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## Judicial Reforms through the Use of Technology in Malaysia

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### Abstract:

*Technology has been widely used in courts of law in most jurisdictions around the world. Technology becomes an integral part of the legal system. It enhances access to justice, and dispensing quality as well as speedy justice. It allows justice to take place efficiently using the advanced technologies such as E-Filing System (EFS), Case Management System (CMS), Queue Management Systems (QMS), Court Recording and Transcribing System (CRT) and so on. This paper aims to analyses the judicial reforms that have been undertaken by the Malaysian judiciary through the use of technology. At the end, the result of the study shows that adoption of these technologies had improved the courts' performance, and reduced the backlogs of cases.*

**Key words:** Judicial reforms, Technology, E-courts system, Access to justice

### INTRODUCTION

The Malaysian Judicial system often received comments for its slowness which caused the backlog of cases. As a result, the Malaysian Judiciary has undertaken a judicial reform by introducing a new system known as the e-Court system, which are aimed at improving the performance of Malaysian Judiciary. The e-Court system consists of two phases. The

Phase I of the e-Court system comprises the e-filing, Case Management System (CMS), Queue Management System (QMS) and Court Recording and Transcription System (CRT). The Phase II of the project has additional modules which are not available in Phase I. Those modules include online filing for criminal matters and Power of Attorney, appeal module for the Court of Appeal and Federal Court, e-lelong, integration with Bar Council for Practising Certificate Module, and integration with the Royal Malaysian Police, Road Transport Department, Immigration Department, National Registration Department, Insolvency Department and Prison Department (Qishin Tariq, 2016). The judicial reforms initiated by the Malaysian Judiciary is a must in order to strengthen the rule of law, bring back the trust and confidence of people in the judiciary, and finally enhance access to justice.

## **JUDICIAL REFORMS**

In Malaysia, the court seriousness to clear backlog and accelerate the disposal of cases were started when Tun Zaki Tun Azmi CJ (as he then was) appointed as the Chief Justice in the year 2008. According to the World Bank Report, prior to 2008, the court had introduced the pre-trial case management into the Rules of the High Court to reduce the backlog of cases and ineffectiveness of courts, but they did not succeed as it was reported that the advocates of the reforms were largely High Court judges, and the series of Chief Justices who were not actively involved. That was the period between 2002 and 2005. It was the year 2009 when reforms in the whole judicial system were introduced and executed in order to expedite the disposal of cases (World Bank, 2011). The reforms targeted at improving the administration of justice. In order to enhance the efficiency of the Judiciary at all levels, the Malaysian Judiciary had introduced the “e-Court System” in 2009.

## **THE E-COURT SYSTEM**

The e-Court system consists of two phases. The Phase I of the e-Court system was launched on 9 August 2009 and was fully completed in June 2011 (Arifin Zakaria, 2012). Under Phase I, the e-Court system comprises the E-filing, Case Management System (CMS), Queue Management System (QMS) and Court Recording and Transcription System (CRT). Since 2009, only CRT system had been installed in all courts throughout Malaysia. The other e-Court system such as e-filing, CMS and QMS have been set up in the main court complexes namely Kuala Lumpur, Shah Alam, Ipoh, Georgetown, Johor Bharu and Putrajaya. Since the introduction of the e-Court system, the usage of the system has grown significantly as the case backlog have been substantially reduced. Thus, the Malaysian Judiciary has planned to expand the e-Court system for all the courts throughout Malaysia. Nevertheless, the e-Court system then was facing critical challenges. So Malaysian Judiciary had taken steps to address these challenges through e-Court Phase II, which equipped with new features and additional modules which are not available in Phase I to benefit the stakeholders.

### **(A) PHASE I**

According to the book of *Malaysian Judiciary: A Perspective* published in 2011 (Zainun Ali et al., 2011), the e-Court system consists of several components. The main components are as follows:

#### **(i) The e-Filing System**

Electronic Filing System or known as an e-filing system allows the lawyers to file their cases online. Therefore, legal firms need not have to file the physical documents manually to the respective Courts. With the e-filing system in place, summonses or documents can be filed by a lawyer who is in another town through the online e-filing system. Lawyers just need to

prepare all the necessary documents on a computer and login to the e-Filing portal and upload the documents. A payment of fees can then be made via internet banking. All receipts and acknowledgements are then e-mailed to the lawyer. This definitely saves time and costs of all parties.

