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Tan K. B. EUGENE

Singapore Management University, eugene@smu.edu.sg

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Holding to a moral compass against the pull of profits



EUGENE K B TAN

In July 1961, 22 students from the then University of Malaya in Singapore became the first locally-trained law graduates. This pioneering class included Chief Justice Chan Sek Keong, academic-diplomat Professor Tommy Koh and the first woman law dean in Singapore, Dr Thio Su Mien.

Today, half a century later, the first batch of Singapore Management University (SMU) law students – comprising of 106 LLB and 17 Juris Doctor degree students – graduates.

Singapore's second law school admitted this pioneer intake in August 2007.

Legal education has come a long way since teaching for the Bachelor of Laws degree began here in September 1957. Those from the National University of Singapore and its predecessor institutions now form the majority of the Supreme Court justices, are in demand by the top local and foreign law firms, and quite a few are teaching in local and foreign law schools.

Our judges have, over the years, developed a body of local jurisprudence, with some of the legal analyses adopted by other Commonwealth courts – testimony to the quality of legal thinking here.

But as Singapore society becomes more complex, more will be expected of our legal system and the lawyers and judges who are part of it. Increasingly, our laws will have to innovate in a rapidly changing world. Our law schools cannot just produce good legal technicians. The larger challenge is to produce lawyers who are innovators and can utilise the law creatively to produce not only effective and efficient outcomes, but also solutions infused with social justice and fairness.

THE TOP DOLLAR DILEMMA

From the cocoon of the university, young law graduates step into a legal environment that is intense, competitive and demanding. Law firms are prepared to pay top dollar for the top talent. The starting pay for freshly minted lawyers in the big four local firms is in the region of S\$5,000 a month.

While much has been made of law as a noble profession, profits are important to law firms. Law firms are, after all, not charities. Profits are needed to make the practice sustainable, to deploy new talents, technology and resources in the service of clients and the legal system.

In short, the challenge facing law firms and lawyers is not whether profits are necessary – but how they are generated. In turn, it reflects how the profession views profits – as a means to an end, or an end in itself.



ART BY YEN YOK

Yet, in tandem with the strong market and managerial logic in much of the professional world today, technical competency and rigour has gained the upper hand.

The abiding principle of “top dollar for top talent”, coupled with the strong demand for lawyers, make law a lucrative profession. But a balance patently needs to be struck between competency, material rewards and integrity.

To be sure, they are not mutually exclusive. There need not be a Faustian bargain between value and values. But in all professions today, we see the trend of an overwhelming preference and an instrumental privileging of professional knowledge and technical nous – worryingly, often at the expense of professional values and ideals.

The relative worth of a professional is often measured by the amount of revenue and profits he makes for the practice and for himself. For lawyers, winning cases is not enough; it is also about making high billings. This mono-dimensional focus on material trappings can undermine the ethos of professionalism. It is crucial for professionals to have a nuanced understanding that the craft they practise does exist for more than just its own sake.

Law fulfils a vital social function, and lawyers have a fundamental role in ensuring that the legal system, the laws and

the practitioners contribute towards enhancing positive human values instead of undermining them. A “win at all costs” or a “winner takes it all” mentality consigns ethics to the margins – when it should be a necessity and an asset in the legal profession.

In providing legal counsel, lawyers must obviously provide lawful (what is legal) advice. But less emphasised is the moral duty to provide ethical (what is right) advice as well.

This is not about imposing one's moral scruples and rectitude on an unwitting client. Rather, it helps clients appreciate how their decisions will affect others and what those effects will be.

Put simply, a lawyer's responsibility is to use his skills, knowledge and values such that they respond fully to the client's needs and interests in an ethical and responsible manner.

A MARKET FOR VIRTUE

In his remarks to the Forum of Senior Counsel earlier this month, the Chief Justice spoke of the coming decade as being “crucial for raising the standards of the Bar, and in particular the lawyers who are coming into the profession”.

“They must be helped to protect and strengthen the best values, practices and

At law school admissions interviews, many applicants speak passionately of their desire to be criminal lawyers to protect the underdogs, the oppressed, the wrongly accused. What happened to the ideals, the zeal? Are they snuffed out, unwittingly, in law school? If so, there must be soul searching within legal academia.

traditions of the Bar so as to continue to earn the confidence and trust of the people that it can solve their problems or protect their interests, without fear or favour,” said CJ Chan Sek Keong.

The market for virtue certainly could be strengthened.

Anecdotal evidence suggests that the cold calculus of a lower rate of material rewards from criminal work results in a lower supply of criminal lawyers in Singapore.

The demand for criminal lawyers is there: The criminal caseload in the Subordinate Courts went up from 265,391 in 2009 to 277,221 last year.

However, the Chief Justice observed, the criminal Bar has not expanded in the past decade. He noted the “intractable problem” since “we cannot turn back market forces in determining the financial rewards for such kind of work”.

At law school admissions interviews, many applicants often speak passionately of their desire to be criminal lawyers to protect the underdogs, the oppressed, the wrongly accused. What happened to the ideals, the zeal and the passion? Are they snuffed out, unwittingly, in law school? If so, there must be soul-searching within legal academia.

Ultimately, lawyers have to be the staunchest advocates of their profession's own ethical standards. These standards must meet not just community needs and expectations, but also go beyond regulatory requirements and industry norms.

If we return to the premise that law is intrinsically a humanistic enterprise, then it cannot simply be about maximising profits. It has to be about ensuring that law is able to further enhance those fundamental human values instead of detracting from them. This imperative to give voice to values then infuses the profession with a soul and a strong social purpose. ■

Eugene K B Tan is assistant professor of law at the Singapore Management University School of Law.