

Opening of the Legal Year 2014
Speech of the President of the Law Society

May it please your Honours, Chief Justice, Justices of Appeal, Justices and Judicial Commissioners of the Supreme Court.

1. May I start by extending a warm welcome to various distinguished representatives from our neighbouring bar associations and law societies. In alphabetical order of the countries represented, they are:
 - a. Michael Colbran, QC, President, Law Council of Australia
 - b. Ambrose Lam, President, the Law Society of Hong Kong
 - c. Christopher Leong, President, Malaysian Bar Council
 - d. Wu Yu-Hsueh, Secretary General, Taiwan Bar Association

2. On behalf of the Bar, I also offer our good wishes and congratulations to the new appointments to the Bench. Our Judiciary is well known for its efficiency and the quality of its legal jurisprudence, and these appointments will further augment that well deserved reputation. We congratulate:
 - a. Justice Vinodh Coomaraswamy
 - b. Judicial Commissioner Lionel Yee Woon Chin
 - c. Judicial Commissioner Tan Siong Thye
 - d. Judicial Commissioner George Wei Sze Shun
 - e. Judicial Commissioner Edmund Leow
 - f. Judicial Commissioner Lee Kim Shin

3. Justice Vinodh Coomaraswamy, appointed a Judge of the High Court on 24 June 2013, was a most active member of the Bar prior to his elevation to the Bench, first as a Judicial Commissioner in August 2012. In spite of his heavy workload as a leading and much sought after Senior Counsel, Justice Coomaraswamy found time to chair firstly the Ethics Committee and then, the Advocacy Committee of the Society. He thus played a critical role in enhancing both the ethical as well as the technical standards of our members.

4. JC Lionel Yee held several senior appointments at the Attorney General's Chambers and held the appointment of Second Solicitor General prior to his elevation to the Bench. JC Tan was Chief District Judge prior to his elevation, well known to our



members as a fair and firm Judge. JC George Wei was a well respected and well liked law professor who taught many in this auditorium. JC Edmund Leow and JC Lee Kim Shin were leading members of the Bar. They have reached the highest levels of practice but everyone who knows and who have worked with them will testify that excellence and humility, both critical components of judicial temperament and make up, are hall marks of both men; and indeed of all our High Court appointees.

5. On behalf of the Bar, I record my best wishes to all of them in their new appointments.
6. We also offer our best wishes to Justice Tan Lee Meng and to Justice Lai Siu Chiu on their well-earned retirement. We will always be grateful to them for their contributions whilst on the bench; Justice Tan Lee Meng, for always having a quick grasp of the issues and the keen application of the law to the resolution of those issues – a reflection of the academic excellence which marked the first half of his stellar legal career as law professor. For Justice Lai, her strong sense of justice will be missed. The honest and deserving litigant invariably would find justice in her Court. Her work ethic is well known and is exemplary.

Numbers

7. Your Honour, I noted last year the growing numbers within the ranks of both local and foreign lawyers. The number of lawyers is still on the uptrend. In 2012, the number of local lawyers holding practising certificates exceeded 4,000 for the first time (4,238 as at Dec 2012). As at 2 Dec 2013, this figure swelled to 4,549.
8. The distribution of local lawyers by firm size makes an interesting point. The number of lawyers in small sized practices (1 to 5 lawyers) is 1,272 spread over 707 firms; in medium sized practices (6-30) there are 1,306 lawyers in 117 firms and in large practices (more than 30 lawyers) a total of 1,971 in 18 firms. The 18 largest local firms account for 43% of the total number of local lawyers in Singapore.
9. A clear trend has yet to emerge as to whether more lawyers are turning to big law firms or preferring practice in smaller firms. But an interesting feature to note is the fact that today only 5 large local practices have about 200 or more fee earners and lawyers, a few between 50 to about 80 lawyers but just one within the banding comprising 100-200 lawyers and fee earners. Local firms appear to hit a wall when they get close to 100 lawyers and this lends weight to the suggestion that the uncertainties of carrying the cost of a very large practice and perhaps the challenges posed by the international firms are most keenly felt by local firms at this size.



