

# INTERNATIONAL FRAMEWORK FOR COURT EXCELLENCE

THE AUSTRALASIAN INSTITUTE  
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## International Consortium for Court Excellence Newsletter

Issue 14 – November 2021

### Want to know more about the Framework?

Interested in holding an IFCE Regional Forum in your region? These workshops give an:

- Explanation of the Framework;
- Overview of the self-assessment questionnaire;
- Overview of how to interpret and analyse the results of an assessment; and
- An explanation of how to develop an action plan for improvement.

Please contact the ICCE Secretariat for further information.

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## What is the Framework?

The International Framework for Court Excellence (IFCE) is a resource for assessing the performance of a court against seven detailed areas of excellence. It provides guidance to courts intending to improve their performance. The IFCE was first developed in 2008, with a Third Edition published in 2020 by the International Consortium for Court Excellence (ICCE), consisting of organisations from Europe, Asia, Australia, and the United States. The IFCE uses the term 'court' for all bodies that are part of a country's formal judicial system including courts and tribunals of general, limited or specialised jurisdiction, as well as secular or religious courts.

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# Consortium news

## Save the date: 2022 International Conference on Court Excellence

### *Pursuing Court Excellence in Challenging Times*

The ICCE invites all members and interested parties to the 2022 International Conference on Court Excellence. The Conference will be hosted virtually between 15-16 March 2022, with the theme 'Pursuing Court Excellence in Challenging Times'.

The Conference consists of a series of themed panel discussions, split over the two days. Presenters will join from various locations including Singapore, Guam, Sydney, and the United States.

#### Day 1

**Keynote Address:** The Honourable Chief Justice Sundaresh Menon, Supreme Court of Singapore

**Session 1:** Nurturing/Meeting the challenges of court workforce for tomorrow

**Session 2:** Embracing new modes of court operations

#### Day 2

**Session 3:** Change management in a highly volatile and uncertain environment

**Session 4:** Harnessing public trust and confidence in the endemic world

This promises to be an exciting opportunity to discuss the challenges of court excellence, share our experiences, and work together to develop an exciting future for all our jurisdictions.

**More information will be released shortly, but please save the date.**

**The Conference will be broadcast during the following times:**

#### GMT

Day 1: 2am-5:15am 15 March 2022

Day 2: 2am-5:15am 16 March 2022

#### Dubai

Day 1: 6am-9:15pm 15 March 2022

Day 2: 6am-9:15pm 16 March 2022

#### Guam

Day 1: 12pm-3:15pm 15 March 2022

Day 2: 12pm-3:15pm 16 March 2022

#### Jakarta

Day 1: 9am-12:15pm 15 March 2022

Day 2: 9am-12:15pm 16 March 2022

#### Singapore

Day 1: 10am-1:15pm 15 March 2022

Day 2: 10am-1:15pm 16 March 2022

#### Sydney

Day 1: 1pm-4:15pm 15 March 2022

Day 2: 1pm-4:15pm 16 March 2022

#### Washington DC

Day 1: 10pm 14 March 2022-1:15am 15 March 2022

Day 2: 10pm 15 March 2022-1:15am 16 March 2022

**The conference will also be recorded for those who register but are unable to attend.**

## New translations

The Third Edition of the IFCE has now been translated into several additional languages. These languages are:

- Arabic
- French
- Spanish
- Turkish

Those translations can be found [here](#).

# Forum and webinar updates

## Promoting the IFCE in ASEAN region

### Inaugural IFCE Train-the-Trainer Workshop for ASEAN Jurisdictions 8 & 9 April 2021

#### Summary

The Council of ASEAN Chief Justices (CACJ) had authorised Singapore to conduct training on adopting the latest edition of the International Framework for Court Excellence (IFCE) for interested member states during its 8th Meeting on 5 November 2020. Working with the International Consortium for Court Excellence (ICCE), State Courts of Singapore organised the inaugural IFCE Train-the-Trainer workshop on 8 & 9 April 2021 to build a team of ASEAN Judiciaries with IFCE expertise.

