

# **OPENING OF LEGAL YEAR 2017**

## **ATTORNEY-GENERAL'S ADDRESS**

May it please the Court, Chief Justice and Judges of the Supreme Court,

### **Introduction**

1. The office of the Attorney-General has ancient roots in England. It can be traced back to the 13<sup>th</sup> century, and the title of Attorney-General was first used in 1461.<sup>1</sup> The grievances of the occupants of the English office also go back a long way. Sir Francis Bacon, who was the Attorney-General of England in the 17<sup>th</sup> century, described the office as “the painfulest task in the realm”.<sup>2</sup> In the early 20<sup>th</sup> century, Sir Patrick Hastings said that to be a law officer was to be in hell.<sup>3</sup>
  
2. Given this history of pain and hell, perhaps the English drafters of our early constitutional documents felt that they were dispensing a mercy in providing that the Attorney-General of Singapore was to have tenure only until the age of 55.<sup>4</sup> Our own Parliament

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<sup>1</sup> Sir Elwyn Jones, “The Office of Attorney-General” (1969) 27(1) Cam. L.J. 43, 43.

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Singapore (Constitution) Order in Council 1958, section 30(4); Constitution of the State of Singapore 1963, section 19(4).

presumably thought Singapore Attorneys were made of sterner stuff when it extended the tenure of the office to the age of 60 in 1994.<sup>5</sup> I will complete my tenure in a few days' time. As you all know, I have decided to accede to the wisdom of the Constitution in declining the honour of re-appointment, although I hasten to add that this is not because I share Sir Francis's pain or Sir Patrick's hellish experience – certainly not on a daily basis. This will therefore be the last time I address your Honours as Attorney-General.

## The AGC

3. During my tenure, I have had the singular privilege of being supported by a team of extremely capable and dedicated lawyers. They represent a tradition of excellence dating back to Singapore's earliest days immediately after Separation. Then, a small team of about 20 lawyers, working in the Old Parliament House, were responsible for giving Singapore the legal framework for an independent nation, advising her in times of crisis, securing her place in key international organisations, and prosecuting crime under difficult law and order conditions.

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<sup>5</sup> Constitution of the Republic of Singapore (Amendment No. 2) Act 1994, section 9.

4. Today, we are much bigger and more specialised, reflecting the greater and more varied demands of public legal practice. During my tenure, my prosecutors have tackled criminal activity that is increasingly sophisticated, organised and internationalised, including large-scale financial fraud and human trafficking offences. We have also significantly refined our prosecutorial policy to better reflect the different considerations at play across the wide spectrum of criminal activity and offenders. On the one hand, we have moved towards a more prophylactic approach towards offenders who can and want to be reintegrated into their families and into society. On the other hand, I have taken an extremely dim view of offences that would incite racial and or religious disharmony and taken firm action against bigotry in any form, be it assaulting foreign workers or threatening to open fire against a group for its causes. Such cases have been prosecuted without exception. The social harmony that we have today is hard won and precious; those who would undermine it can expect to be met by the full force of law.

5. Our role as legal advisor to the Government has also seen a paradigm shift. We recognise that, as government lawyers, our value and responsibility go beyond an austere recitation of the legal position. We can and have become much more proactive in helping

to fashion sound legal solutions for the Government, whether in conceptualising a new policy or handling an individual case. I am pleased to say this is now very much the culture at my Chambers:

- (a) My civil lawyers have given solution-centric advice that has shaped key national projects like the Smart Nation programme and the financing framework for the Mass Rapid Transit system. They have also taken on more litigation work under the Attorney-General (Additional Functions) Act, to ensure that cases of public importance are decided with the benefit of the fullest and most robust arguments.
- (b) My law drafters have worked tirelessly to deliver the Government's ambitious legislative programme, drafting landmark pieces of legislation including the Pioneer Generation Fund Act, the Medishield Life Act and the recent constitutional amendments concerning the Elected President.
- (c) My international lawyers have advanced Singapore's interests in international forums and negotiations, such as the recently concluded High-Speed Rail negotiations with Malaysia. They have had also had to grapple with the challenges we face in maintaining our international space as a small nation in a complex and uncertain world.

