



THE LAW SOCIETY
OF SINGAPORE



KEEP CALM AND CARRY ON PRACTISING

A Special Supplement for Young Lawyers | 2014

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A Message from the Chairperson, Young Lawyers Committee



Kenneth See
Chairperson
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A Word of Welcome

I believe congratulations are in order to all of you who have just been newly called to the Singapore Bar. Years of hard work and countless nights burning the midnight oil have finally paid off and you have achieved what you have always desired – to be somewhere where you can spend ever so many more years of hard work and countless nights burning the midnight oil. By now, most, if not all, of you would have already known law practice does not entail the luxury of king-sized offices with more than enough space to place your vinyl record collection or being decked out in form-fitting bespoke three-piece pinstripe suits at work *à la* Harvey Specter. If there is just one piece of practical advice I can dispense on how to survive the first few years of practice within the word-limit of this message, it will be this.

Be patient. The practice of law is indeed a fast-paced industry. Law firms are formed or merged regularly; even spin-offs are considered to be normal. Trickle-down effects, we also notice high turnover of lawyers in their formative years of practice. Stories of associates who have had jobs with three or more different law firms within a year are not unheard of. They typically give various reasons, such as long hours, relatively low salaries or unreasonable bosses/colleagues. In my humble view, however, frequent change of jobs could be counter-productive to the development of a lawyer. Trust takes time to develop. Time is necessary to form a feasible working relationship between lawyers or between you and your supervising partner. You would notice over time that your partner would begin to place

more and more of his or her files in your more-than-capable hands and charge you with more responsibility and less superior intervention. One of the partners told me in my first year of practice, "The best way for us to show appreciation to good lawyers is by giving more work." It did take me a while to agree with that statement (since I was hoping that the appreciation could be come in the form of a huge fat bonus, but alas!). The downside to a new job is that you would have to again start from ground zero in building that trust as well as the working relationship with your colleagues, including your fellow associates and secretaries. Guidance from the supervising partners might not be easily forthcoming because they may take the view that the lawyer will not last for long in the job. More importantly, interviewers do not like candidates with a long rap sheet of multiple past employers.

Eventually, sometime over the next few months or years of your blossoming career in law, you may find yourself at the crossroads of your life, on the verge of burning-out as a result of the hours of repetitious labour. You may even start to wonder whether law is the **right** career for you or that you should have **left** your job long ago (pun intended). If and when that happens, I strongly urge you to read or watch the following two speeches which are widely available on the internet. The first – Steve Jobs' commencement speech at Stanford University in 2005, where he shared a few things, namely, that work is going to fill a large part of your life and the only way to be truly satisfied is to do what you believe is great work; and that time is limited so you should have the courage to follow your heart and intuition. The second – Adrian Tan's commencement speech at NTU in 2008, where he implored the best of you not to work but find something you enjoy doing and then do the same over and over again. I hope you will be able to find some enlightenment from these sources.

Finally, I wish you all the best in your respective journeys in this privileged profession of ours. Welcome to the Bar!

Surviving the Associate Years



Thio Shen Yi, Senior Counsel
 TSMP Law Corporation
 Vice President
 The Law Society of Singapore

Congratulations. You have been called to the Bar and are now an associate. You have moved up the food chain in the legal ecosystem, and have taken the first step to what one hopes will be a long and fulfilling professional career in the law.

There are some who think that the idea of a career is a quaint and antiquated notion in today's world, where change is the only constant, where job mobility across industries is common, where a young man or woman's idea of the long-term is a three year plan.

The statistics are sobering. If history is any guide, a large chunk of you, after seven to 12 years (defined by the Law Society as the "Middle Category"), will have left the profession. Only one-quarter of your cohort will remain. Of course, some leave for real, or perceived, greener pastures; and others while ceasing to be practising lawyers, stay within the larger legal community as foreign solicitors, in-house counsel, or government lawyers. Frankly, some, like the ex-lawyers behind Wild Rocket restaurant or Awfully Chocolate probably contribute far more to Singapore's Gross Domestic Happiness than any lawyer ever could! But others, for a variety of reasons, get burnt out, lose interest, get disillusioned, or are simply unfulfilled.

The attrition rate is a demographic problem for the industry as a whole. Lawyers between seven to 12 years PQE, on the cusp of full partnership, are at their most productive, in that they are experienced enough to run their own briefs, but young enough so that they are relatively less expensive than their partners. But the loss is not confined to the industry. I believe that those who leave the profession early lose something as well. To put it simply, and perhaps even simplistically, being a lawyer becomes more fun the longer one stays in the profession. You get to be lead counsel and engage in the sharp end of advocacy, strategise and structure corporate transactions, engage in business development and build networks, truly understand the law and its centrality in our economy and society, and find yourself in a position to use these skills to meaningfully give back to the community.

However, to an associate, I understand that there seems to be no line on the horizon. The days and nights of interminable discovery or proofreading stretch before you *ad infinitum*, and with your smartphone connectivity, even weekends do not offer respite from the unremitting pressure you endure from your bosses,



clients, Courts, regulators, opponents and counterparties. It's not difficult to become disenfranchised, burnt out and frustrated. Being a young lawyer in Singapore is tough. It does, however, get better, more fulfilling, more interesting. You just have to survive the associate years.

How? It's fashionable amongst more senior lawyers to say that this "strawberry generation" must be tougher, must build up their "adversity quotient". Easier said than done, and too much of a motherhood statement to be of any utility. As a survivor of just over 20 non-stop years in this profession without burning out (and I still, as a rule, look forward to going to work every day), let me offer some modest proposals for survival beyond "outwit, outplay, outlast".

If you see practice as "just a job", you will not survive, or even if you do, you will be unhappy. Cut your losses now. The practice of law has to interest you. It may not necessarily be an academic interest in the law. It could be an interest in people, human psychology, because the law deals with and impacts human beings. It could be an interest in business, and how the law can be used to regulate, encourage and shape deals or enterprise. The law is a wide and varied endeavour. There must be something out there that gets you out of bed in the morning.

Be curious. Read around the subject or issue that you need to research. Knowledge acquired in the course of solving a specific problem is retained better than information acquired without a specific context. Get to grips with the specific industry knowledge required for the specific case. Legal practice is often a doorway to understanding other fields of knowledge, be it medicine, engineering, corporate finance, technology, design and psychology. Part of the thrill of practice is the constant and

continuing learning, which both edifies and enriches us as human beings. Aspire to understand the law. This is different from mere knowledge. Chief Justice Chan Sek Keong (as he then was), had this to say on knowledge and understanding in an interview in 2012:

To acquire knowledge of a particular area of the law, you need to read everything that has been written on the subject. That is why academics who specialise in a particular subject know more about that area of law than judges. The same reasoning applies to counsel in a particular case, especially counsel who specialise in that area of law. His practical experience makes his knowledge even more useful to his clients. As for understanding the law, you need more than knowledge and experience. You need to know something about the vast body of knowledge of human endeavour, especially politics, economics, history, social science and maybe literature.

The simple point is this: Embrace lifelong learning.

Be engaged. No man is an island. You are part of a larger community of what I hope are like minded fellow professionals. If you silo yourself, and just bury your head and generate work product, your boss may be happy, but then you become a legal zombie. The job becomes a chore, albeit a challenging, difficult and relatively well paid one. Being engaged in the legal community gives one a more holistic perspective of the law and its significance in all aspects of our lives. How does one get engaged? Get involved in the Law Society, the Academy of Law, or a charity. Get involved in something beyond your immediate and direct interests as an associate. Make friends, build a support system of fellow professionals, inspire and be inspired. Build relationships and connectivity in the legal community. Find a mentor, someone who has walked the walk, who has been there and done that. It may or may not be your boss. There are a lot of senior lawyers out there who are willing to impart their experience, wisdom, war stories and passion to younger members of the profession. They will help you see the law as more than the sum total of the briefs that you earn fees from.

Be a volunteer. Sometimes it seems that the call to participate in *pro bono* work is in danger of being overused. But that doesn't make it any less true or important. Being a lawyer is a privilege. Give back. Do good. That's a moral imperative. Take advantage of the extensive *pro bono* schemes that the Law Society's Pro Bono Services Office supports. Dealing with regular people with real problems will remind many of you why you went to law school in the first place. In many ways, it is the sharp end of the law. And it is where the noble calling of the law lies. As far as I know, nobody who undertakes *pro bono* work ever regrets it. It may not always be as intellectually challenging or financially rewarding as complex litigation or high end transactional work, but there is real satisfaction and real meaning in helping the poor and vulnerable, the widows and orphans. It makes you stick around, because you then realise just how much good your skill sets allow you to contribute. You just have to take the first step. Find a firm or find a boss that allows you to do this.

