSINESS CENTRE
(LEVEL 1, SUPREME COURT OF SINGAPORE)

Time	Programme	OIC	Venue/Remarks
1545 – 1600	Greeting and Advance Registration		
1600 - 1700	Welcome and Introduction <ul style="list-style-type: none"> ❖ The Supreme Court of Singapore ❖ Highlights of the Use of Court Technology in Singapore ❖ Delivering Better Judicial Education for Judges in Singapore Instructor: District Judge Tan Boon Heng (TBH), Executive Director, Singapore Judicial College (SJC)		Live
1700 - 1730	Question and Answer Session Instructor: TBH		Live Q&A
1730 - 1800	Site Orientation to the Course Venues		B1 Conference Room (Level B1) Viewing Gallery (Level 8)

**JUDICIARY-WIDE INDUCTION PROGRAMME
11 TO 14 OCTOBER 2016, SUPREME COURT OF SINGAPORE**

Day 1		Tue, 11 Oct 2016	
Time	Programme	OIC	Venue/Remarks
0845 – 0900	Registration and Morning Coffee		
0905 – 0915	Welcome by Judicial Commissioner Foo Chee Hock (FCH), Dean, Singapore Judicial College (SJC)		Live
0915 – 1000	"In Conversation with CJ" (Reprise) <i>(A Video Production of the State Courts)</i>		Video Learning
1000 – 1030	Interaction on "In Conversation with CJ" <i>Facilitator: Chief Justice Sundaresh Menon</i>		Live Q&A
1030 – 1045	Formal Group Photograph with CJ, Chairman and Dean of the SJC		
1045 – 1115	Coffee Break		
1115 – 1230	Concurrent Track A: Transition to the High Court Bench <i>Speaker: Judicial Commissioner Aedit Abdullah</i>		Live
	Concurrent Track B: Transition to the First Instance Courts <i>Panellists: District Judge Janice Chia, District Judge Kenneth Choo and Assistant Registrar Paul Quan</i> <i>Moderator: District Judge Tan Boon Heng (TBH), Executive Director, SJC</i>		Live
1230 – 1400	Interaction over Buffet Lunch (Halal)		Viewing Gallery (Level 8)
1400 – 1500	Judicial Health (I): Finding a Judicious Work-Life Harmony <i>Speaker: Judicial Commissioner Hoo Sheau Peng</i>		Live
1500 – 1515	Coffee Break		
1515 – 1615	Judicial Health (II): Managing Judicial Stress <i>Speaker: Ms Sophia Ang, Director, Counselling & Psychological Services, Family Justice Courts</i>		Live
1615 – 1630	Video Learning on "Stresses of the Job" (3 mins) <i>Speakers:</i> <i>Ag Justice Paul Stein, AM, Supreme Court of NSW, Australia</i> <i>Justice Keith Mason, AC, President, Court of Appeal, NSW</i> <i>Justice Michael Kirby, AC, MG, High Court of Australia</i> Sharing from the Participants the moments of judicial stress and how they overcame them		Video Learning
1630 – 1700	Reflections <i>Facilitator: FCH</i>		Live
	End of Day 1		

--	--	--	--

Day 2		Wed, 12 Oct 2016	
Time	Programme	OIC	Venue/Remarks
0900 – 0930	Judicial Conduct In and Out of Court (I): Bangalore Principles and the Commentary on the Bangalore Principles <i>Speaker: TBH</i>		Live
0930 – 1010	Judicial Conduct In and Out of Court (II): Group Discussion on Case Studies <i>Facilitator: TBH</i>		Live
1010 – 1040	Judicial Conduct In and Out of Court (II): Group Presentation on Case Studies <i>Facilitator: TBH</i>		Live
1040 – 1100	Coffee Break		
1100 - 1200	Managing Court Hearings (I): Best Practices and Pitfalls when hearing Summonses / Appeal Lists <i>Speaker: Justice Lee Seiu Kin</i>		Video Learning
1200 – 1300	Managing Court Hearings (II): Best Practices & Pitfalls when conducting trials <i>Speaker: FCH</i>		Live
1300 – 1400	Interaction over Buffet Lunch (Halal)		Viewing Gallery (Level 8)
1400 – 1500	Managing Court Hearings (III): The Hellish Trial <i>Speaker: Judicial Commissioner See Kee Oon</i>		Live
1500 – 1515	Techniques to Manage Litigants-In-Person: Handling Querulous Litigants (Part I) <i>Speaker: Justice Chan Seng Onn</i>		Video Learning
1515 - 1600	Challenging Scenarios involving Difficult, Irrelevant, Complaining and/or Long-Winded LIPs <i>[Role Play]</i>		
1600 – 1615	Coffee Break		
1615 – 1700	360° Debrief of Challenging Scenarios by the 'Judge', 'LIPs' and 'Public Perception' <i>[By FCH & TBH]</i>		Live
	End of Day 2		