6. This year marks the 150<sup>th</sup> anniversary of the appointment of Sir Thomas Braddell as the Attorney-General of the Straits Settlements, the first Attorney-General in this part of the world. On this important anniversary, public law officers past and present can look back on a record of contributing to the rule of law in Singapore, a record which they can justly be proud of. The necessary anonymity of public service means that the achievements of public lawyers are not recognised and celebrated in the way that those of private sector lawyers are. But, having been at the Bar and the Bench for more than 30 years in total, I believe I speak with both experience and authority when I say that some of the very best legal minds in the profession today can be found at my Chambers. I would also like to put on record my immense gratitude to all my officers and staff for their dedicated service, very often above and beyond the call of duty.

## **What the future holds**

7. Our 150<sup>th</sup> anniversary is also an occasion to look to the future. Here I venture to identify four trends that will shape AGC's future, and outline how we have, in the last 2 years, begun to take the necessary steps to respond to these driving forces. I should add that

these trends will also affect the private sector and private lawyers too will have to adapt to them.

(a) *The role of technology*

8. First, technology will play a greater role in legal practice and the administration of justice. The current generation of lawyers are the beneficiaries of the Judiciary's sustained investment in court technology. We must continue to harness the potential of technology to improve how we do our jobs.
9. AGC for its part has already embarked on the digitisation journey:
  - (a) Most of my civil and international lawyers already work more or less electronically, with the exception of litigation which remains dominated by hard copy bundles.
  - (b) My legislation drafters work off a bespoke drafting service of their own design, to produce quality drafts within increasingly short turnaround times.
  - (c) For prosecution work, we have started to digitise investigation papers, and our ambition is to have an entirely electronic platform by which different stakeholders at various stages in the criminal justice process, from preliminary investigations all the

way to trial, can communicate and process information without relying on hard copies.

- (b) *The need to specialise and work across disciplines*
- 10. Secondly, legal practice will continue to specialise, and it must also draw heavily on other disciplines. The creation of the Family Justice Courts, at the recommendation of the Family Justice Committee which I co-chaired, is one example. The Family Courts are staffed by specialist judges and case officers who are better equipped to deal with families under stress, and in particular, to protect the interests of the child in such circumstances. Criminal justice is another area of law which interacts with other fields – criminology, psychology, neuroscience and statistics, to name but a few. In these and other areas, the development of the law must be informed by multidisciplinary learning, and lawyers must learn to work with other experts if they are to perform their jobs well.
- 11. So far as AGC is concerned, prosecutors have always been expected to have a working knowledge of psychology, financial accounting and forensic science, depending on their area of specialisation. Counsel in the Civil and Legislation Divisions must have a good grasp of policy issues in all the matters they have

carriage of, and complete mastery of the underlying technicalities. My international lawyers must have keen political and policy acumen and a deep appreciation of statecraft and geo-politics in order to operate effectively for Singapore on the international plane.

(c) *Internationalisation*

12. Thirdly, legal practice will also become increasingly internationalised. This is most apparent, and most keenly felt, in the private sector, which has been progressively opened up over the years. I was privileged to have played a part in this liberalisation as the Chair of the 2007 Committee to Develop the Legal Sector. Despite some initial pain, both the legal sector and the wider community have benefitted from these measures.
  
13. Public practice appears to be, at first blush, parochial, but it is also subject to internationalisation in its own unique way. The practice of international law is one obvious example. We have expanded our international law work in recent years by placing our international lawyers directly in overseas missions. Another example is criminal work. Prosecutors today need to constantly observe and learn from how other jurisdictions deal with similar types of crime that we encounter here. They must also be ready to work closely with their

foreign counterparts in dealing with cross-border crime. A third example is public law. Our public law has charted its own course, but we cannot afford to ignore the public law issues that come up in other jurisdictions. These issues will come up sooner or later in our own courts, and we need to be prepared to deal with them in a way that is appropriate to our own context. And we should not close our minds to the possibility that there may be important lessons we can learn from the experiences of other jurisdictions.

14. Internationalisation will also increase the competition for legal talent. For the very best, the world will be their proverbial oyster. It is in the public interest that a fair proportion of top legal talent continues to find a career in public service worthwhile. Young lawyers are motivated not only by pay, but also by meaningful work, personal development, open communications, work-life balance, and organisational support. During my tenure in AGC, we have put measures in place to improve our standing as an employer of choice, and we must continue to do better in this respect.

(d) *Rapid changes*

15. The fourth trend is the speed of change in the law and the world at large. The law read by a first-year law student may no longer be

current by the time he or she graduates. Profound technological changes have redefined the ways in which people relate to each other and the assumptions that underlie the law – a well-aimed cyber attack may cause more injury and damage than many serious crimes in the statute book.

