

## **OPENING OF THE LEGAL YEAR 2021**

*Speech by Attorney-General, Mr Lucien Wong, S.C.*

*11 January 2021*

May it please Your Honours, Chief Justice, Justices of the Court of Appeal, Judges of the Appellate Division, Judges and Judicial Commissioners,

### **Introduction**

1. The past year has been an extremely trying one for the country, and no less for my Chambers. It has been a real test of our fortitude, our commitment to defend and advance Singapore's interests, and our ability to adapt to unforeseen difficulties brought about by the COVID-19 virus. I am very proud of the good work my Chambers has done over the past year, which I will share with you in the course of my speech. I also acknowledge that the past year has shown that we have some room to grow and improve. I will outline the measures we have undertaken as an institution to address issues which we faced and ensure that we meet the highest standards of excellence, fairness and integrity in the years to come.

2. My speech this morning is in three parts. First, I will talk about the critical legal support which we provided to the Government throughout the COVID-19 crisis. Second, I will discuss some initiatives we have embarked on to future-proof the organisation and to deal with the challenges which we faced this past year, including

digitalisation and workforce changes. Finally, I will share my reflections about the role we play in the criminal justice system and what I consider to be our grave and solemn duty as prosecutors.

### **Part 1: Providing legal support to the Government through COVID-19**

3. On the first point, COVID-19 has been described as the crisis of our generation. It has been said that crises bring out the best in people and in organisations. The COVID-19 crisis certainly brought out the best in AGC. While the Government worked tirelessly to respond to the pandemic, we worked as one AGC to provide public agencies with crucial legal support.

4. Once the severity and potential impact of the disease became clear, we formed a Cross-Divisional COVID Task Force in January 2020 comprising representatives from all our legal Divisions. We anticipated that the Government would need urgent and cross-cutting legal advice and support to address a possible pandemic and its repercussions. This proved to be prescient. In the first half of 2020 alone, we received more than 1,300 COVID-related requests for advice. Almost all of these were urgent – we responded to 69% of these cases within 24 hours and 78% within 48 hours. The pace and intensity of this work were unprecedented, and I am glad to say we came through for our clients.

5. AGC contributed to the battle against COVID on multiple fronts. First,

working closely with our officers who are posted to satellite legal departments in the Ministries, the Task Force advised the Government on all aspects of its pandemic response. This included advice on establishing Government quarantine facilities, implementing temperature surveillance, testing and contact tracing measures at key locations, securing our borders and protecting trade flows to preserve essential supplies and stockpiles. We also provided critical legal support on the tapping of past reserves to finance the various COVID response budgets, on the impact of COVID on Government contracts, and on negotiations for the procurement of possible COVID vaccines. Under acute time pressure, we worked closely with agencies to craft, stress-test and fine-tune their COVID-related policies through multiple iterations. No lines were drawn between law and policy as we fought alongside our clients in the trenches together.

6.           Second, we drafted major pieces of legislation in record time. This was necessary to allow the Government to quickly implement new measures to control the spread of the disease, such as safe distancing measures and contingency healthcare arrangements. Legislative amendments also enabled the Government to introduce moratoriums and various schemes for financial, tax and other reliefs to sustain the economy, as well as to implement special arrangements for Parliament sittings and to allow for company meetings and court hearings to be held remotely.

7.           Third, we worked closely with law enforcement agencies to enforce the Infectious Diseases Act and COVID-19-related legislation strictly and swiftly. Breaches

of Quarantine Orders, Stay-Home Notices, circuit-breaker restrictions and safe distancing measures were quickly prosecuted or dealt with. Errant businesses were also promptly issued warnings and, in egregious cases, suspension orders. We worked on an urgent basis to assess the evidence and take quick action in all these cases, to send a strong message that the Government's public health measures had to be taken seriously to control virus transmission in the community.

8. Finally, as the world grew increasingly isolated to curb the spread of the virus, it also became more important than ever for Singapore to maintain our international connections. We did a significant amount of work to ensure that our COVID measures remained consistent with our international obligations. As the virus situation improved in Singapore, we also assisted in the negotiation of essential travel and air bubble arrangements to sustain economic exchanges and maintain our relevance as a hub for the region and the world.