The particulars such as date and time of case management are recorded within the system once the documents are uploaded after registration. The system will then generate the case number online. The assignment of the cases to the respective Courts will also handle by the system. The system will then process the submission based on the requirements specified by checking for basic documentation such as statements of claim, notices of appointment of solicitors and so on to determine the submission is a complete submission. Besides, the e-filing system is able to calculate the registration and filing fees as well as generating a bill of charges. The rates of charges are entirely configurable so it allows the Malaysian Judiciary to amend the rates whenever there are changes. The case so registered will then be sent to the respective Court, and an email will be sent to the lawyer to notify the status of filing. The lawyer can then print the document and proceed accordingly.

### **(ii) The Case Management System (CMS)**

The Case Management System (CMS) is a system that manages the cases electronically, without physical files (Wan Satirah Wan Mohd Saman at al., 2013). The CMS is the main component of the e-Court System. It was introduced in January in 2011. The Case Management System allows for computerising file tracking, scheduling of trials, retrieving of statistics, managing reports and monitoring the cases. With this system, management of court cases is more systematic for the CMS creates a detailed record of a case thus doing away with the manual process. This system can be accessed by court officers, judges and staff.

In addition, this system also provides a digital diary planner to assist the officers to set dates for trial in accordance with the judges' free dates. The mention date together with the assigned Court will become immediately available once the case is filed. This system will track and monitor cases to determine whether the parties are ready for trial as there may be an interlocutory application and Pre-Trial Case Management hearings before a trial date is fixed. The Court staffs will ensure the information on the case is updated as it progresses from time to time. This system has accelerated the process before the trial. Additionally, CMS enables the Courts to electronically manage common diaries, centralise the assignment of cases, endorse and retrieve case minutes, publish cause lists, and produce statistic.

### **(iii) The Queue Management System**

The Queue Management System (QMS) is a system that record the attendance of lawyers using kiosk system. Before this system in place, lawyers have to wait for their turn to be called (Kamal Halili Hassan et al., 2011). Through QMS, the lawyers will record their attendance using the kiosk once they arrive at the court. It will provide information on whether the case is listed and whether the opposing party is present. It also registers attendance and provides information in relation to the venue of the hearing. The lawyers also have the option to register for a short messaging system (SMS) alert, which means that they will be informed via SMS when their case is ready to be called. Therefore, the lawyers can attend matters in other courts at the same time or do other works while waiting as they had registered their case number in a kiosk system. This not only save the waiting time, but also spare the lawyers from having to search for the printed cause list and venue of the hearing. It is really benefits for both staff and lawyers.

#### **(iv) The Court Recording and Transcription System (CRT)**

The Court Recording and Transcription System (CRT) is a system introduced to record the proceedings in the open Court. This obviates the need for judges to write the details of the proceedings manually as the system can record the whole proceedings in audio video format. The video recording can then be retrieved and converted into various forms, either in CDR, DVD or in a thumb drive when needed, such as requested by the lawyers at the end of the day. Transcription of the proceedings may be done either simultaneously or post trial.

The CRT system provides visual and auditory recordings of proceedings in Court with the use of video and sound recording systems. With the implementation of this system, the judges can now focus and observe the proceedings better. Additionally, the recording system allows judges to review the demeanor of the accused while they are giving their evidence. In the courtroom, the users can watch live Court proceedings while retaining security and privacy controls. Besides, the amendment of the Criminal Procedure Code to allow this mode of recording has shown the Courts seriousness in judicial reforms through the use of technology.

#### **(B) PHASE II**

The use of technology had significantly improved the delivery system and speed up hearing of cases. Thus, the Malaysian Judiciary has planned to expand the e-Court system for all the courts throughout Malaysia. Nevertheless, the e-Court system then was facing critical challenges. So the Malaysian Judiciary had taken steps to address these challenges through e-Court Phase II. In March 2016, the Malaysian Judiciary had launched Phase II of the project which equipped with new features that will benefit the stakeholders. E-Court Phase II have additional modules which are not available in Phase I. Those modules include online filing for criminal matters and Power of

Attorney, appeal module for the Court of Appeal and Federal Court, e-lelong, integration with Bar Council for Practising Certificate Module, and integration with Royal Malaysian Police, Road Transport Department, Immigration Department, National Registration Department, Insolvency Department and Prison Department (Arifin Zakaria, 2017).

