

**INAUGURAL MEETING OF THE INTERNATIONAL JUDICIAL DISPUTE
RESOLUTION NETWORK**

“The JDRN: Remoulding the Justice System”

Wednesday, 18 May 2022

The Honourable the Chief Justice Sundaresh Menon

Supreme Court of Singapore

Fellow Judges and colleagues,
Distinguished guests,
Ladies and gentlemen,

I. Introduction

1. Warm greetings to all of you, and welcome to this Inaugural Meeting of the International Judicial Dispute Resolution Network, or “JDRN” for short. The seeds of what is now the JDRN were first sown almost three years ago in 2019, when several judiciaries agreed to come together to form a community of practice to promote the early, amicable, cost-effective and fair resolution of court disputes through the use of court dispute resolution modalities such as mediation and neutral evaluation, undergirded by judge-led case management. Plans to formally establish the JDRN were temporarily waylaid after the pandemic broke out, but the network continued to grow, and it now comprises a diverse group of civil and common law judiciaries from all over the world. Indeed, the global reach of the

JDRN meant that scheduling this meeting at a time that would perfectly suit *all* of our members' time zones was virtually impossible. As a result, some of you may be dialling in at hours which are, to put it mildly, less than ideal – and I thank you very much for making the time and the effort to join us in spite of the challenging schedules.

2. We have set aside some time later today for each member judiciary to share the extent to which judicial dispute resolution (or “JDR”) features in their court system, and what their experience has been in this connection. In my opening remarks, I hope to frame that discussion by briefly outlining *what* JDR is, *why* it ought to be thoroughly integrated into our judicial processes, and *how* we might get started on developing a justice system with JDR at its core.

II. What is JDR?

3. Let me begin with a brief outline of what JDR is, and what sets it apart from traditional judicial processes. The latter are often thought of as being synonymous with the process of *adjudication*. After all, to judge a dispute is, by definition, to *decide* it, usually by means of a process under which the judge finds the facts, applies the law and then determines the parties' legal rights.

4. The concept of JDR reflects a far broader understanding of the judicial role, and therefore, of the judicial process. In fact, it calls for a shift in our definition of judging. For if we adopt a narrow *process*-based definition, we might end up

with no more than the somewhat simplistic conclusion that the job of the judge is to judge, and to decide the disputes that come before her.

5. But if we were to adopt an *outcome-based approach*, one which *redefines* the judicial role by reference to the outcomes that the justice system aims to achieve, we might realise that the ultimate mission of the courts is not just to hear trials or decide cases – it is, more fundamentally, to *do justice* in each case, and to do so fairly, efficiently and with as little disruption to the parties' relationship as far as possible. If we accept this, it will follow that the judicial process should not be thought of purely in adjudicative terms. After all, adjudication is but *one* means of resolving a dispute. Reflecting this reality, we have all seen in recent decades, the tremendous growth of alternative means of dispute resolution. If the optimal resolution of a dispute would be more appropriately achieved through these *non-adjudicative* methods – such as mediation and neutral evaluation – then surely such techniques should be seen as integral components of the judicial toolkit.

6. JDR thus heralds a paradigm shift, not just in our thinking on the judicial process, but also in our understanding of the judicial *role*. The judge, on this view, sits not as a passive arbiter of the cases presented to her, but actively manages cases at an early stage, tailoring the process to fit the dispute. She sees herself not simply as an adjudicator, but more broadly as a *problem solver*. The question most often on her mind isn't necessarily "*How do I correctly decide this dispute?*", but perhaps "*What can I do to help the parties resolve their dispute?*" The JDR

judge is open to the use of alternative dispute resolution (or “ADR”) techniques and is guided in their use by the values of proportionality and peacebuilding.¹

III. Why JDR?

7. I next consider *why* we should promote the incorporation of the JDR philosophy into our judicial systems and processes. What benefits can JDR offer? I earlier mentioned the values of proportionality and peacebuilding, and these correspond to what I think are two of the most significant benefits that the JDR approach offers – first, enhancing access to justice; and second, facilitating the holistic resolution of the dispute.

