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Valedictory reference in honour of Justice Andrew Phang: Compilation of valedictory addresses for Justice Andrew Phang

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Hon. Sundaresh MENON, Indranee RAJAH, Lucien WONG, Hon. Yihan GOH, Adrian TAN, Davinder SINGH, Scott TAN, and Hon. Andrew PHANG

**VALEDICTORY REFERENCE
IN HONOUR OF
JUSTICE ANDREW PHANG
28 NOVEMBER 2022**

On 15 December 2022, Justice Andrew Phang retired from the Supreme Court Bench. To pay tribute to Justice Phang's 18 years of service, a Valedictory Reference was convened on 28 November 2022. The following is a collection of speeches delivered at the event by distinguished members of the Bar – a fitting tribute to celebrate Justice Phang's outstanding contributions to local jurisprudence and legal scholarship, and the indelible mark he left on the lives of those around him.

INTRODUCTION

Sundaresh **MENON**

Chief Justice, Supreme Court of Singapore

1 At the Mass Call in August this year, I spoke about the legal profession as an honourable profession. I suggested that as members of an honourable profession, all lawyers must demonstrate three core character attributes: integrity, excellence, and service. Integrity requires us not just to refrain from acting inappropriately, but to set the right example by modelling honourable behaviour so that faith in the moral standards of the profession can be maintained. A commitment to excellence requires us to strive for excellence in all that we do, and to remain adaptable and committed to lifelong learning. A devotion to service entails acting not just in self-interest, or even in the interests of one's clients, but to stand in service of a higher ideal – to serve the administration of justice and society at large.

2 In the abstract, these standards may seem lofty, perhaps even beyond reach. But we can bring these ideals down to earth by looking for the right role models, and in their character and their actions, we can see for ourselves what being honourable means in concrete terms. In my Mass Call address, I said that my former colleague Justice Chao Hick Tin was one such role model. Another shining example of a lawyer who embodies what it means to be a member of this honourable profession is Justice Andrew Phang. At Justice Phang's Valedictory Reference, the accolades that poured in from all quarters shared one thing in common: they all ultimately paid tribute to Justice Phang's character above all else. It is this remarkable strength of character that this compilation of the valedictory addresses serves to commemorate.

3 All the speakers touched on Justice Phang's lifelong commitment to serving others. It was evident to all of us that he cares deeply about everyone around him, regardless of their station or rank. The valedictory addresses feature numerous anecdotes that demonstrate not only Justice Phang's appreciation for those around him, but also his consistent efforts in going out of his way to be of service to them, in ways both great and small. He has also dedicated most of his life in service to Singapore, not just through his long tenure in public service,

Valedictory Reference in Honour of
Justice Andrew Phang

but also in his efforts to advance the development and standing of Singapore law from the very beginning of his career as an academic.

4 Justice Phang's commitment to excellence is also legendary, as all the speakers recounted. Despite his achievements and his own staggering abilities, Justice Phang never rested on his laurels. Instead, in every piece of writing, Justice Phang would unpack and examine just about every significant piece of academic and judicial writing on the subject. When he arrived at his conclusions, Justice Phang did not shirk from departing from familiar ground and striking out on new paths if he felt that this was where logic, principle and the facts took him. As a result, Justice Phang is rightly lauded for his outsize role in developing and reshaping the law of private obligations and many other areas of Singapore law.

5 Finally, integrity is perhaps the most self-evident character trait, but in some ways also the most elusive of definition. It is for that reason that it is crucial for us to have role models to help us see in concrete terms what it means to be a person of integrity. In Justice Phang's jurisprudence, the reader can see with clarity his determination to do right by the parties and to arrive at the fair and just outcome. And as the address by the President of the Law Society shows, Justice Phang's profound respect for the law inspired a generation of law students to think more deeply about and to choose to do what is right rather than what might seem to be easy.

6 The valedictory addresses, taken as a whole, paint a rich tapestry of a jurist and scholar who is a brilliant and world-class legal mind, but even more importantly, a wonderful person who exemplifies the character traits that an honourable profession should hold dear. I am therefore extremely glad that the seven valedictory addresses as well as Justice Phang's address in reply are made available in their entirety in this compilation. Anyone who reads these addresses will go away enriched with a better understanding of what it means to be a person of honour. I hope that members of the legal profession will gain much inspiration from them.

**VALEDICTORY ADDRESS BY CHIEF JUSTICE SUNDARESH
MENON**

Sundaresh **MENON**
Chief Justice, Supreme Court of Singapore

My fellow Judges,
Minister Indraneel Rajah,
Mr Attorney,
Mr Adrian Tan,
Mr Singh,
Mr Scott Tan,
Ladies and Gentlemen,

1 Welcome to this Valedictory Reference for Justice Andrew Phang, Vice-President of the Court of Appeal.

2 I come to this Reference with a mix of emotions. On the one hand, I rejoice in honouring Justice Phang together with all of us who have gathered here for that purpose. I very much believe that the real measure of the contribution that a person makes in public office is gathered from what is said at the end of his tenure. There is no doubt at all that at the end of Justice Phang's tenure as a Justice of the Court of Appeal, the applause will be rapturous and the acclaim, virtually universal. That, certainly, is cause for celebration.

3 On the other hand, Justice Phang has worked by my side in the Court of Appeal for nearly ten and a half years. He has been the constant presence in the Court of Appeal for the last 17 years and in the time that I have been there, we have sat together on many of the most important and significant decisions of the Court. Having worked so very closely with him in that time, I have benefitted personally from his wise counsel, his immaculate judgment, his genuine kindness, and his utter devotion to this cherished institution that is the Supreme Court. I shall miss him immensely.

4 I will cover three broad areas in my address this evening:

(a) First, I will outline how and why we got to this point;

Valedictory Reference in Honour of
Justice Andrew Phang

- (b) Second, I will provide a quick sketch of Justice Phang's contribution to the legal and judicial history of Singapore;
- (c) And finally, I will close with some brief remarks on Andrew, the person.

5 The Bench is a unique organisation. Judges typically hold quite long tenures and the complexion of the Bench changes gradually. Over the last decade or so, we have seen that happen with several retirements, and an influx of new Judges to replace those who have retired and also to fill new slots as the Bench expanded to cope with the growing demands. One of my tasks is to plan for this and so, around the middle of last year, I spoke to Justice Phang to confirm that he would accept the extension that is now ordinarily offered to Judges to continue in office to the age of 68.

6 I was a little surprised when he replied to thank me and told me he would think and pray about it and get back to me by the end of the year. I should have anticipated what was coming. But I did not; and then in January this year, he told me that he had made up his mind to retire at the age of 65. I tried for some weeks to persuade him to change his mind and continue for at least a few more years, but he was resolute. I realised then that we were on the cusp of a very significant transitional phase in the development of our apex court, and beyond that of our judiciary. I paused to take stock of the enormity of the footprint that Justice Phang has left on our jurisprudence; and this led me, among other things, to inform him that I wished to convene this Reference in his honour. You will not be surprised to learn that he immediately and very firmly declined, but fortunately, with a little help from a very special person, of whom I shall say more shortly, I was able to get him to change his mind on this.

7 In our jurisdiction, the Valedictory Reference, which is a formal sitting of the full Bench, has not often been held, at least in modern times. The Reference is a way to honour a retiring Judge, but beyond acknowledging the individual, it serves as an important way in which we, as a community, celebrate and signal the very best qualities of being a member of this wonderful profession, by reflecting on how these are present in the life and career of the Judge concerned. It is convened at the prerogative of the Chief Justice, and I wanted to convene

this Reference for Justice Phang not only to honour him, but also to remind all of us, especially the younger members of our profession, why ours *is* a noble profession. I should also have held one immediately upon taking office for my immediate predecessor, Chief Justice Chan Sek Keong, who remains one of our most illustrious jurists. To my lasting regret, it did not occur to me to do so at the time, perhaps because it had been such a long time since the only other one had been held. As a result, this is only the third time we are doing this; the previous ones having been held for Chief Justice Wee Chong Jin, and for Justice Chao Hick Tin. Justice Phang is a most worthy addition to that pantheon of Singapore's legal legends.

