

Joint Launch of the State Courts Centre for Dispute Resolution and

“Mediation in Singapore: A Practical Guide”

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Address by the Honourable the Chief Justice Sundaresh Menon

Distinguished guests

Colleagues

Ladies and gentlemen

1. Thank you for being with us this morning to participate in a historically significant moment in the development of these Courts as well as in the growth of Alternative Dispute Resolution or ADR in Singapore. One year ago, at this same venue, I unveiled our new name, the State Courts, and spoke of how this accords proper recognition to the extensive role these Courts play within our community as the primary dispensers of justice. I am delighted today to touch on a specific aspect of how we discharge this role, namely, our work in ADR. Given the close partnership the State Courts have with the ADR community, it is also apt that today we will launch a Thomson Reuters publication on mediation in Singapore, which has involved the State Courts as well as many other prominent members of our ADR community.

Court ADR and Access to Justice

2. The establishment of the State Courts Centre for Dispute Resolution marks an important milestone in the history of Court ADR. Court ADR has its genesis in a 1994 pilot project, when selected District Judges were tasked to deal with a range of civil disputes through the use of ADR. The encouraging results from that effort culminated in the creation of the Primary Dispute Resolution Centre to offer ADR processes for all civil claims. The term Court Dispute Resolution, or CDR, was devised to refer collectively to Court ADR processes, and it has become an acronym that most lawyers are now accustomed to.

3. Court Dispute Resolution was swiftly extended to other types of conflicts, including Magistrate's complaints filed to initiate private prosecution of minor criminal offences. ADR has also been particularly prominent in the field of family justice. Court-based mediation and counselling were introduced in the Family Court after it was first established in 1995 and has become a distinctive feature of the approach taken by the Family Justice Courts towards fulfilling their mission. Last year, when speaking at the launch of the Family Justice Courts, I highlighted how mediation and counselling can better address family disputes involving parties whose relationships must continue beyond the life of the case.¹

4. Many of these developments can be traced to the foresight of former Chief Justice Yong Pung How, who highlighted back in 1997 that ADR should not

¹ The Honourable the Chief Justice Sundaresh Menon, *Address at the Opening of the Family Justice Courts* (1 October 2014), at paragraphs 19 to 21.

be seen only as a diversionary measure to reduce judicial backlogs, because it was beneficial in its own right as a method of dispute resolution and had proven itself instrumental in “build[ing] long term relationships that can survive disputes”.² The impetus for Court ADR is thus to be found in the interests of the disputing parties.

5. I have previously stressed in the same vein that ADR, being a consensual way to the resolution of a dispute, is in fact one of the best ways to increase access to justice.³ Because of the many benefits that ADR brings to the parties, there has been growing acceptance of the notion that access to justice can indeed be obtained through mediation or other dispute resolution mechanisms. In short, justice can frequently be found outside the confines of a courtroom.⁴ The State Courts have therefore offered ADR processes alongside adjudication as part of the range of options that is available to court users.
6. It is noteworthy that court users on their part have strongly affirmed the benefits of ADR. The Primary Dispute Resolution Centre has been administering surveys of those involved in the mediation of claims within the jurisdiction of the Magistrates’ Courts. Between 2013 and 2014, 95% of the parties and 98% of the lawyers surveyed agreed that mediation has helped them to avoid additional legal costs. Time savings were evident too, as

² Former Chief Justice Yong Pung How, *Address at the Official Opening of the Singapore Mediation Centre* (16 August 1997).

³ The Honourable the Chief Justice Sundaresh Menon, *Opening Address at the Litigation Conference 2013* (31 January 2013), at paragraph 18; The Honourable Chief Justice Sundaresh Menon, *Judicial Attitudes towards Arbitration and Mediation in Singapore*, at the Asean Law Association Malaysia (ALA) & Kuala Lumpur Regional Centre for Arbitration (KLRCA) Talk & Dinner, Kuala Lumpur, Malaysia (25 October 2013), at paragraph 11.

