



Litigants in Person: Principles and Practice in Civil and Family Matters in Singapore BY JACLYN L **NEO** AND HELENA **WHALEN-BRIDGE** [Singapore: Academy Publishing, 2021. Xxiii + 177 pp. Softcover: S\$64.20]

In the opening of the Legal Year 2020, Chief Justice Sundaresh Menon emphasised the continual imperative to build a justice system that better meets society's justice needs. He laid out the context (at para 41 of his Response):

“These enduring problems are a legacy of a justice process that was conceived in a different era and which was founded on a philosophical preference for argument and adjudication as primary methods of dispute resolution. That model of justice is increasingly straining to meet the needs of modern society – one which is evolving faster than ever before; inhabits both the online and offline worlds; faces increasing socio-economic stratification; and confronts a polarised world more prone to conflict and division than peace and multilateralism”.

He proposed three principles of accessibility, proportionality, and peace-building to guide the redesign of the justice system (Sundaresh Menon CJ, *Technology and the Changing Face of Justice 2019*). The Chief Justice reiterated, “A justice system that is founded on these values holds out the promise of justice as a public service available to all, rather than being the exclusive preserve of a few”.

A recent phenomenon is the growing number of litigants-in-person (“LiPs”); they are “a significant part of everyday life in the justice system” (at p 49). Jaclyn L Neo and Helena Whalen-Bridge’s slim but illuminating scholarship is an important contribution in our understanding of how litigants-in-person in civil and family matters navigate Singapore’s legal system and the challenges they encounter along the way.

Access to justice is not an end in itself but a means to an end. More substantively, it speaks to the rule of law, the timely and purposeful resolution of disputes and to the maintenance of the dignity of individuals who use the justice system. There is always room for improvement in the access to justice regime; no system is perfect and the legal needs constantly evolve. To this end, the title under review informs us how LiPs in Singapore access the justice system and how other stakeholders accommodate them.

A LiP is an individual who chooses to conduct his own case in court, that is, he acts in person without legal representation. LiPs are often legally untrained and therefore unfamiliar with the legal system and its processes. They may also lack the equipment or know-how to use the courts’ electronic processes. However, a LiP is held to the same standard of preparation and conduct that lawyers must follow.



This includes complying with all the relevant laws and procedures. The court will not re-litigate a previously decided action. Nevertheless the courts are also patient, perhaps indulgent, as they guide LiPs and ensure they have their day in court.

Neo and Whalen-Bridge provide us with a rich description and a fuller understanding of LiPs and access to justice in an adversarial system. The authors note that LiPs “form a very small proportion of plaintiffs in civil cases” in Singapore (at p 41). Between 2015 and 2018, they were in the low hundreds, which amounted to no more than 0.5 percent of plaintiffs annually in civil cases. However, LiPs are more “prevalent in the family justice system” (at p 43). From data compiled by the authors, 98 percent of complainants and respondents in maintenance applications between 2015 and 2018 were not represented at the point of filing. Similar figures apply to family violence cases as well.

What is also clear is that there were many more who were unrepresented at some stage of the legal proceedings, especially in the initial stages. For example, the Community Justice Centre (CJC), described by the authors as the “primary organisation” rendering to LiPs in Singapore, has seen a growing number of users for the various services they provide (at p 46).

The CJC provides information and support for LiPs through (i) the HELP (Helping to Empower Litigants in Person) Service Centres located in the State Courts and the Family Justice Courts which provide procedural information; (ii) the University Court Friends programme in which law students provide immediate support and guidance to LiPs by explaining court processes and proceedings to them; and (iii) the Friends of Litigants-in-Person (FLIP) scheme in which volunteers provide guidance on non-legal issues and moral support such as attending court hearings with the LiPs and assisting them to note down useful information.

In their careful study, the authors’ central concerns elaborated in the introductory chapter are: (i) to examine how LiPs engage the legal system without legal representation and how they perceive their position within it; (ii) how the courts have adapted processes and approaches to manage LiPs; and (iii) how lawyers engage with LiPs and the challenges both face. To do so, the study adopts a multi-stakeholder tripartite framework that, in turn, recognises the importance of equal access to justice and the legitimacy of the legal system as perceived by the LiPs. The study also did not confine itself to interactions in the courtroom but also extended to those outside the courtroom.

Litigants in Person is presented in seven concise and accessible chapters. Chapter 2 presents the state of play of LiPs in Singapore and other common law jurisdictions *viz* the UK, Australia, New Zealand and the US. While a comparative approach is potentially enlightening on how other jurisdictions have dealt with similar developments, Neo and Whalen-Bridge caution that any optimal strategy, derived from other jurisdictions, must be contextualised to Singapore. Judicial approaches to LiPs in various jurisdictions are analysed in Chapter 3. In Singapore, the authors observe that “judges are generally cognisant of the distinctive position of the LiPs as well as the difficulties they may face in navigating the judicial system, and are willing to take measures to ensure that the trial is conducted fairly” (at p 79).