Day 3		Thu, 13 Oct 2016	
Time	Programme	OIC	Venue/Remarks
0900 – 1045	++ Concurrent Specialist Tracks ++		Live

	Highlights of Civil Procedure 2016 <i>Speaker: District Judge Tan Boon Heng</i> Highlights of Criminal Procedure 2016 <i>Speaker: District Judge Shawn Ho</i> Highlights of Family Procedure 2016 <i>Speaker: District Judge Jen Koh</i>		
1045 – 1100	Coffee Break		
1100 – 1230	Assessing Credibility of Witnesses <i>Speaker: TBH</i>		Live
1230 – 1400	Interaction over Buffet Lunch (Halal)		Viewing Gallery (Level 8)
1400 – 1500	The Role of the Judge-Mediator <i>[Speaker: District Judge Kevin Ng]</i>		Live
1500 - 1515	Coffee Break		
1515 – 1645	Changing Landscapes in Singapore <i>[Speaker: Mr Peter Ho, Senior Fellow, Civil Service College – former Head of the Civil Service]</i>		Live
1645 – 1700	Reflections <i>Facilitator: FCH</i>		Live
	End of Day 3		

Day 4		Fri, 14 Oct 2016	
Time	Programme	OIC	Venue/Remarks
0900 – 1000	Judgment Writing (I): Best Practices from the Appellate Perspective <i>Speaker: Justice Andrew Phang, Judge of Appeal</i>		Live
1000 – 1100	Judgment Writing (II): Practical Approaches in drafting trial judgments <i>Speaker: Justice Steven Chong</i>		Video Learning
1100 - 1115	Coffee Break		
1115 - 1230	Judgment Writing (III): Critique of a sample judgment and Drafting Practice <i>Speaker: Justice Vinodh Coomaraswamy</i>		Live
1230 – 1400	Interaction over Buffet Lunch (Halal)		Viewing Gallery (Level 8)
1400 – 1515	Maintaining Judicial Authority in the Courtroom (including the screening of an enactment of a courtroom drama)		Live

	<i>Speaker: FCH</i>		
1515 – 1530	Video Learning on: (i) “Voice Projection” (1.5 mins) <i>Speaker: Justice Paul Stein, AM, Supreme Court of NSW, Australia</i> (ii) “Intervention” (1 min) <i>Speaker: Judge Ann Ainselle-Wallace, District Court of NSW, Australia</i> (iii) “Contact with the Media” (2 mins) <i>Speaker: Justice James Wood, AO, Supreme Court of NSW, Australia + Guidance from the Bangalore Principles</i>		Video Learning
1530 - 1545	Coffee Break		
1545 - 1615	Optimising Your Time and Resources <i>[Speaker: Chief Justice Sundaresh Menon]</i>		Video Learning
1615 – 1645	Closing Reflections <i>[Facilitator: Chief Justice Sundaresh Menon]</i> <i>Participants will be invited to share on:</i> <ul style="list-style-type: none"> ❖ <i>whether the aims of the programme have been met</i> ❖ <i>how it can be improved</i> ❖ <i>whether they have been inspired and further motivated</i> 		Live Q&A
1645 – 1700	Presentation of Certificates of Completion by CJ		
1700 – 1830	Freshening-up		
1830 onwards	Arrival of Participants		
1900 - 2130	Closing Dinner @ Aura, The National Gallery with the Supreme Court Bench		
	End of Course		

Note: This programme is subject to change to accommodate contingencies including the background and experience of participants, availability of course trainers and logistics.

附
14
2

HOLMES RAHE TEST: Assessing Your Life Change Risk

In the past 12 months, which of these have happened to you? If the event has occurred more than once, multiply the raw score of each event to give you the correct score.

