

Embargoed
Check against delivery

**SPEECH BY THE ATTORNEY-GENERAL AT THE
OPENING OF THE LEGAL YEAR 2007
Supreme Court Auditorium, 6 January 2007**

May it please Your Honours, Chief Justice, Judge of Appeal, Judges,
and Judicial Commissioner of the Supreme Court.

1. We are gathered here once again to welcome the new Legal Year, but this time with a different Chief Justice who is no stranger to the Bench and the Bar, and whose "determination to uphold the rule of law and respect for the integrity of the law and a fair judicial process are also well known to the legal community"¹. Given the historical significance of this occasion, we are looking forward to receiving guidance from you, Chief Justice, on the expectations in the administration of justice for the coming year, which Your Honour will deliver in a few moments.

2. Those of us who follow closely legal developments elsewhere probably know that the United Kingdom ("UK") had in late November last year introduced their Legal Services Bill in the House of Lords. If the Bill is eventually passed in its entirety, the UK will have an independent oversight regulator, at the apex of a new regulatory framework, that ensures other approved regulators function to the

¹ Response of the Chief Justice at the Welcome Reference for Chief Justice Chan Sek Keong on 22 April 2006.

required standards in keeping with better defined regulatory objectives. It will also see the creation of an independent Office for Legal Complaints. This means that the handling of legal complaints will, for the first time, be removed from the legal professionals. Under the proposed law, different kinds of lawyers, as well as lawyers and non-lawyers, can also set up alternative business structures to deliver legal services in innovative ways to meet new customer demands.

3. These proposed changes are indeed fundamental in a country that has a Bar Council and a Law Society which are historically strong and independent. More significantly, the UK is already the second biggest exporter of legal services in the world. It is in a position of strength and leadership in the supply of legal services that is unmatched by most countries. In the words of the Lord Chancellor "the expansion of the major UK law firms into new markets overseas seems to be unstoppable".² Still, the UK finds it necessary to reform their regulatory framework in order to maintain their leading edge in the international trade in legal services.

4. I am not for a moment suggesting that the proposed regulatory reforms in the UK are necessary or even suitable for our fused legal profession at this point in time. I am drawing attention to the UK developments to simply make the point that no country, however foremost it may be in the provision of local and foreign legal services, can avoid reforms to better position its legal services sector in an

² Speech by the Secretary of State for Constitutional Affairs and Lord Chancellor Lord Falconer of Thoroton at the KPMG Annual Law Lecture, London, 26 January 2006.

increasingly competitive global economy. The UK example also highlights the importance of being forward looking in a rapidly changing environment. Unlike the UK, our legal services sector presently does not have the critical mass. The pre-eminence of English law as the preferred law in the commercial world is also a competitive advantage that we presently do not possess. Nevertheless, we are no less forward looking than the UK in our own efforts to become a leading regional, if not a global, provider of legal services.

5. In August last year, the Government accepted the key recommendations of the Third Committee on the Supply of Lawyers to increase the number of lawyers. This has been necessitated by the acute shortage of practising lawyers, coupled with enhanced demand for legal services due to regional economic growth. To address these challenges, Singapore will have a second law school in the Singapore Management University. In addition, Singapore citizens and permanent residents who graduated from recognised overseas law schools with second class lower division honours or equivalent can now practise law upon meeting certain conditions. This move is greatly appreciated by those who just missed the required class of degree, as it gives them a second chance to fulfil their aspirations for legal practice.

6. These supply-side measures will ultimately increase our pool of lawyers. But the Bar must still address the worrying trend of its dwindling numbers in the last five consecutive years. The legal

profession must continue to explore effective ways to minimise the attrition rate of young lawyers who are in practice or have just joined the Bar. Law firms that are able to harness the benefits of an improving economy should seriously consider restructuring their work and pay practices to make the conditions and rewards of legal practice more attractive. Those less able to do so can equally make reasonable efforts to help young lawyers achieve a better balance between working life and social and family life.

