

ADDRESS BY THE HONOURABLE ATTORNEY-GENERAL AT THE OPENING OF LEGAL YEAR 2008

Supreme Court Auditorium, 5 January 2008

1 Your Honours, the Chief Justice, Judges of Appeal and Judges of the Supreme Court. We are once again gathered here this morning to formally mark the opening of the new Legal Year. The past twelve months were clearly a period of great changes on the legal scene.

2 In 2007, the world as a whole achieved great strides in economic development, particularly for the countries of East Asia and India. In tandem with these developments, there was naturally a tremendous increase in demand for legal services and in turn for lawyers. As for the present year, while the forecast for the economy is less rosy, analysts do not expect the world to go into recession, only that the rate of growth this year may be slower than that of last year.

3 In this globalised and fast changing world, much of the legal services required transcend national boundaries. As a result, the young lawyers who are the products of our legal education system are no longer constrained to practise within our shores. And because of the quality of our lawyers, they are in demand not only by our own law firms but also by foreign law firms with or without a physical presence here in Singapore. We have young Singaporean lawyers working in very established law firms in New York, London, Hong Kong and Shanghai. Last June in London, I had the occasion to meet up with a dozen of these young Singapore lawyers. While I am heartened to note that our young lawyers are venturing abroad, to experience and see for themselves how our foreign counterparts live and work, I certainly hope that in good time they will return to Singapore, their home, and bring back with them their expertise acquired from their work abroad. Their return will no doubt help to enrich our profession.

4 At this juncture, I would also like to point out that it is vital that our local law firms should strive to retain a fair share of the brightest law graduates who are produced by our law schools. A conscious effort must be made in this regard. Remuneration is one aspect. Work environment is another. Equally important to retaining good young lawyers is the need for them to see for themselves their career path and advancement within the firm. In this regard, may I add that the Legal Service is confronting the problem of retaining talents head-on. Last year, the Government approved the recommendations of the Legal Service Personnel Management Review Panel (chaired by Justice Lee Seiu Kin) on the management and development of talent in the Legal Service. The Legal Service has institutionalized a personnel management system that recognises outstanding officers, tracks their performance, and grooms them through assignments and training courses for future leadership roles. The system now assesses the performance and potential of legal officers against all their peers. Those who do well are recognised and are promoted on merit. We will continue to recruit as many of the top law graduates to join the Legal Service. However, let me hasten to assure the profession that it is not the intention of the Legal Service to hoard for itself all the brightest of each cohort of law graduates. While almost all of the top students of each batch of law graduates join the Legal Service,

particularly as Justices Law Clerks, a good number do leave. All we want is to retain a fair share of the good young lawyers who could, in due time, assume leadership roles in the Legal Service and contribute to maintaining the high standards of public service.

5 Last year, in the light of the enhanced need for legal services, it was generally felt that there were not enough lawyers to go round. I had heard it said to me by those from the medium and small firms that they had difficulties in hiring new professional staff. The 3rd Committee on the Supply of Lawyers recommended that holders of Class 2.2 Honours law degree from Scheduled Overseas Universities with the requisite additional professional experience may be permitted to be admitted into the Singapore Bar; and that a second law school be established. In addition, local law firms were to be permitted to recruit good foreign lawyers to practise Singapore law in banking, finance and corporate work after passing a qualifying examination. All these recommendations have been accepted by the Government. These measures should alleviate the current shortage. The entry of the second law school will also no doubt add diversity and healthy competition in the provision of legal education.

6 At a related front, bearing in mind the national policy to develop Singapore as a legal services hub to serve the region and beyond, and the fact that large present day transactions are often transnational in nature, our legal profession must be prepared to accept and adapt to further liberalization of the legal services sector so as to keep up with a fast changing legal landscape. We must ensure that our legal services sector remains vibrant and competitive. We know that other countries in the region are also making, or contemplating making, changes to their legal services sector. Thus, Singapore must adjust and move forward if she is not to be left behind. Standing still is no longer an option. Accordingly, last year the Government implemented the recommendations of the January 06 Report of the Review Committee on Joint Law Ventures and Formal Law Alliances to expand the scope of practice of the Joint Law Ventures and the Formal Law Alliance and to permit foreign lawyers in a Singapore law firm to own up to 25% equity shares therein.

7 I am glad to note that many local law firms have already begun engaging or are expanding their pool of foreign lawyers so as to be able to offer a more comprehensive range of legal services to clients. The numbers speak for themselves. At end 2006, it was 112 and at end 2007, it had increased to 170.

8 Now even more exciting changes will take place this year following the Government's decision early last December to accept the recommendations of the report of the Committee headed by Justice VK Rajah which was tasked to undertake a comprehensive review of our legal services sector. The report contained various recommendations to further enhance Singapore's position as an international centre for the provision of legal services, ranging from university education, postgraduate and professional training, liberalisation of legal services, and to streamlining the disciplinary process for the legal profession.

