

BOOK REVIEW

Litigants in Person: Principles and Practice in Civil and Family Matters in Singapore

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The ‘multiple distinctive challenges’ that litigants in person (LiPs) ‘present to the legal system’ (p 12), will be an issue that will resonate with anyone interested in civil justice across the common law world. This concise volume, focusing on the issues from Singapore’s perspective, is a welcome and valuable addition to the literature. It draws on multiple data sources – official data, case law, interviews, and a survey – to explore ‘the challenges that a lack of representation poses to the wider justice process’ (p 12). While the issue at the centre of the book is framed as a ‘lack of representation’, the considered solutions offered in the final chapter include systemic changes to make the system more accessible to unrepresented litigants. Commendably, the book presents a nuanced understanding of LiPs, noting the tendency of many legal actors to characterise LiPs as “difficult”, “trouble-making”, “obsessive”, and even “vexatious” (p 17).

The book contains a comprehensive review of the position of LiPs in four common law jurisdictions – the United Kingdom, Australia, New Zealand, and the United States – and compares these to the situation in Singapore (Chapter 2). In conducting this review, the authors make the astute observation that discussion about LiPs has been influenced by particular foci in these jurisdictions, for example in the United Kingdom the changes to the legal aid system and in the United States, the concern with the legal needs of low-income Americans (p 12). This discussion might have been enriched by including Canada, which has detailed research on LiPs¹ and relevant case law. For example, in *Pintea v Johns*,² the Canadian Supreme Court endorsed the ‘Statement of Principles on Self-Represented Litigants and Accused Persons’, a document that provides guidance to judges, court administrators, and lawyers, ‘to ensure that self-represented persons are provided with fair access and equal treatment by the court’. Nevertheless, it will be very useful to anyone seeking a quality comparative survey of the issues.

The authors go beyond policy and academic papers in their review; also analysing annual reports and other official materials to estimate numbers of LiPs in various Singapore jurisdictions (Chapter 2). This is useful data, which is interpreted with the appropriate caution that such records require, and provides at least a partial picture of LiP activity in Singapore courts. Hopefully such data will motivate the relevant bodies to heed the authors’ call for ‘coordinated and sustained data collection’ to

¹The National Self-Represented Litigants Project has been a leading voice in LiP research, beginning with Julie MacFarlane’s 2013 report: Julie MacFarlane, ‘The National Self-Represented Litigants Project: Identifying and Meeting the Needs of Self-Represented Litigants: Final Report’ (May 2013) <<https://representingyourselfcanada.com/wp-content/uploads/2016/09/srlreportfinal.pdf>> accessed 21 Mar 2022.

²[2017] 1 SCR 470.

underpin an evidence-based determination of improvements needed to facilitate LiP access to justice (p 129).

The authors then turn to a review of all Singapore reported civil cases from 1954 to 2019 where at least one party was identified as a LiP (Chapter 3). Part of this analysis is doctrinal in focus, reading judgments to identify guiding principles and strategies employed by courts. This will be a useful analysis for Singapore practitioners and the judiciary, as well as an excellent comparative summary for other common law countries facing the challenges of maintaining an adversarial system in the face of LiPs' need for assistance. The analysis also considers the ways in which courts have modified their adjudicatory practices to accommodate LiPs (p 19), for example by extending LiPs latitude in compliance with procedural rules and decorum (including allowing LiPs to 'vent'), and in compliance with timelines. Discerning court practice from judgments, however, is a fraught activity. Judgments are performative,³ written for an audience, in particular the higher courts and the profession. We might predict that a court would record the fact that they had censored a LiP for unacceptable behaviour (as a warning to other LiPs and to signal to the profession that it has its limits). But where the court had in fact given more latitude (potentially to the annoyance of counsel), they might omit mention of this. The judgments provide some valuable insight, and future work might supplement it with methods such as observation to understand court behaviour more thoroughly.

The book helpfully presents multiple perspectives, and Chapter 4 focuses on LiP experiences. It reports results of five, in-depth, commissioned interviews with LiPs. The limitations that this sample size presents is appropriately acknowledged as being 'exploratory and descriptive' and to provide 'an initial sense of how LiPs in Singapore may experience their cases and as a basis for further study' (p 89). Their experiences of navigating the courts and the challenges they faced largely echoes the literature from other jurisdictions, providing further evidence for the needs of LiPs across the common law world. Attention is given to the role of emotion in LiPs' experiences, including a focus on the emotional burden that LiPs carry when undertaking court proceedings – a very useful addition to emerging discussion on this point.

Appropriately balancing the LiP-perspective, Chapter 5 considers lawyers' views on lawyer-LiP relationships. This chapter reports the results of an online survey of lawyers 'in order to gain insights into their experiences when they engaged with LiPs' (p 19). Given the very small size (n = 21), the results are appropriately presented as a 'snapshot of some views which offer potential insight into how lawyers interact with LiPs, as well as some points of contention and need' (p 109). The chapter contains some interesting observations and prompts for future research. These include whether lawyers are aware of the availability of self-help materials for LiPs (p 118); that LiPs complicate lawyers' ethical duties but the lawyers did not see the difficulties they had with LiPs in ethical terms (p 116); and whether information about the duties and responsibilities of lawyers and legal processes could be better explained to LiPs (p 124). There is also data presented about the reasons LiPs gave lawyers for why the LiPs were self-representing. This is interesting but should be treated with caution given that these reasons are lawyers' *interpretations* of LiPs' reasons, rather than direct explanations from LiPs.

The book concludes with an examination of how LiPs can be better served. The authors survey innovations that either retain the current justice structure or involve more fundamental change. They dismiss the idea of mandating legal representation on the basis that 'it does not incorporate the central concern of access to justice, that of accomplishing actual access as opposed to merely conceptual access' (p 145). Instead, they focus on innovations to improve interaction between LiPs and courts. These include a number of existing initiatives in Singapore to assist the courts to manage LiPs or to help LiPs. This is a very useful summary for those in Singapore (who may

³Paul Atkinson & Amanda Coffey, 'Analysing Documentary Realities', in David Silverman (ed), *Qualitative Research* (3rd edn, Sage Publications 2011) 77.

not be aware of the extent of the initiatives), and from a comparative perspective (for those looking for models for their own jurisdictions). For example, the Friends of Litigants in Person programme (FLiP) (p 139) and the Community Justice and Tribunals Division Friend Scheme (pp 150–152) will be of interest to those considering the trend towards court navigators and lay court assistants. The authors argue that regardless of whether the changes are within the system or more fundamental, ‘a sea change in perspective’ is required, in which LiPs are ‘viewed as rightful participants in the resolution of their legal disputes’ (p 159).

Scholars and reformers outside the jurisdiction will find this to be an authoritative work for comparative analysis and to stimulate thinking about improvements within their own jurisdictions. For the judiciary, practitioners, legal educators, and law reformers in Singapore, this book is an accessible guide to the challenges all stakeholders face when LiPs interact with the court system and shines a light on the possible solutions. As the authors conclude, LiPs have a legitimate role in the courts, and this book is essential reading in moving towards a system that supports LiPs’ access to justice.