

**MASS CALL ADDRESS 2021**  
**THE LEGAL PROFESSION AMIDST THE PANDEMIC:**  
**CHANGE AND CONTINUITY**

Monday, 23 August 2021

The Honourable the Chief Justice Sundaresh Menon  
Supreme Court of Singapore

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**I. Introduction**

1. Good morning. Let me begin by congratulating you on your call to the Bar. This is the second time that we have had to conduct the Mass Call by videoconferencing. While I would have very much liked to meet all of you in person, the fact that we have had to conduct these proceedings remotely is, I think, an apt reflection of the unprecedented and uniquely challenging conditions in which you join the ranks of this profession.

2. It is apt then to speak to you about change but also about continuity. The late President Kennedy once remarked that “*change is the law of life*”.<sup>1</sup> Indeed, change will, I think, be a defining feature of your lives in the law. Today, you have been transformed from *students* of the law to *practitioners*; but this comes

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<sup>1</sup> John F. Kennedy, 35th President of the United States of America, “Address in the Assembly Hall at the Paulskirche in Frankfurt” (25 June 1963). President Kennedy was speaking to, among others, members of the German federal parliament (the Bundestag), members of the upper house (the Bundesrat) and Dr Ludwig Erhard, the then Vice-Chancellor and Minister of Economics who was known for leading the post-World War II economic recovery in West Germany known as the “Wirtschaftswunder”, or German economic miracle. The full quotation reads, “Change is the law of life. And those who look only to the past or the present are certain to miss the future.” See also “Address in the Assembly Hall at the Paulskirche in Frankfurt”, *The American Presidency Project* <<https://www.presidency.ucsb.edu/documents/address-the-assembly-hall-the-paulskirche-frankfurt>> (accessed 8 August 2021).

at a time when the profession you have just entered is itself experiencing profound transformation. There is also a sense that we must imagine and develop a new and more efficient way of administering justice if we are going to avoid a justice gap of unmet legal needs. At the same time, the march of technology has opened up numerous possibilities as to how we may do so. Much has changed, and much more will surely change. Today, I want to speak to you about what this might mean for you as you embark on your careers as officers of the law.

## **II. Change: The legal profession amidst the pandemic**

3. Let me begin with the transformation of our systems of justice. The pandemic has been a watershed moment for all of us involved in the administration of justice. For one thing, it has brought the use of technological tools into the mainstream of many legal tasks and processes. Much of this has involved simply migrating traditional, *offline* processes to a digital, *online* format. This ceremony is a case in point; our participation in the proceedings has been shifted to a digital medium, but the proceedings themselves are not fundamentally different to what the 'live' process would have been.

4. But it would be a mistake to think that this is the main gain to be had from the integration of technology into our work as judges and lawyers. Instead, I suggest that the true potential of technology lies in its ability to radically *transform* processes altogether. Take, for example, Google Maps, which not only serves the functions of a printed map, but far beyond that, allows its users

to create itineraries, review destinations, and compare room rates and other prices, all in real time. The fact that we now take these features for granted demonstrates how Google Maps has not so much *replaced* printed maps as it has *redefined* the very concept of a map and its functions. Likewise, Facebook, which started out as an online student directory,<sup>2</sup> now comprises an entire ecosystem of applications which billions of people use everyday not just to connect with friends, but to work, play and shop.

5. These examples offer us a glimpse of what technology could do for our legal processes, some of which have remained largely unchanged for centuries. Online dispute resolution systems, for example, do not simply digitalise offline court hearings. Rather, in allowing *asynchronous* interactions between the adjudicator and the disputing parties – for instance, by allowing a party to upload its submissions within a certain time, and then allowing the opposing party to provide its response by way of comments on those submissions also within a stipulated time frame – such systems could potentially minimise the need for lawyers and judges to congregate in a physical or virtual location at the same time. This holds the promise of saving not just the cost of an attendance but also overcomes the considerable difficulties commonly associated with scheduling, especially where multiple parties are involved. The technology needed to make this work is email and that has been around for decades. If radical and

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<sup>2</sup> Sarah Phillips, “A Brief History of Facebook”, *The Guardian* (25 July 2007) <<https://www.theguardian.com/technology/2007/jul/25/media.newmedia>> (accessed 8 August 2021).

meaningful change can so readily come out of technologies which can hardly be said to be groundbreaking, the possibilities that the technologies of the future might unlock are surely extremely exciting.

