

OPENING OF THE LEGAL YEAR 2009

May it please your honours, Chief Justice, Judges of Appeal and Judges of the Supreme Court.

1 2008 has been a year of great change for the Legal Service. We have seen the departure in quick succession of so many senior and respected colleagues: starting with the Attorney-General himself, Mr Justice Chao Hick Tin, followed in short order by Mr Ter Kim Cheu (our long-time legislative draughtsman), Mr Lawrence Ang (a pillar of the prosecution for almost 30 years) and Mr Sivakant Tiwari (whose invaluable international law expertise has been relied upon repeatedly to protect Singapore's interests in international forums). I would like to pay tribute to these men, who have dedicated their entire professional lives to the Legal Service. We are grateful for their great contributions to the work of the Attorney-General's Chambers.

2. If I may be permitted to inject a personal note, I was privileged to serve with Mr Justice Chao Hick Tin, then Attorney-General, and Mr Justice Chan Seng Onn, then Solicitor-General, when I first joined the Attorney-General's Chambers. I would like to express my deep appreciation to them for their support and guidance.

3. We now have five new Principal Senior State Counsel in the Attorney-General's Chambers: Mr Charles Lim of the Legislation and Law Reform Division; Mr David Chong of the Civil Division; Ms Jennifer Marie of the Criminal Justice Division; Mr Bala Reddy of the State Prosecution Division; and Mr Lionel Yee of the International Affairs Division. In addition, Mrs Koh Juat Jong joined – or more precisely, rejoined – Chambers as Solicitor-General in April. To round off the senior management of Chambers, Mr Jeffrey Chan, who has been a stalwart in Chambers for well over a decade, was designated as

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Deputy Solicitor-General in July. With these changes the senior management of the Attorney-General's Chambers has completed a generational change and renewal.

4. This process of change and renewal encompasses a re-organisation of Attorney-General's Chambers as well. May I inform your Honour of two areas in particular: criminal justice and international law. Singapore has developed a pool of international law talent over the years. The successful resolution of the 30-year old dispute over Pedra Branca before the International Court of Justice has thrown the limelight on our international lawyers. The Attorney-General's Chambers will be a key component of the thrust to position Singapore as a centre for international law in Asia. The International Affairs Division will increase in size. This will allow a greater degree of specialisation and the development of expertise in fields such as trade law and law of the sea, to name but two areas. In addition, legal officers from the International Affairs Division will be involved in training and education, to pass on the experience and expertise acquired over the years.

5. As for criminal law, the old Criminal Justice Division, which was larger than all the other divisions put together, was split into two to form the State Prosecution Division and the Criminal Justice Division. The State Prosecution Division is headed by Mr Bala Reddy, a seasoned prosecutor with experience both as a litigator and judge. The SPD is the frontline for new DPPs. There they will learn the art of advocacy before the subordinate courts. It is the primary training ground for most of the new officers recruited into the Attorney-General's Chambers. The SPD has a core of experienced prosecutors to provide training and mentorship to the younger officers. This Division conducts most of the prosecution work that comes to the Attorney-General's Chambers.

6. The Criminal Justice Division, headed by Ms Jennifer Marie, another officer with immense prosecutorial experience, deals with more complex cases: High Court prosecutions, appeals, advice and international law. We are developing international law expertise not only in the International Affairs Division, but also in CJD. CJD officers attend international conferences and meetings dealing with matters like corruption, money-laundering and transnational crime. We hosted the 13th Annual Conference of the International Association of Prosecutors in August; feedback from the participants was gratifyingly positive. We have also received numerous visits from Attorneys-General of other countries during the course of the year, including most recently the Prosecutor-General of China in November. The idea that DPPs only prosecute is out-of-date. Officers in CJD and SPD are now called upon to exercise skills not only in trial and appellate advocacy, but also in diplomacy and public relations. There are never enough DPPs to do all that is required of them. The case-load increases constantly, as do the intellectual and professional demands on officers. But we continue to recruit aggressively, seeking those who have the talent for criminal law work and the passion for upholding justice.

7. Our efforts to recruit new officers have not been confined to merely waiting for applicants. In the past year, we have made an effort to raise our profile among students and young lawyers. I have visited both NUS and SMU on several occasions to judge moots, give talks and support their activities. We have encouraged our younger colleagues to keep in touch with the Law Faculties and to contribute to the teaching of the next generation of lawyers. In the Attorney-General's Chambers, we have accommodated a batch of young people from top junior colleges as interns; the first, we hope of many. The idea is to ensure that when young people consider their career options, the Legal Service is not absent from their minds.

