

CHIEF JUSTICE'S RESPONSE
OPENING OF THE LEGAL YEAR 2002

SATURDAY, 5 JANUARY 2002

Mr Attorney-General and Mr Palakrishnan,

On behalf of the Judiciary, thank you both for your good wishes and for the unstinting support which the Attorney-General's Chambers and the Law Society have given to us since I took office as the Chief Justice in 1990. We are grateful for your renewed commitment as we work together to ensure the maintenance of the fair administration of justice in Singapore.

2. This past year has seen the Singapore Judiciary through a series of milestones in our continuous efforts to enhance our standing in the world arena as a public institution of excellence and as the stewards of justice. We have made available to you the Annual Reports of the Supreme Court and the Subordinate Courts, which together set out comprehensively the state of affairs of the Judiciary in the year gone by. It will suffice for me to highlight the pertinent developments in the key initiatives undertaken by the courts.

The New Supreme Court Building

3. First, I am happy to report that the planning and construction of the New Supreme Court Building is well under way. We are mindful that the New Building should be a representative symbol of justice for all our people and of our people. Towards this end, we have set up a Design Advisory Panel comprising the Attorney-General, two Judges of the Supreme Court, the President of the Law Society and a well-respected local architect, Mr Liu Thai Ker. As the key stakeholders of the justice system, the Advisory Panel has been working closely with our International Design Consultants, Foster & Partners, and our project managers, PWD Consultants Pte Ltd. After a stringent consultative process, the design of the building is now finalised. Futuristic and yet regal, the design portrays a modern Judiciary which is wellheeled to carry out its role as the protector of justice, while not forgetting the past achievements and lessons which have moulded the Singapore Judiciary into what it is today – a world-class and distinguished organ of effective and efficient justice. The use of wood and stone is a reminder to us that justice should be unwavering. The earthly tones of the building are deliberately understated. The doors to the courts of law should never be forbidding but should be accessible to all. I invite you to view the model of the design of the New Building during the reception at the end of these proceedings.

The Electronic Filing System

4. When the construction of the New Building is completed, it will be a fitting testimony of the successful re-organisation of the Judiciary over the past decade. I have, on past occasions, made mention of the many judicial reforms instituted with the primary aim of ensuring a just, efficacious and economical disposal of cases. The use of technology has played a vital role in this regard. Come 2005, when the New Building is

slated to be completed, we will all be working in a virtually paperless court environment in which all trials, hearings and other transactions vis-à-vis the courts will be carried out electronically. We have made good progress towards achieving this vision. Since July 2001, all four services under the Electronic Filing System, namely, the electronic filing service, the electronic extracts service, the electronic service of documents facility and the electronic information service, have been made available. With the migration of all the law firms onto the web-based front-end system, the business of litigation has become more convenient and expedient for lawyers in their dealings with the courts and with other parties. Filing of court documents can be done anytime from practically any part of the world. Electronic copies of these documents are now sent directly to the lawyers upon their request, without the need for the latter to personally come down to the courts to collect them. By allowing lawyers to serve documents on one another electronically, the laborious practice whereby despatch clerks run around to personally serve court documents on opposing parties is fast becoming obsolete. It is heartening to see that many members of the legal fraternity are slowly, but surely, adjusting to this novel mode of litigation practice. Now, over 75% of documents are filed in court electronically by about 300 law firms via the front-end system. This translates into over 600,000 documents having been electronically filed in the Supreme Court and the Subordinate Courts since the launch of the Electronic Filing System in March 2000. Numerous cases have gone through the judicial process under this new regime.

5. I can understand the hesitation and perhaps, even misgiving, of some of those who find it difficult to embrace a seemingly alien method of conducting litigation. This is especially so since many of us have grown up and lived our entire adult lives in an environment in which computers and technology do not feature at all. Unfamiliarity begets uncertainty and even suspicion. However, in this day and age when the economic landscape is rapidly changing and becoming more competitive, the consequential demands on the Judiciary to provide a competent system of resolving disputes will have to be met if we are to remain an adept entity in the dispensation of justice. With the advent of the Electronic Filing System, the streamlining of court processes and the resultant cost and time savings reaped in the long-term for both the litigants and the courts should strengthen our resolve to adapt to the changes which the use of technology brings about.

