

CHIEF JUSTICE'S RESPONSE
OPENING OF THE LEGAL YEAR 2003

SATURDAY, 4 JANUARY 2003

Mr Attorney-General and Mrs Selvam

On behalf of the Judiciary, I would like to thank you for your well wishes and for the support which the Attorney-General's Chambers and the Law Society have given us. We are grateful for your renewed pledges of continued support as we traverse through challenging times ahead to maintain the fair administration of justice in Singapore.

2. The past year has witnessed the world experience unprecedented upheaval. Our government and our people have braved the political, economic and social challenges with courage and determination. The Judiciary has strived to uphold the rule of law to safeguard a stable and dynamic legal framework. A strong legal framework is rudimentary to the flourishing of our civic society. We have today made available to all of you the Annual Reports of the Supreme Court and the Subordinate Courts. These reports comprehensively chronicle the achievements and initiatives of the Singapore Judiciary in 2002; as such I shall briefly mention a few pertinent developments.

3. I have, over the years in previous speeches, talked about the Judiciary's vision of a paperless court system, and elaborated on the plans which we have mapped out and implemented to further this vision. What was once scoffed at as a far-fetched dream has become a practicable reality. I am pleased to report that since May 2002, all classes of civil actions commenced in the Supreme Court are filed via the Electronic Filing System. With that, all the cases in the Supreme Court are now filed, processed and tracked electronically. This has allowed court operations to be more efficient.

4. We have now come one full circle in our journey in exploiting technology to serve the needs of the Judiciary and the legal profession. For its innovative harnessing of technology through the e-litigation system, the Supreme Court was the first public organisation to be conferred the prestigious National InfoComm Award in the award's inaugural year. The e-litigation system encapsulates the realisation of our vision of a virtual court – an ideal forum for international business litigation involving parties and witnesses from the world over. This award is a timely affirmation and recognition of our efforts in pushing the frontiers of technology over the past decade.

5. Technology has played a critical role in the overhaul and modernisation of the operations of the Judiciary. Just as it was clear that the archaic paper trail had to be replaced with a streamlined computerised system, it became apparent that the present court premises are not suitably designed to adequately support the court's functions into the future. Our Judiciary is constantly evolving to meet the needs of the society. The New Supreme Court Building will be a courthouse which is symbolic of a still evolving judiciary. In November last year, we marked another milestone in the construction of the new building with the laying of the foundation stone of the new courthouse and the unveiling of the prototype courtroom and chambers of the future. Through a series of

consultative sessions with the various stakeholders in the justice system, we will finetune the design and layout of the prototypes to ensure that the new home of the superior court of the land will optimally cater to the representative requirements of its users. In a few days' time, the construction of the superstructure will commence. When completed, the new building seeks to capture the essence of a judiciary adept at embracing the demands of the future, while maintaining its dignity and its historical roots.

6. I now come to the Subordinate Courts. I have often said that when ordinary citizens think about the courts, they are in fact thinking about the Subordinate Courts. Justice administered by these Courts impacts them. I have therefore consistently sent the best Legal Service Officers to these Courts. The quality of their judgments has improved over the years. I know this because I sit to hear all the Magistrates' Appeals. Their Annual Report 2002 sets out in sufficient detail their work. Last year alone, these judicial officers discharged a prodigious load of some 246,960 criminal cases, 78,220 civil matters, 16,510 family and matrimonial cases, 2,480 juvenile cases and 36,890 small claims disputes. This was done within an established and technologically supported case and event management framework. There was again no backlog of cases. Only 0.03% of all these cases went on appeal to the High Court. The caseload per judicial officer is a high 5,220. These Courts have received international recognition. They are recipients of various local and overseas quality awards. Public trust and confidence have remained high, as reported in their publication on international rankings. They have discharged their constitutional duty well.

7. The justice system in the Subordinate Courts has been subjected to unprecedented change over the past twelve years. I have had these changes implemented and institutionalised incrementally and in deliberate phases through successive workplans. The members of the Bar, the Attorney General's Chambers, the court users and the other justice constituents have, to their credit, taken in their stride these fundamental changes to the criminal, civil and family and juvenile practice. This community of purpose augurs well for us, in Singapore, for the upholding of the Rule of Law and the administration of justice in these turbulent times.

Criminal Practice

8. In criminal practice, I am concerned, however with the rise in the major offences, with the high number of foreigners arrested and dealt with by these Courts, with the increasing number of new methamphetamine and ketamine abusers, and with the fact that more younger drug traffickers have been arrested. I am also concerned with the results of a Subordinate Courts' study of recidivism. This study shows that, in 2001, out of 32,947 convicted offenders, 43% had been convicted before. This 43% accounted for 48% of all such convictions. A parallel study by these Courts also shows that 51% of the recidivists committed their first offence when they were between 16 and 21 years of age. We must therefore continue to be tough on crime, particularly on recidivists. The Subordinate Courts have instituted a Special Sentencing Court to deal specifically with repeat and persistent offenders. Deterrent sentences will have to continue to be imposed at the Appellate and trial court levels.