More than 50 judges and court administrators from all 10 ASEAN member countries attended the virtual workshop, which was conducted by judges and senior court administrators from the State Courts of Singapore who were familiar with both the theoretical and practical aspects of the IFCE. Knowing the challenges courts face in understanding and implementing the IFCE, particularly during COVID-19, the workshop detailed the IFCE's usefulness and how it could be used effectively. Participants also had a fruitful discussion with members of the ICCE Executive Committee to exchange ideas on IFCE implementation.

#### *Origins & Evolution of the IFCE, by Deputy Presiding Judge Jennifer Marie, The State Courts of Singapore*

Deputy Presiding Judge Jennifer Marie from the State Courts of Singapore welcomed the participants and presented the history of the IFCE, including the formation of the ICCE, the development of the IFCE, and the 10 Court Values upon which the framework is built.

She also briefly described the recent review leading to the 3rd edition of the IFCE to allow participants to appreciate the enhancements made. Participants were also encouraged to peruse the ICCE website to learn more about the various court excellence resources available.

#### *The IFCE approach to evaluate court performance, by District Judge Terence Tay, The State Courts of Singapore*

District Judge Terence Tay from the State Courts of Singapore presented the IFCE's holistic approach to assessing court performance using the 7 Areas of Court Excellence. He explained how the various questions under each Area of Court Excellence were designed to effectively evaluate all aspects of a court's performance. To help participants visualise the approach, Judge Tay included examples from a variety of jurisdictions in different countries.

#### *The IFCE method to achieve court improvement, by District Judge Lau Qiuyu, The State Courts of Singapore*

District Judge Lau Qiuyu from the State Courts of Singapore spoke on the 4 steps in the IFCE continuous improvement cycle. She also demonstrated how to use the IFCE self-assessment scoring system as well as two response collation tools provided by the IFCE. Judge Qiuyu highlighted two changes in the revised scoring system: (i) effectiveness statements which aim to measure how well a court has performed in each Area of Court Excellence; and (ii) the option to allow respondents to provide a "Don't Know" response. These features will help courts analyse their areas for improvement with greater accuracy.

*Conducting the self-assessment and analysing the results, by District Judge Wong Li Tein & Mr Phang Tsang Wing, The State Courts of Singapore*

District Judge Wong Li Tein from the State Courts of Singapore gave participants useful tips for organising a self-assessment exercise by pointing out important factors to consider when planning the exercise. She also recommended some publicly available survey tools which were easy to use.

Mr Phang Tsang Wing, Deputy Director of the Centre for Learning at the State Courts of Singapore, showed participants several methods of analysing the self-assessment results to identify areas on which courts can focus their improvement efforts. He also emphasised how the changes in the scoring system presented by Judge Qiuyu significantly improve the process of analysing the results.

*Drawing up a practical and sustainable improvement plan, by Principal District Judge Seah Chi-Ling, The State Courts of Singapore*

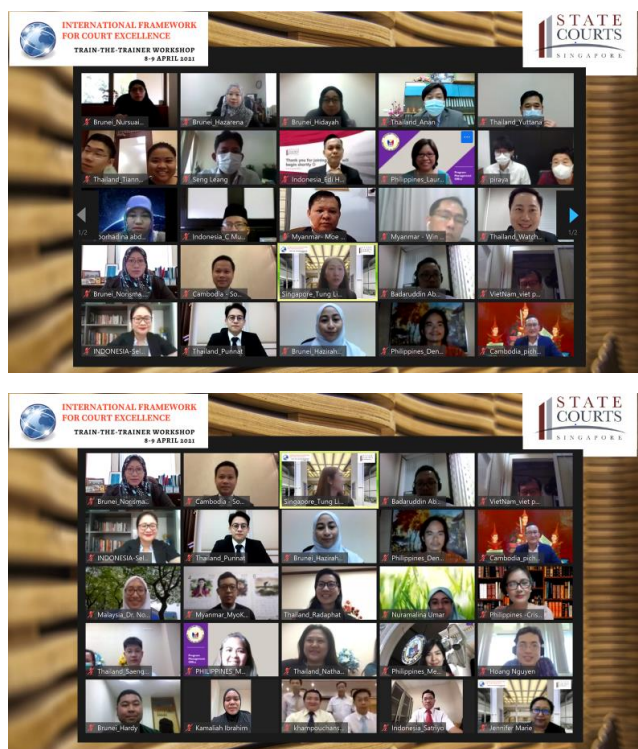
Principal District Judge Seah Chi-Ling from the State Courts of Singapore guided participants on how to create and implement an effective improvement plan by considering various factors, consulting appropriate senior staff, and setting realistic targets. He also emphasised the importance of nurturing a continuous and sustainable culture of improvement.