10. An interesting trend is also discerned in the distribution of lawyers according to seniority. As at October 2013, 1,697 local lawyers are in the Junior category (lawyers with less than 7 years PQE); only 386 are from the middle category (between 7 years and 12 years PQE) and the majority (more than the junior and middle categories combined) of 2,466 are from the senior category (lawyers with more than 12 years PQE).
11. The striking feature is of course the low number of practitioners in the middle category. Although this is the smallest category in terms of the years covered, the 5 years within this category would still have generated a graduating total of between 1,250 to 1,400 lawyers who started practice (assuming 250 to 280 lawyers per graduating class). The figure of 386 represents about 25% of the said 5 year graduating total which means that by the 1st decade of practice, 3 out of every 4 lawyers would have opted to leave practice.
12. In light of the current strength of our economy which started its recovery in early 2005, it is likely that the majority of the practitioners in this category (who joined the profession between 2002 and 2006) probably decided to leave in the good years which suggests that they left the profession as other career options in other industries became available with the improvement of the economy.
13. It is difficult to discern the one predominant reason why lawyers left in huge numbers in the 1st decade of their practice – it may be due to the aggressiveness of practice, may be the lure of greener pastures elsewhere, or may be a combination of both. We are also aware of the attractiveness of our members to other professions and industries. Whatever the reason, we want to do what we can to stem the exodus of lawyers from this vulnerable segment of our profession. If the local bar is to grow in strength, we must be able to retain more of our best and brightest young lawyers and they must be convinced that a challenging, meaningful and satisfying career in private practice is neither a pipedream nor an option that holds true only for the short term.
14. The Society will consider carrying out a survey to better understand the concerns, hopes and aspirations of members not just of the middle category, but profession wide. We will give this greater thought and discussion and when the survey is finally launched, we hope that members will support it and participate in good numbers.

Integration

15. Latest figures show that there are just slightly more than 1,300 foreign qualified lawyers in Singapore today, compared to 4,600 lawyers with Singapore practising certificates; meaning that almost one in every 4 lawyers practising law in Singapore is foreign qualified. This is a significant percentage and given Singapore's strategic position in the region's economy and our well deserved reputation as an arbitration

venue of choice, the numbers of foreign lawyers can be expected to continue to grow.

16. Last year, I appealed to foreign law firms “to lock hands with local lawyers, not in competition, but in co operation and integration”. Your Honour, whilst I am happy that a number of foreign firms did in fact step up on their direct contributions to the Society’s pro bono efforts; some joined in sports and helped us clinch the Judges’ Cup and some attended the Society’s fund raising Dinner & Dance and supported the event as table sponsors; more can be done.
17. 1,300 foreign lawyers practicing law in about 114 foreign firms here is a significant force when unleashed to do public good. That force can be a powerful catalyst to galvanise local lawyers to a more spirited response to the community’s needs. Greater integration of our foreign brethren to the legal community will lead to greater interaction with the local bar for the community’s benefit. Foreign law firms have a more established exposure to pro bono community legal service compared to the more nascent involvement of local law firms in this area. However, local law firms are more familiar with the community’s needs, and if we combine the best of both, our pro bono efforts will be given an important overall catalytic boost.
18. My Council will also consult with both local as well as foreign lawyers to enhance integration to go beyond pro bono and sporting events. We should explore integration over a wider practice platform. We will consider how to make the existing non-practitioner membership category find greater subscription by foreign lawyers. In this regard, we will also consider the possibility of setting up a foreign lawyers/foreign law firms committee at the Society. This will facilitate direct and greater access for foreign firms to the leadership of the Society, its plans and activities for the profession.

Pro Bono

19. The Society welcomes the recent announcement by the Ministry of Law for direct funding of Criminal Legal Aid cases. There are some who feel the extension of such tangible support from the Ministry is somewhat overdue, but that aside, this development is extremely positive and very emphatically embraced by the Society. Such funding will immediately plug some serious financial deficit faced by the Society as a result of an increased pro bono platform and allow us to roll out an enhanced scope for our Criminal Legal Aid Scheme.
20. The Ministry’s initiative does remind us of 2 important points:



