

JUDICIAL INTEGRITY NETWORK ASEAN

EMERGING TECHNOLOGIES AND JUDICIAL INTEGRITY IN ASEAN

Judicial perspectives on the use, opportunities, challenges and impact of technologies on the rule of law, access to justice and court administration

JIN
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ASEAN



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Context

Justice systems are constantly evolving as the needs of the communities they serve change. Technology is both a driver of these changes and a tool to meet these evolving needs. New processes and ways of communicating can address societal inequalities and make legal processes available to more people, in more languages and at lower costs.

However, the technologies themselves impact people's rights and protections and are not uniformly available across local or global communities. As actors in the justice system navigate the challenges that technologies present, the rule of law and rights protection must remain central to decision making in both individual cases and in the administration of justice.

When contemplating justice sector technologies, the judiciary, as the expert on rights protection, is a key voice in the planning, implementation, and monitoring of emerging technologies.

This survey of judicial perspectives seeks to understand how technologies are currently being used by the judiciary in ASEAN and to identify areas where additional resources or tools will help judges to participate in the technological evolution of the justice system.

Judges are stewards of the individual rights of litigants in their courtrooms, while also acting to protect the broader integrity of the justice system. Judicial integrity is critical to public confidence in the justice system and to the stability of democratic processes and institutions, economic markets, and global relations.

Judges protect the rights of all of the litigants that come through their courts. They see how women, children and vulnerable members of society are excluded or harmed.

Judges can rectify these inequalities in individual cases and can bring this perspective to systemic discussions of gender, racial and other kinds of discrimination. This judicial perspective is critical in both changes to the laws and changes in the technologies used in court operations.

The judiciary often has considerable say in if and how new technologies will be used in the legal process. However, judges do not always receive training on how the technology works. Arguments of efficiency and cost savings often drive technical adoption, with the judiciary as one of the few voices raising concerns about human rights, privacy, or procedural fairness. Other times judges, unfamiliar with the potential of new technologies, might resist change.

This can entrench systems that maintain inequalities and are prone to corruption or misuse. These pressures can put judges in a difficult position of trying to balance competing interests while ensuring that system change advances rights protection and the rule of law, rather than eroding it.

ABOUT JUDICIAL INTEGRITY AND JIN ASEAN

The Judicial Integrity Network ASEAN (JIN ASEAN) was established in 2018 as a network of judges, connecting with each other across the region to share knowledge and approaches to protect and strengthen judicial integrity. Current member countries include Indonesia, Lao PDR, Malaysia, The Philippines, Thailand, and Viet Nam.

Strengthening judicial integrity is a protection against corruption and inappropriate influence in the justice system.

Judicial Integrity

Judicial integrity is a multi-faceted concept that covers the conduct and practices of judges as well as the structure and circumstances in which judges work. It encompasses the principles that ensure transparent, effective and accountable institutions as a critical component for promoting SDG 16's aim of peaceful, just and inclusive societies and justice for all.¹

Judicial integrity is a broad concept that includes a number of key elements of judging to ensure strong, fair and rights-respecting justice systems:

- Transparency in decision making
- Transparency in court administration
- Predictability of case timeframes
- Equal access regardless of status, money, or identity
- Equal treatment regardless of status, money, or identity
- Mechanisms to prevent bribery
- Mechanisms to prevent gendered or identity-based threats
- Due process
- Judicial independence
- Separation of political and judicial roles and institutions

In the context of new technologies, there are implications for each of these elements.

1 2030 Agenda for Sustainable Development, <https://sdgs.un.org/2030agenda>

In 2008 the Bangalore Principles were developed, articulating six values to strengthen the judiciary as “the bedrock of democracy and the rule of law” designed to protect the public from “any encroachments on rights and freedoms under the law.”²

These principles elaborate on the protections included in many international and domestic human rights instruments, drawing on Article 10 of the Universal Declaration of Human Rights proclaimed by the United Nations General Assembly on 10 December 1948:

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

The Bangalore Principles include six values:

Value 1: Independence: Judicial independence is a prerequisite to the rule of law and a fundamental guarantee of a fair trial. A judge shall therefore uphold and exemplify judicial independence in both its individual and institutional aspects.