6. Two months ago, the Law Society of England and Wales released a thought-provoking report titled “Images of the Future Worlds Facing the Legal Profession”. This offers snapshots of how the legal landscape might change over the next 30 years. Let me mention three of their predictions.

- a. First, the art of lawyering will be increasingly shaped by artificial intelligence, or “AI”. As AI systems become more capable of discharging some of the functions performed by lawyers today, the role of the lawyer – particularly that of the *junior* lawyer, whose lower order tasks would generally be more susceptible to automation – will have to evolve with the times.<sup>3</sup>
- b. Second, the proliferation of data and data analytics in legal practice will place a premium on those who are numerically and technologically literate, and who are able to offer more personalised and relevant services for their clients.<sup>4</sup>
- c. Third, as technology establishes its ever-growing presence in the legal market and justice system, the legal sector will increasingly

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<sup>3</sup> The Law Society of England and Wales, *Images of the Future Worlds Facing the Legal Profession 2020-2030* (“Future Worlds 2050 Report”) (May 2021) at pp 30, 32–34 and 53.

<sup>4</sup> Future Worlds 2050 Report at pp 37–41.

require the services of stakeholders from non-legal backgrounds, such as technologists, project managers and data analysts. There will be a growing need for lawyers with a multidisciplinary background and outlook, who can effectively interface between the legal and non-legal spheres.<sup>5</sup>

7. These are, of course, just hypotheses of what the future may hold and things might not materialise in exactly this way. But these seem very reasonable forecasts; and even if they turned out to be somewhat wrong, what we can be certain of is that things will be very different from what we have been accustomed to.

### **III. Change: The evolving role of the legal professional**

8. What does this mean for us as legal professionals? To answer that question, we must first examine what defines us as professionals. In 1953, the great American legal scholar, Roscoe Pound, suggested that a profession comprised a group of persons united in the “[pursuit of] a learned art... in the spirit of public service”.<sup>6</sup> Today, nearly 70 years on, Dean Pound’s emphasis on learning and public service has proved resilient. Getting called to the Bar means

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<sup>5</sup> Future Worlds 2050 Report at pp 55–58.

<sup>6</sup> Roscoe Pound, *The Lawyer from Antiquity to Modern Times* (West Publishing Company, 1953). See also the Honourable the Chief Justice Sundaresh Menon, “Law and Medicine: Professions of Honour, Service and Excellence”, 23rd Gordon Arthur Ransome Oration delivered at the Opening Ceremony of the 51st Singapore-Malaysia Congress of Medicine (21 July 2017).

so much more than earning a qualification. It means that you take on the mantle of service, and commit yourself to learning and the pursuit of excellence, not for their own sakes, but for a higher and far more worthy cause – the administration of justice. I suggest that this has at least three implications for how we must conduct ourselves as professionals in the face of the challenges and opportunities that lie ahead.

9. First, the professional's commitment to *public* service over narrow self-interest equips her with what is, in my view, the appropriate lens through which to view the impact that disruptive legal technologies might have on the profession. I had earlier touched on the transformative potential of technology.

10. Technology holds tremendous promise as a means of enhancing access to justice. Let me give just a few examples of what we are already working on:

- a. First, the State Courts Centre for Dispute Resolution has over the past year been piloting the use of asynchronous hearings. This will allow the disputing parties to apply for directions and make arguments by email, with the Court responding, also by email.<sup>7</sup> In many cases, this will wholly eliminate the need for attendance in court, whether virtually or otherwise, thus reducing costs and lowering the barriers to access justice.