- (i) If lawyers are to play the driving role in legal pro bono outreach, the profession has a role to play in raising the necessary finances to augment the resources invested by the Ministry;
 - (ii) Finances aside, lawyers ought also to respond in numbers sufficient to support an enhanced suite of pro bono services. No amount of financial support can be adequate substitute for the spirit of pro bono to be nurtured amongst the members.
21. We will be setting-up a fund raising committee to consider holding a fund raising activity that will involve all lawyers, local and foreign, in-house counsel and other stakeholders in the legal profession/legal industry. This initiative will be carefully evaluated by this committee and nothing is as yet, at this point, cast in stone. But we hope this event, if it materialises, will raise the finances which together with the Ministry's funding, will ensure the sustainability of our pro bono programmes for the mid to long term.
22. Such an activity can also help raise the level of awareness amongst all lawyers of pro bono work, what it involves and how they can help. This will hopefully give members who still are uninvolved in pro bono activities a gentle nudge towards meaningful participation in such outreach. Herein lies the thrust of the message in the 2nd point; a pro bono spirit is not to be coerced; neither is it to be bought. Pro bono must come from the heart. Raising awareness of the community's needs and what we as lawyers can do certainly helps. And that is only the starting point. My hope is that pro bono mandatory reporting for lawyers, when implemented, will be a step taken in the right spirit. I urge all members to take the reporting as an opportunity for introspection and self-review on his or her pro bono involvement and allow that exercise to hopefully enhance or kick start that involvement from within.

Attorney Client Fee Arrangements

23. There is another way that pro bono work can be supported. Your Honour, every now and then, a deserving litigant is denied access to justice because he or she does not fall within one of the Society's pro bono platforms or qualify for the assistance provided by the Legal Aid Bureau. Allowing contingency fee arrangements in such cases can fill the gap where current pro bono schemes do not.
24. There are of course, valid concerns that any relaxation of the bar against contingency fee arrangements can lead to all kinds of abuses and problems. I do not pretend that abuses will altogether cease to exist simply by limiting the relaxation to access to justice cases. The challenge lies in balancing the threat of abuse against the unintended denial of legal assistance to deserving litigants. One way of addressing this

would be to deploy appropriate safeguards, e.g. requiring practitioners intending to accept any such case to obtain the permission of the Society or the leave of Court.

25. In addition to such cases, the role of contingency fee arrangements in international arbitration cases may merit reconsideration. In international arbitration matters, local lawyers compete for work against lawyers operating in jurisdictions which permit contingency fee arrangements. Local lawyers can therefore be at a disadvantage compared to their foreign counterparts who operate under rules which permit such fee arrangements. There is therefore some basis for the point that the playing field may be levelled by the moderation or even removal of the bar against such fee arrangements in international arbitration cases.
26. The recent announcement of plans to set up the Singapore International Mediation Centre (SIMC) and the Singapore International Mediation Institute (SIMI) underscores our determination to promote international mediation in a holistic way. This will require greater buy in from our lawyers especially for the big value claims. However one of the challenges which stands in the way of such mediation gaining greater traction as a viable and effective mode for dispute resolution has been the reality that mediation diminishes, even destroys, fee potential. Efficient and effective mediation of such claims is deemed by many to be the very antithesis to fee and profit. If mediation is explored at a very early stage of the dispute and successfully settles the matter, the fee potential all but disappears. In my view, if legal fee is to be determined according to work done, mediation will struggle to be an attractive ADR option. Perhaps one way to address this would be to allow attorney-client contingency or conditional fee arrangements or to permit some uplift to legal fees only for the mediation segment of a matter. Lawyers, especially those handling the large value claims, may well be more prepared to support mediation at an early stage if fees are not entirely sacrificed nor tied solely to the quantum or value of work done.
27. As I have stated, there are valid serious concerns about the relaxation of the rule against contingency fees even in the limited categories discussed above, and we should tread cautiously and discuss this fully before embarking on any changes. But there is basis to suggest a review of the rule in these or perhaps other limited categories since the last major review on this led by Justice VK Rajah in 2007 and I will be prepared to work with my Council to see how the Society can lend assistance, e.g. by taking the views of members and of relevant stakeholders on this.

Co-operation with the Attorney General's Chambers

28. Your Honour, one of the things we look back with satisfaction in 2013 has been the further strengthening of the Bar's relationship and the increased professional interaction with the Attorney General's Chambers. For this, I record the Bar's



appreciation to Mr Attorney for personally taking the lead in forging an even closer relationship between the Bar and his Chambers. Under the 1st year of his watch, numerous initiatives were launched, including the Joint “Code of Conduct” between Defence and Prosecution and the 24 hour Appropriate Adult Control Centre set up with the Geylang Police HQ. Additionally, in consultation with Chambers, the criminal bar hopes to launch the Law Society's Pamphlet of Rights for members of the public in the first half of 2014. This will be an important initiative for the community.