9. In addition to our COVID work, AGC kept the legal machinery of Government running in a very different operating environment. Criminal prosecutions and urgent civil litigation matters continued during the circuit breaker period and beyond, but with many more remote hearings. Our officers adapted rapidly by learning how to present arguments and, in some cases, examine witnesses over Zoom. Through countless Skype meetings and emails, we maintained our usual pace of drafting and providing advice and legal representation to the Government – including during the

recent General Elections, which presented particular difficulties due to COVID restrictions. We had to urgently advise the Government on how to deal with the unique challenges and legal complexities involved in holding an election in the midst of a pandemic.

10. In short, against all odds, we have not merely survived but excelled in the past year. I have been humbled and heartened to witness my officers coming together to stand shoulder-to-shoulder with the entire public service, both to manage this unprecedented crisis and also to keep essential operations running in new and innovative ways. We were tested to the limit and have emerged stronger, more resilient and more united as a Chambers.

## **Part 2: Future-proofing the organisation**

11. Next, I would like to talk about some initiatives which we have introduced to equip AGC, and the broader public service, to meet current and future challenges and opportunities. While COVID-19 may have cast the longest shadow, it was only one of many developments which have the potential to fundamentally alter our legal landscape. As an institution, we cannot take our eyes off these other driving forces. There will be life after COVID, and AGC is preparing to meet it by strengthening our existing capabilities and strategising for the longer term. Allow me to focus on two key aspects.

12. First, the push for digital transformation. You may have seen a famous

meme depicting a multiple-choice survey question: “Who led the digital transformation of your company?” The answer options are: CEO, CTO and COVID-19. Needless to say, the last choice is the one that is selected. While COVID has certainly accelerated AGC’s digital transformation, this was only possible because we had already laid the groundwork in the last few years by moving large portions of our work online and integrating new technologies. This enabled us to accomplish the transition to working remotely without any major disruptions, and even with increased productivity. This is not the end but the beginning. We are just scraping the surface of how much we can achieve with the proper technological tools. This year, we will be rolling out a number of digital innovations to benefit the Government and the wider public.

13. An example is legal automation. Several AGC officers have been learning to utilise software which can be used to code and automate legal processes, like contract drafting for government procurement. AGC is currently developing a contract drafting application which will save public officers considerable time that would otherwise be expended on amending templates manually. As the application will be developed by our own lawyers, the quality and consistency of the documentation it produces will also be improved. A recent pilot of a similar application with selected public agencies was well-received, and we now plan to expand this across the whole of Government. This is part of our vision to upscale our service delivery.

14. By the first quarter of 2021, we plan to launch the Legislation Code System,

a computer-readable reference protocol for legislation tagging. Every Act, section and subsection will have a unique identifier code, paving the way for enterprise searching of specific provisions across case databases, Parliamentary reports, journal articles and even press releases. While we intend to first roll this out to government systems, Legislation Codes will potentially be made available to private enterprises in future, to facilitate improvements in regulatory compliance and promote the development of citizen-centric digital apps in the legal sector.

15. AGC is also collaborating with other agencies to enhance digitalisation across the whole of Government. We have plans to fully integrate our internal criminal case management systems with those upstream at the enforcement agencies and those downstream at the Courts and prisons. This will allow matters to move through the criminal justice system more seamlessly and also yield end-to-end data insights.

16. Digital innovation will be complemented by workforce transformation. We are heading into a very different world, and the demands on AGC are rapidly increasing. To ensure that our existing manpower is optimised to meet those challenges, we will be undertaking a major reorganisation of our executive workforce. Our clients and the public may be familiar with the work that our lawyers do, but behind them is an equally dedicated corps of executives who provide indispensable support to AGC. I would like to take this opportunity to recognise and commend them for their contributions. The planned reorganisation will deepen our executives' expertise and broaden their career

pathways, to ensure that their professional responsibilities and development are commensurate with their ambitions, their potential and the future demands of the organisation.