8 While it is Justice Phang's work as a Judge that we celebrate today, it is impossible to separate one's impressions of his judicial work from one's impressions of his many dimensions as a scholar, academic and professor. In this respect, he stands alongside such legal giants as Lord Goff of Chieveley, Baroness Hale of Richmond and Justice Felix Frankfurter, all of them outstanding academic lawyers who went on to become outstanding judges. In the end, it is this unique combination that we celebrate today.

9 Over the course of the last four decades, beginning in 1982 when he graduated from the National University of Singapore at the top of perhaps the most illustrious graduating class in the history of the law school, Justice Phang has taught, researched, thought and written about the law. He did this for almost 23 years as an academic lawyer and then for the last 18 or so years, as a judge. Numbers do not always tell a story, but in Justice Phang's case they help shed some light: he has more than 260 academic publications and around 400 judgments to his name. That is a prodigious output, made even more remarkable when one takes account of its sheer quality. Simply put, there can be no real doubt that Justice Phang is one of the most influential legal thinkers in our history.

10 I will not say very much here about Justice Phang's jurisprudence. That is best saved for another occasion. There are, in any case, far too many very important judgments that have been authored by him during his time on the Bench for any of them to be singled out on an occasion like this. I will instead mention what I regard to be the three most notable features of his jurisprudence, beyond, of course, its sheer brilliance. First, his judgments invariably reflect a seemingly effortless

Valedictory Reference in Honour of
Justice Andrew Phang

ability to unpack and organise extremely complex areas or points of law, typically having examined just about every significant academic writing on the subject, and just about every significant relevant judgment from major courts around the world. Second, his jurisprudence is rooted in a well-founded devotion to principle, as a result of which he and, to some degree because of his influence, our Court of Appeal have not shied from occasionally parting company with our counterparts in other leading jurisdictions, when we did not think that the course they were charting was grounded in principle. Both these features have been foundational to our development of a truly autochthonous jurisprudence. It will not be surprising that this is a cause that Justice Phang has sought to pursue from his early days in academia; and the extent to which this has materialised reflects something of his profound impact on the modern development of Singapore law. And finally, Justice Phang found much inspiration in the work of the late Lord Denning, who he admired as a judge who had the courage to strive always to do right by the parties and achieve a fair outcome in their dispute. I think in his jurisprudence we find that same determination to do right and arrive at the fair outcome. I have no doubt at all that Lord Denning would have been delighted to know he had such an outstandingly talented and principled admirer.

11 Let me finally say something about Andrew, the person. I come to this from three perspectives. First, Andrew taught me, and indeed Minister Indraneel Rajah, when we were freshies at the NUS Law School in 1982. Andrew had just graduated, and he taught us the Legal Method, a difficult subject to teach those new to the law. And yet he did this masterfully and left a deep impression on me as a student, of his talent as a teacher. Importantly, what made him such a fine teacher was not just his knowledge of and obvious love for the law; it was the fact that he cared so much about his students, appreciated how lost we likely were in trying to make sense of the material we were being exposed to, and so went out of his way to ensure that he had done everything he possibly could to enable us to grasp what he was trying to convey to us.

12 Second, over the years, I have seen him interact with people from every walk of life – junior lawyers, law clerks, staff and peers – but always with the same consideration, kindness and humility. He invariably inquires after the health and well-being of our young colleagues, dispenses advice about life and making good choices, and strives to acknowledge and convey his appreciation for the effort that

others have put into whatever work they turned in. He also takes the trouble to reply without fail to every email, even with just an expression of thanks, regardless of who the sender is. In the course of hearing hundreds of cases together, we have almost always been on the same side. But on the very rare occasions when we might have differed, he would speak to me privately to see if there might be something either of us had missed. And when he had suggestions on improving my drafts, he would take the trouble to convey these privately. Such is his humility and his sensitivity. These are precious qualities, and rarely are they found in one so profoundly gifted.

13 Lastly, Andrew is a man whose strength is rooted in his faith and in his family. I am delighted that his immediate and extended family are here today. He often speaks of his late parents, of the lessons and values they imparted to him, and of the importance of passing these on to the next generation. His parents were the biggest influence in his early life. And his wife, Sock Yong and his daughters Rachel and Christine have been the anchor in his adult years. Sock Yong has been his best friend, counselor and confidante, and it was she who persuaded him to agree to have this Reference, at my request.

14 It will be evident from what I have said that Andrew commands not just my tremendous respect as a jurist, but he also holds my deep affection as a friend and a wonderful colleague. He has been warm, loyal and kind to me throughout the years I have been privileged to work with him and he has sought to support me in every way possible. As I reflect on my impressions of Andrew, I realise that the most remarkable thing about him is the fact that he has never allowed himself to be imprisoned by his brilliance and the abundance of his many talents. Instead, he has set about using these talents to serve this nation with consummate humanity, and that has been to our great benefit and advantage.

15 A few weeks ago, I spoke to a friend who just turned 90, and who had retired early at the age of 53. He told me he did that because, in his words, “it was important to leave the party before it ended”. I think there is wisdom in that, though I think Andrew is leaving his party much too soon. But I take comfort in the fact that he isn’t quite leaving it altogether. He will continue to serve as a Senior Judge, and I know that he will continue to find ways to make invaluable contributions to our profession.

Valedictory Reference in Honour of
Justice Andrew Phang

16 On behalf of all of us on the Bench and indeed of the entire profession, I thank you Andrew for all you have done for us; we all wish you a very happy, healthy and meaningful retirement; and we wish you all the joy of the time you will have with Sock Yong and your family in the years ahead, with the pleasure of doing only the things that you *want* to do.

**VALEDICTORY ADDRESS BY MINISTER INDRANEE
RAJAH, SC**

Indranee **RAJAH, SC**

*Minister, Prime Minister's Office, Second Minister for Finance and
Second Minister for National Development*

The Honourable Chief Justice,
Attorney-General Lucien Wong,
Honourable Judges,
President, Law Society,
Registrar, Supreme Court
Distinguished Guests
Ladies and Gentlemen,

1 I am delighted to be here today, to join in this special occasion. I thank the Honourable Chief Justice for giving me the opportunity to make these remarks.

2 Justice Phang has contributed immensely to Singapore as a legal scholar and as a Judge. It is therefore fitting that we gathered today to pay tribute to his remarkable career.

3 Justice Phang read law at NUS. He was a brilliant student. He graduated in 1982, with First Class Honours, and immediately joined the NUS law faculty. Even then he was known as a deep thinker, with students such as myself left pondering his “cheem” pronouncements!

4 One of his former classmates once said this about him: “He was always at the top of the class. Everyone will surround him to get his views on the subject of the day. He would say he is not so sure ... but what comes out of his mouth is so extraordinary.” Those were the words of Mr Davinder Singh, SC, who will also be saying a few words later on. They describe the Justice Phang we all know. A first-rate legal mind and at the same time, extremely humble and modest.

5 After NUS, he pursued his postgraduate studies at Harvard University, and was conferred his Master of Laws degree in 1984 and Doctor of Juridical Science in 1988.

Valedictory Reference in Honour of
Justice Andrew Phang

6 Some may know that his doctoral thesis was on the Singapore legal system, and that it was later published in 1990, as a book called “The Development of Singapore Law”.

7 Chief Justice has alluded to some of the key observations he made at the time:

- (a) That Singapore’s common law was “a poor carbon copy of English law”,
- (b) and that we needed to develop an “autochthonous” legal system, attuned to the mores and felt needs of our society.

8 This painstakingly researched work was groundbreaking and essential. A *tour de force*, as some legal historians have said.

9 Indeed, at the time, there was hardly any literature on the Singapore legal system as a whole. Justice Phang took the first serious step towards filling that gap, and shining a light on the importance of charting our own legal path carefully and thoughtfully. As Chief Justice has said, Justice Phang’s commitment to this important enterprise became a defining aspect of his academic work.