16. The practice of law is steeped in many cherished traditions but we cannot be chained to the past. Like everyone else, lawyers must upgrade and reinvent themselves throughout the course of their careers in order to remain relevant. This means not only keeping abreast of legal developments, but also maintaining a keen interest in what is happening in Singapore and around the world.
17. It bears mention that today, we live in a period that Francis Fukuyama has described as a “post fact” world, where traditional news sources have been marginalised and overtaken by misinformation and blatant falsehoods disseminated on social media.<sup>6</sup> All of us have a responsibility to ensure that fiction does not become a new currency of mass interaction in Singapore.

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<sup>6</sup> <https://www.aspistrategist.org.au/emergence-post-fact-world/>

## **Our constant values**

18. As we look to the future, we must also remain grounded in the institutional values that have defined the AGC for the past 150 years. These values are implicitly understood but I think they are worth reiteration:

(a) First, in advising the Government, every legal officer is under an overriding duty to speak truth to power. Frank and unvarnished legal advice, no matter how unpalatable, is the only advice worth giving.

(b) Second, in exercising prosecutorial discretion, every prosecutor must act independently, without fearing the powerful or favouring the well-connected. In court, every prosecutor must act as a co-guarantor of due process, together with the judge and defence counsel.

As public lawyers, whether inside or outside the courtroom, our actions are dictated not by what is expedient in each case, but by our unique responsibility to safeguard the integrity of the legal framework under which we operate.

19. These values have always guided my officers in the course of their work, and they have guided me during my tenure. In upholding these values, we follow the examples set by past Attorneys-General. Their

independence enabled them to discharge their constitutional duties impartially and with integrity, and in doing so, underpinned public confidence in the exercise of prosecutorial discretion and the quality of public governance.

20. On that note I would like to formally welcome my successor, Mr Lucien Wong, who assumes office in a few days' time. His formidable standing in the legal profession needs no embellishment. I have every confidence that the officers of AGC will support him, as they have fully and ably supported me, in living up to the Attorney-General's oath to uphold the rule of law in Singapore, according to the institutional values we live by.

21. I must also acknowledge the institutions we work with. I am gratified that, throughout my tenure, the Government has always listened carefully to the advice given by my Chambers, and in criminal matters always scrupulously respected the independent exercise of prosecutorial discretion. I am also grateful to the courts for showing courtesy and respect for my prosecutors and state counsel, even when you disagreed with our submissions. Last but certainly not least, I would like to thank our colleagues at the Bar. While we occasionally see things differently, I am grateful for the

professionalism and courtesy that you have extended to us as you play your necessary role in the adversarial process. AGC can best do its work when there is mutual respect and trust between our stakeholders and us. This respect and trust must be maintained and nurtured.

## **Conclusions**

22. A number of congratulations are now in order. I congratulate Justice Judith Prakash and Justice Tay Yong Kwang on their elevation to the Court of Appeal, and Mr Pang Kang Chau and Ms Audrey Lim on their appointments as Judicial Commissioners. I also congratulate Mr Thio Shen Yi SC as he completes his term as the President of the Law Society, during which he made important contributions to, amongst other things, criminal justice issues. Finally I congratulate Mr Gregory Vijayendran on his election as the next President of the Law Society. Mr Vijayendran was an early champion of pro bono work, leading by personal example long before the legal profession began to take its pro bono obligations more seriously. I look forward to his contributions as President.
  
23. May I conclude with some personal reflections. I have found the law to be a most meaningful and fulfilling profession. It is of course

possible to approach a legal career in a workaday fashion. But the deepest satisfaction that the law can give is reserved to those who see the law as a force for the common good; a noble calling that can, at its best, transform lives and build nations. All of us who have benefitted from Singapore's improbable success since Independence, whether in the private or public sector, have an obligation to give back to society. There are myriad ways of doing this regardless of our standing and years in practice. I consider myself to have been extraordinarily privileged. Over the course of the last decade, I have been able to work on and influence broader issues and causes in ways that would never have been possible had I remained in the private sector. This has given me enormous satisfaction and I am grateful for the opportunities that have allowed me to contribute to the legal sector and the wider community.

24. My message to lawyers who come after me is unabashedly idealistic. Have a higher sense of purpose, and hold on to it. Do not be afraid to embrace and champion bold ideas for an even stronger and better legal system, and always approach your work with both your head and heart.

25. It remains for me to give my very best wishes to everyone present today for many happy, healthy and fruitful years ahead.
26. I will not be bidding farewell as I will not be disappearing from the legal landscape permanently. So I will say, “Sampai Berjumpa Lagi”.

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