

## **MASS CALL ADDRESS 2022**

### **The Legal Profession as an Honourable Profession**

Tuesday, 23 August 2022

The Honourable the Chief Justice Sundaresh Menon  
Supreme Court of Singapore

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#### **I. Introduction**

1. Good morning. Let me begin by warmly congratulating all of you on your call to the Bar.

2. Two years ago, in the early days of the pandemic, remote communications technology was used for the first time to conduct the Mass Call. While the fight against the pandemic continues, it is heartening to see how far we have come, so that today, we are able to conduct the Mass Call by means of a hybrid format, with the applicants – you – attending physically and your guests joining us remotely. Technology continues to be an indispensable ally in our efforts to maintain the administration of justice amidst the disruptions caused by the pandemic.

3. However, we must remain cognisant of the potential pitfalls of technology. Thus, even as we recognise that many cases are well-suited to be dealt with through a virtual platform, we have not lost sight of the fact that for some cases, a physical hearing would be most appropriate or effective. In the same way, as

the use of remote communications technology becomes routine in wider society, we must ensure that we are alive to the potential dangers that come with this. The event that has perhaps loomed largest in the public eye in the context of highlighting the dangers of using these platforms for activities that would typically be done in person is the recent case of the 11 candidates who appear to have taken advantage of the virtual modality of the 2020 Part B Bar examinations to cheat. This is a matter of particular relevance to this audience.

4. Certainly, the virtual format that was used in the Bar examinations that year may have made it *easier* for those who were open to cheating. But it is noteworthy that there have also been other examples of lawyers who were disciplined for the unacceptable way in which they used technology – such as by making contemptuous remarks online,<sup>1</sup> or engaging in sexual harassment using electronic devices.<sup>2</sup> To account for the cheating incident by pointing to the way the examinations were conducted therefore misses the real point. The simple fact is that as lawyers, we are absolutely bound to conduct ourselves honourably and honestly, regardless of whether we are operating in a real or a virtual environment and regardless of whether anyone is looking over our shoulder. This is because lawyers are required, first and foremost, to be persons of integrity. As I said in the judgment I issued in one of the cases arising from the incident, admission to the

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<sup>1</sup> See *Law Society of Singapore v Nalpon, Zero Geraldo Mario* [2022] SGHC 81.

<sup>2</sup> See *Law Society of Singapore v CNH* [2022] SGHC 114 (“*CNH*”).

Bar is about character first, and then about competence.<sup>3</sup> These are each necessary conditions for admission.

5. I therefore suggest that your call to the Bar today should be an occasion not only for celebration, but also for reflection on what it means to be a member of this honourable profession. As we welcome you to our ranks, it is timely to revisit this notion and to consider how we might each better live up to its promise.

## **II. The legal profession as an honourable profession**

6. Although the answer might seem obvious, it is worth recalling why ours must remain an honourable profession and why, therefore, we are each expected to be women and men of honour. As the President of the Law Society has just observed, getting called to the Bar means being accorded certain privileges, including the right of audience in court when appearing on behalf of another and the right to practise as a solicitor and serve as a trusted advisor and counsellor. But this comes with significant responsibilities – to our clients, to fellow members of the Bar, and to the Court.

7. Because of the gravity of these responsibilities, they are entrusted only to those who are found capable of discharging them properly and honourably. This is inextricably linked to the role that a lawyer plays in the “day to day administration of justice”.<sup>4</sup> The duty to act honourably is so central to our

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<sup>3</sup> *Re Tay Quan Li Leon* [2022] SGHC 133 (“*Leon Tay*”) at [1] and [46].

<sup>4</sup> *Iskandar bin Rahmat v Law Society of Singapore* [2020] SGHC 40 at [90].

profession that it is enshrined in the Legal Profession Act 1966;<sup>5</sup> and it is reflected in the case law, where, for instance, I have said that “[l]awyers are called to be ministers in the temple of justice”.<sup>6</sup> This insistence upon the honourability of the legal profession is not only critical to the administration of justice, it is also central to public confidence in the machinery of justice and, ultimately, to the legitimacy of our legal system. If any of the institutions of the justice system are even perceived to be morally weak or corrupt, that strikes directly at the heart of public respect for the rule of law. Each of us must therefore apply ourselves assiduously to earn our honour and then to preserve it.