10 As a law professor at NUS up to 2000, and later SMU up to 2004, he played an outsized role in developing Singapore law, for more than 20 years. During this time, he wrote extensively on many aspects of Singapore law and the Singapore legal system. These included works on the reception of English law into Singapore, the history and development of criminal law and procedure here, and of course, the field that he is synonymous with: contract law. He is without question one of Singapore’s most outstanding legal scholars.

11 In 2004, he was one of the first two academics to be appointed Senior Counsel.

12 Even today, with his many preoccupations in the Courts, he continues to find time to contribute to Singapore’s legal scholarship by authoring and editing new local publications, and mentoring a younger generation of local scholars. Just earlier this year, the Singapore Academy of Law published the Second Edition of “The Law of Contract

in Singapore”, which is the leading local textbook on Singapore contract law. Justice Phang is both the general editor and a contributor of this seminal book.

13 This, and many of his other works, have been frequently cited by our Courts, including in many landmark judgments. Overall, they have had a profound impact in shaping and advancing Singapore law.

I. As a Judge

14 Justice Phang is, as we have seen, an accomplished scholar. But as we all know, he is also a consummate Judge.

15 He joined the Bench in 2005, as a Judicial Commissioner. Shortly after, he was elevated to a Judge, and appointed as a Judge of Appeal in 2006. He has been 17 years on the Bench under three different Chief Justices, faithfully serving throughout, and a trusted steward of the law.

16 Lawyers will appreciate how Justice Phang has helped to elevate Singapore law with the depth of his analysis, and the rigour of his reasoning. When faced with legal issues that were novel, or highly contested, he would often conduct a sweeping review of the case law across multiple jurisdictions, and the leading academic literature, to determine the legal position in Singapore. This was also how he often brought order and clarity to areas of the law that could be vexed, and difficult to reconcile.

17 His judgments are a testament to his extraordinary legal ability. They are legion, about 400 in total. A prolific output, averaging around 20 judgments a year, for 17 years. Many of them are very well-known, and, all the time, as Chief Justice has said, principled, and sensitive to local circumstances.

18 For example, we often look to English jurisprudence as precedents. But Justice Phang had no hesitation in differing from English decisions, including those of the House of Lords, if he thought it was correct to do so in our circumstances.

Valedictory Reference in Honour of
Justice Andrew Phang

19 But this staggering jurisprudence is not all that he leaves us with. For many of us who have argued before Justice Phang, or dealt with him in other ways, he is imprinted in our memories as a Judge, not least because of his innate decency and his abiding interest in the human condition.

20 I appeared before him several times in the course of my career at the Bar. I was always struck by the depth and comprehensiveness with which he looked at both the facts and the law. He would also come to hearings, extremely well-prepared. That lifted the quality of the exchanges with counsel. Of course, this also meant that there was a lot of pressure on counsel who also had to come to court extremely well prepared, and rightly so! But beyond the purely legal aspects, I was always struck by Justice Phang's evident desire to do right by parties and to do justice in every case – all the attributes of an exceptional judge.

21 His retirement is a loss to the Bench.

II. Concluding remarks

22 Let me conclude, with a quote from Justice Phang himself. He recently reflected that “life, whilst unpredictable, is ... not random – we are where we are for a purpose and it is our duty to fulfil that purpose (whatever it may be) to the best of our ability”.

23 Simple advice; not easy to follow. But over the long arc of his life and career, Justice Phang has provided us with a model of what it means, to live this out wholeheartedly.

24 We thank Justice Phang for living a life dedicated to the law, to Singapore, and inspiring all those around you.

25 Justice Phang, it was an honour to have appeared before you, and I thank you for your enduring contributions to the law and Singapore. We wish you a very happy and fulfilling retirement.

**VALEDICTORY ADDRESS BY
MR LUCIEN WONG,
ATTORNEY-GENERAL OF SINGAPORE**

Lucien **WONG**, SC

Attorney-General of Singapore, Attorney-General's Chambers

1 I am pleased to address your Honours at this Valedictory Reference for Your Honour, Justice Andrew Phang. I have the honour to make this address on behalf of my colleagues at the Attorney-General's Chambers (AGC).

I. Overview of Justice Phang's legal career

2 Justice Phang's legal career is a long and storied one. He received his Bachelor of Laws degree from the National University of Singapore (NUS) in 1982. That year, he became an academic at the NUS Law Faculty, where he spent 18 years teaching and researching the law. During that period, he obtained his Masters and Doctorate in law from Harvard University. He also rose to become Singapore's leading contract law scholar and was appointed a Professor of Law at the NUS in 1999. In 2000, he joined the newly founded Singapore Management University (SMU) as a Professor of Law. He was appointed the Chair of the Department of Law at the SMU Business School in 2001.

3 Since the mid-1980s, Justice Phang has been an advocate of developing an "autochthonous" legal system for Singapore – that is, a system that reflects the needs and circumstances of our people. He was not the first to moot this idea, but he has been its most articulate and enduring advocate. In 1990, he published his seminal monograph, *The Development of Singapore Law: Historical and Socio-Legal Perspectives*. To serve the needs of an indigenous legal system with its own legal literature, Justice Phang penned two local editions of *Cheshire, Fifoot and Furmston's Law of Contract* in 1994 and 1998 respectively. The late Chief Justice Yong Pung How praised this unique work of scholarship, a work which greatly assisted our law students and legal practitioners by explaining our local contract law in the context of English law.

Valedictory Reference in Honour of
Justice Andrew Phang

4 While he was in SMU, Justice Phang was appointed Senior Counsel in 2004. This was a milestone in Singapore’s legal history. It was the first time that the title was conferred for contributions to academia. Justice Phang had received the title despite not making any application. The late Chief Justice Yong noted that Justice Phang’s appointment as Senior Counsel was an acknowledgment of “his outstanding contributions to legal knowledge”.

5 January 2005 marked Justice Phang’s appointment to the Supreme Court Bench as a Judicial Commissioner. In recognition of his legal acumen, he was quickly appointed a Judge in December 2005 and elevated to a Judge of Appeal a mere two months later. At the age of 48, he was the youngest person ever to be appointed a Judge of Appeal.

6 In 2017, Justice Phang was appointed the Vice-President of the Court of Appeal. Over the last five years, he has managed the Court’s ever-growing caseload with distinction. It is only fitting that he was conferred the Meritorious Service Medal by the President of the Republic of Singapore this year.

II. Justice Phang as a Judge

7 As a Judge, Justice Phang has remarked that the mission of judicial writing is to resolve the dispute at hand while laying down clear legal rules for future application. The many litigants who have had the privilege of a hearing before Justice Phang have benefitted from his firm and fair application of the law. The wider public (and the AGC) have profited from Justice Phang’s articulation of clear legal rules in his nearly 400 judgments spanning all areas of the law. In the field of contract law alone, he has handed down various landmark judgments concerning the doctrine of consideration, the classification of contractual terms, and the concepts of frustration, remoteness of damage, and illegality.

8 Even after becoming a Judge, Justice Phang retained an active interest in academia. He and his co-authors contributed to two editions of *The Law of Contract in Singapore* in 2012 and 2022. These widely cited publications add to a publication list of over 130 articles and 15 books by Justice Phang. Another way in which Justice Phang contributed to academia is through his judgments, which frequently cite and discuss

the writings of legal scholars. He thus facilitated a lively exchange of ideas between the judiciary and academia and acknowledged the invaluable contributions of legal scholars in the development of the law.

III. Justice Phang and the AGC

9 On behalf of my colleagues in the AGC, I wish to thank Justice Phang for the guidance and wisdom contained in his judgments. I will briefly highlight a couple of cases.

- (a) Most if not all of you will recall the City Harvest case. A few church leaders were charged with criminal breach of trust “in the way of their business ... as agents” under section 409 of the Penal Code, for misappropriating some S\$50 million worth of church funds. On appeal, the High Court amended the charges to those of criminal breach of trust *simpliciter*, holding that section 409 only applied to professional agents. The Prosecution filed a criminal reference on the proper interpretation of that provision. In a landmark judgment delivered by Justice Phang, the Court of Appeal upheld the High Court’s interpretation of section 409, thereby excluding company directors and governing board members of charities from the scope of that provision.