Be ethical. For obvious reasons. Getting into trouble is not fun. But there's a bigger picture. Earl Warren, the Chief Justice of the US Supreme Court said that "in civilised life, law floats on a sea of ethics". As lawyers, as professionals, as good human beings, ethics must become hardwired in us, a part of our DNA. Closer to home, our Court of Appeal in *Lim Mey Lee Susan v Singapore Medical Council* was emphatic: "To be a member of a profession is to declare oneself to be someone of whom more than ordinary good conduct may properly be expected". Take pride in your professionalism. Just as importantly, be courteous and collegiate. This makes sense. Today's opponent is tomorrow's ally. If you never give your learned friend a break, you are never going to get one yourself. Ok, so you feel that you are tough, you don't need a break, you don't need that extension of time as requesting one will be seen as weakness. Suit yourself, you'll get old and grumpy quickly. You need friends in the profession. It reduces friction in transactions and in the Courtroom. It allows you to treat your opponents as friendly competitors, exhibit magnanimity when things go your way, and grace when things work against you. Your professional life doesn't become a series of unremitting conflicts. Some thrive in that environment, but not many. It doesn't have to get personal. It doesn't have to get ugly. While competitive, it remains collegiate. As a litigator, my acid test is this. After a trial, despite fighting hard, can I still meet my learned friend for a coffee or beer?

Beer ... Which brings me to my next point – "work life balance" – a phrase dreaded by most law firm partners, especially from the mouths of associates. Forget about work life balance. Sheryl Sandberg famously said, "There's no such thing as work life balance. There's work, and there's life, and there's no balance". The associate years are hectic, even frenetic. My advice to my own associates is not about finding balance, but finding a way to decompress (or as my son puts it, to "chillax"). And to decompress quickly. Running, reading, diving, family, drinking, travel, baking, whatever does the trick. Something that can be done intensely, passionately ... and legally. Something that takes you away from your job. Something that reboots the brain.

And last ...

Be focused. Have a plan, have a vision. It may be an aspiration to partnership, excellence and recognition in a specific area of practice, domination within an industry or client sector. Or work out a series of sequential professional goals you want to reach. Lead counsel in your first High Court trial, leading the deal team for the first time, bringing in your first client all by yourself. Having a definable reachable target helps to keep you in the game, to separate signal from noise, the important from the urgent. Find something that will keep you going, keep you motivated, and ultimately, keep you in the profession.

Of course, none of the above is foolproof. And the practice of law may still not suit everyone for a variety of legitimate reasons. Nevertheless, here's to all of you surviving the associate years and making it into the middle category! I look forward to seeing you in Court, meeting you at a *pro bono* event, or working with you under the umbrella of the Law Society in the course of your careers.

Why a Resilient Professional Identity Matters



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More than a century ago, the famous American banker, J.P. Morgan, was quoted as saying, in part, that he hired a lawyer to tell him how to do what he wanted to do.¹ His statement illustrates what many clients think – the lawyer's role is limited to doing what the client wants. Put simply, the lawyer is the client's "hired gun".

As you begin your journey in the practice of law, it is useful to spend some time to reflect on what you see your role as a lawyer will be. There are many theoretical models of a lawyer's role – lawyer as moral activist, lawyer as gatekeeper, lawyer as peacemaker and so on. Whether you are a litigation or a transactional lawyer, one or more of these models may appeal to you. But the purpose of my essay is more practical. My aim is to help you reflect on why you need a resilient professional identity to meet the challenges of practice.

To a certain extent, your professional identity as a newly-qualified lawyer would have been shaped during your formative years before you entered law school, as well as by your experiences (including your involvement in community service and/or *pro bono* work) and the courses that you took at law school. Professional ethics courses undertaken during your vocational legal training would also have contributed to molding your professional identity. Even your internships with law firms may have played a part too, as a recent empirical study in Singapore suggests.²

Your legal training to date would have helped you develop a sound professional identity to tackle what lies ahead. But inevitably, your professional identity will be forged and crystallised in the crucible of legal practice. You will meet difficult clients, handle hard cases, work under immense time pressure and address all kinds of unexpected events arising from your clients' matters. Legal practice will test the breadth and depth of your professional identity.

Therefore, it is crucial that your professional identity develops a certain resilience to withstand the real-life pressures of legal practice. Resilience, in its ordinary meaning, refers to a capability to "[withstand] shock without permanent deformation or

rupture".³ However, resilience does not mean that you should stubbornly pursue a certain course of action, convinced that only your viewpoint (moral or otherwise) is the correct one. The experience and practical wisdom of senior lawyers may frequently offer better choices.

Instead, to be resilient in legal practice means that you should critically evaluate situations which challenge your existing professional identity. I will discuss three scenarios that you may encounter in the course of legal practice.

Lawyer as Hired Gun

By now, you would know that although you have a primary ethical duty to act in the best interests of your client, you also owe ethical duties to the Court and third parties which may come into conflict with, and supersede or limit, your primary ethical duty.

Suppose one day, your client comes to you and hints that he may want to do something that contradicts your duty to the Court or a third party. He also tells you that you are a "hired gun" and must do what he says. What would you do? Tight timelines and the significant fees involved may place a severe strain on you to comply with his request. A lawyer without a resilient professional identity would probably cave in to the client's request without further reflection, and face the consequences such as a loss of reputation, disciplinary action or even legal sanctions.

On the other hand, a resilient approach envisages taking a necessary amount of time to reflect on how to effectively respond to the client's instructions. A resilient lawyer would not only consider the professional rules of conduct, but also judicial expectations of ethical lawyering. The High Court had, in a decision on an application for reinstatement to the Bar, categorically rejected the notion of the lawyer as a hired gun:

... we take this opportunity to emphasise that an advocate and solicitor is not a mere 'legal mercenary' or 'hired gun'. Such a conception of the lawyer and legal practice is the very antithesis of the duty and ideals we have just set out above. It is a conception that is not merely impoverished; it technically encompasses a value, but one which is, in effect, a "non-value". Embrace of it ensures that legal practice centres (if at all) merely on materialistic concerns and/or personal pride as well as personal aggrandisement.⁴

The High Court observed that the "duty and ideals" are encapsulated in the declaration which you make when admitted as an advocate and solicitor of the Supreme Court. This declaration "signifies a duty not merely to oneself and to one's client, but also to the court and to the attainment of justice and fairness generally". Given that the practice of law is "a noble calling that, in the final analysis, serves the public", a resilient lawyer would also be mindful that "the legitimacy ... of the profession in the eyes of the public is of the first importance".⁵

Similarly, in a new book on lawyers, two American law professors have provided an interesting analogy against the lawyer-as-hired-



gun mentality. Although supporters of the hired gun model have argued that it maximised client autonomy by allowing clients to make their own moral choices independently, the authors commented that:

[t]he problem with too much client autonomy is that people can get run over. If lawyers are just chauffeurs, driving in whatever direction the client points, whoever is in the car's way is at risk. We toss our consciences out the window and speed along, but people other than our client do matter. We should at least pause to consider what will happen to the tenant we help evict or the supplier we've injured by squeezing through a loophole in a contract.⁶

A resilient professional identity therefore calls for divergent thinking in practice, which goes beyond the primary focus on the client to incorporating, in an ethical decision-making framework, the interests of other stakeholders such as the Court, the opposing party or solicitor and the public at large.

Law as a Business

This brings me to a second related scenario which may challenge your current professional identity: suppose one day, your client, a seasoned businessman, comes to you and says, "Look, young

lawyer, law is and has always been a business. So put aside your *pro bono* commitments and attend to my matter first." How would you respond to this?

Again, an unquestioning endorsement of the client's view would indicate a lack of resilience. As in the hired gun scenario, a resilient lawyer would take into account judicial views of the notion of law as a business, such as the High Court's observation in the above-mentioned decision that "[t]he practice of law is not merely a business, although, on a practical level, it is undoubtedly the case that it is simultaneously a form of livelihood".⁷

The tension between law as a business and law as a profession is well traversed in legal ethics literature. For instance, empirical studies of legal practitioners conducted in New South Wales and Queensland suggest that the majority considers the practice of law as a business rather than as a profession.⁸ Such findings should of course not be accepted at face value without understanding their context. What these surveys reveal though is a continuing debate on the effect of commercialisation on a lawyer's professional identity. Moreover, with the global shift towards permitting alternative business structures for law firms and the novel ethical issues that will arise as a result, the professional identities of lawyers are likely to undergo a severe "stress test" in the coming years.

For you, the business versus profession debate will manifest itself in the realities of legal practice. A resilient lawyer will no doubt have to give some weight to making a living, but beyond that how should he or she decide when to prioritise business over profession or vice versa? Following the crowd may be an easy and convenient solution, but it does not offer a principled approach to resolving the tension.

I would suggest that a resilient lawyer should refer to the principle of “the dignity of the legal profession” as a starting point. This principle is espoused in a number of provisions in the Legal Profession Act and related rules. There are also some practice directions made by the Council of the Law Society which reflect the profession’s view as to certain types of conduct which are contrary to the dignity of the legal profession.

Naturally, the principle of “the dignity of the legal profession” does not give an automatic answer to all issues of professional identity. It is also not a static or rigid concept, and may be re-framed according to the changing cultural, social and legal environments. In addition, traditional lawyers and progressive practitioners may have different views as to what “the dignity of the legal profession” entails. In some cases, there may even be no conflict between commercialisation and what “the dignity of the legal profession” requires.