8. Let me first elaborate on proportionality and enhancing access to justice. As an audience of judges would undoubtedly appreciate, not every dispute should or need go to trial. Many lower value disputes, particularly those in the lower courts, are fairly straightforward. For such disputes, a full-blown trial might result in costs that are entirely disproportionate to the value of the claim at stake. This can significantly impede access to justice. The uncertainty and lack of control over the outcome, amplified by the prospect of potential liability for legal costs, could deter at least some persons with meritorious claims from pursuing them. ADR mechanisms, on the other hand, are less formal and more flexible than litigation and, if well-integrated within the judicial process, could facilitate a quick

¹ Sundaresh Menon CJ, “Technology and the Changing Face of Justice”, Negotiation and Conflict Management Group ADR Conference 2019 (14 November 2019) (“NCMG Speech”), at paras 57–58.

and inexpensive resolution to the dispute, if not wholly then at least in part. This equally applies to large and seemingly complex disputes, which in reality are no more than the sum of their individual and much smaller parts. JDR can help to significantly downsize such disputes, so that the parts of the dispute which can be resolved amicably are quickly dealt with, leaving only the most intractable aspects for trial.

9. I turn next to peacebuilding and the importance of facilitating the holistic resolution of the dispute. It is tempting to treat a case as having been “resolved” the moment it leaves the court system. But taking a more holistic view, the proper resolution of a dispute also entails helping the parties move forward *after* the conclusion of the judicial process. This calls for processes that focus on the *interests* of the disputants, rather than being wholly geared towards the adjudication of right and wrong, which can entrench differences and foment resentment. This rings especially true for certain types of disputes where the preservation of relationships is critical, such as matrimonial or other relational disputes. Again, ADR modalities like mediation, which eschew a winner-takes-all outcome in favour of one in which both parties can claim mutually acceptable “wins”, can help to repair relationships and promote peace.

10. JDR offers these benefits by incorporating, within the judicial process, a range of Court ADR modalities, marshalled and complemented by proactive, judge-led case management. Here in Singapore, work at implementing JDR within our judicial processes is already afoot; around 30% of the civil cases filed

in our State Courts, which handle more than 70% of *all* civil cases filed in our courts each year,² are subject to JDR.³ Significantly, more than 80% of those cases managed by our State Courts using the JDR process settle. Further, a recent survey of court users conducted by our State Courts in 2020 found high levels of satisfaction with the JDR process. In that study, 97% of respondents indicated that the JDR process helped to keep legal costs at an affordable level, while 98% agreed that the JDR process contributed to the early settlement of their case. These findings speak to the real contribution that JDR can make to reducing costs and facilitating an acceptable resolution of disputes, thus enhancing access to justice and promoting peace.

IV. How might we develop a judicial system with JDR at its core?

11. That said, there remains much more to be done. Tomorrow, we will discuss and work towards finalising the Best Practice Guide for the Establishment, Implementation and Promotion of the Judicial Dispute Resolution Process. That in itself will be a momentous achievement. But the JDR project represents so much more than a collection of best practices that can quickly be transplanted and applied. As I mentioned earlier, it is, at its heart, also about forging a

² In 2020, the State Courts handled a total of 31,189 civil matters, out of a total of 43,771 matters handled by the Supreme Court and the State Courts (or around 71% of the caseload): see Singapore Courts 2020 Annual Report, pp 63 and 79.

³ In 2020, 5,085 civil cases underwent the JDR process in the State Courts' Court Dispute Resolution Cluster ("CDRC"), about 27% of the total of 18,831 fresh civil cases filed in the State Courts. In 2019, the CDRC managed 6,814 civil cases through the JDR process, about 28% of the total of 24,661 fresh civil cases filed in the State Courts: see Singapore Courts 2020 Annual Report, pp 79 and 80.

paradigm shift in the way we approach the judicial process, the judicial role and the judicial mission. And this brings me to the third and final part of my remarks: *how* might we develop a judicial system with JDR at its core? Allow me to highlight just three areas we might focus on moving forward in.