Event	Score	Event	Score
Death of spouse	100	Trouble with in-laws	29
Divorce	73	Outstanding personal achievements	28
Marital separation	65	Spouse begins or starts work	26
Jail term	63	Starting or finishing education	26
Death of a close family member	63	Change in living conditions	25
Personal injury or illness	53	Revision of personal habits	24
Marriage	50	Trouble with boss	23
Fired from work	47	Change in work hours, conditions	20
Marital reconciliation	45	Change in residence	20
Retirement	45	Change of school	20
Change in family member's health	44	Change in recreational habits	19
Pregnancy	40	Change in religious activities	18
Sexual difficulties	39	Change in social activities	18
Addition to family	39	Change in sleeping habits	16
Business readjustment	39	Change in number of family gatherings	15
Change in financial status	38	Change in eating habits	13
Death of a close friend	37	Vacation	13
Change in number of marital arguments	35	Festive seasons	12
Mortgage or loan over \$500 000	31	Minor violation of law	11
Change in work responsibilities	29		
Son or daughter leaving home	29		

TOTAL SCORE: _____

SCORE:

0-149 no significant problem

150-199 mild stress 35% chance of illness or health change

200-299 moderate stress 50% chance of illness or health change

300+ major stress 80% chance of illness or health change.

Adapted from the "Schedule of Recent Events" by Thomas Holmes & Richard Rahe, University of Washington.

Early Judicial Burnout Warning Signs

(Excerpts from Dr. Isaiah M. Zimmerman's work on Judicial Wellness)

	Statement	TRUE	FALSE
1.	I feel tired after hearing three or four cases in a row.		
2.	I am easily irritated and generally feel impatient.		
3.	I delay in picking up the ringing telephone or in asking my assistant for messages.		
4.	I feel isolated from the mainstream of current legal thought and administrative innovation in the judiciary.		
5.	I care little about the outcome of most trials.		
6.	I allow myself to tolerate boredom without trying to initiate some relevant/stimulating dialogue.		
7.	I cannot wait for the day's work to end. I terminate proceedings a little early.		
8.	I am reluctant to be socially identified as a judge.		
9.	I feel impotent when colleagues are procrastinators.		
10.	I have largely given up explaining or speaking up about the nature of my work.		
11.	I feel cynical about the motives of my colleagues		
12.	I increasingly feel supremely confident about my own motives and reasoning.		
13.	I never ask a respected colleague to critique my work.		
14.	I have an answer or approach for most questions.		
15.	I find that 15 minutes is generally more than enough time for a 30-minute hearing.		
16.	I seem to glance at my watch a lot.		
17.	I feel basically, that people do not change and the human condition is rather hopeless.		
18.	I have no desire to write anything about my work as a judge.		
19.	My daydreams are increasingly concerned with money/security/sex and peace.		
20.	After verbally making an appointment, I often forget to write it down.		
21.	I often feel physically exhausted or "wiped-out."		
22.	Holiday greetings and cards have become a nuisance.		
23.	I have stopped fighting administrative battles – It's not worth the struggle.		
24.	My reaction to pleas of urgency is increasingly numb.		
25.	Only cases involving the wealthy, the powerful, or big corporations command my full attention.		
	TOTAL SCORE		

Suggested Self-Scoring Guide

If the total number of T (True) answers is:

Above 12: I am probably experiencing burnout. Between 8-12: I am on the borderline. Below 8: I am coping with stress reasonably well.

**THE BANGALORE PRINCIPLES
OF JUDICIAL CONDUCT**

2002

*(The Bangalore Draft Code of Judicial Conduct 2001
adopted by the Judicial Group on Strengthening Judicial Integrity,
as revised at the Round Table Meeting of Chief Justices
held at the Peace Palace, The Hague, November 25-26, 2002)*

Preamble

WHEREAS the *Universal Declaration of Human Rights* recognizes as fundamental the principle that everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of rights and obligations and of any criminal charge.

WHEREAS the *International Covenant on Civil and Political Rights* guarantees that all persons shall be equal before the courts, and that in the determination of any criminal charge or of rights and obligations in a suit at law, everyone shall be entitled, without undue delay, to a fair and public hearing by a competent, independent and impartial tribunal established by law.

WHEREAS the foregoing fundamental principles and rights are also recognized or reflected in regional human rights instruments, in domestic constitutional, statutory and common law, and in judicial conventions and traditions.

WHEREAS the importance of a competent, independent and impartial judiciary to the protection of human rights is given emphasis by the fact that the implementation of all the other rights ultimately depends upon the proper administration of justice.

WHEREAS a competent, independent and impartial judiciary is likewise essential if the courts are to fulfil their role in upholding constitutionalism and the rule of law.

WHEREAS public confidence in the judicial system and in the moral authority and integrity of the judiciary is of the utmost importance in a modern democratic society.

WHEREAS it is essential that judges, individually and collectively, respect and honour judicial office as a public trust and strive to enhance and maintain confidence in the judicial system.

WHEREAS the primary responsibility for the promotion and maintenance of high standards of judicial conduct lies with the judiciary in each country.