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8. The market for legal talent is a competitive one; the award of the first six Qualifying Foreign Law Practice licences last year will intensify the competition for good lawyers. We will compete to get our fair share by highlighting the areas where the Legal Service can offer a young graduate something that the private sector cannot: the element of public service, the opportunity to represent Singapore in international forums, the chance to hone one's skills in advocacy at an early stage of one's career.

9. The latter half of 2008 has also been a year of intense activity instigated by people with a political agenda. On the very first day that I took office, 11 April, a group of activists connected with an opposition political party descended on the Attorney-General's Chambers just before lunch and demanded the return of items that had been seized by the police in the course of investigations into certain public order offences. They said that they were prepared to stay all night and call in reinforcements to stage a protest. They remained for over an hour and only left after repeated requests. I can only conclude that they were testing our resolve and probing to see how far we could be intimidated by their tactics.

10. This incident was followed shortly by another incident in the Supreme Court itself, where three activists – including one who had been involved in the invasion of Attorney-General's Chambers's premises – wore T-shirts accusing the court of being a kangaroo court. On the heels of this came an e-mail sent to various people in Singapore stating that a judge of the Supreme Court had "prostituted herself" in certain proceedings. The e-mail was sent by a former opposition politician who had given up his Singapore citizenship. He also posted the same remarks on his blog. This was then followed by a series of commentaries in an international newspaper casting aspersions on the integrity and independence of the Singapore judiciary.

11. It appears that there is a campaign against the Singapore courts by certain persons both here and abroad, seeking to cast doubt on the integrity and independence of the judiciary. We have had to institute contempt proceedings against several of these persons to underscore the point that it is impermissible to seek to undermine the authority of the courts and judiciary for political or ideological motives.

12. We do not institute such proceedings lightly. Freedom of speech and expression is guaranteed in our Constitution. One is free to criticise the decisions of the courts, to debate national policy, to offer political alternatives, to give vent to frustrations, fears and anger. Criticism, even ignorant or prejudiced criticism, is acceptable in any democratic society. We do not intend to inhibit a free and lively interchange of views on issues of public interest.

13. But where a person deliberately attempts to undermine the authority of the courts by casting aspersions on the integrity of the judges in order to further a political or ideological agenda, then the line has been crossed. This principle is also accepted in other democratic societies. Judges cannot answer back when baseless and unfair calumnies are hurled at them. The task of defending the integrity of the judicial system falls to the Attorney-General as protector of the public interest. It is not in the public interest that the judicial system of Singapore should be undermined by persons seeking political advantages for themselves or pushing their particular ideological view of how society should function. May I assure your Honour that we will be vigilant to ensure that the authority of the courts is upheld in the face of such attacks. We are duty bound to bring these to the attention of the courts, in order that it may be decided whether a sanction should be imposed.

14. The assault on the courts appears to be part of a broader campaign to force a change in our laws by extra-legal means. This involves the deliberate breaking of particular laws in an effort to pressure the government to amend them, rather than go through the unglamorous and unexciting route of campaigning for change through the proper constitutional means. The courts and the prosecuting authorities are deliberately targetted in this campaign because of their insistence on upholding the rule of law. The essence of the rule of law is this: the law of the land applies to all. No one is above the law, no matter how rich or well-connected he might be. People would rightly be outraged if an accused person were to claim immunity from prosecution on account of his connections to the government; by the same token, people who oppose the government should not expect special dispensation from having to obey the law like everyone else.

15. When we in Attorney-General's Chambers prosecute, we do so on the basis that wealth, influence and political affiliation are irrelevant considerations. As your Honour has so trenchantly observed in the recently-reported case of **Law Society of Singapore v Tan Guat Neo Phyllis** [2008] 2 SLR 239:

“The discretionary power to prosecute under the Constitution is not absolute. It must be exercised in good faith for the purpose it is intended, ie, to convict and punish offenders, and not for extraneous purposes ... the exercise of the prosecutorial discretion is subject to judicial review in two situations: firstly, where the prosecutorial power is abused, ie, where it is exercised in bad faith for an extraneous purpose, and second, where its exercise contravenes constitutional protections and rights (for example, a discriminatory prosecution which results in an accused being deprived of his right to equality under the law and the equal protection of the law under Art 12 of the Constitution)...”

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I assure your Honour that we do not intend to give cause for a review of any of the prosecutorial decisions made by the Attorney-General's Chambers. Nor will we be deflected from our duty to uphold the law by pressure or intimidation from any source, local or foreign.

15. Finally, on behalf of my colleagues in the Attorney-General's Chambers, I assure your Honour of our fullest support, cooperation and assistance in your task of upholding the rule of law and dispensing justice in Singapore. May I wish your Honour and your judicial brethren all the best for the coming year.