### **Part 3: Remaining steadfast in our mission as prosecutors**

17. That brings me to my third and final theme – one that is of utmost importance. As prosecutors, we weathered our own crisis of sorts in 2020. There were several decisions that did not go our way, including *Parti Liyani* and *Gobi A/L Avedian*. These are not the first high-profile acquittals in our history, and they will certainly not be the last. However, what made 2020 uniquely challenging was a sense that the public’s trust in us was at stake. That is something we take extremely seriously, because that trust is fundamental to our mission, and we work very hard to be worthy of it.

18. I want to begin by assuring the public that we recognise ours as a grave and sacred duty to use our prosecutorial discretion to serve the public interest. That is the lodestar for all prosecutors. Our motive is not to win at all costs, or to secure the most convictions, but to reach just outcomes fairly. This overriding principle informs every stage of our work.

19. As a reminder, charging decisions are made only after we are satisfied that: (a) there is sufficient evidence to support a reasonable prospect of conviction; and (b) it is in the public interest to prosecute. In making this assessment, we carefully consider



all available evidence, the circumstances of each case and each accused person, as well as what is fair and proportionate. Every prosecution is commenced in the genuine belief that a crime has been committed and needs to be answered for.

20. Integrity guides our conduct of proceedings from start to end. Our assessment of evidential sufficiency and public interest is an ongoing one, and continues even after a person is charged in Court. If new facts and circumstances come to light which show that prosecution is no longer tenable or desirable, we will review the matter and withdraw charges, as we have done in many cases before. While proceedings are underway, we take great care to comply with our disclosure obligations in fairness to the Defence. At the sentencing stage, it is our established practice to highlight the most relevant precedents even if they are unfavourable to us, so that the Court may have the fullest possible assistance in arriving at the appropriate sentence. Even after a matter has been concluded, we do not oppose criminal revisions and appeals where we agree, upon review, that the outcome at first instance did not serve the public interest.

21. Practising these principles on a day-to-day basis is no mean feat. My team of 245 prosecutors assesses over 40,000 investigation papers a year. That number excludes their court appearances, which average more than 7,000 concluded matters in the Supreme Court and State Courts each year. Despite the punishing load which they carry, there is no question that in all these cases, my prosecutors have tried to perform their duty with integrity and to the best of their ability.

22. Even so, I must acknowledge that there were imperfections in the past year that exposed AGC to intense scrutiny and criticism. This is not the appropriate forum for me to traverse the specifics of these cases. However, I pledge that we can and will do better to, in the words of the Chief Justice, discharge our fundamental duty to “assist the Court to arrive at the correct decision” as “ministers of justice”: *Public Prosecutor v Wee Teong Boo* [2020] SGCA 56 at [136]. We are taking concrete steps to live up to this weighty responsibility.

23. First, we are carefully reviewing the training and guidance which our prosecutors receive. A key tenet of prosecutorial training is that all prosecutions should be guided by the public interest. Our culture must be one where prosecutors take pride in doing right, not just by victims of crime, but also by accused persons and by society. In his book *Doing Justice: A Prosecutor's Thoughts on Crime, Punishment and the Rule of Law*, former US Attorney for the Southern District of New York (SDNY) Preet Bharara wrote about the constant admonition that his office lived by: “To do the right thing, in the right way, for the right reasons. And do only that.” This must also be true of AGC. We will make greater efforts to instil these core values in every prosecutor, so that they become part of the natural fabric of our work ethic.

24. Second, in order to help prosecutors actively consider and fulfil their obligations to disclose documents to the Defence, we have drawn up detailed internal guidance and held division-wide briefings to explain how these must be complied with

strictly in practice. More importantly, at a deeper level, we have engaged all prosecutors in the process of re-imagining our role in criminal proceedings. This goes beyond mere technical compliance with disclosure and evidentiary rules. Our greatest interest must lie in ensuring that the Court is presented with all relevant evidence which may help it to arrive at its own determination of the truth. This overriding attitude to ensure fairness is what we must bring to bear on our conduct of all court matters.

25. Third, in response to the lessons which we learnt from the *Parti Liyani* case, the Prosecution is working with the Police on internal guidelines for (a) recording investigative statements properly; and (b) obtaining proper valuations of items which are the subject of property offences. These guidelines will make our approach to these matters more principled and consistent across cases.