AND WHEREAS the *United Nations Basic Principles on the Independence of the Judiciary* are designed to secure and promote the independence of the judiciary, and are addressed primarily to States.

THE FOLLOWING PRINCIPLES are intended to establish standards for ethical conduct of judges. They are designed to provide guidance to judges and to afford the judiciary a framework for regulating judicial conduct. They are also intended to assist members of the executive and the legislature, and lawyers and the public in general, to better understand and support the judiciary. These principles presuppose that judges are accountable for their conduct to appropriate institutions established to maintain judicial standards, which are themselves independent and impartial, and are intended to supplement and not to derogate from existing rules of law and conduct which bind the judge.

Value 1:
INDEPENDENCE

Principle:

Judicial independence is a pre-requisite to the rule of law and a fundamental guarantee of a fair trial. A judge shall therefore uphold and exemplify judicial independence in both its individual and institutional aspects.

Application:

- 1.1 A judge shall exercise the judicial function independently on the basis of the judge's assessment of the facts and in accordance with a conscientious understanding of the law, free of any extraneous influences, inducements, pressures, threats or interference, direct or indirect, from any quarter or for any reason.
- 1.2 A judge shall be independent in relation to society in general and in relation to the particular parties to a dispute which the judge has to adjudicate.
- 1.3 A judge shall not only be free from inappropriate connections with, and influence by, the executive and legislative branches of government, but must also appear to a reasonable observer to be free therefrom.
- 1.4 In performing judicial duties, a judge shall be independent of judicial colleagues in respect of decisions which the judge is obliged to make independently.
- 1.5 A judge shall encourage and uphold safeguards for the discharge of judicial duties in order to maintain and enhance the institutional and operational independence of the judiciary.
- 1.6 A judge shall exhibit and promote high standards of judicial conduct in order to reinforce public confidence in the judiciary which is fundamental to the maintenance of judicial independence.

Value 2:
IMPARTIALITY

Principle:

Impartiality is essential to the proper discharge of the judicial office. It applies not only to the decision itself but also to the process by which the decision is made.

Application:

- 2.1 A judge shall perform his or her judicial duties without favour, bias or prejudice.
- 2.2 A judge shall ensure that his or her conduct, both in and out of court, maintains and enhances the confidence of the public, the legal profession and litigants in the impartiality of the judge and of the judiciary.

- 2.3 A judge shall, so far as is reasonable, so conduct himself or herself as to minimise the occasions on which it will be necessary for the judge to be disqualified from hearing or deciding cases.
- 2.4 A judge shall not knowingly, while a proceeding is before, or could come before, the judge, make any comment that might reasonably be expected to affect the outcome of such proceeding or impair the manifest fairness of the process. Nor shall the judge make any comment in public or otherwise that might affect the fair trial of any person or issue.
- 2.5 A judge shall disqualify himself or herself from participating in any proceedings in which the judge is unable to decide the matter impartially or in which it may appear to a reasonable observer that the judge is unable to decide the matter impartially. Such proceedings include, but are not limited to, instances where
- 2.5.1 the judge has actual bias or prejudice concerning a party or personal knowledge of disputed evidentiary facts concerning the proceedings;
 - 2.5.2 the judge previously served as a lawyer or was a material witness in the matter in controversy; or
 - 2.5.3 the judge, or a member of the judge's family, has an economic interest in the outcome of the matter in controversy:
- Provided that disqualification of a judge shall not be required if no other tribunal can be constituted to deal with the case or, because of urgent circumstances, failure to act could lead to a serious miscarriage of justice.

Value 3:
INTEGRITY

Principle:

Integrity is essential to the proper discharge of the judicial office.

Application:

- 3.1 A judge shall ensure that his or her conduct is above reproach in the view of a reasonable observer.
- 3.2 The behaviour and conduct of a judge must reaffirm the people's faith in the integrity of the judiciary. Justice must not merely be done but must also be seen to be done.

Value 4:
PROPRIETY

Principle:

Propriety, and the appearance of propriety, are essential to the performance of all of the activities of a judge.