⁴ The Honourable the Chief Justice Sundaresh Menon, *The Common Law Litigation Process: Time for a Rethink?* The Australian Academy of Law Patron’s Address in Sydney (23 October 2014), at paragraph 61.

reflected in the remarkable fact that 100% of the parties surveyed indicated that mediation had *reduced the total time they would have spent in court*. 81% of the parties surveyed also agreed that mediation had helped them in their relationship with the other party. These survey results show in clear terms that court-provided mediation services have made justice more accessible to the layperson by providing a timely and cost-effective way to resolve their disputes, while simultaneously increasing the chances of preserving or even strengthening relationships. Court ADR has been and will continue to be part of our justice system in order to ensure that justice is within the reach of every person.

Court ADR and other ADR developments

7. There have been other ADR developments within Singapore, which have taken place in tandem with the growth in Court ADR. The Community Mediation Centres were created by the Ministry of Law in 1998 to provide an avenue for conflicts amongst neighbours and other community disputes to be resolved amicably. Commercial disputes were given another forum to be resolved through ADR when the Singapore Mediation Centre was formed in 1997 under the auspices of the Singapore Academy of Law.

8. Indeed the pace of growth of ADR within Singapore has intensified recently. Two years ago, the Minister for Law and I commissioned a working group to examine how Singapore could be developed into a centre for international commercial mediation. The report was submitted last year and several

innovative recommendations have already been implemented, paving the way for us to emerge as an attractive centre for international mediation. One of these is the establishment of the Singapore International Mediation Centre last year to provide international commercial mediation services for cross-border disputes.⁵ The Singapore International Mediation Institute was formed at the same time to set standards for mediators through a credentialing system.⁶ To complement these developments, the Ministry of Law has been working on a Mediation Bill to strengthen the legal framework to support mediation within Singapore. It is plainly evident that ADR is now a central plank both in the administration of justice as well as in many other spheres of our society.

Why the Need for the State Courts Centre for Dispute Resolution

9. In keeping with the recent growth of ADR on these fronts, the State Courts have now taken the significant step of establishing the State Courts Centre for Dispute Resolution, or State Courts CDR for short. There are several factors that underlie this development.

(a) A holistic approach in dealing with disputes

10. First, the Centre aims to adopt a holistic approach to dealing with each dispute. Many disputes will involve different aspects of the law, and might even cut across the civil/criminal divide. A Magistrate's complaint may be filed for assault, while a civil action for monetary compensation may

⁵ See generally The Honourable the Chief Justice Sundaresh Menon, *Address at the Opening of the Singapore International Mediation Centre* (5 November 2014).

⁶ See generally Senior Minister for State for Law Indraneel Rajah, *Speech at the Launch of the Singapore International Mediation Institute* (5 November 2014).

simultaneously be filed. ADR offers an opportunity to bring relief to the parties at an early stage, regardless of the nature of the legal claim.

11. The Centre will consolidate the different Court ADR services which used to be offered through discrete departments, with the view to providing an integrated and holistic approach to resolve each conflict. The Centre will therefore become the focal point in providing ADR services for civil claims, Magistrate's complaints lodged in relation to minor criminal offences in the Crime Registry as well as other relational disputes such as applications under the Protection from Harassment Act. The physical presence of the Centre at the entrance level of the State Courts, coupled with the existing legal infrastructure encouraging the use of Court ADR, will send an unmistakably strong signal to the community that ADR is indeed the "first step" to be seriously considered in addressing any type of conflict.

(b) New areas of emphasis in ADR

12. The Centre is also being established with the goal of exploring and bringing about new areas of emphasis in Court ADR, to which I will now briefly turn.