*Setting meaning Key Performance Indicators, by Ms Chan Wai Yin, The State Courts of Singapore*

Ms Chan Wai Yin, Senior Director of Strategic Planning & Technology at the State Courts of Singapore, provided an overview on performance measurement and gave participants some useful guides on formulating meaningful Key Performance Indicators (KPIs). Such KPIs are important as they allow courts to accurately quantify their overall performance, which subsequently helps them pinpoint specific areas to improve.

*Roundtable Discussion with the ICCCE Executive Committee*

Mr Daniel Hall, then ICCE Chair and Vice-President, US National Center for State Courts (NCSC), Mr Laurie Glanfield AM, Deputy President, Australasian Institute of Judicial Administration, and Deputy Presiding Judge Jennifer Marie from the State Courts of Singapore engaged in a lively roundtable discussion with the workshop participants. They discussed several topics, including how the IFCE could be implemented in jurisdictions of differing scales, how the IFCE has helped them improve their own jurisdictions, and what other ICCE resources were available to help courts achieve excellence.



Participants in the workshop.

## Formation of the ASEAN-IFCE Resource Network

In keeping with the goal of IFCE promotion in ASEAN, more than 30 participants of the inaugural IFCE Train-the-Trainer workshop have joined the ASEAN-IFCE resource network. The network aims to share knowledge and facilitate collaborations on IFCE implementation amongst its members so that more ASEAN jurisdictions may be encouraged to embrace the IFCE. Representatives from every ASEAN jurisdiction have joined the network and a dedicated portal will soon be developed to allow members to share IFCE resources. Members of the network are also encouraged to contact each other and share ideas on implementing the IFCE.

## Inaugural Roundtable of the ASEAN-IFCE Resource Network 9 September 2021

The ASEAN-IFCE Resource Network held its inaugural roundtable sharing session on 9 September 2021 and approximately 20 representatives from various ASEAN jurisdictions attended the virtual meeting.

Deputy Presiding Judge Jennifer Marie from the State Courts of Singapore, who recently became the ICCE Chairperson, warmly welcomed the participants before discussing the common obstacles faced by many jurisdictions during IFCE implementation, particularly during COVID-19. She also highlighted how jurisdictions of different scales can face different challenges and spoke about the State Courts of Singapore's experience in dealing with some of these issues.

Mr Edward Simarmata, a term member of the ICCE Executive Committee, shared his experience in helping various Indonesian courts implement the IFCE and stressed the importance of gathering support from the court leadership and using data to support decision making. He also emphasised that IFCE implementation is achievable for any court,

regardless of jurisdiction size and the resources available. This was a concern for many participants, who were greatly encouraged by Mr Simarmata.

Representatives from Brunei, Malaysia, Philippines, and Thailand spoke about their IFCE implementation efforts or plans as well as the challenges they encountered or anticipated. There was active discussion amongst members on how the network could facilitate knowledge sharing and help more courts adopt the IFCE.

Participants agreed that it would be beneficial to have such discussions regularly and decided to organise the next roundtable sharing session in the first quarter of 2022.



ICCE Chair, Deputy Presiding Judge Jennifer Marie from the State Courts of Singapore, Mr Edward Simarmata, ICCE Executive Committee member and participants of the roundtable.