9 Two of the most significant recommendations made by the Committee, as far as the profession is concerned, relate to the enhanced JLV and

Qualifying Foreign Law Firm schemes where the FLFs concerned will, inter alia, be allowed to practise Singapore law in commercial areas through Singapore-qualified lawyers employed by them.

10 In the year ahead, my Chambers will work with MinLaw, the Law Society, the SAL, the law schools and other stakeholders to implement these recommendations, which I have no doubt, will further enhance the competitiveness of our legal services sector and contribute to our overall economic growth.

11 Turning to the question of law and legal policy reforms, my Chambers recognises the necessity of constantly monitoring and adapting its policies to suit the ever changing needs and mores of our society. The law is, after all, a living organism, based on factual and social reality that is constantly evolving.

12 The most major statutory reform exercise undertaken by AGC in recent years related to the Penal Code, which culminated in the enactment of the Penal Code (Amendment) Act last year. I must in this connection commend and extend my gratitude to both the Law Society and the SAL Law Reform Committee for submitting substantive and constructive comments, many of which were accepted and incorporated into the final Bill introduced in Parliament.

13 The review of the Criminal Procedure Code is still underway. Stakeholders will be consulted. We expect to have the amendment Bill presented to Parliament in the course of the year.

14 It is significant to note that, as stated by the Senior Minister of State for Home Affairs in his second reading speech in Parliament, a key objective of the review of penalties in the Penal Code is to provide our Judges with greater sentencing discretion to mete out appropriate sentences. Heeding comments made by the Judiciary, the double-limb penalties have been reviewed to calibrate them more appropriately to reflect the seriousness of the offence and give the Courts greater flexibility in sentencing. This demonstrates the responsiveness of the Legislature and the Executive towards suggestions for legal policy reforms made by the Judiciary.

15 It is also noteworthy that the Senior Minister of State further explained that "it does not mean that when the maximum punishment is raised, the punishment will automatically go up". As the Public Prosecutor, I would assure the public that the prosecution will not automatically press for higher sentences merely because the maximum penalties have been increased. We will however not hesitate to do so in a case where the aggravating circumstances, and the harm caused, call for a deterrent sentence.

16 Many in the audience might be curious to know how my Chambers will implement the new law. The vision of AGC is: "An essential pillar upholding the rule of law for a just, harmonious and progressive society". We will be guided by that vision in all that we do. Whether an offender should be prosecuted in a particular case or whether the prosecution should press for custodial sanctions, we must be satisfied that this is the best solution for the offender, the victim and society. Whilst there will be no let up or compromise

in the fight against crime, vigilance will be maintained to ensure that the prosecutors' decisions do not result in a disproportionate response.

17 Next I would like to refer to some recent communications in the forum page of the local media which raised the question of disparity in sentences meted out by the courts for what seemed like similar offences. Those comments call for some clarification on my part. First, I should point out that even for the same physical act, eg, killing a pedestrian while driving, it does not follow that the same charge will be brought against two accused persons. Much will depend on the facts. The charge could be for a negligent act or a rash act and the sentence which each charge will attract will obviously differ. The more severe the charge the higher will be the prescribed range of punishment. Second, even if the charges were the same, the circumstances of each case will be different and this could in turn affect the degree of culpability and the sentence that should be imposed. Third, another important factor is the number of charges which an accused faces. Where he faces three or more charges, the sentences of two of the charges must be consecutive. Fourth, the antecedents of the accused, or the absence of it, and the presence of mitigating circumstances could also affect sentence.

18 I should like to emphasise that in exercising our prosecutorial judgment, my Chambers takes our tasks very seriously. The facts of each case will be carefully considered and analysed before a charge is brought. And if a sentence imposed in a particular case, considering all its circumstances, is clearly out of line, an appeal will be lodged. But I should hasten to add this. Sentencing is not a science. It is a question of judgment and, in turn, perception and experience. The law entrusts the courts with this discretion. It is for this reason that an appeal court will only allow an appeal against sentence if it is shown that the sentence imposed is manifestly inadequate. That is the principle my Chambers has applied and will continue to apply when determining whether to lodge an appeal against the sentence imposed.

19 Before I conclude, I am happy to announce that my Chambers has made a successful bid to host the 13th Annual Conference of the International Association of Prosecutors' to be held in August this year. The International Association of Prosecutors is a non-governmental world organisation of prosecutors. This Conference will bring together Attorneys-General, Public Prosecutors and Procurators-General from over 100 countries to discuss current and pressing criminal law and procedure issues. The sharing of experiences by prosecutors from both civil and common law jurisdictions will be immensely beneficial as crime becomes more sophisticated, organised and transnational in nature.

20 Finally, may I on behalf of all my legal officers pledge to your Honours our full cooperation in the discharge of your duty of administering justice. May I also extend to Your Honours and all members of the Bar our best wishes for your good health and happiness and a rewarding and successful year ahead.