The Centre's new areas of emphasis

(i) Enhancing Quality of Court ADR

Motor accident and personal injury claims

13. The Centre will make renewed efforts to enhance the quality of Court ADR provided for motor accident and personal injury claims. The Primary Dispute

Resolution Centre has already been working with the insurance and the motor industries to facilitate the speedy and cost-effective resolution of these disputes and one outcome of those efforts was the Motor Accident Guide, which was published last year to help parties resolve questions of liability in their accident claims. Under recent amendments to the State Courts Practice Directions, lawyers must now refer to this guide at both the pre-action and post-filing stages, with a view to negotiating a settlement of the claim.⁷ The newly constituted Centre will continue these efforts in working with the Bar and with our relevant partners to streamline the process for the resolution of accident and injury claims, and to encourage early settlement perhaps even without having to commence legal proceedings.

Other disputes

14. Secondly, the Centre will focus on enhancing the quality of ADR in Singapore. The State Courts' Code of Ethics and Basic Principles of Court Mediation articulates our mission of *"helping court users resolve their differences through joint problem-solving in a non-confrontational setting."* This will guide the Centre's mediators who are also governed by an internal Guide on Best Practices on Court Mediation. These codes and guidelines will continue to be enhanced to raise the mediation skills of our mediators. Aside from this, all judge mediators have been accredited by the Singapore Mediation Centre, and several have also been trained by the Centre for Effective Dispute Resolution based in the UK, the National Judicial College in the United States, the Harvard Negotiation Programme and other internationally renowned mediation programmes. The premium we have placed on the quality of ADR

⁷ State Courts Practice Directions Amendment No. 12 of 2014.

skills has undoubtedly contributed to the high rate of success for both civil claims and Magistrate's complaints, with more than 80% of the disputes referred for Court ADR having been successfully resolved.

Skype mediation

15. Another forthcoming enhancement is the Skype mediation scheme. There have been *ad hoc* arrangements in the past for parties who are resident overseas to participate in mediation through Skype. Such arrangements are becoming more common with the increased mobility of our users.
16. The Skype facility for court users will be institutionalised with the passing of guidelines for Skype mediation.⁸ We do not intend to dispense with the basic position that Court ADR generally requires all parties to be present in person; but a party who is overseas may ask to participate in Court ADR through Skype with the consent of the other party, and by producing evidence of difficulties in travelling to Singapore for medical or other reasons. This will also be available to foreign incorporated entities with no local presence or representative.

(ii) Professionalising Court ADR

17. Let me turn to the professionalisation of ADR services. Court ADR services have been provided free of charge since the 1990s. While the vast majority of lawyers and court users have found this beneficial, a minority have taken it for granted and as a result they come ill-prepared for sessions or make late requests for adjournments. Our stakeholders have also highlighted the need to put in place a system that reflects the value of the work that our mediators

⁸ Amendments to Practice Directions will be released in due course.

do. In this connection, I announced at last year's Workplan that we were studying the charging structure for ADR services.

18. We have completed that study and I can now announce that the Centre will be introducing ADR fees but only for higher value civil claims in the District Courts. Bearing in mind the importance of ensuring that ADR remains widely accessible, a vast majority of cases including all Magistrate's court claims, motor accident claims, personal injury claims and Magistrate's complaints will continue to be exempt from ADR fees. The Rules of Court will be amended to implement this change and this is likely to take effect in May this year.

(iii) Volunteer mediators

19. Another area of emphasis for the Centre will be to significantly boost the participation of Court volunteers in ADR. We are extremely appreciative of the substantial contribution of volunteer mediators, many of whom are members of the Bar, Justices of Peace and professionals who have developed a keen interest in mediation and have given freely of their time. Many of them are also involved in mediation training outside the Courts. Volunteer mediators have been vital to the growth of Court ADR in raising the awareness of ADR as well as in encouraging others to embrace it.
20. In recognition of their significant role, the Centre will work with them to develop appropriate progression tracks and learning programmes for their benefit. There are also plans to diversify the pool of mediators to include those who may have specific areas of expertise, and to recognise their particular interests or areas of specialisation. Co-mediation amongst volunteer mediators will also be encouraged for certain disputes, in order to create more

opportunities for collaboration and mutual learning amongst our mediators. The Centre is currently in consultation with our volunteer mediators to discuss these ideas.