## Feature Article:

# Emerging Technologies Are Creating Novel Ethical Dilemmas

The International Framework of Court excellence (IFCE) was first launched in 2008, and a second edition was released in 2013. Since the second edition of the Framework was released in 2013, there has been an emergence of new developments in the legal landscape, such as the increasing use of technology. This third edition of the Framework published in May 2020 reflects these developments and the experience of the International Consortium for Court Excellence. One of the main enhancements to the third edition is also the introduction of ethics and codes of conduct.

The many emerging technologies will dramatically change all aspects of our lives and society, including the practice and profession of judging. There is no question that judges will be challenged by the emerging technologies now starting to pervade their courtrooms and dockets. Examples include artificial intelligence (AI), robotics, synthetic biology, 3D printing, nanotechnology, brain-computer interfaces, genetic sequencing, human gene editing, Internet of Things, RFID chips, mobile health, drones, virtual reality, and blockchain. Each of these technologies has already spawned real companies, real products, and real lawsuits, with much more to come over the next couple of decades.

For example, an AI test may be able to predict the onset of preclinical Alzheimer's. Should attorneys and judges be regularly tested for early symptoms of Alzheimer's to assess competency? Similarly, experimental studies show that functional magnetic resonance imaging (fMRI) may be able to predict lying versus truth. Are lawyers required to disclose use of these technologies at a deposition? Is it ethical for an attorney to fly a drone near or over property of adverse party in litigation to gather evidence? Is it ethical for a lawyer to request and a judge to order genetic testing of a party who does not want to know their own genetic risk?

Consider the potential consequences of this scenario. Law firm A does not consult its client in its decision to use human labor rather than an AI tool to review over a million documents in a major transaction. After the deal is done, the client hires Law Firm B which uses an AI tool to discover that law firm A missed key documents that caused the client substantial losses. Did law firm A commit malpractice/ethical violation?

Many questions arise as new technologies emerge. Yet, just as United States lawyers are now required to demonstrate a minimum level of technological competency by the American Bar Association (and most state bar associations) in its Model Rules of Professional Responsibility, so too judges will need to have a basic level of scientific and technological knowledge and understanding to perform their jobs competently in the new era of emerging technologies.

There is much uncertainty about application of old legal ethics rules to situations created by new technologies. Technologies are advancing too fast for legislatures and regulatory agencies to effectively regulate the technology, courts by default will be on the front line in resolving the conflicts, risks, rights, and responsibilities that these technologies present, often writing on a blank slate of relevant rules and precedent. There is no question that judges and attorneys will be challenged by the many new emerging technologies now starting to pervade the courtrooms and dockets. But on the positive side, these technologies are immensely important and fascinating to our own individual lives, those of our children and grandchildren, and the substance and process of judging.

**Professor Marchant, Regents' Professor and Lincoln Professor of Emerging Technologies, Law & Ethics, and Faculty Director of the Center for Law, Science & Innovation, at the Sandra Day O'Connor College of Law, Arizona State University (ASU).**

**Robert J. Torres, Justice of the Supreme Court of Guam, and a member of executive Committee of the ICCE.**

## Membership applications

The ICCE now has members from over 20 countries, consisting of implementing members, associate members and affiliated judicial institutions. Courts, tribunals and affiliated judicial institutions who have implemented the Framework and who wish to become members must complete the application form and provide supporting evidence of their implementation of the IFCE.

The Executive Committee will consider each application based on the information provided. Full details about the membership policy and requirements for membership applications can be found on the Consortium [website](#) or contact the ICCE Secretariat for further information.

## Next newsletter

The next ICCE newsletter will be published in mid 2022. Those members wishing to submit articles on their experiences implementing the Framework for consideration by the Secretariat are invited to contact them on [aija@aija.org.au](mailto:aija@aija.org.au).

## Want to know more?

For enquiries about the Framework please contact the ICCE Secretariat at [aija@aija.org.au](mailto:aija@aija.org.au).

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