7. A thinning Bar can be an early sign of an ailing profession. The identified causes of young lawyers leaving practice are stresses of practice, long hours, unrewarding pay, and perhaps unreasonable client demands. Could there be other deeper underlying causes? For instance, can it be due to a different mindset and expectation of a younger generation of law graduates? If so, should this be tackled at the undergraduate level or even earlier? Why do certain undergraduates choose a legal education without the aspiration of practice as a long term career choice, and are they in the majority? Or is it because the younger ones no longer see the profession as a noble calling due to the conduct of some black sheep that may have marred the image of the profession? These are important issues which should be considered by the Law Society, perhaps in conjunction with the law schools.

8. Pupil-masters can also do more to prepare pupils psychologically for transition into the real world of practice. Senior lawyers, especially those who have withstood the rigours of practice

in the last 15 years, should by now have their mantra of how to effectively manage the stresses of practice. They can bring such useful knowledge and experience to bear on their pupils, who will no doubt benefit from their personal guidance. I therefore urge pupil-masters to have greater interaction with, and be closely involved in the nurturing of their pupils. Pupil-masters should not only impart practical knowledge to their pupils, but should also play a role in shaping young lawyers' attitudes towards practice.

9. Beyond increasing the numbers to meet the growing legal services market, Singapore law firms have to improve the quality of their legal services so that they can compete effectively in the region. One way is for them to recruit high quality foreign legal talent to practise Singapore law in areas like banking, finance, corporate and regional work under a special scheme administered by my Chambers. The scheme will allow the blending of foreign and local legal expertise, so that consumers of our legal services can get the "best of both worlds". This will better position our outward-looking law firms for regional and even global competition. For this reason, the entry criteria for such foreign legal talent are high. Each application will undergo stringent scrutiny, and those who manage to come on board will be subject to continued oversight by my Chambers.

10. The future for Singapore law firms and lawyers is promising. To ensure that our legal services sector continues to support Singapore's plans for future economic growth, a committee headed by Justice V.K. Rajah is undertaking a holistic review of our legal

services sector and will propose measures to enhance Singapore as an international hub for legal services. This may cover among other things the promotion of Singapore law as the preferred law in commercial contracts, and the promotion of Singapore as the choice venue for international arbitration. I am confident that Justice Rajah's committee will present us with an even clearer picture of where we stand and the necessary strategies to take Singapore law and Singapore lawyers forward.

11. While the legal services sector is essential to our economy, of equal importance to the nation is the role played by the Singapore Legal Service. In line with Singapore's aim to have an outstanding public service, a comprehensive review of the management and development of our Legal Service talents was undertaken last year. Legal Service Officers are either appointed as district judges, magistrates, deputy public prosecutors or state counsel, or hold other appointments in government departments or statutory boards. They perform a critical role in our judicial and legal institutions. The attraction and retention of the right talent is therefore of utmost importance. The review covered areas such as recruitment, assessment, training, development, feedback, talent management, succession planning and exit management. The Review Panel's recommendations were accepted by the Legal Service Commission in October last year. The measures that are in place should provide each Legal Service Officer with the opportunity to develop his or her potential to the fullest. This will in turn contribute to Singapore's continuing judicial and legal excellence.

12. The past year has also seen leadership renewal for the Judiciary and the Attorney-General's Chambers. During the period February to October, we have had a new Chief Justice, a new Attorney-General, a new and youngest ever Judge of Appeal, a new Supreme Court Judge, a new Judicial Commissioner and a new Second Solicitor-General. The holders of these appointments are all known to you and need no further introduction. The renewal process shows that we are indeed at another significant turning point in Singapore's legal history.

13. In this context, a key area that requires refocusing and which is being done, is the administration of criminal justice. A 29th September 2006 Straits Times article³ on the recent changes in our criminal justice system commented that while our courts seemed to have become gentler on crime, "We do not want to become too soft on crime either". Indeed, media reports and commentaries on the outcome of successful criminal appeals by defence counsel since May last year may have contributed to a perception that our courts have become more lenient to criminals than before. This perception is not necessarily correct. In my opinion, one should see these developments as a timely refinement of our penal jurisprudence to ensure that the punishment fits not only the offence but also the offender, which is desirable in the wider interests of society. Your Honour, the Chief Justice, is presently chairing a review panel to examine and rationalize the current practices on sentencing and on

³ "Gentler on crime, but not softer", *Straits Times (Review)*, 29 September 2006.

the granting of bail. Its report will no doubt set the future direction of the administration of criminal justice.