Nevertheless, through dialogue and engagement, it is possible to formulate a professional identity that can prove resilient to excessive commercialisation that challenges the dignity of the legal profession. In a speech in April 2012, the Chief Justice of New South Wales, the Honourable T F Bathurst, had proposed a “two-step process” to address challenges to ethical practice resulting from commercialisation. Firstly, the profession should “identify what remains constant”, such as the “uncontroversial and universal” duties “of fidelity, candour, good faith and care”. Secondly, the profession should openly discuss and debate “how age-old professional ethics should be upheld and reinforced in the modern world”.⁹

Dissonance

I will call the third and final scenario “dissonance”. In practice, you may find that there is often “a gap between ideal and actuality ... caused by those who do not hold fast to the highest standards of professional conduct required of them”.¹⁰ Perhaps the most striking example of such dissonance in the past decade is the “troubling patterns of legal practice” of certain Singapore law firms procuring substantial work “through referrals made by estate agents and/or credit companies”.¹¹ While referral arrangements with third parties, subject to detailed safeguards, have been expressly permitted since 2001, several disciplinary cases involving such arrangements have surfaced to the Court of Three Judges. Many of these cases evidence a disregard of the safeguards intended to ensure that lawyers preserve the dignity of the legal profession and the interests of the client.

To overcome the dissonance arising from the gap between the ethical rules that you have been taught and what happens in

practice, a resilient approach requires you not to be discouraged, and to remain steadfast to a sound professional identity. There is no shortage of role models in the profession to emulate, as the High Court has observed:

In this regard, we are heartened to note that there are lawyers who are to be found on the other end of the spectrum. They demonstrate that the ideal is not only attainable, but (in some instances) actually go beyond it. For example, they extend help to their clients beyond the boundaries of their respective retainers. Some go further: They engage in *pro bono* legal work, helping those who would otherwise (for one reason or another) fall between the legal cracks. Such lawyers epitomise what is best and noblest in the profession. It is our hope that an ever-increasing proportion of the profession will be identified along these lines.¹²

Conclusion

Building a resilient professional identity is for life. Resilience will help you to meet the challenges of unreasonable client pressures, excessive commercialisation and ethical dissonance in the course of your legal career. It is hoped that the ideas in this essay will be useful for your self-reflection on how you can be a resilient lawyer.

Notes

- 1 Susan Ratcliffe (ed), *Oxford Dictionary of Quotations by Subject* (2nd edition, United States: Oxford University Press, 2010) s.v. “Lawyers”, entry 3.
- 2 Seow Hon Tan, “Law Firm Internships and the Making of Future Lawyers: An Empirical Study in Singapore” (2014) 17(1) *Legal Ethics* 79.
- 3 *The Penguin English Dictionary* (3rd edition), s.v. “resilient”.
- 4 *Narindar Singh Kang v Law Society of Singapore* [2007] 4 SLR(R) 641 at [51].
- 5 *Ibid.* at [50].
- 6 Douglas O. Linder & Nancy Levit, *The Good Lawyer: Seeking Quality in the Practice of Law* (United States: Oxford University Press, 2014), p 198.
- 7 *Supra* (note 4) at [50].
- 8 Paula Baron & Lillian Corbin, *Ethics and Legal Professionalism in Australia* (Australia: Oxford University Press, 2014), p 13.
- 9 Chief Justice TF Bathurst, “Commercialisation of Legal Practice: Conflict *Ab Initio*; Conflict *De Futuro*” (Paper presented at the Commonwealth Law Association Regional Conference, Sydney, 21 April 2012); available at: http://www.supremecourt.lawlink.nsw.gov.au/agdbasev7wr/_assets/supremecourt/m67000113/bathurst_2012.04.21.pdf.
- 10 *Law Society of Singapore v Ahmad Khalis bin Abdul Ghani* [2006] 4 SLR(R) 308 at [81].
- 11 *Law Society of Singapore v Tan Phuyay Khiang* [2007] 3 SLR(R) 477 at [117].
- 12 *Supra* (note 10 above).

* The views expressed in this essay are the personal views of the author and do not represent the views of RHTLaw Taylor Wessing LLP.

The Lure of In-house



Cameron Ford*
Rio Tinto

the grass is
greener



With quivering jowls and fruity vowels, Professor Kingsfield says to his first year contract law class at Harvard in *The Paper Chase*, “You come in here with your skull full of *mush* and, if you survive, you leave thinking like a lawyer”.

Congratulations on having done just that – surviving and now being able to think like a lawyer, having had the *mush* turned into something more solid, logical and discerning. We were told much the same thing after we graduated and were admitted – we were told we had just acquired a licence to learn the law.

This is not said to in any way to qualify your success in being called, or to dampen your enthusiasm for your profession. They are significant milestones and are achievements of which you can be proud. But it should confirm what you have already experienced in the months since graduating and starting work – that there is a big difference between the study and the practice of the law.

This is as it should be. The law is an intellectual profession, and to be a true professional, we need a solid grounding in the intellectual aspects of the law. Without that, we are mere technicians and can do little more than repeat what we have been taught and apply it only in similar situations. With a proper intellectual foundation

and a constantly questioning attitude, we are able to apply fundamental principles to novel or difficult situations to produce an appropriate response.

Justice William Gummow was a Judge of the Federal Court of Australian for 11 years, and then Justice of the High Court for 17 years, retiring in October 2012. He is now a non-permanent Judge of the Court of Final Appeal of Hong Kong and a professor at Sydney University and the Australian National University. In an article in the *Australian Law Journal*, he said that most questions at that ultimate appellate level in the High Court were resolved by resorting to basic legal principle and that “[a] sense of basic principle, if not instilled at the outset of a legal career, is rarely later developed”.

A proper foundation in the basics is important in the practice of law wherever we are – in government, in a firm, in academia or in-house. On the foundation of basic legal principle, we can build the next level of foundation in professional practice. Those two levels of foundation – intellectual followed by practical – are needed to work safely and effectively in-house.

Law firms provide this second level far better than do in-house legal departments. Those departments are not set up to give the necessary training, they do not operate in a way that enables the same degree of professional development, and the nature of their work assumes – indeed, requires – the second level of foundation laid.

As in-house counsel, you are expected to be able to draft all documents and give correct advice with minimal supervision, to make fine judgment calls quickly on issues of considerable legal and financial significance, to withstand strong commercial personalities when necessary without alienating the business you support, and to be able to differentiate between the interests of the company (your ultimate client) and the immediate demands of that business. Sometimes this is a delicate balancing act requiring tact, discretion, firmness, coercion, cajoling, a touch of humour and the occasional reading of the Riot Act.

To be able to do all of these things, we need the training that a law firm gives best, and a few years of life experience under our belt.

When we start working at a law firm after graduation, we learn the practical application of much of what we were taught at university, and many things we were not taught. We learn how to draft letters, e-mails, advices, submissions and the like; how to interpret instructions (of people from outside and within the firm), and how to interact with clients and fellow lawyers in person and on the phone from watching and listening to our senior colleagues. We learn how to research and work more efficiently; what a Court is likely to do despite the letter of the law; how to read, write and think more logically and carefully than ever before; and how to stand or yield our ground as appropriate in the face of pressure from colleagues, opponents, clients and the Court. We learn the

importance of professional independence, how to recognise when it is threatened and how to extricate ourselves from potentially dangerous situations. We learn the more amorphous aspects of practice such as what should and should not be done, what is and is not appropriate professionally and ethically, and how to deal with awkward situations while preserving relationships.

We learn many of the unwritten and unspoken aspects of being a lawyer from working with Senior Counsel and other experienced lawyers. Some of these are the softer skills of how to present an argument in a way more likely to persuade, how to deal with a cantankerous Judge or client, how to be gracious and professional in defeat and victory, and how to appear phlegmatic when chaos reigns. A friend who was a Judge's associate told of a client giving all the wrong answers to his own counsel in examination-in-chief. When he gave the final wrong answer that spelt doom for his case, his counsel hung his head for a while, then looked up to the Judge and said "Your Honour, could my client be taken outside and shot?" I don't think the application was granted, but we have to learn to deal with situations like that every now and then.

In our early years of private practice, we form invaluable professional and personal bonds with other lawyers that operate in a number of ways to help us in practice – for assistance with the substantive law, for guidance and as a sounding board on ethical and professional issues, as conscious and subconscious restraints against acting contrary to the highest professional standards, and as constraints, urging us to excel and act properly. I see these professional and personal bonds like the ropes holding a mast in place, anchoring it from all directions and enabling it to withstand whatever pressures are brought to bear.

We learn the importance of meticulously checking everything then checking it again, of being strictly correct and taking nothing for granted. The senior partner in my first firm would read **every** draft letter from the top of the pre-printed letter head including all the partners' names in case the printers made an error. Perhaps this was not strictly necessary, but it taught us it was important to Read.Every.Word (to adopt punctuation from the advertising world).

Speaking of which, we learn the importance of punctuation and language, of saying exactly what we mean, nothing more and nothing less, and using correct terminology and even titles. I drafted a letter once to a sole practitioner and added the title "Esq" after his name, thinking this was correct and polite. The partner vetting my letters reached for the SOED behind him, turned grumbling to the entry and read out something like "Esquire – a medieval form of knight; a barrister by virtue of his office", then glared at me and asked "Is he a barrister? Is he a medieval knight?" Receiving a meek "no" to both questions, his red pen slashed the appellation asunder, much as the knight's sword might have done.