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See the State Courts' Registrar's Circulars on asynchronous hearings, including Registrar's Circular No. 13 of 2020, "Asynchronous Hearing and Processing of Pre-Assessment of Damages Alternative Dispute Resolution Conferences" (29 June 2020) and Registrar's Circular No. 5 of 2021, "Further Extension of Pilot Programmes for Asynchronous Hearings Implemented under Registrar's Circulars Nos 11, 12 and 13 of 2020" (25 May 2021).

b. Next, the Judiciary, in partnership with the Singapore Academy of Law, has developed an online outcome simulator to help parties involved in motor accidents make informed decisions about their motor accident claims. The simulator will help the parties assess the likely outcome should they proceed with litigation, and this hopefully will encourage the early and amicable settlement of such disputes.<sup>8</sup>

c. And finally, the Family Justice Courts is working on developing an electronic Litigation Assist system to enable litigants-in-person seeking an uncontested divorce to file their own documents online. The portal will assist them with the generation, completion and submission of documents and draft court orders, and may also connect them with lawyer-mediators who can advise and assist them with online negotiations.<sup>9</sup>

11. But at the same time, it should be noted that technology, by eliminating or significantly cutting down the scope for entire categories of work that would have been billed; by equipping laypersons with the tools to more readily and

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<sup>8</sup> See the Outcome Simulator on Motor Accident Claims Online (<https://motoraccidents.lawnet.sg>).

<sup>9</sup> The Honourable the Chief Justice Sundaresh Menon, "From Family Law to Family Justice", Keynote Address at the Law Society Family Conference 2020 (14 September 2020) at para 41; Justice Debbie Ong, Presiding Judge of the Family Justice Courts, "A New Tomorrow", Family Justice Courts Workplan 2021 (4 February 2021) at para 36; Theresa Tan, "Portal to Ease Uncontested Divorce Process to be Up by Year-end", *The New Paper* (5 October 2020) <<https://www.tnp.sg/news/Singapore/portal-ease-uncontested-divorce-process-be-year-end>> (accessed 8 August 2021).

effectively represent themselves; or simply by challenging the old and established ways of doing things, might come to be seen by some as threats.

12. I think this would be unproductive and ultimately, even self-destructive. The tide of technology will come in whether or not we want it to, and it will be those willing to acknowledge this reality and so take the steps needed to equip themselves who will ultimately ride the wave, rather than be overwhelmed by it.

13. But perhaps more importantly, as professionals, we are called to rise above our self-interest and to fulfil our calling to serve the public in the administration of justice. If we truly believe in this, then we must surely come to see technology not as a competitor, but as a partner in service of the ends of justice.

14. The second major implication of the changing environment for us as professionals united in service of justice, is that we must be *proactive* rather than reactive to the justice needs of our society. I make two points here. First, major changes are afoot in the field of dispute resolution. The paradigm of a universal, one-size-fits-all process for all types of disputes has given way to a more nuanced model which emphasises the need to tailor the process to fit the dispute. Three examples will illustrate the point:

- a. First, in commercial litigation, there is now a growing sense that some disputes are getting so large and complex that they are nearly impossible to adjudicate properly. Advances in technology have all but erased the practical limits that once existed on the



amount of information and data that could potentially be put in evidence, forcing lawyers and judges alike to sift through simply impossible quantities of data, and gravely threatening the proper adjudication of the dispute. Serious consideration will have to be given to how we might right-size such disputes, whether through the use of non-adversarial means of dispute resolution or even of assistive technologies.<sup>10</sup>

- b. Relatedly, the centre of gravity of dispute resolution is shifting to embrace non-adversarial approaches. The entry into force of the Singapore Convention on Mediation last year<sup>11</sup> is both a measure and a motor of this shift. Moving forward, we will have to think about how mediation and other forms of consensual or conciliatory alternative dispute resolution modes may effectively be integrated with the adversarial processes, so that disputing parties are offered a holistic and varied menu of options from which to select a combination of procedures most suitable for the management and resolution of their disputes.<sup>12</sup>

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<sup>10</sup> See also The Honourable the Chief Justice Sundaresh Menon, “The Role of Commercial Courts in the Management of Complex Disputes”, Speech at the 7th Annual Conference of the International Academy of Construction Lawyers (9 April 2021).