(iv) Partnership with ADR stakeholders to increase awareness and use of ADR

21. Finally, the Centre will continue its collaboration with its partners to encourage the use of ADR within the Courts and indeed within our society as a whole. Many of the State Courts' ADR programmes are the result of our close association with the Bar and other stakeholders. The volunteer mediation programmes, which I have just referred to, were launched and refined together with the Singapore Mediation Centre. Another such example is the Primary Justice Project, which is a joint enterprise the State Courts, the Law Society and the Community Justice Centre. It has seeded a significant change with a panel of lawyers providing legal services with a focus on resolving disputes amicably through the use of ADR before the initiation of legal proceedings. The State Courts are also part of an ADR Network comprising key players in this area, and these organisations have been meeting regularly to share ideas and find ways to work together.

22. The Centre will intensify its collaborative endeavours with ADR agencies, with the universities and the Bar in the areas of outreach, ADR training and research. In respect of research and publication, much can be done within and beyond Singapore to explore and share the wealth of insights concerning Court ADR and I encourage all practising mediators to work with the Centre in this effort.

Thomson Reuters' publication: *Mediation in Singapore: A Practical Guide*

23. On the subject of research and publication, it is fitting that I turn to a significant publication that is to be launched shortly, entitled *Mediation in Singapore: A Practical Guide*. This book, which is jointly edited by Mr George Lim S.C. and Mr Danny McFadden (Managing Director of the Centre for Effective Dispute Resolution Asia Pacific), and published by Thomson Reuters, attests to the maturation of mediation within Singapore. As observed by the editors in their preface, this publication highlights the remarkable success story behind the growth of mediation in Singapore, a result achieved only through true collaboration among passionate mediation advocates, judicial officers and the government. The publication itself reflects the diverse contributions of mediators from a wide range of disciplines. The contributors include:

- (a) Three academics from the National University of Singapore, Associate Professors Ho Peng Kee, Lim Lan Yuan and Joel Lee;
- (b) Ms Gloria Lim from the Ministry of Law;
- (c) Ms Eunice Chua from Singapore International Mediation Centre, and Mr Loong Seng Onn and Ms Deborah Koh from the Singapore Mediation Centre;
- (d) Ms Linda Heng and Mr Aloysius Goh who come from private mediation practices;
- (e) District Judges Kevin Ng, Joyce Low, Dorcas Quek, and Josephine Kang;
- (f) Solicitors Mr Lim Tat and Mr Paul Teo; and
- (g) Mr James South from the Centre for Effective Dispute Resolution, London.

24. These contributors have written on many aspects of the mediation process, including training, mediation within the community and in the courts, legal foundations as well as the cultural and psychological aspects of mediation. I believe that this comprehensive publication will be an invaluable addition to ADR literature, and a most helpful and useful guide for many who wish to know more about mediation in general and about its practice in Singapore in particular.

Conclusion

25. In closing, let me commend the State Courts and everyone in the ADR field who have worked tirelessly to spread the message of ADR. Some of you sowed the ADR seed at a time when what you were advocating might have seemed odd or out of place. Others have joined the ADR community in more recent times, and have built on the work of these pioneers. Regardless of the role you have played, I hope that each of you will be heartened to see that your efforts at peace-making have made a discernible difference, and are now central to the administration of justice in the Courts and indeed on many other fronts in our society . I urge all of you who are in this field to continue working together to ensure that the recent developments in ADR will be consolidated and enhanced. I also congratulate the State Courts, Thomson Reuters, as well as the editors and contributors to the publication which it is my great pleasure to now launch. Thank you.