We also learn how to *tahan* – how to endure the long hours and sometimes intense pressure to produce quality work in a short time; how to endure the red-lining of our literary masterpieces, with usually our favourite parts being excised; how to endure

having to start again **yet again** from a blank screen; how to endure the acerbic tongue of partners describing our legal abilities; and how to endure the thousand natural shocks that lawyers' flesh is heir to. A former Chief Justice of one of Australia's Supreme Courts used to say at admission ceremonies, himself quoting a former Judge, "The law is not for sissies".

Often we learn some of these things from long term secretaries who have seen many fresh faced lawyers come and go. As a first year articulated clerk, I was told very clearly by the senior partner's secretary that it was inappropriate for a lawyer from our firm to be seen walking down the street eating an ice cream in his suit (I'm still not sure if it was the suit or the ice cream that was offensive).

We learn that one of the greatest assets a lawyer can have is credibility, that when we say something is or will be, we are believed by the Court, the client, our opponent or our colleague. As well as upholding the proper standards of the profession, having credibility makes our professional life so much easier in being accepted when we assert something, whether it be as to the law or the facts or a promise. To have credibility, we must have honesty and diligence, the latter in ensuring that the law is as we assert it to be.

Very importantly for practice in-house, over the course of a few years working in private practice we develop a sense of judgment. By being inculcated in all that I've already mentioned and by having some life experiences, we develop the judgment that will be expected and relied on in-house. The importance of a sound judgment cannot be overstated. Corporate counsel are daily called upon to make fine judgment calls in limited time and on imperfect information, often under considerable commercial pressure. It helps a great deal to have life and work experience to know such things as when to insist on certain clauses and when to relent, when to indicate legal proceedings will be commenced and what allegations to include, and how to judge whether contemplated conduct might be construed as being anti-competitive.

In short, in our first few years of practice in a firm, we learn how to be a true lawyer. Without those years, it is unlikely we would receive the discipline, rigour and training necessary to be a true professional.

It will not be long, though, before many are tempted by the lure of in-house practice, with the perception that the hours are shorter, the pressure less, and the work more varied. I would urge young lawyers not to move in-house too soon, before their development as a professional is well advanced and they have a good foundation in most of the features mentioned above.

In-house legal departments are simply not set up to provide the training and general grounding desirable for young lawyers. Those departments do not have the type of work or work practices that enable the necessary training; they do not have demanding and paying external clients as firms have; generally they do not appear in Court, with the level of scrutiny Court brings; and their senior lawyers do not have the time for checking work and training

others.

Most in-house legal departments have a fairly flat structure, with, at the most, four levels in the hierarchy, along the lines of corporate counsel, senior corporate counsel, chief counsel and general counsel. This extended structure would be more expected in a large company, with smaller corporations having only two or three layers.

Each lawyer is generally expected to operate relatively autonomously and to get on with their work without needing much assistance. I call the ideal in-house lawyer a set-and-forget lawyer, not that they are forgotten or ignored but that they are able to be assigned a role and then manage and complete their work with no or minimal supervision of the work itself.

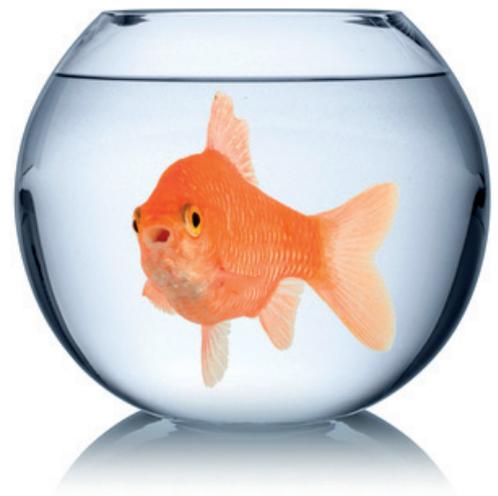
In this sense, many in-house counsel are like sole practitioners – sometimes they are the only lawyer in the organisation, often they sit with the business they support and not with or near other lawyers, mostly they take their work directly from the business rather than from more senior lawyers, and mostly their work is not checked by other lawyers before being sent to the internal client. No doubt there are exceptions, but many corporate counsel work in this way, and it is up to them to consult other lawyers if they feel the need. The danger is when we don't feel our need, as can happen when less experienced and we don't know what we don't know.

It is cautionary to note that in Australia, only a few years ago (and it's probably still the case), the lawyers with the highest incidence of professional and ethical issues were barristers practising from

home. In other words, sole practitioners with little daily contact with other lawyers. Being in regular and close touch with other lawyers not only enables us to ask questions and listen to their experiences, but it sharpens our sensibilities about what should and should not be done professionally.

Young in-house lawyers do not receive the training in document preparation that they do in a firm. Corporate counsel generally do not draft e-mails, letters, advices or submissions to anywhere near the same extent or depth as lawyers in private practice. Our clients are internal, requiring different styles and types of product than an external client. Not having to worry about personal liability and worrying instead that we will not be understood, our advices are much more direct, simple, are less legalistic and are likely to give a course of action we expect to be followed. Combined with the sole practitioner syndrome described above, this means that the lawyer and the corporation need to be confident that the advice is correct, that the lawyer does not usually have the luxury of a second pair of eyes over the advice, and that young corporate counsel do not receive the training that comes from having to conduct in-depth and exhaustive research and from having their draft advices red-lined into oblivion.

It also helps to have a decent bit of life experience under your belt before heading in-house, to help deal with some of the strong personalities inhabiting the commercial world. Corporate counsel can come under considerable pressure to agree to proposals, with it being pointed out that they are obstructing million-dollar deals if they don't agree. It can take some strength to hold the line, or to know when it is safe to agree. A corollary is in the information given to counsel when being asked to advise or approve. It can



happen that not all of the relevant information reaches counsel, either through a lack of understanding of what is relevant, or from a perception that the withheld information would result in approval being withheld. Again, it takes experience, strength and a touch of tact to sense when this is happening and to press for the missing information.

Often the business for whom the in-house lawyer is performing the work will have some input into the lawyer's performance review and, therefore, their bonus, promotion and ultimately their career. A lawyer needs a strong sense of independence and professional integrity to put those at risk for the sake of giving fearless and correct advice to the corporation, which is the client. A few years in a firm fosters this sense of independence and of putting the interests of the client ahead of one's own, and helps lawyers be **friendly with** but not **close friends of** those in the business.

This leads to office politics. The word "politics" conjures up images of unpleasant, vindictive personalities concerned only with their own gain of the *House of Cards* variety. Fortunately, such extreme behaviour is rare and I prefer to call the more common phenomenon in corporations PIFFLE – Performance-Irrelevant Factors Frustratingly Linked to Evaluation. In a corporation, there are quite a few factors that feel irrelevant to your performance but nevertheless seem to impact on evaluations. As a result, PIFFLE leads to WAFFLE – Working Around Factors Frustratingly Linked to Evaluation. While lawyers in firms have their time sheets, lawyers in-house have their PIFFLE and WAFFLE.

Of course, this is a bit light-hearted, but my point is that the flight from the frying pan of time-sheets can lead to the fire of corporate compliance, political-correctness and company ethos. On the point of time sheets, they are not all bad. If properly used, they can encourage economical and efficient research and writing. If a lawyer spends an inordinate amount of time on those tasks, a proper response is not to charge all of the recorded time to the client. This means that that time disappears from the lawyer's hours billed, and in turn encourages efficiency in operating. This efficiency is needed in-house, where demands can be just as high as in a firm.

There is finally the issue of your standing as a professional in your own eyes and those of your clients and your peers. This might not seem to matter but for many of us, a lawyer is not only **what** we are but is also **who** we are. I think there is little doubt that corporate counsel are viewed as lesser professionals than lawyers in private practice. Professional pride can take a hit if we are not robust and comfortable with our own professionalism. One of my highly regarded and sought after partners in a firm moved in-house to a large MNC. When I asked how he was enjoying it, he said he went from being the one they all consulted and listened to in private practice to being a mere "mid-level functionary" in-house. You will find that you could give the same advice today as an in-house counsel that you gave yesterday as a senior associate in a firm, and your internal client will say "thanks but we'll consult your old firm". There is a certain cachet or credibility attached to external advice that is lacking when even the same lawyer gives it internally.

None of this is intended to dissuade you from moving in-house eventually, if that is what you want. But I would urge all young lawyers to get some good solid experience in a firm or in Government first – say, three to five years – so your professional development is well advanced by the time you make the move.

If you are committed to going into a corporation in the near future, can I urge you to stay in close touch with your classmates, find some experienced mentors you can turn to, join and participate in the Law Society, the Singapore Corporate Counsel Association and any other relevant professional associations, and attend as many professional functions as you can – seminars, conferences, social functions and the like. This will be of real help in your practice in-house and your development as a lawyer.