26. To preserve and also enhance the public's trust in us, AGC will reinforce our efforts to demystify the inner workings of prosecution, and make the criminal legal system as a whole more accessible and intelligible to the public. In my last OLY speech, I pledged that we will continue to explain the basis behind our decisions more clearly, in appropriate cases. We have followed through on this commitment and will continue to do so. Let me give three examples.

27. First, in cases which attracted widespread public interest, we have sought to articulate the basis of our decisions more clearly and to clarify any misinformation in

the public sphere. In the Orchard Towers murder case, for example, we issued media releases to explain our charging and sentencing positions, and to refute malicious and utterly baseless allegations of racial bias in sentencing. In *Parti Liyani*'s case, we also issued media releases to clarify the process by which the charging decision was made, so as to dispel any misconception that the complainant was given special treatment or that I was somehow involved in the charging decision in view of my prior acquaintance with him.

28. Second, my deputies and I have been taking pains to publicly explain how we arrive at our charging and sentencing decisions in practice. In the first year that I took office as Attorney-General, I delivered the Singapore Law Review Lecture on the topic "Prosecution in the Public Interest", which discussed in detail how public interest considerations inform the exercise of prosecutorial discretion in AGC. DAG Hri Kumar also gave the keynote address at the Sentencing Conference in 2017, where he spoke on the prosecutor's role to assist the Court in arriving at a *just* sentence, not a high one. More recently, one of our Chief Prosecutors gave an interview to The Straits Times, explaining how AGC contributes to clarity in sentencing by proposing sentencing frameworks in appropriate cases, which can help to ensure that sentences are principled, proportionate and consistent across the board.

29. Third, AGC is collaborating with external agencies to engage and educate the public on the intricacies of the criminal justice system. Over the past two years, we

have partnered with Lianhe Zaobao on a series of articles about Singapore's legal system and our role within it, including topics like plea discussions, gag orders and court procedures. We are also reaching out to the public through vernacular media to make sure that every Singaporean knows that there is no preferential treatment for different races in sentencing. Just two weeks ago, Mothership.sg released a video interview with one of our Deputy Chief Prosecutors, where he answered questions about prosecutorial work. We recognise that issues of criminal justice and punishment matter deeply to our community, and we will continue our efforts to help the public to engage with these issues thoughtfully and constructively.

30. Through the initiatives I have described, we are working to address institutional gaps and provide greater accountability to the public. While we do so, I ask for understanding on the public's part. Criticisms are welcome and we do not shy from them as long as they are fair. Not every acquittal is a sign that our prosecutors have failed in their duty as ministers of justice. Some acquittals may result precisely because we took steps which served the interests of justice but were adverse to our case, for instance, by sharing evidence with the Defence. Other times, there may be changes in the evidence or to the law which we could not have anticipated. There will be cases where, at the end of the day, the evidence falls just shy of establishing all the elements of the offence. In the broader scheme, acquittals are a sign of health for the legal system. They demonstrate that judges probe the Prosecution's case and apply their minds fairly

and independently. More importantly, acquittals also show that AGC does not only pursue cases which are easy wins, but also cases where we truly believe that an offence has been committed and must be addressed.

31. The case of *GCK* is an example of such a case. It involved a male staff member who had molested an elderly female patient in a nursing home. The case was difficult to prosecute because the victim was unfit to give evidence, so the case depended largely on the testimony of a passing eyewitness. The accused person was convicted in the State Courts, but his conviction was set aside in the High Court because of evidential difficulties. The Prosecution then referred a question of law which had arisen in the case to the Court of Appeal. Ultimately, the conviction was reinstated, and the offender was sentenced last year to 16 months' imprisonment and three strokes of the cane: *Public Prosecutor v GCK* [2020] SGCA 2. If we refrain from prosecuting whenever there is some risk of an acquittal, then this injustice – and many others – would never see the light of day.

32. The real measure of AGC as an institution does not lie in the number of convictions we secure, but in prosecuting worthy cases fairly and upholding the public interest. We will not allow the fear of failure or of public backlash to stand in the way of this duty. Let me stress this clearly – neither acquittals nor baseless lawsuits or actions commenced against my Chambers or my prosecutors will deter us from fulfilling our mission to prosecute in the public interest.

