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# ***From the Co-Managing Editors***

**By Philip M. Langbroek and Barry Mahoney**

## ***The Importance of Effective Court Administration***

Well functioning court administration is a condition for legal certainty, the fair and effective resolution of legal disputes that reach the courts, and the functioning of a market economy. It contributes to the peaceful solution of conflicts, prevents us from taking justice in our own hands, and provides a foundation for protection of fundamental human and legal rights. A well functioning court thus contributes to the well-being and welfare of all and is an important element of good governance. That courts are instituted and paid for is a responsibility of the government. But the way courts function as organizations and in adjudication is mainly up to the court's leaders and managers (both judges who have leadership roles and non-judicial staff in executive positions) and to the judges.

Courts are often seen as constituting the Third Branch of Government. They play a prominent role in separation of powers theory, and the position of courts and judges is a favorite subject among constitutional lawyers. This is nice from an academic viewpoint, but in practice court managers have to deal with 'rules and games' to organize the courts' budgets as well as to handle a broad range of other administrative duties essential to the effective functioning of the courts. Courts are paid from taxpayers' money and they always need another branch of government to support them financially. The source of funding may be a minister of justice, a minister of finance or a democratically elected representative body. Courts have no possibility of raising taxes for their own budget, and to arrange for that would be contrary to basic requirements of impartiality and the right of access to justice. Being a part of the state organization, courts always have to deal with organizational dependencies and a set of typical risks. Risks are related to:

- the impartial position of judges and the court in relation to the parties;
- the independence of the judges from executive bodies and the autonomy of court organizations;
- the relation between judges and courts and the general public. The media often play an intermediary role in that relationship;
- the capacity of the court to adequately deal with the quantity of cases filed at the court;
- the juridical knowledge of judges and court staff.

In all kinds of conflicts, be they within criminal, ordinary or administrative jurisdictions, judges must take a decision, and this often involves a decision against at least one party, or it is perceived to be so. Family cases, even when not of a juridical complexity, may be difficult to resolve and may involve deep private emotions and drama. Judges and court clerks may in some instances risk the revenge of the losing party. Judicial decisions in cases against the government or an administrative body may affect the outcomes of public policies. Courts and judges therefore sometimes risk being publicly bashed by politicians who will thereafter be in a position to vote on the courts' budget.

Criminal cases, especially, tend to attract media attention. The court organization may risk loss of the trust of the general public in criminal cases—for example, when the public feels that sentences are not severe enough or when the court decides that a suspect should be released pending trial. Trade cases may involve the complexities of intellectual property and business organization. In such cases, there is sometimes a risk that judges and court clerks may be offered bribes. There is a different type of risk, too, in complex cases involving issues requiring specialized knowledge—will the judges and clerks be knowledgeable enough to deal with the complexities of the case?

In principle the societal demand for courts' services is endless. Court organizations risk not having not enough capacity to deal with large numbers of cases filed at the court. The capacity issue seems to be a constant with courts throughout the world: resources are rarely sufficient to meet the demands for court services, with the result that backlogs and delays are a perennial challenge for court leaders and managers.

Courts, while serving society from a strictly neutral position, can only function well when they manage these risks well. That is not easy, as the societal and political forces pushing and pulling a court organization may be intense. Citizens, parties, child protection agencies, probation offices, businesses, lawyers, public prosecutors, the police and bailiffs all are in need of the services of the courts, take part in proceedings and engage in exchange of information with the courts and its clients. It takes great balancing skills to make a court and a court-organization (and certainly a nation wide judicial system) live up to political, public and clients' expectations of efficiency, fairness, transparency, societal responsiveness, timeliness of proceedings, accountability and, last but not least, legal obligations. Courts (even courts with few judges or only a single judge) are highly complex organizations, and the complexity is compounded for nation wide judicial systems. Keeping these organizations in shape needs the constant attention of judges, court administrators and clerks, and

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national court services. Outside scrutiny—very much including examination of court processes and practices by knowledgeable consultants and academic researchers—can also be very helpful in strengthening courts' capacity for effective administration.

The International Journal of Court Administration seeks to contribute to the effective functioning of court administration everywhere. Problems and solutions of courts in one country may inspire analysis and solutions elsewhere. Outside of North America, court administration is rarely recognized as a special branch of public administration. We believe that court administration (and, more broadly judicial administration) deserve special attention from professionals in the courts and at the faculties of law and of public administration. It is a special discipline that involves rules of procedure, understanding of “legal cultures” and the realities of actual legal practice, management, law, and politics. To further this discipline for practitioners and academics, we offer a platform for exchange. Every experience is valuable.

We are most proud to present the first issue of this journal. We hope to develop it further in the time to come. For the journal to succeed we need and welcome descriptions of projects, experiences, and analyses from persons working on court- and judicial administration throughout the world, and we will appreciate comments and suggestions from the journal's readers.