Instead of moving permanently in-house as a young lawyer, I would recommend taking any opportunity of a secondment into a corporation for a few months or perhaps a few days a week for a period. You will see how legal services are demanded and provided within a company, the tensions between commercial and legal requirements (and people), the type of advice and service that really helps clients, what the commercial people really think of lawyers and you will understand the client's business and people better. In another in-house role, I received an advice in two parts from a barrister at the independent Bar on a stamp duty claim. The first part was 98 pages and the second 103 pages. Three times I made it to page 30 of the first part, and twice I started again because I had forgotten or had not understood what I had read. It was all wonderful for him as an academic exercise, but completely unintelligible and useless to the client. Spending some time in-house gives a clearer understanding of what is useful and what is not, and how to deliver services that meet the mark.

I wish you many fulfilling and rewarding years in your chosen profession.

* Cameron is corporate counsel for Rio Tinto in Singapore. He was a partner in a law firm in Australia then a barrister at the independent Bar before moving in-house after about 20 years to head the dispute resolution section of National Australia Bank for four States. He spent six months in Mongolia as acting head of legal for Rio Tinto's Oyu Tolgoi company before returning to Singapore. Cameron has a Bachelor of Laws from the University of Queensland, a Masters from the University of Melbourne and a Graduate Certificate in International Arbitration from NUS. He is a Fellow of the Chartered Institute of Arbitrators, the Singapore Institute of Arbitrators and the Australian Centre for International Commercial Arbitration. He can be reached at cameron.ford@riotinto.com.



KEEP CALM AND LAWYER ON



Wong Yi*
Vice-Chairperson
Young Lawyers Committee
The Law Society of Singapore

First and foremost, heartiest congratulations to all of you newly minted learned friends! Today marks the end of, well sort of, the long sojourn that has seen you clock all-nighters before examinations to all-nighters churning a research memorandum or preparing closing documents for the next morning. You have completed the rites of passage that are your training contracts, and can look back with some measure of pride and look forward to a fulfilling career as a newly called advocate and solicitor of Singapore.

However, the real road lies ahead. The longest road yet, is the one that you will be embarking on now. Whatever you do in the future, wherever you end up in the future, the path that is your career will carry you through your life, pay your bills, pay for your children's education, and set you up for retirement and into the sunset of your life.

The road ahead is one that you will not have experienced before. It is one that will render you financially independent, and one that will be an integral part of the next stages of your life. How you

adjust and adapt to the real working life of a lawyer will very much determine your happiness, your relationships, and eventually what you will look back on and make of the life that you have lived.

Transition from an Aspiring University Student to a "Burnt Out" Trainee to an Optimistic New Associate (After that All Important Call Break, of Course) to ...

From the time you got accepted into law school to the endless nights doing the most mundane things as a trainee, you would have gone through approximately five years of rigorous academic and on-the-job training. You file your call papers, take a solemn oath on a Saturday morning, and when you report to work on the following Monday you are issued freshly printed name cards with the designation of "Associate" under your name. You feel recharged, refreshed from that hard earned call break, and you are raring to begin life as a lawyer.

Months later, you hear friends and peers who have just quit. Some have gone in-house, some have left the profession altogether. Years later, you find yourself being one of the rare ones still in practice wondering when the next good "milestone" is to quit and move in-house to a position that does not require too huge a pay cut but gives you a work-life balance. Why have so many left the profession? What are the push and pull factors that have made

the statistics of leavers of practice so alarming? Why do some flourish in legal practice and some do not?

Surviving, and Hopefully Flourishing!

You may do (what you feel is) the most mundane, "non-practical" things like research on a narrow point of law on civil procedure for a senior associate and half the time you are scratching your head as to how it fits into the whole case. Or you may be tasked to proofread and you soon learn that being able to spot an italicised comma like the senior associate does, will make you appear "sharp and detailed", and once again wondering how come the all-parties conference call yesterday did not quite seem to make sense at all to you. Spotting the italicised comma and the proofreading seems to be something just to occupy you at best, and to trip you up if you did not spot a defined term in the circular, at worst. Does not seem like what you signed up for, right?

So how does a junior lawyer reconcile all the above? From my own humble experience, struggles, frustrations and discussions with fellow junior lawyers, my personal view is that lawyering is really about applying yourself to your given task in a broad and "live" manner. In law school, you learn about how a company can raise funds via issuing equity securities, and that the company must make certain disclosures. Applying that basic knowledge well to the facts of an examination question will probably get you a decent mark. In actual practice, it goes a lot deeper than that. There will be pieces of legislation that you would not have encountered before. Given the tight timeline, you may have been asked to zoom into a certain Fifth Schedule by the partner to ensure that your offering document (drafted from recent precedents anyway) contains all that is required, and chances are because you are using a precedent, you will probably not omit too many required points. This sort of "learning process" will repeat itself for another task, and yet another, and after some time you find yourself knowing a little here and there but when the partner asks you something slightly off tangent, your reply will invariably be "err, I remember it to be something like this. Let me check and get back to you" and you find yourself not having the confidence to believe that you know much in actual fact.

That is where I would strongly encourage fellow junior lawyers to take a step back and broaden your approach to lawyering. I have been advised to read specialised books in my free time over the weekends (an unthinkable suggestion you may say) but when I finally overcame the devil that is procrastination, and did so, it really made a lot of sense to me in understanding what I was doing over the past week at work. It is different gearing yourself for examinations and reading your books as a practising lawyer. It gels the pieces of theory and practical applicability together. It would make a partner cross if you simply said "oh I know financial assistance is prohibited because I followed the precedent". On a personal level, it also shows that your understanding is rather superficial. Reading the Companies Act in its entirety (once again as unfathomable as it sounds) would really help you in understanding not just the details of certain prohibitions for example, but also the exceptions that exist. So, if a client calls and discusses with you that he has read your circular and wants to

know how they can get around a certain prohibition, you would not need to tell him "I am sure there are some ways, let me check and confirm and then get back to you". You would know it quite definitively if you had gone beyond drafting that circular from precedents and applied yourself "live" to the more subtle issues around your given task.

These may appear blindingly obvious, but it takes perseverance and a lot of grit. It takes a lot of determination and self-belief to forge a career in practice. Not many survive the initial years of practice, some by choice and some by circumstances.

Looking Beyond

As described above, the way to becoming a good lawyer is not exactly merely what you see in *Suits*. Perhaps one of the main push factors is thus that young lawyers, after some time and after expending all their self-convincing powers, realise that being a junior associate is tedious and thoroughly not as exciting as imagined.

I do not disagree. However, I have to add that this is precisely the reason why being a lawyer is a profession, and not a mere occupation. As with doctors, engineers, architects, or accountants, your skill is not a generalist one and it is through sheer hard work grinding through the hours that the foundation of your professional knowledge is built upon. Simply put, there is no short cut. And it is not transferable from a brilliant supervising senior partner to yourself. You need to gain traction yourself by digging in with your own heels.

Second, the salary gap between lawyers and other professions is closing fast. In the past, a junior lawyer's salary could possibly be twice to three times that of a regular officer in the army or a teacher. This is no longer the case and when you factor in the hours you have to commit and the different work environment that you are in and the resulting stress, it pushes many junior lawyers to reconsider what really matters to them in their lives.

Ultimately, some leave the profession for a better work-life balance. Some leave for a less legalistic work scope (in-house roles that offer a business and commercial aspect are increasingly common). Some leave to spend more time with a new young family. These are personal reasons which no amount of external convincing will make you alter your decision. The only thing I can say is that life is finite, and you should choose your own happiness and walk your own path. The numerous push factors mean that many young lawyers do not choose to stay in practice, and if the statistics are anything to go by, the myriad of possibilities for a life after law prove that there are increasing pull factors over and above the push factors alone.

But to that end, be aware that the economy has also been going through structural changes for some years with no clear silver lining in sight. With the general sentiments and economic forecasts at best being cautious, coupled with an ever increasing and expanding supply of lawyers, the jostle for opportunities in practice is intensifying and heating up. For those who have



secured retention and positions as Associates, be mindful of the changing macro landscape and do not make hasty decisions when the going gets tough. If I may also add, law firms should also calibrate their acceptances of new trainees and associates, as word has it that there are an alarming number of trainees who have not been retained by their firms for factors not related to their performance. This is an extremely sensitive and subjective topic on its own altogether, but as a junior lawyer you have to recognise that you are not in an industry that is recession proof so do spend your new and relatively fat pay cheques with that rainy day in mind.

Putting it All in Perspective

As you would already realise by now, most of your peers will probably leave the profession sooner rather than later for the various reasons stated above. I am saying this because as a junior, your aspirations and expectations (many a times from your family no less) may perhaps drive you to feel compelled to “succeed” as a lawyer, ie to make equity partnership in a top law firm and drive a nice car. This adds additional pressure to compete with your peers and look over your shoulder uneasily, every year end comparing bonuses with fellow junior lawyers and wondering how much that peer who “moved offshore” now earns. I would proffer that it is really too simplistic a view to measure your “success”

and happiness just based on these things. Many lawyers thrive in other industries, from consultants to entrepreneurs to actors (they drive even nicer cars I dare guess!). A sizeable majority go in-house after a few years and thrive in a less legalistic environment where business and commercial aspects of a company’s operations also come into play in their scope of work. Some end up driving nice cars too! You get the point.