14. One of the fundamentals of Singapore's success is our firm commitment to the rule of law. Our laws are accessible, intelligible, clear and predictable. Questions of legal rights and liabilities mostly find resolution in this country by application of the law rather than the exercise of discretion. Save to the extent that differentiation is justified, everyone here is entitled to the equal protection of the law. Fundamental liberties are adequately protected in accordance with the law. There are various means to ensure that civil disputes are resolved without prohibitive cost or inordinate delay. Our public officials at all levels exercise powers reasonably and, if they are in doubt as to the limits of their powers, they invariably look to my Chambers as the first port of call. Even when powers are inadvertently exceeded, which is relatively rare, corrective measures are available.

15. In a country that observes the rule of law, it naturally follows that justice has to be administered independently and impartially in accordance with the law. Those in litigation practice know that in this country, it is the merits of the case that determine its outcome. The merits of the case in turn depend on the evidence and the law. The role of the judge is to interpret the law and apply it to the evidence to reach a logical and just conclusion. In the nature of things, especially in an adversarial system, the law cannot be in all parties' favour. Yet, from time to time, we never fail to get parties who, when the law is not

on their side, criticise the judges for being unfair or, worse, accuse the whole judiciary of lacking independence.

16. Of course, some indefatigable critics have their own agenda to bring into disrepute key public institutions. There are those who consider that they have a right to break the law in order to make a political point or to ventilate a grievance they might have against the authorities. They are often supported and encouraged by foreigners in the name of human rights. We should be wary of this. The rule of law means that all persons in Singapore are subject to the law, regardless of their political, ideological or religious affiliations. To allow certain individuals to flout the law is to undermine the very basis of the rule of law. Attacking the judiciary is easy, because judges here traditionally do not engage in public debate. Neither do they answer their critics directly. Unsubstantiated allegations, even if rebutted, can erode public trust in the administration of justice and shake their confidence in the rule of law. Respect for the law is something that we lose at our peril. Once that respect is lost, it will take much time and effort to restore.

17. The response of our judiciary has been to render justice to whom justice is due, regardless of the standing or political persuasion of its critics. For the rest of us who are officers of the court, we have the duty to dispel any myths about the judiciary that can mislead the public. We should therefore rise and refute any scandalous and unfounded criticisms, and robustly defend the independence and impartiality of our courts, and the probity and integrity of our judges.

Such criticisms against our judiciary there will always be, for as long as the critics do not achieve what they wish. I therefore hope that our Bar will continue to support our judiciary, as it did last year when it drew on its members' daily experience with fairness and justice in the courts to counter a contemnor's baseless allegations.

18. Before I conclude, I would like to remember a retired member of the Supreme Court. He is Justice Lai Kew Chai, who retired from the Bench after 25 years of distinguished service. Unfortunately, soon after his retirement, he passed away. Justice Lai was known for his strong sense of fair play and unfailing courtesy. He was a friend and a colleague who was always prepared to take in arguments from a fresh perspective. In one case⁴, he boldly departed from an established 1890 English authority so that his decision can "reflect the mores and sense of justice" of the Singapore society. That landmark ruling was later endorsed by the Privy Council in another case on appeal from Hong Kong⁵. Justice Lai had made significant contributions to the development of Singapore law.

19. Finally, in keeping with a tradition that has been in practice in these courts for some fifty years, on behalf of all the Legal Officers in my Chambers, let me renew our pledge to support Your Honours in the administration of justice and in upholding the rule of law. I also

⁴ *Sumitomo Bank Ltd v Kartika Ratna Thahir and others and another matter* [1993] 1 SLR 735.

⁵ *AG of Hong Kong v Reid* [1994] 1 AC 324.

wish Your Honours, Mr Philip Jeyaretnam, and all members of the legal fraternity a healthier, happier and better year ahead.

**CHAO HICK TIN
ATTORNEY-GENERAL
SINGAPORE**