8. This is why the requirements for being called to the Bar extend beyond competence to the overarching question of *character*. Those seeking to be part of the legal profession must possess the strength of character that is required in order for them to discharge their duties properly and honourably.<sup>7</sup>

### **III. What does it mean to be a member of an honourable profession?**

9. So, what in practical terms does it mean to be honourable? In my view, there are three core character attributes that inhere in this: integrity, excellence and service.

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<sup>5</sup> See ss 82A(3)(a), 83(2)(h), 83A(2)(g), 142(2) and 157(2) of the Legal Profession Act 1966.

<sup>6</sup> *Leon Tay* at [1].

<sup>7</sup> *Leon Tay* at [1] and [34].

## **A. Integrity**

10. Integrity, which Mr Tan touched on in his address, lies at the core of honour. Today, you declared publicly that, as an advocate and solicitor of the Supreme Court of Singapore, you will act “truly and honestly”. We have consistently emphasised in our jurisprudence that this signifies a duty not only to yourself and to your clients, but also to the Court and to the pursuit of justice and fairness generally.<sup>8</sup> It reflects the practice of law as a noble calling that ultimately serves the public.

11. The basic idea of integrity should be obvious to all of us. As members of an honourable profession, it is insufficient for us just to refrain from inappropriate behaviour. Instead, we must strive to *set the right example* by modelling honourable behaviour so that faith in the moral standards of the profession can be maintained.

12. While as lawyers you will carry heavy responsibilities to your clients, these cannot be placed above all else.<sup>9</sup> You are not “legal mercenaries” or “hired guns”. Your highest duty, overriding all others, is that which is owed to the Court to assist the Court in the administration of justice. But you also owe other duties: the duties

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<sup>8</sup> *Tan Ng Kuang and another v Jai Swarup Pathak* [2022] 3 SLR 788 (“*Tan Ng Kuang*”) at [55], citing *Narindar Singh Kang v Law Society of Singapore* [2007] 4 SLR(R) 641 (“*Narindar Singh*”) at [50] and *Law Society of Singapore v Tan Buck Chye Dave* [2007] 1 SLR(R) 581 at [14]–[16].

<sup>9</sup> See *Tan Ng Kuang* at [55], citing *Narindar Singh* at [50]–[51].

of honesty, courtesy, and fair dealing.<sup>10</sup> When dealing with other lawyers, even in the context of an adversarial system, such as ours, you have an ethical duty to treat one another, including opposing counsel, with dignity and respect.<sup>11</sup> When dealing with third parties, in matters as simple as routine correspondence, you must mean and honour what you say: you should not resile from the clear meaning of your words.<sup>12</sup>

13. You will have to navigate these various duties carefully. And, if your client's instructions drive you towards violating any of your legal and ethical duties, then in order to safeguard your integrity, you will have to discharge yourself from acting further.<sup>13</sup> And finally, your duty of honesty applies not only when convenient, but also, and perhaps especially, when it is inconvenient and uncomfortable. Honesty may also require you to make disclosure of your own errors, instead of waiting for someone else to discover it or hoping that no one will.<sup>14</sup>

14. There is another aspect of integrity that I want to mention today. I recently met a young lady, a newly minted law graduate, who spoke with great passion about wanting to be an advocate for gender equality in the profession. I commended her passion and encouraged her to apply herself to what I regard as

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<sup>10</sup> See r 8 of the Legal Profession (Professional Conduct) Rules 2015 (Cap 161, S 706/2015) ("Professional Conduct Rules").

<sup>11</sup> See r 7 of the Professional Conduct Rules.

<sup>12</sup> See, for example, *Tan Ng Kuang* at [44]–[46].

<sup>13</sup> *Loh Der Ming Andrew v Koh Tien Hua* [2021] 2 SLR 1013 at [80]. Many of these rules and duties are set out in the Professional Conduct Rules.

<sup>14</sup> See, for example, *Leon Tay* at [33]–[34].

a worthwhile mission. Over the course of the past year, we have had at least two cases of female lawyers being abused or molested by their male colleagues.<sup>15</sup> I also come across many other cases of such abuse taking place in wider society when I hear criminal appeals or disciplinary matters. There is no place at all for this in our society, much less in our profession. Victims of such abuse face an immense challenge in overcoming the obstacles, sometimes perceived, sometimes actual, but in either case very real as far as the victim is concerned, that stand in the way of initiating and prosecuting a complaint. There is then the prospect of having to pursue the matter through a formal process and that comes with the fear of being identified, with being stigmatised in a wholly unfair way, with having to subject themselves to investigations and even to formal proceedings, and sometimes with the real anxiety that their complaints may not even be taken seriously. All of this adds to the very real trauma and distress that is experienced by victims. Be very clear; there is no place for this. If we cannot treat each other, regardless of gender, with respect and courtesy, then we cannot even begin to speak of acting honourably.