Wherever your career takes you, just remember to be yourself and do your best. In legal practice, doing your best means the willingness to put in the hours (this, as clichéd as it sounds, really holds true), expanding your approach to lawyering and learning, and being yourself means feeling comfortable in your own skin. Not everyone is destined to be the managing partner of a magic circle firm or a white shoe wall street firm, or a senior counsel. There is absolutely no shame in that, and similarly so for seemingly lagging behind your peers, as long as it is not for a lack of effort or trying. The importance of maintaining cordial relationships with peers cannot be overstated.

At the end of the day, the legal profession can be a tremendously fulfilling one. As mentioned, you are a professional, possessed with a skill that is unique to your profession and no one else. Just as a doctor is a professional who is empowered and skilled to cause a difference between life and death, you as a lawyer are a professional whose actions can make a difference and touch lives in more ways than you can imagine. Cherish it, and make the best of your calling but always temper the pursuit of professional excellence with introspection, self-reflection and humility.

If I may end this on such a note, I would once again like to welcome you to this professional life that will be rewarding at times, frustrating at times, and even disappointing sometimes. Just as I was called to the Singapore Bar four years ago, I now look back fondly on these four years and hope that you would come to learn more about yourself and grow as a person through the journey ahead.

Thank Yous

It is only befitting to thank my peers who have shared their experiences with me, colleagues and ex-colleagues who have given me immeasurable assistance and companionship in my professional journey, and the partners who have had to endure the many frustrations that I have caused but ultimately made me a better lawyer with their wisdom and guidance.

Most importantly, to my family, who has been an absolute rock. Never forget them or take them for granted.

Remember, your career is a means to an end. Your life and how you live it, is that “end”.

Keep calm, and lawyer on!

* The writer’s views are purely his own and do not represent any firm, professional body or any other person.

Pro Bono Work – Not Just an Afterthought

Ashley Ong

Pro Bono Services Office
The Law Society of Singapore

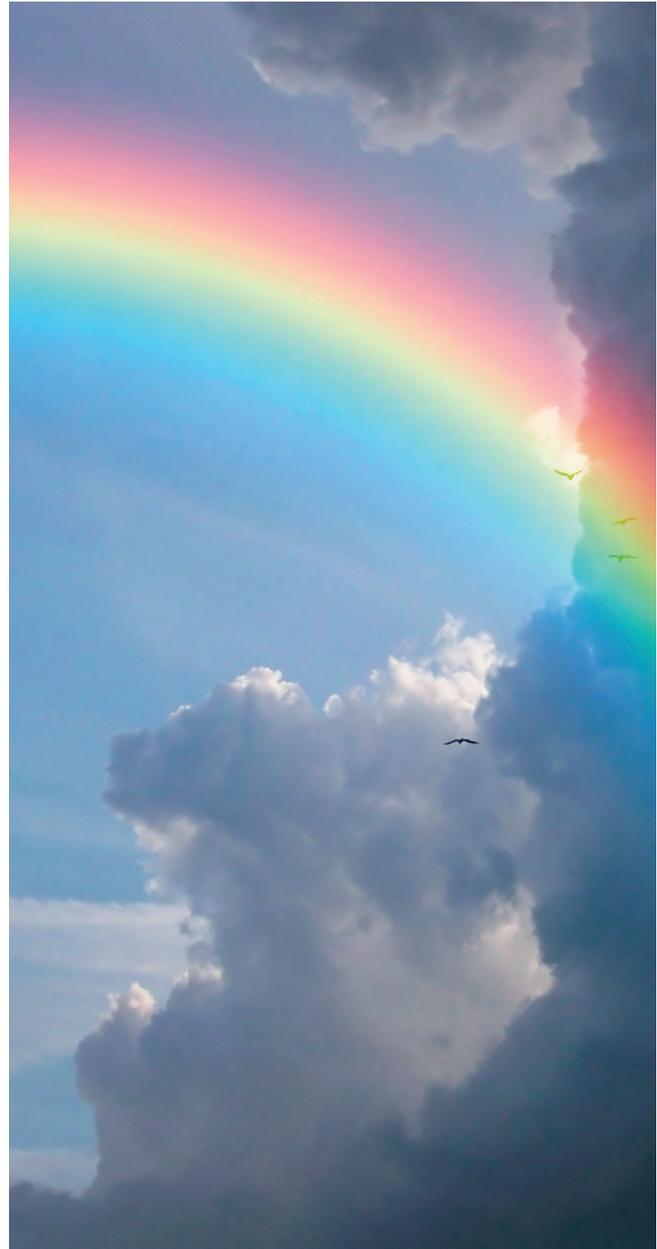
It wasn't too long ago that words and concepts like "estoppel", "easements" and "equity" started figuring in your lexicon. If you were stumped then, think about the immense difficulties that disadvantaged members of the Singaporean community face when grappling with legal problems in their lives.

Having just been admitted to the Singapore Bar as new advocates and solicitors, you are stepping into a position where you are empowered to make a big difference in people's lives. Many of you have volunteered at Flag Days and built houses in Cambodia (or at least attempted to) earlier on as students, but you are now equipped with specialised skills and knowledge, and able to make tangible contributions to society where your legal expertise is truly needed. The cost of legal assistance today has made it difficult or impossible for Singaporeans with limited financial means to afford even basic legal help. A lot is at stake for many of these individuals.

Pro Bono Work is Part of Your Career

You might be too preoccupied with the prospects of dealing with your mounting workload – and salvaging the remaining vestiges of your social life – to be thinking about volunteering. But *pro bono* work really shouldn't just be an afterthought. And it's not just something you should put off doing until you eventually have free time, because let's be real: between your workplace demands and catching up on the latest season of *Suits* when you can, nobody has **free time** anymore. Try thinking of it as a part of your career.

It's a great way to stay in touch with areas of the law you might not otherwise deal with in your daily course of work. Much of the work done by volunteer lawyers at the Law Society's Pro Bono Services Office ("PBSO") involves real problems faced by Singaporeans on a daily basis. Our volunteer lawyers have provided consistent feedback about the rewarding nature of the *pro bono* work they have undertaken at the PBSO. It might also provide many of you a much-needed respite from the corporate grind, without you even having to open your Instagram feed.



Get your friends from law school or your fellow associates involved. Who knows? *Pro bono* work could be your "thing", and you could be the legal version of Bono or Angelina Jolie. Yes – if you haven't figured it out by now, volunteering can be insanely sexy. Participating in *pro bono* projects is also a great way to make new contacts and meet other civic-minded practitioners in various stages of their legal careers. And if you have your sights set on the horizon, a proven track record of public service is a critical consideration for the selection and appointment of Senior Counsel. In a nutshell, *pro bono* service is one of those things that are simply good for everyone.

Pro Bono Work at the Pro Bono Services Office ("PBSO")

There is a wide range of meaningful *pro bono* work you can get involved with at the PBSO:

- **Community Legal Clinics** are free basic legal advice sessions for the needy that run on Monday to Thursday evenings. The Clinics address a wide variety of legal topics for the most disadvantaged and vulnerable members of Singaporean society.
- The **Criminal Legal Aid Scheme** provides criminal legal assistance to accused persons who are unable to afford a lawyer, in order to ensure that no individual is deprived of access to justice simply because of his or her limited financial means.
- The **Community Organisations Clinic** is a free basic advice session for non-profit organisations with community-related objectives, including charities, voluntary welfare organisations and social enterprises. It is a one-off 30-minute consultation where applicants meet with our volunteers at our PBSO office near Raffles Place.
- **Project Law Help** offers free non-litigation commercial legal assistance to non-profit organisations in Singapore with community-related objectives and limited financial resources.
- **Project Schools** is an initiative that aims to empower our youth with a greater awareness of the law, and inform them of the consequences of juvenile delinquency. The initiative requires volunteer lawyers to give talks to students in school about the law.
- **Law Cares** is an initiative that focuses on the elderly and aims to raise awareness about the legal issues facing the elderly and their caregivers.

- **Law Works** is an initiative that aims to educate working people on their legal rights in Singapore, in partnership with the National Trades Union Congress ("NTUC"). A series of legal primer talks for targeted groups of working people will be held, and monthly legal clinics will be organised to provide general legal advice and guidance. Legal resources in the form of a compendium of pocket series booklets will be co-developed and made available.
- The **Pro Bono Research Initiative** provides research support to *pro bono* practitioners undertaking complex and important criminal and civil litigation.
- The **Joint International Pro Bono Committee** is an initiative facilitating cross-border *pro bono* projects involving economic and social development in emerging markets.

All of the PBSO's initiatives will benefit immensely from your contributions and expertise. The PBSO also offers support for volunteer lawyers through resources such as comprehensive clinic manuals, as well as research and paralegal support for certain PBSO initiatives.

Getting Involved Right Now

Register on the PBSO website at <http://probono.lawsociety.org.sg> and we'll keep you updated with opportunities for you to help. Don't put it off till you get home – you can do it right now on your mobile phone because you're metropolitan and savvy like that.

Access to justice shouldn't be an unattainable ideal. You can make a big difference in Singapore's legal landscape a lot earlier than you think.