Court fees for voluminous core bundles in appeals to the Court of Appeal

6. Speaking of change, I feel I should address a problem which has, unfortunately, afflicted scores of lawyers not only in Singapore but around the common law world. That is of the tendency of lawyers to be over-prolific. Our civil procedural rules have been heavily amended to do away with archaic practices, all with the view to ensure concision and precision for the purposes of court proceedings. There has been a shift from oral advocacy to written advocacy. Valuable court time and resources have been saved. These translate ultimately into savings for the State and the litigants. In all these, the legal profession has played a critical role. However, a practice which leaves much to be desired is the indiscriminate compilation of large numbers of documents into “core bundles” for appeals before the Court of Appeal. This defeats the essence of having core bundles in

the first place, which is for easy reference by counsel and the court of documents which are relevant to the determination of issues before the court. From my experience sitting in the Court of Appeal, up to 90% of the documents in the core bundles are neither relevant nor are they referred to by counsel in their oral arguments or in their written cases. Despite frequent warnings and even imposition of cost orders to discourage this phenomenon, the Court has still been continuously saddled with voluminous core bundles. The recent imposition of punitive court fees for voluminous core bundles is a mechanism which regrettably and reluctantly has to be implemented to curb this undesirable practice.

The Subordinate Courts

7. I turn now to the Subordinate Courts. The quality of the judicial officers in our lower courts has improved dramatically over the years. They continue to deal with a prodigious load of some 16,000 family cases, 77,000 civil matters, 215,000 criminal prosecutions and 37,000 small claims. The caseload per judicial officer is 5,247. All the cases have met strict prescribed timelines. Case management practices have resulted in a high rate of disposal. There is no backlog of cases. Of all the appeals to the High Court, only about one-hundredth of one percent of these lead to an allowing of the appeal or a variation of the order of the court of first instance.

As to Criminal Justice

8. Out of a total of 32,817 criminals convicted in 2000, 43% were reoffenders and 5% had antecedents as juvenile offenders. A further study shows that, of these re-offenders, 86% are between the ages of 21 and 50, and more than half have no less than six previous convictions. Persistent offending has to lead to punishment aimed at breaking the cycle of reoffending. The safety and security of our citizens must be taken seriously. 88% of the respondents of an independent survey carried out in April 2001 voiced the need for continuing deterrent sentences for offenders with previous criminal records so as to further reduce crime, despite the fact that the overall rate of crime in Singapore has dropped. The sentences passed by the Subordinate Courts have reflected this concern.

As to Civil Justice

9. The civil justice process in the Subordinate Courts is robust and responsive. We have now put in place a new costs and case management regime for non-injury motor accident cases, which account for 25% of the total civil writs filed. Practice Direction No 2 of 2001 sets out the mechanics of this innovative regime. It introduces, for the first time, a pre-action protocol to govern pre-writ disclosure, exchange and conduct. It applies a specially structured case management process if such cases reach the doors of the court. It also furnishes a scale of costs for these cases. We should expect much benefit to our civil justice process. Transparency will be enhanced, as well as certainty for the parties in respect of the exposure to costs.

As to Family and Juvenile Justice

10. Since 1 October 2001, we have had a new Family and Juvenile Court. This has allowed us to establish a unified family and juvenile justice process. The administration of family and juvenile justice has benefited from the better infrastructure, manpower, courtroom and counselling resources.

11. I have previously highlighted the need to pay close attention to young offenders as the number of offences involving juveniles has steadily increased over the years. We introduced Family Conferencing as a pre-sentence process with a view to rehabilitate juvenile offenders. This process involves not only the offender and his parents but also the victim and his parents. The offender's school teachers and peers are brought in as well. In this way, the offender is made to realise the consequences of his actions when he comes face to face with those affected by his actions. Family Conferencing has been very effective. In fact, Family Conferencing is now enshrined in sections 44A and B of the new Children and Young Persons Act, which came into force on 1 October 2001.

As to the future direction

12. I have given you an insight into the Judiciary's plans to put us in good stead to face the many trials which lie ahead for the institution of justice. We live in troubled times. The unfolding of the events on the world stage in the past few months may have affected our views, attitudes and beliefs towards the values of life. They have shaken the core of our being, as the reality of the economic, political and social impact on our tiny island hits home. We may feel more vulnerable than before as our sense of personal safety and financial security is undermined by these external forces over which we seem not to have any control. The world is very different now. Changes are sudden, total and constant. To ensure our survival in this fast-evolving landscape, it is rudimentary that we are able to adjust and cater to the expectations and needs of the society which the Judiciary and the legal profession serve. The Judiciary cannot accomplish this alone. The support of one and all in the legal circle is essential. The cornerstone of a democratic, rich, vibrant and dynamic civic society is a sound judicial and legal system which has the respect and confidence of its people. There are two main areas which we need to look into to strengthen our judicial and legal infrastructure to support our civic society well.