Value 2: Impartiality: Impartiality is essential to the proper discharge of the judicial office. It applies not only to the decision itself but also to the process by which the decision is made.

Value 3: Integrity: Integrity is essential to the proper discharge of the judicial office.

Value 4: Propriety: Propriety, and the

2 Preamble, Bangalore Principles. Accessed in the [UNODC Commentary on the Bangalore Principles of Judicial Conduct](#)

appearance of propriety, are essential to the performance of all of the activities of a judge.

Value 5: **Equality**: Ensuring equality of treatment to all before the courts is essential to the due performance of the judicial office.

Value 6: **Competence and Diligence**: Competence and diligence are prerequisites to the due performance of judicial office.

In 2018 JIN ASEAN developed the [Judicial Integrity Checklist](#) and in 2020 updated it to integrate with the International Framework for Court Excellence. The IFCE has incorporated the Checklist into its global model for assessing and monitoring court excellence in [2020](#).³

United Nations Development Program (UNDP), through JIN ASEAN is continuing to share knowledge and tools for strengthening judicial integrity as part of its broader efforts to promote court excellence. In this way, judges are also engaged as critical stakeholders in countering corruption, furthering individual countries' commitments to implement the United Nations Convention against Corruption (UNCAC).

The Convention, which entered into force in 2005, identifies the judiciary as a critical institution to prevent and counter corruption.⁴ Article 11 requires each state party to take measures to

1. strengthen integrity among members of the judiciary and prosecution services, and
2. prevent opportunities for corruption among members of the judiciary and prosecution services.

This research and the related tools related to emerging technology is one way that judges in the JIN ASEAN network engage and learn from each other and build the capacity of judges across the region as the administration of justice continues to evolve.

The issues presented by emerging technologies intersect with judges' obligations in relation to Bangalore Principles (Value 2: Impartiality, Value 3: Integrity, Value 5: Equality, Value 6: Competence and diligence) and to key aspects of the Judicial Integrity Checklist.

3 [International Consortium for Court Excellence](#), Court Excellence Self-Assessment Questionnaire.

4 UNODC, [United Nations Convention Against Corruption](#).

Technologies for the courts

E-justice is an umbrella term that captures any effort to administer, deliver, strengthen, or monitor justice services using digital technologies. It includes efforts by institutions like courts and governments, individuals like lawyers and human rights defenders, and private and civil society entities like technology providers and community partners.

E-justice broadly covers all kinds of digital technologies from complex case management or innovative apps to information technologies and use of online communication. It includes the tools and processes used by justice sector professionals and those used by court users and the media.

E-justice initiatives include the strategies, process (re)engineering, automation, data collection, integration of systems as well as online dispute resolution, e-filing, remote court process and technologies used to digitize, store, and provide access to legal documents and evidence.

Digitization is the process of converting existing processes and content from analog into digital formats. This includes developing online forms and portals to submit documents or access decisions to make existing in-person court processes available online.

Digital transformation can facilitate shifts in legal and judicial culture towards more accountability, transparency, and accessibility.

Courts across the world are engaging in a variety of projects and long-term programmes, working with international agencies as partners and donors, to modernize their justice systems, including:

- case management systems,
- virtual proceedings,
- electronic filing and storage of documents and evidence,
- asynchronous communication between litigants and with the court,
- electronic scheduling, and
- the introduction of new tools such as online dispute resolution, and AI predictive tools.

Some elements of these projects were introduced or accelerated because of the COVID-19 pandemic and ensuing quarantines, which required courts to operate virtually and restructure court processes as online transactions.

The use of technology can increase speed

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