29. In less than 2 weeks from now on 16th Jan 2014, the 2nd edition of the Criminal Law Conference will be held. This is yet another fruit of the close professional co-operation between the Bar and Chambers and it signals the joint commitment between both to raising professional standards and enhancing further the administration of criminal justice in our country. We are extremely confident that this conference will be every bit as successful and as useful as the inaugural event.

Small Law Firms/3rd Law School

30. Your Honour, the numbers of lawyers in small law practices stands at 1,272 as at 2 Dec 2013, roughly the same as the number of foreign lawyers in Singapore. The similarity is of course purely coincidental.
31. Our smaller law practices are not in direct competition with the foreign firms setting up their practices here. However there has been concern that in a few years, graduates from the 3rd law school may put further squeeze on what is already a tight practice area for the small law practices. Whilst these concerns are not without any merit and I hope that the cohort size at the 3rd law school will be carefully calibrated to meet the needs of the community without flooding the market, the 3rd law school does highlight important sign posts in the legal landscape ahead.
32. Firstly, it is an important reminder that community focused and criminal practices are still crucial areas of local practice. The law is not only about facilitating big deals and resolving big cases. A huge part of law is about helping the man in the street and the small business around the corner. The investment of financial and talent resources in the 3rd law school underscores the importance of this branch of legal practice.
33. Secondly it recognises the reality that for many, a degree in the law and the opportunity to practise it is aspirational. The right a lawyer has, for instance, to plead his client's case, or help establish his client's business, or to protect his client's family, is a right unique to our profession. This opportunity given by the 3rd law school to those who were unable to practise earlier to now access this right must serve as a



good reminder to the rest of us fortunate enough to be called to practise to treasure what we have and are able to do. It behoves us to do what we can in order that the value of this right is not diminished.

34. Thirdly the 3rd law school can provide critical and skilful professional talent which can be harvested by firms focused on family, community and criminal practices; the areas most usually covered by our smaller firms. This will relieve the difficulties faced in talent recruitment and retention, a common complaint of the smaller practices.
35. The 3rd law school may not at this stage appear to be all good to all lawyers, but it certainly isn't all bad. Much depends on how much we want it to work for ourselves and what we can do to make things work out.
36. Having said that, community focussed practice need not be the only province of work for the small law firms. There are a handful of small, boutique practices with profitable and well established regional practice areas. Small firms can come together to create a bigger base from which to explore regional opportunities or tie up with similarly minded counterparts in offshore jurisdictions. The Society will do what we can to help our members explore what opportunities lie further offshore. For example, members are aware the Society has been looking at the possibility of a study trip to Myanmar and members will be invited to join this trip once arrangements are finalised.

Courtesy

37. Your Honour, I made the appeal last year for lawyers to espouse the values of courtesy and of civility in our professional dealings with each other. One year is too short a time to measure any change in human conduct. But I certainly do not think we should resile from this appeal. In an increasingly competitive and crowded space within the profession, courtesy is one value that can protect against the risks of a noble and honourable habitat from being fractured by individual goals or by mutual distrust that may be generated by the pursuit of those goals.

Conclusion

38. I would like to record my thanks to members of my previous Council including my predecessor as President, Mr Wong Meng Meng, SC and my Vice-President, Mr Leo Cheng Suan, who together with a number of other long serving members left Council at the end of last year. They all served the Society and our members whole heartedly and selflessly. I also thank all officers and executives at the Secretariat of the Society, for all their dedication and hard work for the cause of the Society and of our members.

39. On behalf of the Bar, I also record my appreciation to the Judges and Judicial officers of the Courts for the patient and fair hearings accorded to our members. Judicial patience is much valued by our members; it expresses in a tangible manner the respect accorded to our members as officers of the Court and encourages us to discharge our duty as such officers as best as we can. We will do our best to ensure the trust and respect of the Court is not misplaced nor given in vain. I also record our appreciation to the officers of the Attorney-General's Chambers for according to our criminal practitioners professional respect in their dealings; the only qualification to this being the treatment we received at last year's AG's Cup, and I am advised the less said about that the better lest I provoke a repeat of that thrashing!
40. Finally, may I assure Your Honour of the full support of my members for the Judiciary in all Courts. I also reaffirm our commitment to co-operate with the officers of the Attorney-General's Chambers in the administration of justice and to combine efficiency with justice in all cases coming before the Courts. I also extend to Your Honour, Chief Justice, and to all your colleagues on the Bench, as well as the Minister for Law and the Attorney-General, the Bar's best wishes for good health and a successful year ahead.

Lok Vi Ming, SC
President