I cite this case for two reasons. First, while rightly renowned for his expertise in civil law, Justice Phang was equally adept at analysing complex criminal cases, such as this case. Justice Phang’s expertise as a legal historian was brought to bear as he considered the legislative history of section 409 in painstaking detail. Second, Justice Phang was steadfast in his belief that hard cases should not be allowed to make bad law. He handed down sentences that accorded with legal principles, not with prevailing public sentiments.

- (b) The other case I would cite is *Deepak Sharma v Law Society of Singapore*. This case involves private judicial review proceedings, in which the Attorney-General intervened to raise public interest considerations. In Justice Phang’s judgment delivered on behalf of the Court of Appeal, he explained the Attorney-General’s role as the “guardian of the public interest”,

Valedictory Reference in Honour of
Justice Andrew Phang

and he clarified the circumstances in which the Attorney-General may recover costs after intervening in private proceedings to protect the public interest. In 2021, this highly significant judgment was cited by the Minister for Law in Parliament at the Second Reading of the Courts (Civil and Criminal Justice) Reform Bill.

IV. Justice Phang’s kindness and mentorship

10 Despite his sterling achievements, Justice Phang has always hoped to be remembered for his kindness and mentorship. He will indeed be remembered for those values.

- (a) Kindness has been a motif in Justice Phang’s speeches and writings. In his address at the 2016 Mass Call, he exhorted young lawyers to make the doing of “little acts of kindness” a natural part of their lives. And in a show of support for a relatively new student-run law journal, he generously authored a detailed piece on the lives of four contract law experts.
- (b) By the recollections of those whom he has crossed paths with, Justice Phang has been a caring teacher. He once shared that, to him, the only meaningful legacy of his academic career was a box of letters from his students over the years. This personal revelation shows his warmth as a teacher who valued his students for who they were, not what they did.
- (c) Justice Phang’s empathy extended to litigants and their families, especially those embroiled in family law disputes. Two years ago, he presided over an appeal arising from a bitter divorce, in which the wife had insidiously turned her children against their father. Justice Phang did not dispose of the case clinically. Instead, Justice Phang took pains to stress that every child needs love and care from both parents, and he urged the wife to allow her children to restore their relationship with their father.

11 I will conclude with recounting one more of Justice Phang’s acts of warmth and kindness. Every Friday, Justice Phang wishes everyone he meets – no matter what their seniority – a restful weekend ahead. It is now time for us to return the well wishes. On behalf of my

colleagues at the AGC, I wish Justice Phang a restful and richly deserved retirement.

V. Thank you to Justice Phang

12 Justice Phang, you are indeed a legal giant, whom all of us look up to. You will be missed by all of us at AGC. Thank you for serving with distinction and with heart, and for your outstanding contributions to the law and the administration of justice.

**VALEDICTORY ADDRESS BY JUDICIAL COMMISSIONER
GOH YIHAN**

GOH Yihan

Judicial Commissioner, Supreme Court of Singapore

Chief Justice,
Minister Indraneel Rajah,
Mr Attorney,
Mr Adrian Tan,
Mr Davinder Singh,
Mr Scott Tan,
Ladies and Gentlemen,

1 I would like to thank the Chief Justice for giving me this opportunity to join in the tribute of an outstanding man. It is a privilege to join in this tribute, to a person whom I have been blessed to know as a boss, scholar and ultimately mentor in my career and life. In all of these capacities I have known Justice Phang, I, and many others, have been touched by his kindness and humanity.

I. Justice Phang as a boss during law clerkship

2 I first knew Justice Phang in 2006 when I joined the Supreme Court as a law clerk. I understand that Mr Scott Tan will speak on behalf of the law clerks later. For my part, I only highlight one of many experiences that shows Justice Phang's kindness and humanity. And this is how Justice Phang takes the effort to reply every email with his customary "many thanks", even if my last reply was a similar "thank you". In this email equivalent of the contractual battle of the forms with his law clerks, Justice Phang almost always had the last shot, unless the previous email was sent at 3am. Justice Phang did not have to reply. But he made it an effort to let his law clerks know that he appreciated their work.

II. Justice Phang as a scholar

3 After finishing my term as a law clerk, I entered academia. In that capacity, I had the privilege of knowing Justice Phang as a scholar.

It may be odd to speak of knowing him as a scholar when he was still a judge. But it is not unarguable that Justice Phang never left academia. In fact, after his departure for the Bench in 2005, he continued to contribute to academic publications at such a pace and quality that would put most tenured faculty to shame.

4 In a sterling academic career, Justice Phang published over 260 academic works, which include 15 books and 101 full-length articles in top law journals both in Singapore and abroad. Between 1982 and 2000, Justice Phang taught at the NUS Faculty of Law, and was appointed Professor of Law in 1999. He was then appointed Professor of Law at SMU in 2000 and made Chair of the Department of Law at the Lee Kong Chian School of Business in 2001. In that capacity, he helped to lay the foundation for what is today a fully-fledged law school at SMU. In this sense, Justice Phang was a key founding member of the SMU Yong Pung How School of Law. Without his efforts and contributions in those initial years, the law school would not be what it is today.

5 Justice Phang's scholarship is centred on contract law. In this area, he is most well-known for his work in the local edition of *Cheshire, Fifoot and Furmston's Law of Contract*. This was the first publication on the law of contract in Singapore. This was no mean feat considering that Justice Phang had to piece together the state of Singapore law that had developed over many decades since our independence. This important work laid the foundation for the indigenous development of our contract law, which led to the Academy Publishing's *The Law of Contract in Singapore*, the first truly local publication on the subject.

6 Apart from contract law, Justice Phang's scholarship also spans many areas of law, such as legal theory. One other major area is the Singapore legal system and its history. Justice Phang's interest in the Singapore legal system culminated in the publication of his book, *The Development of Singapore Law*, which was based on his SJD thesis at Harvard Law School. His writings in this area laid the firm foundation for the Singapore legal system to flourish and progress. And it also showed a personal devotion and belief in the promise of our own legal system.

Valedictory Reference in Honour of
Justice Andrew Phang

7 Beyond his prolific publications, I wish to highlight three lessons I learned from Justice Phang as a scholar, which I think would be helpful to existing scholars as well.

8 First, Justice Phang showed an unwillingness to be confined as a scholar in thought and reach, for the common law is inherently international. In my early days as an academic, I wrote a case note on a local decision. Justice Phang's advice when I sought his views on where to publish this note was "you should submit it to an international journal (at least at first instance)". This encapsulates Justice Phang's approach to scholarship: dare to go beyond Singapore, for at the end of the day, we are in the contest of ideas and there is no necessary disadvantage being from Singapore. With that approach, Justice Phang broke multiple barriers as a scholar. He was the first Singapore scholar to publish in many of the top international law journals. His boldness broke the barrier for many of us who came after him. We now have the chance to be bold on the international stage only because of Justice Phang's pioneering efforts.

9 Second, Justice Phang has always endeavoured to integrate the theoretical with the practical in his scholarship. Indeed, as he has noted himself, "the true measure of academic scholarship lies not only in its value as a resource for students, lawyers, judges as well as other legal scholars but also in the *practical* influence it has on the development of the law itself" [emphasis in original]. He proceeded to observe that "the highest accolade that can be paid to a piece of legal scholarship occurs when it is considered sufficiently important to be cited by a court". By this and any measure, the influence of Justice Phang's scholarship on the law has been unmatched. His academic publications have been cited over 1,000 times by courts and scholars from no less than 25 jurisdictions. These citations have resulted in very real developments in the law not only in Singapore but overseas.

10 Third, above all his accomplishments as a scholar, Justice Phang personified what it means to be always kind to your fellow scholars and students. Justice Phang has always said it is important to maintain a sense of perspective in academia, where the stakes are not quite so high. Justice Phang lived this. When he was at SMU, he co-authored numerous pieces with younger colleagues by way of mentorship and opportunity. Also, about a year ago, some students from

SMU started a new student-run journal. Justice Phang volunteered a recent piece on the giants of contract law for the journal. He did not have to do either of these things. But he did them, I believe, because he wanted to encourage the next generation of scholars and students. And that is the measure of a man whose kindness shines through and through.