9. The overall criminal practice in the Subordinate Courts has been significantly enhanced with guideline judgments from the Appellate court, with constantly updated sentencing guidelines and benchmarks, and with the Subordinate Courts' series of publications on 'Sentencing Practice' and 'Evidence in Criminal Trials'.

Civil Practice

10. In their civil practice, I need only mention their latest initiatives. One is the new fixed scale cost and case management regime for non-injury motor accident cases, which accounted for a quarter of the total civil writs filed. This has, since last month, become part of the Rules of Court. This regime introduces for the first time in our civil practice the pre-action protocol. The protocol facilitates pre-writ communication and disclosure between the parties who are also made aware of the quantum of cost involved. There has been a reduction in the number of writs for such cases filed, and consequential savings of litigation cost. The litigation process has also been streamlined with the provision of a fixed indemnity costs scale in judgment in default cases, which also took effect last month.

11. Another initiative is their mediation framework which has been enhanced with the use, gratis, of peer medical experts in various fields for medical negligence cases which have been provided by the Ministry of Health and has the support of the Singapore Medical Association. This framework is one critical step to ensure that medical negligence suits do not escalate with resultant exorbitant medical costs being passed on to patients. This is undesirable and has happened in several other jurisdictions. As part of Singapore's aims to be a financial centre, and a biotechnology and biomedical hub, the Subordinate Courts are exploring alternative dispute resolution mechanisms, which are industry-based and funded. Overall, the civil practice in the Subordinate Courts remains dynamic and efficient, with the ability to evolve to meet and respond to the continual demands and changes in the economic sector.

Family and Juvenile Practice

12. The Subordinate Courts are as much a human institution in its family and juvenile practice. Underlying family and juvenile cases are deep seated human emotions and dysfunctional relationships which need to be dealt with holistically. The integrated family and juvenile justice pathway with its one family justice model, which I had announced at the Subordinate Courts' Workplan last year, has now borne fruit. Affected families with multiple disputes across the family and juvenile courts are being counselled, their legal disputes adjudicated, and their problems followed through with appropriate therapeutic and restorative programmes by support agencies. The quality of family and juvenile justice is enhanced.

13. The Subordinate Courts, in consultation with the Law Society and the Legal Aid Bureau, are simplifying and updating the Matrimonial Proceedings Rules to enhance access to justice, improve the efficiency of family case processes and save costs for all

parties. These Rules will be harmonised with the civil procedure rules where appropriate. Standard “template” forms which may be prepared electronically will be introduced to facilitate data entry and storage. The new forms will also benefit unrepresented litigants. The family justice system will be enriched with these new Rules.

Use of Technology

14. Mid last year, I launched the JusticeOnLine. This is an innovative, web-based video-conferencing system to enable lawyers to conduct multi-party court hearings and other business with the Subordinate Courts, from the convenience of their offices. I am pleased that, with the wide support it has received, JusticeOnLine now covers almost every facet of court litigation. It is in use for settlement conferences at the Primary Dispute Resolution Centre, for virtual pre-trial conferences in the Civil and Criminal Justice Divisions, for contentious and non-contentious civil interlocutory matters, as well as for adoption matters; and it is available for use in Registrars’ Appeals. This system adds on to the layers of technology infrastructure and applications which are currently in effective use in these Courts.

Continuing Challenge

15. Much has been achieved in the last twelve years. I think we now have one of the finest subordinate judiciaries in the world. But much more remains to be done. We cannot be complacent. Our Subordinate Courts are also a public and social institution and must continue to remain *primus inter pares*. They must continue to remain accountable for the use of public resources. They have already begun putting into place a reporting, performance and audit framework comprising, in the main, the Balanced Scorecard, the Net Economic Value and the Six Sigma. It is among the pioneering public institutions to have done so. This year the Senior District Judge will further consolidate this framework and continue to institutionalise all that has been achieved.

16. As we look back on our past year’s total performance, we should remind ourselves that we cannot rest on our laurels as we embrace the forthcoming challenges. History has taught us that at the core of the fall of many a great civilisation have been complacency and inertia. We have been lauded for having cleared the backlog and for establishing a pro-active case management regime driven by the courts. We pride ourselves in our efficiency and speedy disposal of cases. While this is commendable, at the same time, we cannot simply content ourselves with what we have achieved thus far. We have to constantly set higher benchmarks to ensure that the justice which we dispense and administer is of the highest quality. If not, it will not be too long before the standards which we have painstakingly attained begin to erode and the effectiveness of our justice system is diminished. Already, we are aware of jurisdictions which can now speak of faster rates of disposal of cases than Singapore. When five of my colleagues and I visited the People’s Republic of China in September last year, at the invitation of their Chief Justice, we were amazed at the extent of the judicial reforms which have taken place since we were last there in 1992. In most areas they have caught up with us, in a few they have overtaken us. Their judges and courts are also working harder, and working faster

than ours. In a fiercely competitive economic environment, if Singapore is to be an attractive forum for adjudicating disputes, it is imperative that the critical advantage which the efficacy and efficiency of our litigation system brings is further enhanced.