<sup>11</sup> Ministry of Law, “Singapore Convention on Mediation Enters into Force”, Media Release (12 September 2020) <<https://www.singaporeconvention.org/media/media-release/2020-09-12-singapore-convention-on-mediation-enters-into-force>> (accessed 8 August 2021).

<sup>12</sup> The Honourable the Chief Justice Sundaresh Menon, “Setting the Stage for Mediation’s Golden Age”, Keynote Address at the India-Singapore Mediation Summit (17 July 2021) at paras 21–23.

c. Nowhere is the importance of thoughtful procedure more evident than in the area of family justice, for which a new approach premised on what we have referred to as ‘therapeutic justice’ is now being pioneered. In the matrimonial context, social science has taught us that the traditional adversarial model of dispute resolution, with its emphasis on finding fault and attributing blame, has the potential to harm rather than to help.<sup>13</sup> Indeed, this finds support in a recent study of the durability of divorce outcomes in the Singapore Family Justice Courts. Drawing upon data from around 2,000 cases, the authors found that where there were children to the marriage, the durability of divorce orders arrived at through mediation was significantly higher than in litigated cases and negotiated settlements.<sup>14</sup> This suggests that forward-looking, interest-based approaches such as mediation tend to result in the best outcomes not just for the disputing spouses, but more importantly, for the affected children.

15. Now, these developments may challenge some of our long-held assumptions but they are also areas of boundless opportunity which show just

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<sup>13</sup> Kevin Ng, Yarni Loi, Sophia Ang and Sylvia Tan, *Family Justice Courts – Innovations, Initiatives and Programme* (2018) 30 SacLJ 617 at paras 30–31.

<sup>14</sup> Dorcas Quek Anderson, Eunice Chua and Yilin Ning, “To Negotiate, Mediate or Litigate? Examining the Durability of Divorce Outcomes in the Singapore Family Courts” (publication under review) (manuscript at pp 28–29).

how rich and exciting a future awaits young professionals committed to using their talents to make a difference.

16. Second, and still in the context of being proactive rather than reactive, there is, I think, a growing sense that lawyers need an appreciation of skills outside of the law. It is now clear that the law does not exist in a silo. Instead, it intersects with a multitude of other disciplines which run the gamut from biogenetics to statistics. The intersection between law and technology will be a particularly rich area for new developments. Cases involving cryptocurrencies and the contractual implications of decision-making using computer algorithms have already come before our courts, and we should expect that technology will continue to throw up a steady pipeline of thorny and interesting legal issues as ever more complex technologies such as self-driving vehicles mature and enter into the mainstream. This means that we will need professionals able to take a multidisciplinary approach to the increasingly multidisciplinary problems that will arise in the course of legal practice. This will require us to change our approach to legal and professional education at all levels, and discussions – involving the Judiciary, the Government and the universities – as to how we might better prepare both lawyers and law students to face these and other challenges, are already well in progress.

17. My third and final point on the implications of the rapidly changing conditions that confront us relates to what Dean Pound had referred to as the professional's pursuit of a *learned art*. I spoke some years ago about a concept known as the decreasing "half-life of knowledge", which refers to the amount of

time that lapses before half of all the knowledge in a particular field is superseded, either because it has been found to be untrue, or because it has simply become irrelevant. The half-life of knowledge in the sciences such as engineering and medicine has continued to fall as advances in science and technology render old practices and precepts obsolete ever more quickly. And the law is not immune to this. Entirely new fields of law ranging from e-commerce to environmental sustainability have emerged in a bid to keep up with these pressing fronts of human activity and endeavour. And apart from substantive law, the *practice* of the law too is, as I have already said, changing dramatically. The upshot of all this is that if mastery of our “learned art” is an ideal we espouse, then, as professionals, we must commit to being lifelong learners.