III. Beloved mentor

11 Above all, apart from knowing Justice Phang as a boss and scholar, I have been privileged to have had him as a beloved mentor, and a father figure, for much of my career and personal life. I just want to recount one particular instance which I think exemplifies all that he stands for.

12 I remember an occasion about a decade ago when I was troubled by a personal matter. I had come to the Supreme Court to go through some textbook proofs with Justice Phang in his office. We had dinner after that. He always had that uncanny ability to sense when someone had some unspoken problem and he sensed this in me that evening. As we walked towards the train station, he suddenly, without warning, placed his hands around my shoulders in a fairly crowded Raffles City entrance. He said simply, let us pray. And he did, with absolutely no regard to the people around him. And there he was, a sitting judge of the highest court of the land, with a young academic, in a sea of passers-by. And after he was done, we chatted. We stood there and spoke for a long time until he sensed I was feeling better.

13 This, I think, neatly sums up the tributes we have heard and will hear today. Justice Phang is that rare individual who will literally drop everything for you. And it does not matter who you might be. So long as you have a problem and it comes squarely within his purview, he will be there. That is truly the measure of a man who chooses to be kind, not because it is easy to do but precisely because it is hard. His enduring lesson for all of us is to be kind. And be kind, especially to those who may not be in a position to help you in return.

IV. Conclusion

14 To conclude, Justice Phang has sometimes, in his self-effacing nature, reflected how he has never won a teaching award. Similarly, in

Valedictory Reference in Honour of
Justice Andrew Phang

the lead-up to this Reference, he sometimes wondered to those around him how many would show up. Dear Judge, I think you can see it for yourself today. Not only has the profession turned up in full force, but perhaps significantly, many of your former law clerks and students have come as well. The best teachers do not need medals around their necks, for their reward is that of inspiring the next generation, and whose life goes over into other lives. And to this, please know that you have, through your kindness and humanity, and as a boss, scholar, or mentor, inspired a generation of men and women to be like you, to be kind and to be humble, and to live in service of others.

15 In every email that Justice Phang sends in his battle of the emails with his law clerks, he will always end with “with warmest regards”. It is a signature that many of his former clerks, new to the world of business emails, picked up and stuck with, including myself. It is a simple greeting but one that captures the kindness and humanity that we all have come to know Justice Phang for. As you had said on another occasion, Justice Phang, do not forget us, for we will never forget you. I will miss you very much at the court, where you have been such a pillar of strength and support. But I know that you will continue to be a kindling force and a revealing power to many lives even in your retirement. For now, with the warmest of regards, dear Judge, may I wish you a very fulfilling retirement, and thank you for being that guiding star in the lives of so many, including mine.

16 Thank you.

**VALEDICTORY ADDRESS BY MR ADRIAN TAN,
PRESIDENT OF THE LAW SOCIETY OF SINGAPORE**

Adrian TAN
President, The Law Society of Singapore

The Honourable the Chief Justice, Sundaresh Menon
Justice Andrew Phang
Justices of the Court of Appeal, Judges of the Appellate Division and
Judges of the High Court
Minister Indranee Rajah
Attorney-General Mr Lucien Wong, Senior Counsel
Deputy Attorneys-General of the Attorney-General's Chambers
Mrs Menon
Mrs Phang
Mr Calvin Phua, Deputy Secretary, Ministry of Law
Solicitor-General Ms Daphne Hong, Senior Counsel
Justice David Neuberger, International Judge of the Supreme Court
Mr Davinder Singh, Senior Counsel
Mr Scott Tan of the Attorney-General's Chambers

1 May it please the Court. It is my privilege and pleasure to address your Honours on the occasion of this Valedictory Reference for your Honour, Justice Andrew Phang. I make this Reference on behalf of the members of the Law Society of Singapore.

2 Imagine it is the middle of the night. You are standing at a traffic junction. There are no cars around. There is no human being in sight. It is beginning to drizzle. Your house is across the street. You want to walk across the road, get out of the rain, and go home.

3 But the traffic light is against you. It is displaying a red man. It is illegal to cross the street. You look around. The place is deserted. You hear thunder and you see lightning.

4 Will you break the law, and cross the street?

Valedictory Reference in Honour of
Justice Andrew Phang

5 That was the question posed to me by my lecturer and tutor, Dr Andrew Phang, as he then was. He may not remember asking this question. But I certainly do.

6 The year was 1990. I was a student in his Jurisprudence class. At the time, Dr Phang was already a luminary among law students. His stellar results, his copious articles and books, and his intense lectures were the stuff of legend.

7 For those of us who elected to study Jurisprudence, he introduced us to H L A Hart, Jeremy Bentham, Ronald Dworkin, and the joys of American Realism. In class, in discussing our readings, Dr Phang would probe and draw out our ideas, before dismantling them, and sending us back to square one. Often, we would struggle to cope with his rapid-fire questions, his speed of thought, and his unmatched knowledge of the subject matter. Often, after each class, we would say to one another, “Thank goodness we won’t have to face that interrogation, once we graduate and start practising.”

8 It was in one of those jurisprudence tutorials that he asked us what we would do, at that hypothetical traffic junction. As pedestrians, waiting in the middle of the night, with no one around, would we cross the road when the light was against us?

9 Many students said yes, they would. They gave their reasons: a lack of harm, extenuating circumstances, a purposive interpretation of the Road Traffic Act. Our tutor was unimpressed. In fact, he was quite surprised.

10 To him, the answer was obvious: we should never break the law. Even if no one is watching, we should always observe all the rules. That was what he taught us. That was what he taught generations of lawyers: we should obey the law. We should always act as if there was an invisible judge watching us. This made an enormous impression on all of us in his Jurisprudence class, that day in 1990.

11 1990 doesn’t seem like such a long time ago. To those of a certain age, it seems like only yesterday. But this is a picture of Singapore in 1990: the Prime Minister was Lee Kuan Yew and the Chief Justice was Wee Chong Jin. The first MRT line was completed in that

year. That year, the first Nominated Members of Parliament were appointed. That year, Singapore motorists paid good money to buy the first Certificates of Entitlement or COEs. Seen in this light, it does seem like a bygone era. It was 20th century Singapore.

12 To many more students, Dr Phang was the one who taught us the Singapore legal system, the reception of English law, the Second Charter of Justice, and section 5 of the Civil Law Act. He was the one who introduced us to the odd situation that Singapore then found itself in: an independent republic which continued to rely on England for law, and which looked to a foreign court, the Judicial Committee of the Privy Council in the United Kingdom, as its highest court. That was 20th century Singapore, with its 20th century judicial system, warts and all.

13 As students and idealistic young lawyers, we longed for a day where we would have our own, self-contained legal system. We yearned for Singapore to have its own body of judicial decisions. We wanted to see a time when Singapore court cases were cited at home, and abroad, as the leading decisions of their time. That would be a legal system we would be so proud of.

14 As the 20th century departed, and we entered a new millennium, our tutor was appointed to the High Court Bench. Thereafter, he rose to be a Judge of Appeal, and then became the Vice-President of the Court of Appeal.

15 Many of us, his former students, were now practising lawyers. We found ourselves in hearings before Justice Phang. In many respects, he was the same person, only more so. Let me explain. In court, as he was in university, he had no airs, and didn't require anyone to stand on ceremony. He would be utterly well-prepared, having read all our submissions, all our authorities, and all the authorities we had overlooked. He would immediately come to grips with our arguments, shake, rattle, and roll each of our propositions to see whether it would fall apart. Using that piercing intellect of his, he would poke holes in our submissions. He would then examine our resulting, perforated cases, and tell us what he thought. Advocates appearing before Justice Phang found the experience to be demanding, and daunting, requiring us to confront flaws in our assumptions, gaps in our reasoning, and flimsiness in our

Valedictory Reference in Honour of
Justice Andrew Phang

conclusions. Often, we would leave a hearing before Justice Phang more educated and enlightened by the experience.

16 To the members of the Bar, Justice Phang also revealed himself to be a hardworking, passionate, and prolific judge. He heard many cases. He asked many questions. And he wrote many, many, many judgments. He authored, not dozens, but hundreds of them.