17. Towards this end, I have identified two important areas which the Judiciary, together with the legal profession, should quickly address – first, the conduct and control of court proceedings, and second, the related issue of cost of litigation.

18. The premise of the Judiciary's case management and trial management strategy is that the pace of litigation is to be controlled by the courts. We have erstwhile enforced discipline over the progress of every action through strict timelines and the discouragement of prolixity on the part of lawyers. In spite of this, I have been noticing that the past ills of the laissez faire attitude in the conduct of litigation are beginning to creep in. In my Response at the Opening of the Legal Year last year, I spoke about the undesirable practice of indiscriminate compilation of large numbers of documents into so called core bundles for appeals before the Court of Appeal, and I announced the imposition of substantial court fees for unnecessarily voluminous core bundles to curb this phenomenon. Unfortunately, this practice has not ceased. As an example, a "core bundle" comprising seven volumes and over 2,000 pages was filed in a recent appeal. The filing fee for this core bundle alone totalled \$19,000. Not a single page of it was cited in court by counsel during his 75 minute submission. In another case, a law firm filed a bill of costs which claimed a staggering \$259,000 in photocopying charges. These are pointed illustrations of the excesses of legal practice, and it is the responsibility of the Judiciary and the Bar to curb this. Lawyers owe a duty to their clients to act in their best interests. It is clearly to the client's detriment when unnecessary costs are loaded on him as a result of his counsel's lack of discernment. In future, the court will not hesitate to exercise its discretion under Order 59 rule 8 of the Rules of Court to make errant counsel personally liable for costs arising from any irresponsible conduct.

19. Another trend which is beginning to surface is the inordinate number of court days which an increasing number of cases are taking to conclude. Between January 2001 and September 2002, 25% of the cases which went to trial took 10 or more days to conclude. In part to stem this problem and to restore the effectiveness in the use of court time, the rates of hearing fees were revised upwards in December 2002. To ensure concision and precision on the part of counsel, the court will not be slow to disallow costs occasioned by unnecessary claims or issues pursuant to its powers in Order 59 rule 6A. On the Judiciary's part, in tandem with the paradigm shift in our litigation process from oral advocacy to written advocacy, the reading out in open court of opening statements, affidavits of evidence-in-chief and written submissions will be strongly discouraged. The control over the pace of proceedings before judges will have to be tightened.

20. Contingent upon the conduct and control of court proceedings is the cost of litigation. Our detailed study of the average amount of costs awarded to solicitors from 1995 to August 2001 shows an eightfold increase during that period. Since then, the Judiciary has taken concerted steps to arrest this problem, which has led to some

reduction in the amount of costs. I believe that, with more effective conduct and control of court proceedings, the cost of litigation can, to a degree, be further brought down.

21. There has been some concern with the recent increases in hearing fees and filing fees in the Supreme Court, chief amongst which is their impact on litigation costs and on the access to justice. I would like to allay any misgivings in this regard. First, the upward revision in fees affects a minute proportion of cases, a large majority of which involve high-value businesses. Second, the total operating costs of the Supreme Court over the past ten years have increased more than threefold. Against that, filing fees, save for minor exceptions, have not been increased for more than ten years, since 1991. Pursuant to the government's policy to recover the costs of operations from revenue collections, it has become necessary to increase fees to keep up with the increase in operating costs. The burden of the costs of the administration of justice should be shared more equitably between the taxpayer and the litigant. I should emphasise that, in spite of the increase, the taxpayer still substantially subsidises the cost of court operations. We are mindful that access to justice should not be denied to those who do not have the financial means. As such, the Registrar has the discretion to waive or defer the payment of fees in genuine cases of hardship.

22. I have outlined what I view as the challenges confronting the Judiciary and the legal profession. At this juncture, it is apt for me to introduce to the congregation this morning five new Senior Counsel. As in previous years, their appointments were made by the Selection Committee after obtaining the views of every Judge and Judicial Commissioner on all the applications for appointment. In order of precedence, they are:

1. Solicitor-General Lee Seiu Kin
2. Lim Teong Qwee
3. Yeap Poh Leong Andre
4. Indranee Thurai Rajah
5. Philip Antony Jeyaretnam

23. As we press forward in a time of turbulence and rapid change, it is more important than ever that we must, in unison, meet our challenges with true understanding and steadfast judgment. As our past record bears testimony, we will master these challenges. So, let us persevere. On this note, I declare the new Legal Year open. My colleagues and I wish you all the best in the year ahead.