Donating to the Pro Bono Services Office

Ashley Ong

Pro Bono Services Office
The Law Society of Singapore

Access to justice, unfortunately, does not come free. While the Pro Bono Services Office ("PBSO") of the Law Society has been providing legal services *pro bono* in order to ensure justice for all, this does not mean that our programmes also operate without any costs.

Financial resources are needed to run and administer the various legal assistance programmes we have at the PBSO. These initiatives have provided many less-advantaged individuals in our community with much-needed legal assistance, thanks to the contributions from our generous donors and the efforts of our volunteers over the years. In order to address growing community needs and to expand our outreach, we have rolled out many new initiatives and have several more in the pipeline. While all of these projects may look and sound great on paper, we will not be able to put them into action without your contributions.

Existing PBSO Initiatives

- Community Legal Clinics
- Criminal Legal Aid Scheme
- Community Organisations Clinic
- Project Law Help
- Project Schools
- Law Cares
- Pro Bono Research Initiative
- Joint International Pro Bono Committee

If you would like to find out more about our existing PBSO initiatives, please refer to our article on volunteering in this Supplement, or visit our website at <http://probono.lawsociety.org.sg>

Future PBSO Initiatives

We are looking at expanding our current initiatives in order to serve community needs better, as well as introducing new programmes in areas where we have identified a need for legal

assistance or awareness. Our expansions and new initiatives will inevitably require higher budgetary allocations in order to sufficiently support these changes.

1. **Expansion of the Criminal Legal Aid Scheme** will involve including offences not currently listed in the list of 15 statutes. We are also looking at recruiting more volunteer lawyers to cater to the increase in the number of applications, and also at introducing unbundled services for individuals who require them.
2. **Expansion of the Community Legal Clinics** will allow us to provide free legal assistance at other Community Development Councils ("CDCs") around Singapore. We are currently only able to offer these clinic sessions at two CDCs (Northwest and Southeast CDCs), and a geographic expansion of clinics will help us to engage lawyers in their own neighbourhoods and communities of residence.
3. A **law awareness information portal** will empower us to provide information, resources and other assistance to individuals, voluntary welfare organisations and other non-profit organisations that are involved in assisting the disadvantaged in the community.
4. A **volunteer subscription programme** will allow us to support our volunteer lawyers by providing them with a suite of practical resources, knowledge management support, training and marketing platforms. We want to ensure that our volunteers are well-equipped with every advantage.
5. The **StreetSmart Initiative** looks to provide mobile legal clinics catering to the concerns and welfare of commercial sex workers in Singapore, both local and foreign. In May 2014, we conducted two well-received trial sessions at Geylang and Rowell Road.
6. The **Appropriate Adult Scheme** partners trained individuals ("AAs") with suspects in custody who have mental disabilities. Our volunteer AAs act as bridges between the police and these disabled suspects, so as to validate and preserve the integrity of the police interview process. In the second half of 2013, we held a seven-month long pilot at the Bedok Police Division that received strong support from both the police and the AAs. With the approval of the Attorney-General, the next pilot phase will be conducted in early 2015 at all police land divisions island-wide. The large scale of this project means that a budget of \$200,000 is required for the recruitment, training and volunteer support of about 300 AAs, among other expenses.
7. **Phase 2 of Project Schools** will involve the development of new content that will empower our youth with an even greater awareness of the law. Since the launch of Project Schools in July 2012, 35 schools have taken part, and over 15,000 students have been impacted. We aim to impact 30 per cent of secondary schools by 2015, and increased funding will surely help us to reach our goal.

8. **Advocates for the Arts** is an initiative that will engage lawyers to support creative professionals and independent artists by promoting legal awareness and providing other forms of legal support. These artists require accurate and relevant legal help but may not otherwise be able to afford access to it. Your donation could go a long way not only towards the provision of legal services, but also to the establishment of a vibrant arts scene in Singapore.

JustWalk 2015

JustWalk is the inaugural Walkathon organised by the Law Society as the kick-off event for our three-year fundraising campaign. The event, taking place on Saturday, 10 January 2015, will bring the legal fraternity and the wider community together for a journey through Singapore's legal landscape. The walk will take participants to pit stops at iconic legal landmarks such as the Supreme Court, the State Courts, the Attorney-General's Chambers, the Ministry of Law and the Law Society of Singapore. Distinguished figures will be joining us at each pit stop as we walk towards the finish line together. Funds raised from the Walkathon will be used to support the PBSO's initiatives and will help us to reach out to members of our community who are in need of legal assistance but are

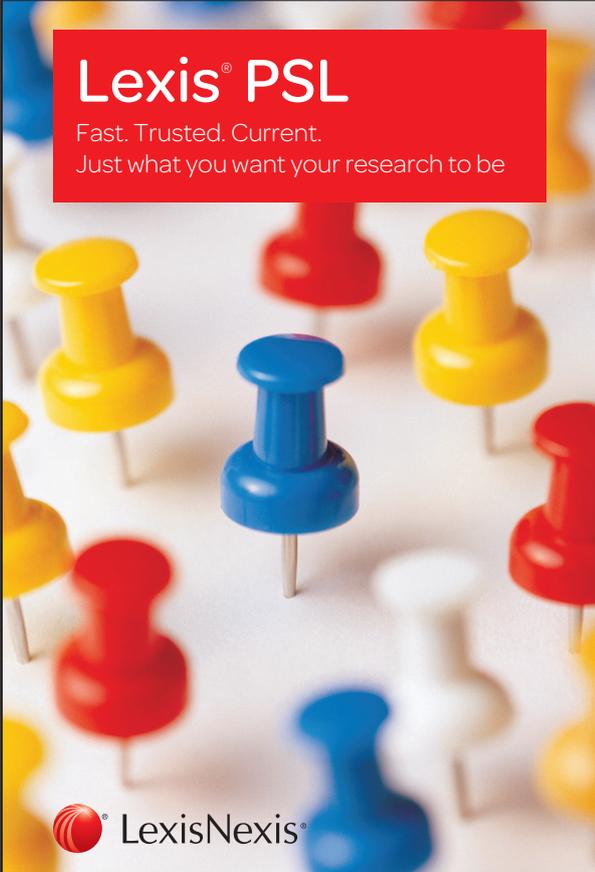
limited in their means to afford legal fees. Join us on our inaugural Walkathon as we explore Singapore's legal landscape and make a difference to it at the same time. More details will be available on the Pro Bono Services Office website soon.

How You Can Donate

You can find our online donation portal at <http://probono.lawsociety.org.sg/Donation>.

Your gift will make a difference in the lives of many, and in ways that you might not expect. The PBSO, an arm of the Law Society of Singapore, is a Charity and an approved Institution of Public Character. We at the PBSO sincerely undertake to manage your donations responsibly in order to keep doing the work we do and to provide legal assistance to those in need of it. We render help not only to individuals with limited means, but also to charitable organisations that pay this forward to directly impact and assist other needy members of the community in other ways.

We encourage you to donate generously to aid us in our quest towards achieving justice for all in our community.



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The Fundamentals of International Legal Business Practice – A Seminar for Young Members of the Profession



Choo Zheng Xi
Peter Low LLC
Member of the Young Lawyers Committee

What does the “holy grail” of partnership entail? Is life as in-house counsel the cushy position it’s widely rumoured to be? If there was one thing you needed to know about doing a cross-border M & A in the UAE, what would that be?

This eclectic range of questions was just a sample of a few that the International Bar Association (“IBA”) Young Lawyers’ Committee and the IBA Asia Pacific Regional Forum addressed in the course of a seminar pitched at young lawyers and junior members of the profession called the “Fundamentals of International Legal Business Practice”.

Held on 19 June 2014 at the Suntec Singapore International Convention & Exhibition Centre, the course was part of an on-going programme conducted by the IBA’s Public and Professional Interest Division to improve the understanding of the fundamentals of international legal practice of junior members of the Bar.

The full day seminar was structured to showcase different fields of practice across several jurisdictions, and was something of a

buffet taster for young lawyers keen to get a feel for opportunities and different fields of practice at home and abroad.

The conference brought together a diverse range of speakers from different jurisdictions and disciplines, from arbitral institutions in China to practising lawyers from Abu Dhabi, Indonesia and India.

The course was co-chaired by Mr Mark Gilligan of Squire Patton Boggs, Abu Dhabi, National Representatives Officer of the IBA Young Lawyers Committee and Mr Hermann J Knott of Luther Rechtsanwalts-gesellschaft mbH, Cologne, the co-Chair of the IBA’s Law Firm Management Committee.

The panel discussions were structured to strike a balance between introductions to different types of practice content and more topical discussions about concerns of the junior members of the Bar in practice.

Cross-border M & A in Asia

Although the first session suggested a rather specialist slant (“Cross-border M & A in Asia”), the speakers on the panel made an effort to reach out to the unconverted in the audience (ie the litigators) by explaining some peculiarities in the jurisdictions in which they practise. Mr Mark Gilligan, a member of the Bar in England, Wales and Ireland, kicked off the discussion by speaking about how the legal system in the United Arab Emirates (“UAE”) is structured and some of the unique characteristics of the Dubai International Financial Centre (the “DIFC”).