13. The first is the need for lawyers to continuously update and upgrade their legal skills and establish a foundation of knowledge in areas on which our business community and economic survival are increasingly dependent. I envisage the laws relating to technology and the internet, intellectual property, biotechnology, corporate finance and the World Trade Organisation agreements and rules as critical domains for which core expertise will have to be built up. The promise of, for example, the World Trade Organisation, is the development of a system of open markets founded upon the rule of law, with the aim of sparking off growth and fortifying the interests of its participants in a peaceful and stable world. Our contribution to the fulfilment of this promise is the insistence on the highest quality not only in the adjudication of matters before the courts

but also in the nature of legal counsel rendered in all aspects. I urge the Law Faculty of the National University of Singapore, the Singapore Academy of Law, the Law Society and other organisations who provide continuing legal education to pave the way. The Academy of Law has set aside \$5 million towards its Legal Development Fund to spearhead the dissemination and development of the law in the areas I have mentioned. There will be an emphasis on entrenching a proper understanding of the commercial environment and regulatory framework in which businesses operate, which is essential before any well-informed legal advice can be given. There are plans for a structured judicial education programme so that members of the Judiciary keep abreast of the developments not only in the law, but also in areas and issues which are crucial to our economy and our society.

14. The second is the need for a paradigm shift in the attitude of lawyers towards the practice of the law. Recently, there has been much ado in media reports over the Law Society's survey on lawyers leaving practice, and in particular, those who have left practice apparently because of stress. This was attributed, inter alia, to the quick pace in the courts. First, many of those who left practice were non-litigation lawyers. Secondly, litigation lawyers who left practice were lawyers or legal assistants who took on or were assigned more cases than they could properly handle. The fact of the matter is that the distribution of litigation work among law firms and lawyers is uneven. Because of the desire to maintain goodwill with clients and to bring in as much business as possible, law firms will take on as many cases as they can get. Distribution of work among lawyers within the firm will then depend on the availability of resources. It is a question of relativity. It seems convenient for these lawyers who are snowed under with work to put the blame for their predicament on the court and its timelines. It is not the court but the lawyers who have control over the number of and the time when the cases get into the court system. When the cases come into the court system, we are duty-bound to manage them towards a just, expeditious and economical disposal according to the court resources which are available. An efficient court system is what the litigants and our society want and deserve. This is what we must deliver. This must prevail over the personal interests of the lawyers. Stress and anxiety are part and parcel of working life. They afflict not only lawyers but people from all walks of life and from doctors to IT specialists. In an evermore competitive environment, being able to cope with stress and anxiety is imperative to one's survival in a profession or in the path which we have chosen to lead our lives. As our society becomes more affluent, some of the younger generation who have not been tempered by the hardship of war and poverty, and who have been so used to the comforts of good and modern living and the protection of a wealthy family background, may find it difficult to adjust to the trials and tribulations of working life. The stark reality is this. We can either slide back into the laissez faire attitude of the past and be left behind to ponder enviously at others who move ahead of us or brace ourselves for hard work and the stress that comes with it. It is for the lawyers to adapt their way of life to the requirements of the legal system if they want to remain in it and not for the system to cater for their preferred way of life.

15. Singapore has seen many outstanding lawyers, both in the private and public sectors, who, together with all the members of the Bar, are integral players in our goal of maintaining the standards of excellence which our judicial and legal system enjoys. Since 1997, 28 of the best lawyers have been appointed Senior Counsel to lead the profession. In the selection process, the Selection Committee, comprising the Chief Justice, the Attorney-General and the Judges of Appeal, takes into consideration all facets of a lawyer's career to determine if he or she is deserving of such distinction, including the grasp of law, advocacy skills, integrity, experience and standing at the Bar. Traditionally, all Judges and Judicial Commissioners of the Supreme Court are also consulted. At this juncture, it is apt for me to announce to the congregation this morning the appointment of 2 new Senior Counsel. In order of precedence, they are:

1. Solicitor-General Mr Chan Seng Onn
2. Mr Amarjeet Singh

16. As this new year dawns, let us not forget that we are the heirs of a rich legal heritage. Let us be committed to preserve and ensure the continued success of this heritage. In the final analysis, our most basic common link is that we all believe in the rule of law. We all hold dearly to the notions of truth, justice and fair play. We all cherish our children's future.

17. In this difficult social, political and economic climate, each and everyone of us will determine if we succeed or fail. As our past experiences have shown us, I am confident that we will rise to the challenges before us. On this note, I declare open the new Legal Year. My colleagues and I wish you all the best in the year ahead.