33. Finally, I want to express my appreciation to the criminal bar, particularly *pro bono* defence lawyers. As the High Court stated in *Arun Kaliyamurthy and others v Public Prosecutor and another matter* [2014] 3 SLR 1023 at [18]: “Both the Prosecution and the Defence are discharging public functions in the interests of justice by securing convictions and acquittals of criminals and innocents respectively.” Criminal lawyers are our counterpart in the administration of justice, and we all stand to benefit from their dedication and integrity. While adversarial in form, our roles are in truth complementary. In the coming year, we will continue to keep an open line of communication with the Bar through regular luncheons and dialogue sessions with representatives from the Law Society and the Criminal Legal Aid Scheme. I wish to thank the Criminal Bar for working alongside us towards a common vision of a fair and just society.

### **Conclusion**

34. It would be remiss of me to conclude without expressing my gratitude to all of my AGC colleagues, who routinely go far beyond the call of duty to serve the public and safeguard our country. While our prosecution work draws the most media attention, that is just one aspect of what AGC does. The public may not be aware of the rest of the work undertaken by AGC which is equally important. My Civil Cluster officers work tirelessly to draft legislation, provide legal advice to agencies and represent Singapore’s interests on the international stage. Their efforts behind the scenes are just as vital to the

public interest and the rule of law in Singapore, and the frequent notes of appreciation that I receive from our client agencies attest to the quality and value of their work.

35. This year, we will continue to provide timely and critical support to the Government in navigating the legal headwinds to come. We will also double down on our efforts to live up to our mission as guardians of the public interest and stewards of the rule of law. That is the spirit which animates all of our work, whether as Public Prosecutor or Governmental Legal Advisor, and we are humbled and privileged to serve this higher calling.

36. On that note, please allow me to take the opportunity to thank and congratulate former Solicitor-General Kwek Mean Luck, who served AGC with distinction for more than 5 years before his elevation to the Bench this year. Mean Luck did a tremendous job in helping to shape the culture at AGC into a more cohesive, client-centric and forward-thinking one, and I have no doubt he will bring his distinctive brand of transformational thinking to the development of the law in his new role. I will miss having Mean Luck at AGC. I would also like to extend a warm welcome to our new Deputy Attorney-General Tai Wei Shyong, who has returned to AGC after holding a number of strategic leadership positions in the Public Service. Wei Shyong has a wealth of experience in both Government and the law. With him as a key member of the leadership team, I am certain that AGC has what it takes to meet the challenges ahead.



37. May I also take this opportunity to congratulate:

- (a) Justice Andrew Phang, on his re-appointment as Vice-President of the Court of Appeal;
- (b) Justice Steven Chong, on his appointment to the International Commercial Expert Committee of the Supreme People's Court of the People's Republic of China;
- (c) Justices Belinda Ang, Woo Bih Li and Quentin Loh, on their appointments as Judges of the new Appellate Division of the High Court and, in particular:
  - i. Justice Ang, on her concurrent appointment as President of the Appellate Division; and
  - ii. Justice Loh, on the extension of his appointment as a High Court Judge and his concurrent appointment as President of the Singapore International Commercial Court;
- (d) Justices Chan Seng Onn, Lee Seiu Kin and Choo Han Teck, on the extension of their appointments as Judges of the High Court;
- (e) Justices Chao Hick Tin, Andrew Ang and Lai Siu Chiu on their re-

appointments as Senior Judges of the High Court;

(f) Justices Dedar Singh Gill and Mavis Chionh, on their appointments as Judges of the High Court from 1 August 2020 and 12 March 2021 respectively;

(g) Judicial Commissioners Andre Maniam and Philip Anthony Jeyaretnam, on their appointments to the Bench; and

(h) Our 16 International Judges, on their re-appointments to the Singapore International Commercial Court.

38. On behalf of AGC and the Legal Service, I pledge the fullest support to the Judiciary in the discharge of your constitutional responsibility to administer justice. It leaves me to wish Your Honours and all members of the legal community the very best for the year ahead.

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