#### **IV. Continuity: The core values of the profession**

18. So, a lot has changed and undoubtedly will continue to change for us as legal professionals. But we must never overlook the things that I hope will always stay the same.

19. First, an unwavering commitment to the core values and ethics of our profession. There may be a tendency, especially amongst younger lawyers, to focus on those aspects of the lawyer’s craft commonly associated with winning the case: persuasive oratory, eloquent prose, strategic cross-examination. Now, these are undoubtedly important skills for any lawyer hoping to make her mark on the profession; but they are only brought to life when accompanied by those

traits which cannot be learned as such, but must be *lived*: honesty and integrity, humility, compassion and grace. I echo Mr Vijayendran's point that we are a profession of honour and we must honour those around us. Always be courteous in your dealings with your fellow professionals – your learned *friends* – for we are, after all, part of the same community.

20. Second, a heart of service for the society we live in. The *pro bono* spirit is among the very best traditions of our Bar, and I hope that you will, as your seniors have before you, do your part to keep it growing. Few things are more precious than the opportunity to help someone who has been shut out from having access to justice, and you could be the person who unlocks that door. So, I strongly encourage you to actively seek opportunities for involvement in *pro bono* work. The Criminal Legal Aid Scheme is an excellent and exceedingly meaningful avenue for *pro bono* service, and I unreservedly commend it to each of you.

21. Third, we are, first and foremost, a professional *community*. Learn to lean on that community; look for role models and mentors to whom you can turn for guidance and inspiration. Earlier, Mr Vijayendran emphasised the importance of adopting a mentor who displays the virtues and qualities that you aspire towards. Indeed, there is no shortage of senior lawyers who embody the very best qualities of our profession. One of them was the late Mr Harry Elias SC, a former President of the Law Society. Mr Elias was a remarkable mentor and role model; a true gentleman and officer of the court. Beyond his formidable reputation as a litigator and advocate, he was also a shining example of the very

qualities I have just spoken of: he was honest, upright and committed only to the law. He was also unfailingly courteous to all who had the pleasure of encountering him. And above all, he had a most tender heart for the underprivileged and downtrodden – and we have him to thank first and foremost for the Criminal Legal Aid Scheme, which is, perhaps, the most precious legacy he has left us. His passing last year moved so many of us who knew him because of what he stood for and how he practised his craft. I encourage you to make the effort to learn a little more about him so that you too might find the inspiration to embark on your life in this profession in the best possible way.

22. Finally, as much as you will benefit from the work of your seniors, learn also to pay it forward. The Law Society and the Singapore Academy of Law both provide excellent avenues for you to contribute to the work of our professional community, and I hope you will actively participate in the various committees and focus groups.

## **V. Conclusion**

23. Getting called to the Bar is a time-honoured tradition that represents the culmination of years of hard work. Behind each of your pictures here on the screen lies an extraordinary personal journey of growth, labour and sacrifice. You should be very proud of having reached this milestone in your careers and I congratulate you and your loved ones who have stood by you and supported you in your respective journeys.

24. Let me close by thanking the families and, in particular, the parents, of those who have just been called. You have done so much to bring these young women and men to this point. I thank you for this and I salute you for the sacrifices you have each made to make this day possible. This is your day too. In these uncertain and unusual times, family is so often our first and most important constant.

25. Once again, on behalf of the Judiciary, I welcome you to this profession and I extend my heartiest congratulations and best wishes to all of you for a satisfying and fulfilling career ahead.

26. The court is now adjourned.