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Singapore Law Ready to Influence the Development of Law Elsewhere

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Change is here. If this was not evident from the speech of Chief Justice Sundaresh Menon at his welcome ceremony three years ago, it is now. In three short years, Singapore is leading Asia - possibly the world - in the provision of not only legal services but also intellectual capital and resources. The speed of these developments should not be surprising. As Attorney-General V.K. Rajah observed at the Opening of the Legal Year this month, Singapore's law and legal system has come a long way in a short time. The story of the Singapore legal system thus far can be told in three phases: consolidation (1965-1990), refinement (1990s-2000s) and internationalisation (today).

Consolidation

THE Singapore legal system underwent a process of consolidation shortly after Independence. There were serious challenges in setting up a truly Singapore legal system so soon after the British departed. Perhaps the most important was infusing the fledgling legal system with the rule of law.

Looking back, the consolidation years guaranteed the Singapore legal system its legitimacy, laying the foundation for future refinements.

Refinement

THE most significant development in the refinement period was the establishment of an autochthonous legal system and jurisprudence. Institutionally, Singapore rejected the automatic reception of English law by passing the Application of English Law Act in 1993 and abolishing all appeals to the Privy Council in 1994.

Our empirical research undertaken for a forthcoming monograph on the development of Singapore law has shown multiple-fold citation of our own judgments during this period. This suggested a conscious effort to develop our own jurisprudence.

One example is the development of an effective criminal justice system on its own terms. Singapore has not shied away from divorcing itself from unsuitable models elsewhere by, for example, abolishing the jury system in 1969.

Singapore's criminal justice system has also of late moved from a model of deterrence and punishment to individualised sentencing and rehabilitation.

Part of the refinement to the Singapore legal system focused on transforming Singapore into a legal services hub. The centerpiece of this effort was the gradual liberalization of the legal market, including the eventual abolition of any restrictions on the ability of foreign lawyers to appear in international

arbitrations conducted in Singapore. These measures paved the way for the next chapter of the Singapore legal system.

InternationaIisation

THE next leap will very much be one of the internationalisation of our laws and legal infrastructure. Plans announced by CJ Menon left no doubt that Singapore will be the "premier destination" in Asia for legal services and dispute resolution.

As Asia is expected to triple its gross domestic product to US$34 trillion (S$45 trillion) between 2010 and 2020, the number of complex cross-border commercial disputes will increase.

Singapore's advantages of neutrality, a strong judiciary and a supportive legislative framework will cement its role as a centre for arbitration. In fact, the Singapore International Arbitration Centre handled a record 259 new cases involving multinational businesses in 2013. Singapore is now entrenched among the top five arbitration centres worldwide, together with London, Paris, Geneva and New York.

Two institutions set up this year give businesses more options for seeking an appropriate and neutral forum for dispute resolution.

The Singapore International Commercial Court creates a court-based dispute resolution forum. The Singapore International Mediation Centre uses qualified mediators, allowing disputants to avoid the more costly arbitration or court processes. The two institutions build on, and indeed enhance, the strong international reputation of the Singapore judiciary and its pool of international jurists.

These developments come at a time when the development of Singapore law has started to exhibit an increasingly internationalist outlook.

Our study reveals that our judgments today tend to consider a wider diversity of foreign judgments. In 2013, Singapore courts considered over 1,500 foreign cases, five times as many foreign cases compared with 20 years ago.

This dovetails with existing efforts within Singapore to try and harmonise business laws in Asia, in hopes of making this a regional and international endeavour.

It is crucial that the courts are adept at analysing issues through a comparative lens, while retaining a strong corpus of law that is both uniquely suited to local circumstances and useful as a point of comparison for foreign jurisdictions.

Indeed, more Singapore courts' judgments are also being considered elsewhere. A recent example is the adoption by an English court of a Singapore judgment endorsing the enforceability of agreements to negotiate in good faith. These developments show that Singapore law is ready to influence the development of law elsewhere.

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