For instance, Mark noted how the DIFC has a set of laws modelled on the best practices of the world’s major financial jurisdictions, and that it operates independently of the civil and commercial laws of the UAE. He also explained that the UAE civil code mandates contractual negotiation in good faith and that a party might be penalised for negotiating in bad faith if one party fails to take reasonable efforts to reach an agreement.

Douglas Gordon Smith from Soewito Suhardiman Eddymurthy Kardono (“SSEK”) based in Jakarta explained the hurdles to drafting enforceable contracts in Indonesia, highlighting an interesting fact that the law in Indonesia mandates that all contracts and MOUs involving an Indonesian entity be written in Bahasa Indonesia. He highlighted a situation where an Indonesia Court recently invalidated a contract between the subsidiary of an MNC and a local entity on the basis that it was drafted solely in English and not translated into Bahasa Indonesia.

Career Models for Young Lawyers in the Modern Law Firm

On a less technical note, the second session plunged into the perennial question of how to structure attractive careers for young lawyers in the modern law firm.

Kicking the discussion off, Mr Sushil Nair of Drew & Napier LLC framed the discussion in the context of the dearth of middle



“Summited Mount Everest, did you? Was that just the one time?”

category lawyers, an issue raised by Law Society President Mr Lok Vi Ming, SC at the Opening of the Legal Year 2014. Sushil suggested that firms needed to provide opportunities to younger lawyers to shine, and younger lawyers needed to overcome their inhibitions to rise to the occasion when it was demanded of them. He recounted his own personal experience of being asked by Drew & Napier’s Managing Partner, Mr Davinder Singh, to lead the restructuring of Asia Pulp & Paper Co Ltd relatively early on in his career. What Sushil expected to be a short engagement turned out to be a years-long exercise, but also contributed to establishing him as one of the leading restructuring lawyers in the region.

Mr Ashish Raivadera of ATR Associates (Singapore), provided a legal recruitment perspective of what made young lawyers disillusioned with practice. Ashish suggested that the hourly model inherently contained the “seeds of its own failure” in that it encouraged a “churn and burn” mentality in the industry. To ameliorate the problem, Ashish suggested, law firms had to construct incentive models where the best and the brightest could differentiate themselves even in the early years of practice, as well as allow junior associates to lead in positions of “thought leadership” in the firm. He also noted that increasingly, making partner in a law firm was not the “holy grail” it once was.

Concurring, Managing Partner of Linklaters Singapore, Mr Kevin Wong, spoke about the trend towards value based billing models and away from hourly billing models. He explained the Linklaters model, which he called “the Deal”: that every Associate at Linklaters would enjoy working on groundbreaking, complex, high profile work in an integrated and inclusive global environment. Additionally, he noted that one of the pre-requisites of talent retention was good remuneration.

Cross-border Dispute Resolution

For the litigiously inclined, the afternoon started off with a broad survey of arbitration across the Asia Pacific Region. Moderated by Mr Sunil Abraham of Zul Rafique & Partners of Kuala Lumpur and Mr Nicholas Thio of Norton Rose Fulbright, the afternoon’s panel took the audience through some of the key trends and issues in dispute resolution in the region.

Mr K Anparasan of KhattarWong LLP opened the session with a general framework of the cross-cultural differences lawyers had to be prepared to deal with in the course of arbitrations.

Mr Cameron Ford, Corporate Counsel for Rio Tinto Singapore Holdings Pte Ltd, provided a perspective from an in-house lawyer’s point of view in the considerations large corporate clients take heed of when choosing seats of arbitration. Cameron noted that arbitration was often selected in situations where parties might not necessarily trust the local judicial system, or when transactions involve a foreign government.

Drilling down into the specifics of arbitration in China, Mr Fuyong Chen, Deputy Secretary General of the Beijing Arbitration Commission gave a statistical rundown of arbitration commissions in China, noting in the course of his presentation that there are 225 arbitral institutions in China with a national caseload of 806,154 cases heard between 1995-2013, of an aggregate disputed amount of 1,143.3 billion renminbi. Mr Chen also provided graph breakdowns of the grounds on which foreign awards have not been enforced in China. Specific to the Beijing Arbitration Commission, Mr Chen told the audience that the Commission had a total caseload of 22,006 cases since its inception in 1995, and has handled 540 international cases since then.

Closer to home, Singapore International Arbitration Centre ("SIAC") Counsel Mr Kevin Nash showed the audience that SIAC's caseload has been increasing annually, peaking at 259 new cases handled in 2013, with Indian parties clocking in at the top of the customer list in terms of volume, with 85 Indian parties involved in an SIAC arbitration last year.

Emphasising the importance of the enforceability of arbitral awards, Kevin highlighted the fact that SIAC and Singapore arbitration awards have been enforced in nearly a dozen jurisdictions worldwide. He also tipped his hat to the SIAC Emergency Arbitrator Awards, noting that in a case involving HSBC last year, the Bombay High Court effectively enforced such an award in its exercise of its jurisdiction to grant interim measures of protection. Kevin also noted that SIAC awards have been successfully enforced in foreign jurisdictions even in situations involving non-participating Respondents, citing a successful enforcement proceeding in Ho Chi Minh City in 2012 in which SIAC facilitated the enforcement of the award against the non-participating party by providing the foreign Court documents confirming the propriety of the award.

What's on Your Mind?

The afternoon rounded off with an open session where the participating speakers of the seminar answered delegates' questions on their practice experiences.

One question which the panel tried to answer was probably one that is on many young lawyers' minds: is going "in-house" the proverbial "promised land" and when should one go in-house?

Cameron, Rio Tinto Singapore's Corporate Counsel, had this advice for the young lawyer considering going in-house: going in-house is like becoming a sole proprietor. He recounted how when he first took the leap, he had to rely heavily on his network of friends in private practice to help him out when there were legal issues he had to tackle for the first time. As to when to make the move: "don't go in-house too soon, because for many, the level of your professional development can be said to stop at the level at which you went in-house". But when you do make the move, he counselled, continue to actively engage the practising community of lawyers around you because they'll be your greatest resource.

Ms Ameera Ashraf, Head of WongPartnership's Competition and Regulatory Practice, who had previously spent several years as in-house counsel, provided a good comparison of the differences between practice and in-house work. For her, the main difference being in-house is the tendency to be seen as a bit of a "party pooper" when advising your organisation on what they can't do.

Rounding the discussion off, Mr Nicholas Thio from Norton Rose Fulbright asked the panelists what their views were on work-life flexibility.

Ameera gave an interesting insight on how she struck the balance, providing one possible model for young lawyers to consider. She noted that she makes it a point to take a few hours off for dinner with people who matter to her, even if it means going back to the office to answer e-mails and clear work until late. "At least this way, I know I'm making it a point to set aside time to make a connection".

This article is written by a member of the Young Lawyers Committee of the Law Society of Singapore. The Law Society of Singapore was proud to support the IBA in this seminar.



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Edited by Hilary Heilbron QC, Jonathan Hirst QC, Klaus Reichert SC and contributions from Members of Brick Court Chambers

This new annotation to the 2013 SIAC Rules, which came into force in April 2013, is compiled and edited by experienced international arbitration practitioners from Brick Court Chambers, the leading Commercial set of Chambers in London. This title provides detailed and very practical guidance to any party considering the adoption of an agreement to arbitrate under the SIAC Rules and any practitioner who is involved in SIAC arbitration under the new Rules.

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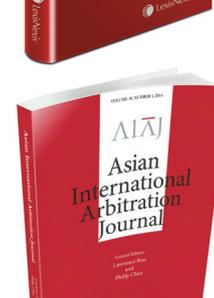
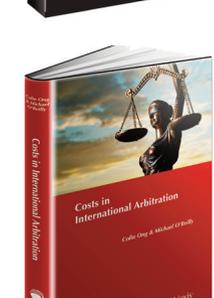
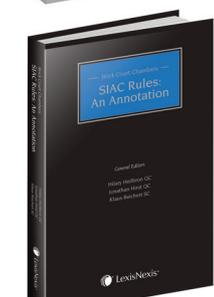
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Asian International Arbitration Journal (ISSN: 1574-3330)

General Editors: Lawrence Boo and Philip Chan

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by Dr Arjunan Subramaniam

This book is an update of Dr. Arjunan's book of Principles of Double Taxation (Relief) Agreements published in 1988. It provides an introductory and in depth look into double taxation agreements, outlining the basic and key principles and deeper look into the law of taxation. It contains updates from landmark cases such as Alam Maritim which unsettled foreign investors in Malaysia and their consultants.

Key Features

Contains expert analysis and provides an explanation on application of the law which is useful to tax practitioners and lawyers practicing the law of taxation.

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About the Author

Dr. Arjunan Subramaniam has served as an Assistant Director General of the Inland Revenue Board, Malaysia and a Tax Director with an international accounting firm. Dr Arjunan was called to the Bar in 1992. He has appeared in leading tax cases such MCIS v. DGIR, National Land Finance v. DGIR, International Food v DGIR, Premium Vegetable Oil v Palm Oil Research and Ferrite v DGIR. He is the author of Revenue section of Halsbury's Laws of Malaysia, Arjunan On Malaysian Taxation by Sweet and Maxwell and various other publications.