17 Over the years, case by case, decision by decision, Justice Phang added to and enriched the Singapore Court's body of decisions. He was a stalwart member of the new judiciary that built Singaporean jurisprudence. For those of us who studied law in the 20th century, we were excited to see the judiciary of the 21st century carry the torch for our nation as respected thought leaders. More and more, courts in other jurisdictions were citing Singapore cases, and being persuaded by Singapore decisions, in important areas of the law. Today, our Supreme Court leads the way, in grappling with and ruling on the emerging legal issues of the 21st century.

18 For practitioners, Justice Phang's decisions were not only numerous, they were also significant, and covered practically every aspect of the law, from procedure to equity to oppression to contract. Practitioners found that it was almost impossible to attend a hearing without one or more of Justice Phang's decisions being cited – so influential was his writing. A list of his decisions would read like a collection of our Supreme Court's greatest hits.

19 It's no surprise, therefore, that the legal community admires Justice Phang for his phenomenal energy, vast legal knowledge, and ferocious intellectual rigour. For those of us who were his former students, we see that each of his judgments was as analytical, detailed, and thoughtful as we would expect from our former teacher. In each grounds of decision written by Justice Phang, we still see the mind of our tutor Dr Phang: examining each issue, challenging each proposition, and explaining each conclusion. His great gift is to see where the law had been, where it was today, and where it might go, in the years ahead.

20 On this occasion of his Valedictory Reference, the lawyers of Singapore salute you, Justice Phang. Thanks to your prodigious body of work, we know that, even after retirement, you, Justice Phang, will

continue to live in our heads, as our invisible judge, continuing to guide us, test us, and enlighten us. That is your Honour's legacy, to the lawyers and the people of Singapore. The members of the Law Society join the members of the wider legal community, and the judiciary in celebrating your tireless service, your many achievements, and your immense contribution to the jurisprudence of our country.

21 And, on a personal note, as one of the many students whom you taught, may I say that when I look at you, you haven't changed at all. When I look at you, I see the tutor that you were, the jurist that you are, and the teacher you have always been to me. I will follow you anywhere. Except, perhaps, to a traffic light junction. Thank you.

22 May it please the Court.

Valedictory Reference in Honour of
Justice Andrew Phang

**VALEDICTORY ADDRESS BY
MR DAVINDER SINGH, SC**

Davinder **SINGH**, SC
Executive Chairman, Davinder Singh Chambers LLC

The Honourable Chief Justice,
Minister Indranee Rajah,
Attorney General,
The President of the Law Society,
Ladies and Gentlemen

1 It is a very special honour to be given this opportunity as a former classmate and member of the Bar to pay tribute to Justice Phang.

2 Five years ago, in Justice Phang's valedictory address in honour of Justice Chao Hick Tin, he said, and I quote, "*It may be a little-known fact, but I am almost invariably found at the back of queues. I tend to let others go ahead first.*" As his classmate, I know that to be true. But I also know from those four years that while he always gave way to us, he invariably ended up in front, propelled by sheer brilliance to a shining first.

3 There was never any doubt from Justice Phang's student days that he was destined to be in a class of his own. There was also never any doubt that he would fulfil his destiny. But what is just as impressive is that he scaled the heights with humility, grace and without a single trace of self-promotion.

4 As a teacher, he inspired young minds to challenge the authors and question the principles. As an author, he welcomed all challenges, but the wise among his readers knew better than to take him on intellectually. As a Judge, he challenged advocates with his ever so gentle probes and nudges. In my case, he found it necessary, often with a fully justified sigh but always with patience, to conduct make up sessions for the many tutorials that I missed in law school.

5 It is clear from Justice Phang's judgments that before he put pen to paper, he agonised long and hard about the law and the facts.

When he defended principles, he did so with a fresh and compelling perspective. When he departed from them, he strived to ensure that his analysis and reasons would withstand the most rigorous scrutiny of any generation, and I can say with complete confidence that they will. At the end of the day, every judgment of his, always written in an elegant and highly accessible fashion, blended intellectual honesty, logic and a desire to achieve a fair and just outcome.

6 It is not only the living who have benefited a great deal from Justice Phang. Lord Dunedin owes him a debt of gratitude for standing up for him in *Denka Advantech*. If Justice Phang's decision had come out before *Cavendish Square* came to be decided, the UK Supreme Court may well have been persuaded to hold the line on the law on penalties. We in Singapore are grateful that Justice Phang's sheer force of intellect prevented this piety from biting the dust.

7 Justice Phang even once posed a challenge, of sorts, to the Court of Appeal. For generations, we took the test for the imposition of a duty of care for granted. He was the one who saw that it needed clarity and suggested with his usual courtesy and respect that the Court of Appeal might want to take a look at the point. When the opportunity came along, the Court of Appeal did just that and agreed with Justice Phang, with gratitude.

8 These traits were already in evidence during his student days. Unlike many of his classmates, he read every word of every decision, including the dissents. But he did not stop there. He searched out for and read articles not on the reading list. Even that was not enough. He researched and questioned the pedigree of every principle, to see if the history, politics and culture which shaped it continued to be relevant. There is no better illustration of his formidable industry and unquenchable thirst for knowledge as a student that he actually read *Kesavananda*, in its entirety.

9 There was so much in his head that each of his footnotes for class assignments was either an obscure article or another thesis of his. I do not exaggerate when I say that he knew more than many tutors. I am reminded by Justice Steven Chong that oftentimes when a student asked a difficult question, one tutor, who will remain unnamed, would turn to Justice Phang and say "Andrew, what do you think?"

Valedictory Reference in Honour of
Justice Andrew Phang

10 And he would always oblige. He would in the most self-effacing manner unlock the mysteries of the universe. It was always exciting: both because we were in the presence of a certified genius and also because the more he expounded, the less time on the clock for the tutorial and the better the prospects of not being called upon. Even when we were unlucky enough to be asked to contribute, Justice Phang would come to our rescue and save us from the embarrassment of not knowing the answers.

11 His encyclopaedic knowledge, while a boon for the rest of us, did not always work in his favour. As Justice VK Rajah reminded me, because Justice Phang could not pour everything he knew into his exam paper, he would often come out of the exam hall concerned that he had failed the paper. And he was completely genuine about it.

12 That of course was not going to happen. There was never any doubt that he would get an A. In fact, once he established his frightening credentials with his teachers turned admirers, the notion of not using one's name on the exam paper for anonymity became, in his case, a fiction. Lecturers recognised his micro penmanship, and that in and of itself resulted in awe and an A.

13 Like him, the rest of us had our own "*sure fail*" moment: this was when after a paper, we discovered that he had answered the same question. So, we quickly learnt that if we wanted peace of mind before the results, we should avoid going anywhere near his orbit after a paper. The moral was don't ask and don't stand anywhere close enough to hear him talk about the paper.

14 I learnt that the hard way. Early in law school, I remember asking him whether he had answered a particular question. He earnestly launched into the subtle and finer points that the question threw up, and how it also raised a point in an unheard-of dissent. I never made the mistake of asking him again.

15 Not many know that Justice Phang was an accomplished mooter. He and Justice VK Rajah won the Mallal moots. So, on behalf of my fellow Jessup mooters, I would like to thank him for not signing up for the qualifying rounds for the Jessup for he surely would have displaced one of us.

16 I am told that to this day, he regrets that Justice Rajah persuaded him to skip one tutorial to prepare for the finals of the Mallal moots. If he had not agreed, he would have achieved a record of attending every lecture and tutorial in the four years.

17 Speaking at the Mass Call in August 2016, Justice Phang described his feelings about leaving academia and I quote from portions, “[W]hen it came time to leave, the only meaningful – and lasting – reminders of my stint in the university could be found in a small box. It was a box of cards and letters received from students over the decades.... I found... that little acts of kindness (which I must confess did not mean much to me at the time) often meant a lot to them. I take no pride in relating this. On the contrary, it is humbling – because it is a stark reminder that it is in the so-called small things that we do that our greatest (and most lasting) achievements are often (and unbeknownst to us) to be found.”