## **B. Excellence**

15. I turn to the second character attribute, which is excellence. There is honour in striving for excellence in the work that we do. In these times of rapid change, this means being adaptable and committed to lifelong learning. There

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<sup>15</sup> See, for example, *CNH, Law Society of Singapore v Seow Theng Beng Samuel* [2022] SGHC 112; *Law Society of Singapore v Ismail bin Atan* [2017] 5 SLR 746.

are at least three major drivers of change that each of us in the legal profession must respond to.

16. First, there are the changes brought about by the pandemic. At the Mass Calls that were held remotely in 2020 and 2021, I spoke about some of these changes.<sup>16</sup> I further suggested that the integration of technology could radically transform our legal processes altogether,<sup>17</sup> and to some degree, this has already come to pass. Changes, such as the use of remote hearings, that were thrust upon us by necessity are now becoming part and parcel of our “new normal”.<sup>18</sup>

17. Second, we must also respond to changes in our legal frameworks, which are essential for the law to remain fit for purpose. A case in point is the Rules of Court 2021 and the Singapore International Commercial Court Rules 2021, which came into effect in April this year. These are designed to modernise the litigation process and enhance the effectiveness, efficiency and accessibility of civil procedure.<sup>19</sup>

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<sup>16</sup> Sundaresh Menon CJ, Mass Call Address 2020 “Living Up to the Call of in a Time of Pandemic” at paras 16 and 21.

<sup>17</sup> Sundaresh Menon CJ, Mass Call Address 2021 “The Legal Profession Amidst the Pandemic: Change and Continuity” at paras 3 and 4.

<sup>18</sup> See ss 14, 37 and 52 of the Courts (Civil and Criminal Justice) Reform Act 2021, which came into effect on 1 April 2022.

<sup>19</sup> See Sundaresh Menon CJ, Litigation Conference 2022 Keynote Address “Procedure, Practice and the Pursuit of Justice” (5 May 2022) (“Litigation Conference 2022 Keynote”); see also Singapore Courts, “Digest 1 – General overview of the new Rules of Court – what is new?” <<https://www.judiciary.gov.sg/new-rules-of-court-2021/digest-1>> (accessed 9 June 2022).



18. This will be especially important in light of two contrasting trends in litigation. On the one hand, disputes are becoming ever more complex.<sup>20</sup> On the other hand, the number of unrepresented litigants is steadily rising. The approach to civil procedure of old, which largely assumed that litigation would be conducted by lawyers on both sides, was not always hospitable to litigants-in-person. These two trends, although seemingly contrasting, drive us towards the same conclusion – our practices and procedures must be sufficiently innovative, flexible and contextualised to meet the requirements of different types of disputes, and therefore to serve the needs of a diverse range of court users.<sup>21</sup> Only in this way can the Court properly and efficiently administer justice.

19. The new rules revamp our civil procedure, and in doing so they pursue a much larger goal: they lay the foundation for a new paradigm of lawyering and adjudication, in which the Court and counsel share the responsibility of managing a case to ensure its effective resolution.<sup>22</sup> It goes without saying that you must familiarise yourselves with the provisions of the new rules and keep abreast of developments in the law. More importantly, I urge you also to understand and internalise the spirit of these rules, so that you may apply them with appreciation and understanding, when you advise your clients and in your advocacy on their behalf.

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<sup>20</sup> See Sundaresh Menon CJ, Goff Lecture 2021 “The Complexification of Disputes in the Digital Age” (9 November 2021).

<sup>21</sup> See Litigation Conference 2022 Keynote at para 24.

<sup>22</sup> See Litigation Conference 2022 Keynote at para 41.

20. In this way, the value of excellence is linked with that of integrity. As members of an honourable legal profession, you have the responsibility to advise your clients on the *appropriate* legal and practical options, and not simply to follow instructions. We refer to lawyers as “counsel” because they should do precisely that – counsel their clients on a better way forward.<sup>23</sup>

21. Third, in striving for excellence, we must also respond to changes to the nature of legal practice, brought about by technological and societal change. For instance, every lawyer must now grapple with the reality of a wide range of digital tools that are making inroads into the work that has traditionally been done and billed for by a lawyer. At the same time, the advent of technology will also bring with it novel disputes and complex legal questions, as well as allow new practice areas to emerge and grow.<sup>24</sup> To cope with this reality, you will each have to be intentional in your efforts to keep learning so that you can maintain your commitment to excellence.