Application:

- 4.1 A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities.
- 4.2 As a subject of constant public scrutiny, a judge must accept personal restrictions that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly. In particular, a judge shall conduct himself or herself in a way that is consistent with the dignity of the judicial office.
- 4.3 A judge shall, in his or her personal relations with individual members of the legal profession who practise regularly in the judge's court, avoid situations which might reasonably give rise to the suspicion or appearance of favouritism or partiality.
- 4.4 A judge shall not participate in the determination of a case in which any member of the judge's family represents a litigant or is associated in any manner with the case.
- 4.5 A judge shall not allow the use of the judge's residence by a member of the legal profession to receive clients or other members of the legal profession.
- 4.6 A judge, like any other citizen, is entitled to freedom of expression, belief, association and assembly, but in exercising such rights, a judge shall always conduct himself or herself in such a manner as to preserve the dignity of the judicial office and the impartiality and independence of the judiciary.
- 4.7 A judge shall inform himself or herself about the judge's personal and fiduciary financial interests and shall make reasonable efforts to be informed about the financial interests of members of the judge's family.
- 4.8 A judge shall not allow the judge's family, social or other relationships improperly to influence the judge's judicial conduct and judgment as a judge.
- 4.9 A judge shall not use or lend the prestige of the judicial office to advance the private interests of the judge, a member of the judge's family or of anyone else, nor shall a judge convey or permit others to convey the impression that anyone is in a special position improperly to influence the judge in the performance of judicial duties.
- 4.10 Confidential information acquired by a judge in the judge's judicial capacity shall not be used or disclosed by the judge for any other purpose not related to the judge's judicial duties.
- 4.11 Subject to the proper performance of judicial duties, a judge may:
 - 4.11.1 write, lecture, teach and participate in activities concerning the law, the legal system, the administration of justice or related matters;
 - 4.11.2 appear at a public hearing before an official body concerned with matters relating to the law, the legal system, the administration of justice or related matters;
 - 4.11.3 serve as a member of an official body, or other government commission, committee or advisory body, if such membership is not

inconsistent with the perceived impartiality and political neutrality of a judge;
or

- 4.11.4 engage in other activities if such activities do not detract from the dignity of the judicial office or otherwise interfere with the performance of judicial duties.
- 4.12 A judge shall not practise law whilst the holder of judicial office.
- 4.13 A judge may form or join associations of judges or participate in other organisations representing the interests of judges.
- 4.14 A judge and members of the judge's family, shall neither ask for, nor accept, any gift, bequest, loan or favour in relation to anything done or to be done or omitted to be done by the judge in connection with the performance of judicial duties.
- 4.15 A judge shall not knowingly permit court staff or others subject to the judge's influence, direction or authority, to ask for, or accept, any gift, bequest, loan or favour in relation to anything done or to be done or omitted to be done in connection with his or her duties or functions.
- 4.16 Subject to law and to any legal requirements of public disclosure, a judge may receive a token gift, award or benefit as appropriate to the occasion on which it is made provided that such gift, award or benefit might not reasonably be perceived as intended to influence the judge in the performance of judicial duties or otherwise give rise to an appearance of partiality.

Value 5:
EQUALITY

Principle:

Ensuring equality of treatment to all before the courts is essential to the due performance of the judicial office.

Application:

- 5.1 A judge shall be aware of, and understand, diversity in society and differences arising from various sources, including but not limited to race, colour, sex, religion, national origin, caste, disability, age, marital status, sexual orientation, social and economic status and other like causes ("irrelevant grounds").
- 5.2 A judge shall not, in the performance of judicial duties, by words or conduct, manifest bias or prejudice towards any person or group on irrelevant grounds.
- 5.3 A judge shall carry out judicial duties with appropriate consideration for all persons, such as the parties, witnesses, lawyers, court staff and judicial colleagues, without differentiation on any irrelevant ground, immaterial to the proper performance of such duties.

- 5.4 A judge shall not knowingly permit court staff or others subject to the judge's influence, direction or control to differentiate between persons concerned, in a matter before the judge, on any irrelevant ground.
- 5.5 A judge shall require lawyers in proceedings before the court to refrain from manifesting, by words or conduct, bias or prejudice based on irrelevant grounds, except such as are legally relevant to an issue in proceedings and may be the subject of legitimate advocacy.

Value 6:
COMPETENCE AND DILIGENCE

Principle:

Competence and diligence are prerequisites to the due performance of judicial office.

Application:

- 6.1 The judicial duties of a judge take precedence over all other activities.
- 6.2 A judge shall devote the judge's professional activity to judicial duties, which include not only the performance of judicial functions and responsibilities in court and the making of decisions, but also other tasks relevant to the judicial office or the court's operations.
- 6.3 A judge shall take reasonable steps to maintain and enhance the judge's knowledge, skills and personal qualities necessary for the proper performance of judicial duties, taking advantage for this purpose of the training and other facilities which should be made available, under judicial control, to judges.
- 6.4 A judge shall keep himself or herself informed about relevant developments of international law, including international conventions and other instruments establishing human rights norms.
- 6.5 A judge shall perform all judicial duties, including the delivery of reserved decisions, efficiently, fairly and with reasonable promptness.
- 6.6 A judge shall maintain order and decorum in all proceedings before the court and be patient, dignified and courteous in relation to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity. The judge shall require similar conduct of legal representatives, court staff and others subject to the judge's influence, direction or control.
- 6.7 A judge shall not engage in conduct incompatible with the diligent discharge of judicial duties.