18 Because of Justice Phang’s countless courtesies and acts of kindness to everyone, and his exceptional service to the country and to the law, life has once again pushed him to the front of the queue and awarded him another first, with distinction. In his valedictory to Justice Chao, he said, “Please do not forget us for we will never forget you”. That is so apt for Justice Phang as well. As he continues to the next stage of his journey, I will add to that by saying to him, “Please do not forget the law, for it will never forget you.”

**VALEDICTORY ADDRESS BY
MR SCOTT TAN,
ATTORNEY-GENERAL'S CHAMBERS**

Scott **TAN**

Deputy Senior State Counsel, Attorney-General's Chambers

The Honourable Chief Justice Sundaresh Menon,
The Honourable Justices of the Court of Appeal, Judges of the Appellate
Division, Judges of the High Court, and Judicial Commissioners and
International Judges of the Supreme Court,
Minister Indraneel Rajah SC,
Attorney-General, Mr Lucien Wong SC,
Deputy Attorneys-General,
Registrar of the Supreme Court
President of the Law Society, Mr Adrian Tan,
Mr Davinder Singh, SC,
Distinguished guests,

May it please the Court,

1 It is a tremendous honour and privilege to stand before you today to pay tribute to an outstanding jurist, a beloved mentor, and a remarkable person. I do so as the representative of some 19 generations of Justices' Law Clerks ("JLCs") on whose professional and personal lives Justice Phang has left his inimitable and indelible mark.

2 Justice Phang's vast erudition and his prodigious judicial and academic output are well-known to all; and they have been expertly addressed by the speakers who came before me. What I hope to do today is to give you a sense of what it was like to serve as Justice Phang's JLC. When I asked former clerks to send me memories of their time with Justice Phang, what came back were not stories of sweeping speeches or grand gestures performed in public view, but memories of the quiet moments when nobody was looking. On and on they came, first in a stream, and then in a deluge. Across hundreds of messages and some seventeen thousand words of thanks, three words kept reappearing: *humanity*, *humility*, and, most of all, *kindness*.

3 Let me start with humanity. Many of us recall what we fondly refer to as “The Sugarcane Story”. Depending on its retelling, the details vary, but the essence of it is this: As a young boy, Justice Phang saw street hawkers selling sugarcane juice by the side of the road and his mother would tell him, “Look at the sugarcane. You squeeze it once, twice, thrice, and then you bend it and squeeze it one more time before throwing it away. Never treat people like that.” Regardless of how high we climb, Justice Phang told us, we should never treat people as disposable objects, to be used and then discarded. That was a story that never left us. Eunice Chua and Crystal Tan from the batch of 2007 still think of it till this day; and Devathas Sathianathan from the batch of 2014 and Norine Tan from the batch of 2015 pass the same lesson on to their juniors.

4 Moreover, this was a lesson which Justice Phang didn’t just teach, but lived out. He never treated us as inputs of production to be used, but as persons to be nurtured. Eden Li from the batch of 2017 recounted that when there was a health scare within her family, Justice Phang immediately told her to set aside her work and return home to spend time with her family. Louis Ng and Tan Sze Yao from the batch of 2008 recalled that conversations with Justice Phang were always bookended with questions about how we and our family were doing. Lim Wen Juin from the batch of 2013, Ho Jiayun from the batch of 2017, Beverly Lim from the batch of 2018, and Chong Yun Ling from the batch of 2020 recalled his many exhortations to put our relationships and our families first, for it is – he always told us – to our loved ones that we are truly irreplaceable.

5 I turn to humility. Despite His Honour’s high station, Justice Phang wore the robes of office lightly. Prem Raj from the batch of 2008 wrote, “[a]t my wedding, he had spoken in such an unassuming manner to my parents that they were shocked to find out he was actually a [Justice of Appeal]. He always spoke to us as equals, notwithstanding the vast gulf in our experience and knowledge.” Damien Chng from the batch of 2019 recounted that a court orderly once shared that he was determined to pay his respects at Justice Phang’s late mother’s wake because His Honour was always unfailingly caring and polite to everyone, especially the administrative staff. Ailene Chou from the batch of 2012 summed it up for all of us where she wrote, “Thank you

Valedictory Reference in Honour of
Justice Andrew Phang

for caring enough for those of us who may otherwise have been too 'small' to merit much notice."

6 And His Honour's humility manifested in gratitude. Whenever we assisted Justice Phang with a judgment, we could always expect to receive a printed copy together with a note of thanks signed personally by Justice Phang. It didn't matter how minor or modest you thought your contribution was – Justice Phang would always thank you for it. Indeed, we clerks used to joke that Justice Phang would never let you be the last one to say, "thank you". If you ended an email to Justice Phang with a note of thanks, His Honour would reply in a flash not only to reciprocate the thanks but also to add his good wishes. And if you *dared* respond, Justice Phang would be there with a rejoinder conveying his "*many*" thanks and wishing you a "*very*" good evening. By that time, most of us knew to stop.

7 Finally, I come to kindness, which is perhaps the greatest of Justice Phang's many virtues. Bryan Fang from the batch of 2014 recounts his JLC admission interview. Bryan was on the receiving end of a particularly probing line of questioning from Chief Justice Menon (an experience which, I am sure, many in the audience would be familiar with) and he was growing increasingly nervous. Sensing this, Justice Phang intervened. Noting that Bryan used to be a competitive swimmer, he asked: "What is your pet stroke?" "Do you prefer short or long distances?" Ever the good swimmer, Bryan grasped gratefully at the lifeline. Reuben Ong from the batch of 2018 recalls a telephone discussion with Justice Phang which he simply did not have the time to prepare for. He could sense that Justice Phang knew, but instead of a reprimand, Justice Phang simply walked him through the materials and encouraged him to share his initial reactions and half-formed thoughts, turning embarrassment into edification.

8 Justice Phang was not just solicitous in times of difficulty, but also compassionate and caring in times of loss. Peh Aik Hin from the batch of 2007 recalls that Justice Phang was there for him when his late mother passed away in 2011, long after he had ceased to clerk for him. In Aik Hin's words: "*I still remember that you remarked to me at my mother's wake that she was smiling very brightly in her photo. I couldn't help but tear up, as that picture was taken on the day of my commencement (during happier times). She could not have been prouder*

to know that I had the opportunity to clerk for the [Court of Appeal] judges, including you. So thank you very much, Judge.” Similarly, Germaine Boey from the batch of 2011 recounts being moved and comforted when Justice Phang wrote her a card after her grandfather had passed on.

9 I could go on, but time will not permit me to tell of the many anecdotes of encouragement, comfort, and thanks that were Justice Phang’s gifts to us and His Honour’s legacy in our lives, so I hope you will forgive me for closing with a personal reflection. When asked what it was like clerking at the Supreme Court, I always respond that it was an instruction not just in the law, but in life. And a large part of that instruction came from my time working for Justice Phang. It was not just what Justice Phang said, but the example of *his person*. I never knew what we did, for instance, to deserve a signed copy of every judgment that we had helped with; or an unexpected phone call, ostensibly on a work-related matter, but always ending with His Honour asking after our well-being. But in a way, that itself was the lesson: I learnt that gratitude, kindness, and grace were not what we deserved, but who Justice Phang was.

Dear Judge (if I may),

10 In Your Honour’s address at the Valedictory Reference in Honour of Justice Chao Hick Tin in 2017, Your Honour said of Justice Chao: “[Y]ou have poured out your life into many, many other lives (including mine). This is the true mark not only of a great judge but also (and most importantly) of a great man.” Respectfully, I suggest that what Your Honour said of Justice Chao applies with equal force to Your Honour.

11 On behalf of all the generations of JLCs who have had the privilege of serving under Your Honour I say, “Thank you.” Thank you for pouring your life out into ours. Thank you for showing us what it means to fight the good fight, to finish the race, and to keep faith with the values of humanity, humility, and kindness that you so beautifully exemplified. Thank you for showing generations of clerks what it means to lead lives of thankfulness, service, and joy. We shall be forever grateful.