12. First, judicial education and training. JDR involves a re-conceptualisation of the judicial role. Judges should see themselves as more than just adjudicators; they must also be dispute resolvers, able to apply the right techniques at the right time and to the right parts of the dispute, to resolve it in the fairest and most cost-efficient way. To support judges in their new and expanded role, judicial education and training will be required to develop the required competencies not only in mediation and other ADR modalities, but also in case management and, especially in how to triage disputes effectively so that the correct technique is applied at the correct time. The Singapore Judicial College, or “SJC”, spearheads our efforts on this front. In this regard, the SJC is working on a Judicial Competency Framework, which will anchor competency-based training for judges at all levels of our courts. Although this is still a work-in-progress, there is no doubt that conducting active case management and using ADR mechanisms will be an important element of the Framework.

13. Second, leveraging on technology. Technology holds tremendous potential for enhancing access to justice, both by providing a cheaper and more convenient means of accessing court or other legal services, as well as by empowering litigants and helping them help themselves by making relevant

information available online or guiding them through the legal process with interactive online forms. For example, the State Courts of Singapore, in partnership with the Singapore Academy of Law, have jointly developed an online motor accident claims simulator which provides users a rough estimate of their potential liabilities, based on user inputs as to a range of matters including the circumstances leading to the accident, the relative positions of the vehicles and so on. With this, they are better-placed to make an informed decision as to whether legal proceedings are worth pursuing.⁴

14. And last, but certainly not the least, the development of judicial bonds with like-minded judiciaries is key. Judges are part of a global fraternity in service of a common goal: the fair administration of justice. We have much to learn from each other's successes and setbacks, and it is important that we come together to share our experiences as we strive to develop best practices. Our own JDR journey attests to how the ideas and experiences of other jurisdictions have been a rich source of inspiration for us. Our judicial mediation processes drew inspiration from practices in other jurisdictions like Australia and the United States.⁵ In a similar vein, conciliation – which is a relatively new addition to the

⁴ Clement Yong, "How much can I claim? Traffic accident claims simulator launched to help motorists settle out of court", *The Straits Times* (21 March 2022): <https://www.straitstimes.com/singapore/how-much-can-i-claim-traffic-accident-claims-simulator-launched-to-help-motorists-settle-out-of-court>.

⁵ Yong Pung How CJ, "Launch of 'DisputeManager.com'" (31 July 2002), in *Speeches and Judgments of Chief Justice Yong Pung How*, Vol I: Speeches (SNP International Publishing, 2006) at p 477.

Singapore judge's toolkit – was developed in the light of our study of judge-directed negotiations common in civil law jurisdictions like Italy.⁶

15. These examples underscore the fact that we have much to learn from each other's experiences. And I am therefore delighted that we now have, in the JDRN, a platform for the continued development and promotion of JDR practices. Besides serving as a platform for international judicial engagement, the JDRN aims to develop and promote a set of best practice standards that jurisdictions keen to embed JDR in their court systems may adopt. The Best Practice Guide that I mentioned earlier will be a milestone in our journey towards this goal. The JDRN will also support JDR efforts by providing access to knowhow and resources for capacity building and the development of judicial competences in JDR.

V. Conclusion

16. This Inaugural Meeting is a tremendously important first step in our mission to advance the use of JDR around the world, and in that way to re-imagine how justice may be delivered in our courts.

17. I thank the organising team for their tremendous work in putting this event together, and I wish all of us an insightful and fruitful Meeting. Thank you very much.

⁶ See Kee Oon J, "Shaping Tomorrow's Justice", State Courts Workplan 2018 (9 March 2018), at para 67.