IMPLEMENTATION

By reason of the nature of judicial office, effective measures shall be adopted by national judiciaries to provide mechanisms to implement these principles if such mechanisms are not already in existence in their jurisdictions.

DEFINITIONS

In this statement of principles, unless the context otherwise permits or requires, the following meanings shall be attributed to the words used:

"*Court staff*" includes the personal staff of the judge including law clerks.

"*Judge*" means any person exercising judicial power, however designated.

"*Judge's family*" includes a judge's spouse, son, daughter, son-in-law, daughter-in-law, and any other close relative or person who is a companion or employee of the judge and who lives in the judge's household.

"*Judge's spouse*" includes a domestic partner of the judge or any other person of either sex in a close personal relationship with the judge.

Explanatory Note

1. At its first meeting held in Vienna in April 2000 on the invitation of the United Nations Centre for International Crime Prevention, and in conjunction with the 10th United Nations Congress on the Prevention of Crime and the Treatment of Offenders, the Judicial Group on Strengthening Judicial Integrity (comprising Chief Justice Latifur Rahman of Bangladesh, Chief Justice Bhaskar Rao of Karnataka State in India, Justice Govind Bahadur Shrestha of Nepal, Chief Justice Uwais of Nigeria, Deputy Vice-President Langa of the Constitutional Court of South Africa, Chief Justice Nyalali of Tanzania, and Justice Odoki of Uganda, meeting under the chairmanship of Judge Christopher Weeramantry, Vice-President of the International Court of Justice, with Justice Michael Kirby of the High Court of Australia as rapporteur, and with the participation of Dato' Param Cumaraswamy, UN Special Rapporteur on the Independence of Judges and Lawyers) recognized the need for a code against which the conduct of judicial officers may be measured. Accordingly, the Judicial Group requested that codes of judicial conduct which had been adopted in some jurisdictions be analyzed, and a report be prepared by the Co-ordinator of the Judicial Integrity Programme, Dr Nihal Jayawickrama, concerning: (a) the core considerations which recur in such codes; and (b) the optional or additional considerations which occur in some, but not all, such codes and which may or may not be suitable for adoption in particular countries.

2. In preparing a draft code of judicial conduct in accordance with the directions set out above, reference was made to several existing codes and international instruments including, in particular, the following:

- (a) The Code of Judicial Conduct adopted by the House of Delegates of the American Bar Association, August 1972.
- (b) Declaration of Principles of Judicial Independence issued by the Chief Justices of the Australian States and Territories, April 1997.
- (c) Code of Conduct for the Judges of the Supreme Court of Bangladesh, prescribed by the Supreme Judicial Council in the exercise of power under Article 96(4)(a) of the Constitution of the People's Republic of Bangladesh, May 2000.
- (d) Ethical Principles for Judges, drafted with the cooperation of the Canadian Judges Conference and endorsed by the Canadian Judicial Council, 1998.
- (e) The European Charter on the Statute for Judges, Council of Europe, July 1998.
- (f) The Idaho Code of Judicial Conduct 1976.
- (g) Restatement of Values of Judicial Life adopted by the Chief Justices Conference of India, 1999.
- (h) The Iowa Code of Judicial Conduct.
- (i) Code of Conduct for Judicial Officers of Kenya, July 1999.
- (j) The Judges' Code of Ethics of Malaysia, prescribed by the Yang di-Pertuan Agong on the recommendation of the Chief Justice, the President of the Court of Appeal and the Chief Judges of the High Courts, in the exercise of powers conferred by Article 125(3A) of the Federal Constitution of Malaysia, 1994.
- (k) The Code of Conduct for Magistrates in Namibia.
- (l) Rules Governing Judicial Conduct, New York State, USA.
- (m) Code of Conduct for Judicial Officers of the Federal Republic of Nigeria.
- (n) Code of Conduct to be observed by Judges of the Supreme Court and of the High Courts of Pakistan.
- (o) The Code of Judicial Conduct of the Philippines, September 1989.