With the implementation of the Phase II, more users will benefit from the new system. Under Phase II, online filing for criminal matters have been implemented at the Melaka Court on 22 December 2016 and Kuantan Court on 11 January 2017. The e-filing system will be extended in stages to all criminal courts soon. Besides, Phase II also brings the court bidding system online which known as 'e-lelong' system. The e-lelong system is developed to replace the manual public auction process in court, and it was launched on 29 March 2017 in the Kuantan Court Complex. With the new system, it would increase its integrity and transparency, and remove manipulation as well as abuse present in the manual bidding system. This certainly will speed up debt recovery. The Malaysian Judiciary will also establish one stop centre in the near future for the depositing of Power of Attorney (registration and revocation) documents from the High Court throughout the Peninsular Malaysia based in Kuantan Court. This project will be integrated with the e-Court system. With the implementation of this project, all filings and searches for Power of Attorney documents can be done online (Arifin Zakaria, 2016).

## **OTHER RELATED MEASURES**

The Malaysian Judiciary has also introduced numbers of other innovative measures to improve the judicial administration. They have introduced e-Court Finance system (E-CFS) in 2014. The e-Court Finance system is a computerized accounting system introduced to replace the manual accounting system. Under this system, a new mode of channeling payments for

filing of court documents has been introduced where payments can be made online via the FPX or through the Kiosk or e-POS system located at the courts. Payment of fines for traffic summons ordered by the courts can be made through this system (Arifin Zakaria, 2015).

With effect from 9<sup>th</sup> December 2015, the Malaysian Judiciary has introduced e-Jurubahasa (interpreter) to facilitate and expedite the process of applying of foreign language interpreters in criminal matters. This system is accessible online throughout Malaysia. In the meantime, the manual work process of probate and administration has converted into an electronic system in order to enhance the management for probate and administration process. Through the implementation of this system, the work process is shortened from 6 months to a mere 3 days. With the e-Court system in place, the e-Courts have been able to improve the delivery system to the public at large (Arifin Zakaria, 2016).

## RESULT

The introduction of e-Court system has contributed great impact to the performance of Malaysian Judiciary. The overall case disposal is significantly higher than the disposal before e-Court system was implemented. This can be seen particularly in the statistics of the Subordinate Courts of Malaysia as shown below:

**Table 1: Pending Civil Cases for Subordinate Courts, End of 2009 and 2016**

Court	As of Dec 2009	As of Dec 2016
Sessions Courts	61,659	14,769
Magistrates Courts	71,681	50,663

(Source: World Bank Progress Report and Statistics Unit of Federal Court)

The above result showed that there was a remarkable reduction of total number of pending civil cases in the Sessions Courts from 61,659 as of December 2009 to 14,769 in December 2016.



As for Magistrates Courts, the number was reduced from 71,681 in December 2009 to 50,663 in December 2016.

Additionally, an independent survey was conducted by the Malaysia Productivity Corporation (MPC) on the impact of e-filing, and the findings show that e-filing has significantly improved the efficiency of the court registry. The e-filing system is also awarded the “Top Merchant” for 2012 by MyClear, the FPX gateway service provider for e-payment, for having the most number of online payment transactions every month (Arifin Zakaria, 2013). The adoption of these technologies had improved tremendously the courts’ performance, and reduced the backlogs of cases. No doubt, e-Court system has become a coordination mechanism that can save a lot of court time and make the judicial process effective, faster, better, and easier. This brings back the trust and confidence of people in the judiciary, which was previously labelled as slow and inefficient.

## **CONCLUSION**

The management of court records through the use of technology give great impact to the government and citizen as a whole. The increase of case disposal rate after the electronic system implementation in Civil Courts provides improvement in judicial service delivery in Malaysia. Malaysian experience has been referred to and is being modeled by many countries around the world. An effective and efficient legal system is important to administer justice fairly in accordance with the rule of law to inspire trust, confidence and enhance access to justice. The e-Court system has transformed the adjudication system, enabling the public reap significant benefits while modernizing and globalizing the Malaysian Judiciary. However, initiatives and efforts must continue to be implemented from time to time to enhance the efficiency of the Judiciary at all levels and to improve the delivery system.

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