### **C. Service**

22. The third character attribute I would like to touch on is the willingness to serve. The honourability of the legal profession is rooted in the fact that in the final analysis, we must be driven not by self-interest, or even by the interests of

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<sup>23</sup> See *Tan Ng Kuang* at [86]–[92].

<sup>24</sup> For example, the Singapore High Court recently granted an injunction to restrain the sale and ownership transfer of a non-fungible token: see Dominic Low, The Straits Times, “Singapore High Court blocks potential sale and transfer of rare NFT” (19 May 2022) <<https://www.singaporelawwatch.sg/Headlines/singapore-high-court-blocks-potential-sale-and-transfer-of-rare-nft>> (accessed 9 June 2022).

our clients, but by the knowledge that we stand in service of a higher ideal – the administration of justice.

23. Service in the administration of justice may be viewed from three different perspectives – service to the Court, service to each other as members of the same fraternity, and service to the public. Much of what I have already said relates to the first two aspects and I therefore now focus on the third aspect – service to the public.

24. The privilege of being called to the Bar comes with a solemn duty to use that privilege in service to society, especially its most vulnerable members. Justice and the rule of law do not meaningfully exist if they do not apply and are not available to all segments of society. Consequently, it is vital for the legitimacy of our profession and of the legal system that we each play our part to help the public access justice. Nobody expects lawyers to work for free all of the time, and the public understands the time and expense that comes with the difficult and complex work that lawyers do. Nonetheless, the reality is that most lawyers occupy a privileged position compared to society at large. With that privilege comes the responsibility to ensure that *all* who need justice can have access to it. I therefore strongly encourage all of you to take the time to engage in *pro bono* work. You will find these experiences to be among the most meaningful and enriching ones in your professional lives.

#### **IV. A call to action**

25. In the abstract, these collective standards may seem lofty, perhaps even beyond reach. But that is not so. And let me illustrate this with a shining example of a lawyer who embodies these attributes of integrity, excellence and service – my erstwhile colleague, Justice Chao Hick Tin, who stepped down as a Senior Judge of the Supreme Court this June after 55 years of dedicated service to Singapore. As a young Legal Service Officer, Justice Chao played a pivotal role in defending Singapore’s interests on the international stage.<sup>25</sup> He served from 1987 as a Judicial Commissioner and then as a Judge of the High Court, before being appointed a Judge of Appeal in 1999. He then served as Attorney-General for a time before he returned to the Bench as Vice-President of the Court of Appeal. Throughout his time on the Bench, Justice Chao was respected, admired and even loved because his tireless spirit of public service, his extraordinary decency, fairness, patience and humility, and his courage to do right even in difficult and uncertain circumstances, were there for all to see. Justice Chao embodies the best qualities of a lawyer and of a Judge and these are qualities that we should all aspire towards.

26. I therefore approach the end of my address today with a call to action: and it is a call for constant improvement. As with any skill, the attributes of honour must be worked at – honed, practised and upkept. Integrity, excellence and

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<sup>25</sup> See Valedictory Reference in Honour of Justice Chao Hick Tin (27 September 2017), Address by Minister K Shanmugam at paras 9–33; see also Address by Professor S Jayakumar.

service require life-long reflection and effort. It calls for hard work that is done intentionally. But it is work worth doing because in the final analysis, the real hallmark of a lawyer is that commitment to honour. This is not only a prerequisite for your admission to the Bar, but it is a commitment that you make that must last throughout your career in the legal profession.

27. As you embark on this next phase of your lives, I urge you to always bear in mind this foundational commitment to honour. My hope is that you will each become women and men of solid character – possessing integrity, striving for excellence and having a heart for service. Thus, will you become honourable members of this wonderful profession.

## **V. Conclusion**

28. In closing, let me congratulate the families, and in particular, the parents of those who are being called to the Bar today. I am sorry that we cannot yet have you in person with us, perhaps before long we will. Each of you have contributed and sacrificed much to bring up these young women and men. Without you, they surely would not be where they are today. Their success is as much yours as it is theirs.

29. Finally, once again, I congratulate the newest members of our Bar. The years of hard work and effort you have invested in this endeavour have paid off, and you should be very proud of yourselves on this achievement. Let it be the first of many more achievements to come. I wish each of you all the very best in

your career, and on behalf of the Bench and the profession, I extend you a very warm welcome to our ranks.

30. The court is now adjourned.