- (p) The Canons of Judicial Ethics of the Philippines, proposed by the Philippines Bar Association, approved by the Judges of First Instance of Manila, and adopted for the guidance of and observance by the judges under the administrative supervision of the Supreme Court, including municipal judges and city judges.
- (q) Yandina Statement: Principles of Independence of the Judiciary in Solomon Islands, November 2000.
- (r) Guidelines for Judges of South Africa, issued by the Chief Justice, the President of the Constitutional Court, and the Presidents of High Courts, the Labour Appeal Court, and the Land Claims Court, March 2000.
- (s) Code of Conduct for Judicial Officers of Tanzania, adopted by the Judges and Magistrates Conference, 1984.
- (t) The Texas Code of Judicial Conduct
- (u) Code of Conduct for Judges, Magistrates and Other Judicial Officers of Uganda, adopted by the Judges of the Supreme Court and the High Court, July 1989.
- (v) The Code of Conduct of the Judicial Conference of the United States.
- (w) The Canons of Judicial Conduct for the Commonwealth of Virginia, adopted and promulgated by the Supreme Court of Virginia, 1998.
- (x) The Code of Judicial Conduct adopted by the Supreme Court of the State of Washington, USA, October 1995.
- (y) The Judicial (Code of Conduct) Act, enacted by the Parliament of Zambia, December 1999.
- (z) Draft Principles on the Independence of the Judiciary ("Siracusa Principles"), prepared by a committee of experts convened by the International Association of Penal Law, the International Commission of Jurists, and the Centre for the Independence of Judges and Lawyers, 1981.
- (aa) Minimum Standards of Judicial Independence adopted by the International Bar Association, 1982.
- (bb) United Nations Basic Principles on the Independence of the Judiciary, endorsed by the UN General Assembly, 1985.
- (cc) Draft Universal Declaration on the Independence of Justice ("Singhvi Declaration") prepared by Mr L.V. Singhvi, UN Special Rapporteur on the Study on the Independence of the Judiciary, 1989.
- (dd) The Beijing Statement of Principles of the Independence of the Judiciary in the Lawasia Region, adopted by the 6th Conference of Chief Justices, August 1997.
- (ee) The Latimer House Guidelines for the Commonwealth on good practice governing relations between the Executive, Parliament and the Judiciary in the promotion of good governance, the rule of law and human rights to ensure the effective implementation of the Harare Principles, 1998.
- (ff) The Policy Framework for Preventing and Eliminating Corruption and Ensuring the Impartiality of the Judicial System, adopted by the expert group convened by the Centre for the Independence of Judges and Lawyers, February 2000.

At its second meeting held in Bangalore in February 2001, the Judicial Group (comprising Chief Justice Mainur Reza Chowdhury of Bangladesh, Justice Claire L'Heureux Dube of Canada, Chief Justice Reddi of Karnataka State in India, Chief Justice Upadhyay of Nepal, Chief Justice Uwais of Nigeria, Deputy Chief Justice Langa of South Africa, Chief Justice Silva of Sri Lanka, Chief Justice Samatta of Tanzania, and Chief Justice Odoki of Uganda, meeting under the chairmanship of Judge Weeramantry, with Justice Kirby as rapporteur, and with the participation of the UN Special Rapporteur and Justice Bhagwati, Chairman of the UN Human Rights Committee, representing the UN High Commissioner for Human Rights) proceeding by

way of examination of the draft placed before it, identified the core values, formulated the relevant principles, and agreed on the Bangalore Draft Code of Judicial Conduct. The Judicial Group recognized, however, that since the Bangalore Draft had been developed by judges drawn principally from common law countries, it was essential that it be scrutinized by judges of other legal traditions to enable it to assume the status of a duly authenticated international code of judicial conduct.

The Bangalore Draft was widely disseminated among judges of both common law and civil law systems and discussed at several judicial conferences. In June 2002, it was reviewed by the Working Party of the Consultative Council of European Judges (CCJE-GT), comprising Vice-President Reissner of the Austrian Association of Judges, Judge Fremr of the High Court in the Czech Republic, President Lacabarats of the Cour d'Appel de Paris in France, Judge Mallmann of the Federal Administrative Court of Germany, Magistrate Sabato of Italy, Judge Virgilijus of the Lithuanian Court of Appeal, Premier Conseiller Wiwinius of the Cour d'Appel of Luxembourg, Juge Conseiller Afonso of the Court of Appeal of Portugal, Justice Ogrizek of the Supreme Court of Slovenia, President Hirschfeldt of the Svea Court of Appeal in Sweden, and Lord Justice Mance of the United Kingdom. On the initiative of the American Bar Association, the Bangalore Draft was translated into the national languages, and reviewed by judges, of the Central and Eastern European countries; in particular, of Bosnia-Herzegovina, Bulgaria, Croatia, Kosovo, Romania, Serbia and Slovakia.