Valedictory Reference in Honour of
Justice Andrew Phang

ADDRESS BY JUSTICE ANDREW PHANG

Andrew **PHANG** Boon Leong
Justice of the Court of Appeal, Supreme Court of Singapore

Chief Justice,
Minister Indraneel Rajah,
Mr Attorney,
Judicial Commissioner Goh,
Mr Adrian Tan,
Mr Davinder Singh,
Mr Scott Tan,
Distinguished Guests,
Ladies and Gentlemen:

1 I would like to express my profound gratitude to all who have spoken today and, indeed, all who have taken the time and trouble to honour me with your presence at today's reference. I am truly humbled. I am also not a little embarrassed, not least because of my natural makeup (which is that I am at my most comfortable when I am in the background).

2 Whilst you have heard about what I have achieved, I truly believe that every significant achievement in one's life is the result not only of one's own commitment and hard work but also (and more importantly) the efforts of others. Looking back on my own life, I would not be here today without the immeasurable love and profound guidance of my late parents. And on a daily basis (for as long as I can remember), my dear wife has constantly supported me in ways too numerous to mention – all this while achieving much success in her own right as a scholar. She – and my daughters – constantly remind me how important family is and how I need to strive always to be a better person each day, both within and outside the family.

3 At the courts, Chief Justice Sundaresh Menon has always been a constant source of support and encouragement. He is not only a jurist of the first rank with a world-class reputation that has justly brought him accolades both within Singapore as well as internationally. He is also a person whose exceeding humility and humanity have touched not only

my life but also the lives of all who have had the privilege to work under him. I am also so grateful to *all* my colleagues throughout the years, whose support has been indispensable and very greatly appreciated. I would like to especially thank Justice V K Rajah who helped me as I transited from legal academia to the Bench. More importantly, this year marks half a century of friendship. I would also like to thank Justice Chao Hick Tin for his mentorship and friendship over many years.

4 I would also like to take this opportunity to remember the late Chief Justice Yong Pung How. It was his – if I may say so – bold recommendation at the time which resulted in my being appointed to the High Court (and, subsequently, the Court of Appeal). That decision profoundly changed the course of my professional life over the past (almost) eighteen years. I am truly grateful to him not only on a personal level but also for how he (in addition to developing Singapore law) established – during his tenure as Chief Justice – the foundations upon which Chief Justice Chan Sek Keong and, subsequently, Chief Justice Menon, could proceed to lead the courts in developing Singapore law in a manner that has received a recognition that has stretched beyond the shores of Singapore. Foundations entail so very much effort and yet are, by their nature, not as obvious as the building that has been erected upon them. It was an extremely arduous task to oversee the clearing of the backlog in the courts but without doing so, our courts could not even have begun to develop Singapore law to the degree that we see today. The nation owes him a great debt of gratitude.

5 I now want to address the legal profession as well as those who will join this honourable profession. I want, in particular, to address what gives meaning and purpose to what we do as lawyers and as human beings – for the one is inextricably connected to the other. And it is this: that we must always do our very best, regardless of where we are and the task which has been allotted to us *and* we must trust that what we do will touch lives for the better. This applies not only in the professional context but also the family context as well. Trusting that we have touched lives for the better is, in my view, of vital importance because we often measure one's significance by the professional heights one has reached in terms of status, power and material wealth. Let me suggest that this is an erroneous approach, not least because it means that the vast majority of us could never find meaning, significance or purpose in our lives. Such an approach also ignores the fact that true success in

Valedictory Reference in Honour of
Justice Andrew Phang

touching lives cannot be measured by such a simplistic metric and, indeed, cannot often be measured at all. Let me elaborate from my own experience.

6 When I was a mere clerk in the army, I nevertheless strove to do the best I could. That is why, till this day, I still recall being so quietly proud at having my perfect copy typescript pinned up on the class noticeboard whilst attending an advanced clerk course. It was nothing in itself but it was symbolic of the fact that by sheer determination and practice, I managed to overcome my inherent lack of manual dexterity and was able to contribute in my small way. Put simply, I was determined to be the best clerk that I could be.

7 When I entered law school, I was determined to be the best law student I could be in the sense of cultivating a love for the law. Believe it or not, grades were not the primary motivation because there were many courses in which an A grade was not awarded.

8 When I began lecturing in law school, my mother, who was a gifted teacher and principal, was appalled that I would be “unleashed” on my unsuspecting students after only two days of lectures at the then Institute of Education. Notwithstanding that, I tried – for well over two decades – to be the best lecturer I could be, caring for my students not merely as receptacles to be filled with legal knowledge but also as people to engage with not just on law but also on life itself. The law is a marvellous vehicle for discussing life and life values (without, of course, imposing one’s own views in a dogmatic fashion). I also strove to be the best researcher I could be. Put simply, I embraced legal academia as a real calling.

9 It came as a bolt from the blue when I was asked to join the Bench. I then strove to be the best judge that I could be. It was not an easy task at first. Indeed, after joining the Bench, I recall being in Hong Kong to deliver a public lecture. One of the first questions I was asked was what it was like to be a judge after having been a legal academic for such a long time. I still remember my response vividly. It was unscripted and instinctive but quite picturesque. I likened the initial transition as follows: being a legal academic was like wearing gloves that were crafted by its maker who knew not only the size of my hands but also the best material from which to craft those gloves, with the material

fitting so well that it felt like it was a part of me, whereas being a judge was like climbing up an almost perpendicular wall with no safety harness! I am grateful that after so many years now on the Bench, the experience generates much less apprehension.

10 What I draw from my life's journey is, first, that life is unpredictable. As I alluded to, not all of us will reach the pinnacle of *material* success. In my view, however, that does not prevent us from having lives filled with meaning and purpose. Had I continued as a clerk or a secretary (as in the army), I would still have tried my best to be the best clerk or secretary I could be and would have found meaning in being just that. And, as already mentioned, I strove to be the best lecturer I could be and had I remained in legal academia, I would have been content in finding meaning in that calling. Indeed, as I reflected upon each stage of my life's journey, the *attitude* has been the same. As importantly, I always made it a point to make time for my family. Nobody is indispensable at the workplace but we are indispensable to our families.

11 But, you may ask, how then do we measure whether we have touched other lives? It might be easier to discern this in our family context for obvious reasons. That is why I mentioned that we must *trust* that our efforts have touched other lives (including those of clients and, for legal academics, those of your students). I believe that as I was given, you, too, will be given tangible encouragement along the way – and that will keep you going. For example, I believe that I was not the most popular lecturer because I did not spoon-feed my students but, on occasion, I would receive a heartfelt card or letter and that encouragement kept me going. I have taken some time to emphasise that we must always do our very best, regardless of where we are and the task which has been allotted to us *and* we must trust that what we do will touch lives for the better – and that this applies not only in the professional context but also the family context as well – because I believe that this life principle will help sustain you in your professional and life journeys. It has certainly sustained me for over four decades. In my view, this is not mere blue sky idealism but you need to have the courage to *live* it out in order to validate it through your own tangible experience. Indeed, in the context of legal practice, Chief Justice Menon pointed out, in his Mass Call Address earlier this year, that the legal profession is an honourable profession that comprises the core attributes

Valedictory Reference in Honour of
Justice Andrew Phang

of integrity, excellence and service that must be put into practice. When we live out our professional lives in this way, even hard work takes on meaning and purpose as opposed to being viewed as mere drudgery.

12 Books, articles and judgments will become outdated with time. You can leave behind material wealth but you cannot take it with you. However, the life you have touched (even if the person concerned does not thank you expressly) is part of a *living legacy*. Whilst you might not be able to measure success in this context in conventional terms, I believe that if you have touched even one life for the better, that is more precious than all the material accolades the world has to offer (and it is very likely that you would in fact have touched far more lives than that). This is not to downplay the achievements of those who are materially successful but if you happen to fall within this category, wear your honours lightly and use your talents and resources to enrich the lives of others. Above all, never neglect your family – value them and love them – for they are irreplaceable to you as you are to them.

13 Thank you once again, and may I wish everyone good health, happiness, and all the very best in all your future endeavours.