Even as judges engage in a “delicate balancing act” when catering to LiPs in the courtrooms, Neo and Whalen-Bridge add that the judges in Singapore have a



wide discretion in “adjust(ing) expectations and adapt(ing) procedures to accommodate LiPs” (at p 79). Indeed, the study reveals that most judgments make no direct reference to the LiPs status, suggesting that judges do not see the need to make direct reference to LiPs except where they are relevant such as when significant issues had arisen during the proceedings relating to their self-representation. The authors suggest that the judiciary consider whether detailed guidelines on LiPs should be issued. The guidelines are not meant to be prescriptive but instead provide broad principles to guide the exercise of discretion and flexibility, a theme the authors return to in Chapter 5. Too much judicial leeway can be misapprehended as giving LiPs advantages over the represented party.

In Chapter 4, the experiences of LiPs with court processes are explored. Of particular interest is why some litigants decide to self-represent and the difficulties they encounter whether they relate to completing court document, the courts’ operating hours, and the need for more legal information. Cost appears to be a major consideration for LiPs but this includes their assessing that legal representation would not provide value for money. As the evidence on why litigants self-represent is anecdotal with the very small sample (N=5), they do demonstrate the need to better understand the decision-making process of litigants in self-representing as they could point to the gaps within and misperceptions of the legal system.

Neo and Whalen-Bridge are correct in urging readers not to regard LiPs as anomalies but as legitimate users of the justice system. Moreover, the authors firmly proffer the view that LiPs are “a significant indication of the importance of law in Singapore and the health of the legal system” (at p 102). For the authors, LiPs highlight self-represented litigants’ belief in the centrality of law and the justice the courts dispense. The authors recommend that this belief be adequately recognised and be adequately supported.

How lawyers relate to and view LiPs is covered in Chapter 5. While the sample size was small (N=21), the survey responses are nevertheless useful in giving an indication of some of the challenges lawyers face and the strategies they use. Despite the so-called “inequality of arms”, the need for lawyers to adapt their craft to cater to LiPs is a common refrain. Lawyers have to advance, if not protect, their own clients’ rights and interests while also maintaining their professional distance from LiPs.

Innovations to better serve LiPs are discussed in Chapter 6. For Neo and Whalen-Bridge, any effective response to LiPs entails “a sea change in perspective” among all stakeholders (at p 159). A multi-stakeholder approach is necessary so that the ends of justice are attained while ensuring that the means of doing so retain their legitimacy. The discussion in this chapter is comprehensive and provides an overview of some of the changes in Singapore implemented in the past decade to improve access to justice, whether they relate to legal aid, legal information and education and the reduction of the involvement of lawyers in dispute resolution in areas such as community relational disputes and employment claims as well as the utility of enhanced judicial control of civil litigation.

In their brief concluding chapter, Neo and Whalen-Bridge note that LiPs have to be accommodated within the justice system as a corollary to their right to equality and to a fair trial. Even then, LiPs do shift some of the costs of their self-presentation to the opposing parties who are represented. There are costs to the justice system as



well as judges and court staff have to spend more time to assist LiPs. *Litigants in Person* presents an engaging account of LiPs in Singapore's legal system. Besides raising interesting insights, the monograph highlights potentially fruitful lines of enquiry for more empirical data, careful research, and thoughtful innovations.

A person's ability to resolve his legal disputes is intimately connected with his ability to protect his rights, interests, well-being, and to participate in society. Access to justice is clearly crucial especially for LiPs. While access to justice can be regarded as a policy issue, how a LiP is able to access justice reflects the institutional design of dispute resolution in a jurisdiction. As the Chief Justice reminds us, "But we must not forget that being a legal professional necessarily carries an additional element of working to ensure that the users of the system come first; that they can access the system; and that we do our part to make it so. A judicial system with the best judges and lawyers would fail in its objective of administering justice if it remained a showpiece that was not accessible to every man (Sundaresh Menon CJ, *Opening Address at the Litigation Conference 2013*).

Meaningful access to justice in Singapore results from four key pillars: Strong whole-of-government will in ensuring access to justice; a multi-stakeholder approach and collaboration on legal aid and pro bono work; a growing pro bono culture that is constantly nurtured; and the provision and promotion of alternative dispute resolution and the use of diversionary strategies and institutions. Should the authors embark on a larger scale study of LiPs in Singapore, whether the LiPs benefit from these four pillars will demonstrate the robustness of access to justice.

This abiding imperative reminds us that justice is not attained if those who need it are not able to access justice. We all aspire to live in a fair and just society, including people attaining justice whether it is a civil or criminal matter. If a person is unable to avail himself to the adjudication provided by the courts or secure legal advice or is disadvantaged or prejudiced for lacking legal representation, then the question of whether justice would be done is a live one with significant consequences for an individual and society. *Litigants in Person* reminds us that a critical measure of success is how well a justice system integrates LiPs in its noble quest to dispense justice.

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