The Bangalore Draft was revised in the light of the comments received from CCJE-GT and others referred to above; Opinion no.1 (2001) of CCJE on standards concerning the independence of the judiciary; the draft Opinion of CCJE on the principles and rules governing judges' professional conduct, in particular ethics, incompatible behaviour and impartiality; and by reference to more recent codes of judicial conduct including the Guide to Judicial Conduct published by the Council of Chief Justices of Australia in June 2002, the Model Rules of Conduct for Judges of the Baltic States, the Code of Judicial Ethics for Judges of the People's Republic of China, and the Code of Judicial Ethics of the Macedonian Judges Association.

The revised Bangalore Draft was placed before a Round-Table Meeting of Chief Justices (or their representatives) from the civil law system, held in the Peace Palace in The Hague, Netherlands, in November 2002, with Judge Weeramantry presiding. Those participating were Judge Vladimir de Freitas of the Federal Court of Appeal of Brazil, Chief Justice Iva Brozova of the Supreme Court of the Czech Republic, Chief Justice Mohammad Fathy Naguib of the Supreme Constitutional Court of Egypt, Conseillere Christine Chanet of the Cour de Cassation of France, President Genaro David Gongora Pimentel of the Suprema Corte de Justicia de la Nacion of Mexico, President Mario Mangaze of the Supreme Court of Mozambique, President Pim Haak of the Hoge Raad der Nederlanden, Justice Trond Dolva of the Supreme Court of Norway, and Chief Justice Hilario Davide of the Supreme Court of the Philippines. Also participating in one session were the following Judges of the International Court of Justice: Judge Ranjeva (Madagascar), Judge Herczegh (Hungary), Judge Fleischhauer (Germany), Judge Koroma (Sierra Leone), Judge Higgins (United Kingdom), Judge Rezek (Brazil), Judge Elaraby (Egypt), and Ad-Hoc Judge Frank (USA). The UN Special Rapporteur was in attendance. The "Bangalore Principles of Judicial Conduct" was the product of this meeting.



附
14
4

LEAD COUNSEL'S STATEMENT ON TRIAL PROCEEDINGS

Suit No.: _____

Case Name: _____

PART ONE: ESTIMATION OF NO. OF TRIAL DAYS

<i>To be filled in by Lead Counsel for the Parties</i>	
Party Type (e.g., Plaintiff, Defendant, Third Party, etc.)	
Law Firm of Party	
Number of Witnesses to be called by Party	Factual: _____ Expert: _____ Have any of the AEICs of your witnesses been dispensed with by order of court? Yes / No* If yes, state time required for examination-in-chief of these witnesses in Annex A .
Use of Language Interpreter(s)	Yes / No* If yes, please state particulars in Annex B .
Time for Cross-Examination of other parties' witnesses	Please provide details in Annex C . Total Duration: _____ day(s)
Time for Opening Submissions	_____ day(s)
Time for Closing Submissions	_____ day(s)
Total number of trial days: _____ (Estimated in consultation with other parties' counsel) <i>I understand that if any of my witnesses require the services of a court language interpreter, I will have to ensure that the interpreter is available by the first day of trial. Further, if an external language interpreter is required, I undertake to find a suitable person agreeable to all parties and ensure that he or she is available by the first day of trial.</i> <i>I understand that this statement will be put before the Trial Judge and I will comply with the above timings stated. I will inform the registry immediately, and in any case, no later than 14 days from the first day of trial, if there are any changes to the information I have provided.</i>	
_____ Name of Lead Counsel for Party	_____ Signature / Date

* Please delete as appropriate.

PART TWO: LIST OF ISSUES

[This List of Issues will be placed before the Trial Judge to assist the Trial Judge in the conduct of the trial. Counsel should be concise and identify the key issues, rather than setting out detailed sub-issues]

I. Agreed List of Issues

S/N	<i>Factual Issues</i>
1	
2	
	<i>Legal Issues</i>
1	
2	

II. Non-Agreed List of Issues

S/N	<i>Additional Issues according to Plaintiff</i>
1	
2	
	<i>Additional Issues according to Defendant</i>
1	
2	

III. Common Ground between Parties ("Non-issues")

S/N	<i>Main Facts Not in Dispute</i>
1	
2	
	<i>Points of Law Not in Dispute</i>
1	
2	

