

The Politics of Judicial Institutions in Singapore

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IN the past decade Singapore, along with the other newly industrialising countries of Asia, has been touted as an alternative model of economic development. Its high standard of living, measured in economic terms, and freedom from foreign debt, among other aspects, has been envied by less fortunate nations. More recently, features of Singapore society have been cited with approval by overseas commentators -- its law and order regime, compulsory savings, maintenance of parents legislation to compel children to look after their aged parents, to name a few. While these may be desirable, the manner of their implementation depends on certain anti-democratic and authoritarian structures and institutions. Today, I intend to look at one of these - the judicial institutions.

I was astounded when my attention was first drawn to an October 1993 *Straits Times* banner-headlines, *Singapore's legal system rated best in world: Full confidence that justice will be fast and fair*. It was, the newspaper crowed, "the most authoritative report on competitiveness of selected developed and developing economies."

The survey was purportedly carried out worldwide among 18,000 business executives, who had expressed "full confidence in the ability of Singapore's judicial system to mete out justice in society." Out of 37 named countries, Singapore scored top place, Australia shared seventh place with Ireland, Malaysia fifteenth place, while the United States scored seventeenth place, and the United Kingdom, a sad and distant nineteenth place. The authority for this conclusion was the 1993 World Competitiveness Report, published by the Geneva-based World Economic Forum. This was the first time Singapore had scored top marks. Hence, the delirious headlines. As it seemed probable the World Economic Forum (WEF) knew something, which I did not, I wrote to it.

I inquired the criteria used, and of the 18,000 persons purportedly surveyed, how many have had personal experience with Singapore's judicial system? And, if so, in what capacity and over what matter? Were they represented by any local and/or foreign lawyers? Whether the survey included any English QCs, especially those who had appeared before the Singapore courts?... Any American lawyers or academics who had observed legal proceedings in Singapore? And whether the survey included newspapermen.

WEF explained that "... three criteria ... [had] been used to assess the ranking of the countries for justice and Security.?"

The three criteria were:

- (1) serious crime: number of murders, violent crimes or armed robberies reported per 100,000 inhabitants;
- (2) security, and
- (3) justice.

Of the three criteria, the third is germane to our discussion. I found its

methodology flawed. Respondents were simply asked a bald question whether they had or had not full confidence in the fair administration of justice in Singapore -- Answer: Yes or No. No Singapore lawyers or litigants were apparently surveyed. How could these international business executives, ensconced in their air-conditioned executive suites, with little or no personal experience of Singapore's legal system, possibly give valued conclusions on the administration of justice in Singapore?

True picture:

NOW to draw aside the curtain, to show you the true picture. Some history is needed to show how the legal system was systematically undermined by the prime minister after the People's Action Party (PAP), came into power in June 1959. The senior crown counsel, Ahmad Ibrahim, was promoted over the solicitor general, A.V. Winslow, to the top office of attorney general. Ahmad Ibrahim was a Muslim, and his presence was useful to the prime minister, whose political objectives included merger with Malaya. A.V. Winslow, on the other hand, was a Ceylon Tamil, the first Singaporean in the colonial legal service to reach its topmost rung. The prime minister, however, saw him as too closely tied to the old colonial administration, and therefore politically unreliable. Several years later, Winslow was elevated to the high court bench but, significantly, was never assigned to try sensitive cases.

Meanwhile, Ahmad Ibrahim -- who had become a political liability but whose tenure of office was protected under the constitution -- was sent overseas as ambassador to the United Arab Republic. This lateral promotion is reminiscent of the practice of Chinese emperors getting rid of awkward officials by sending them out to govern the far-flung provinces.

Another significant move was the designation of Justice Wee Chong Jin -- a relatively recent recruit from the bar -- as chief justice over the more experienced acting incumbent. Like Winslow, he was also identified with the old order. Wee's political acuity and industry had recommended themselves to the prime minister, who once again ignored the claims of seniority and experience to further his political agenda.

Sudden transfer:

THE sudden transfer in 1986 of senior district judge, Michael Khoo -- one of the ablest judges to grace the subordinate court bench -- to the attorney general's chambers following his acquittal of Joshua Benjamin Jeyaretnam, an opposition MP, and, more significantly, the prime minister's political *bête noire*, (Among the many colourful epithets were: "hustler", "skunk", "mangy dog", "charlatan", and "political riff-raff". Hansard, Parliamentary debates, March 19, 1986, cols. 688-689, 720.) on all politically-inspired charges, save one, of financial impropriety, engendered much controversy. From being the respected head of the subordinate judiciary, Khoo overnight became a mere digit within the attorney general's chambers.

The prosecution appealed the acquittal. The chief justice allowed the appeal with the unusual instruction for it to be retried before another district judge. Jeyaretnam's application for the retrial to be heard before a high court judge to enable him to appeal to the Judicial Committee of the Privy Council -- Singapore's ultimate court of appeal in London -- was refused. At the re-trial, he was predictably found guilty, and

convicted. His appeal against the conviction and sentence was heard by Justice Lai Kew Chai, who dismissed his appeal, and varied the sentence to month's imprisonment, plus a fine, which was high enough to disqualify him from sitting in parliament.

Meanwhile, Jeyaretnam alleged in parliament that Khoo's transfer had caused "public disquiet," implying that it had been motivated by political considerations, which he expanded to include both the chief justice and the attorney general, as being "beholden" to the prime minister for having extended their respective appointments beyond their legal retirement age. In a rancorous parliamentary debate, it emerged that Khoo's transfer was not a "routine departmental transfer," as claimed by the prime minister. In the result, Jeyaretnam was expelled from parliament, and disbarred from law practice.

Jeyaretnam appealed the disbarment to the privy council, which, in allowing the appeal, roundly castigated the chief justice and the Singapore courts for their legal reasoning. It was a telling indictment of Singapore's courts. The privy council held that two innocent persons had suffered a grievous injustice -- fined, imprisoned and publicly disgraced for offences of which they were not guilty.

This was the same privy council, which the prime minister had earlier praised as the acme of Singapore's judicial independence, when he cautioned future PAP governments against interfering with its status in the judicial infrastructure:

"I can only express the hope that faith in the judicial system will never be diminished, and I am sure it will not, so long as we allow a review of the judicial processes that takes place here in some other tribunal where obviously undue influence cannot be brought to bear. As long as governments are wise enough to leave alone the rights of appeal to some superior body outside Singapore, then there must be a higher degree of confidence in the integrity of our judicial process. This is most important. (Author's underlining)". Lee Kuan Yew in parliament, March 15, 1967.

This sentiment was also echoed by the minister for law, S. Jayakumar, who -- in a blunt reference to Jeyaretnam's series of legal failures, dismissed his remarks as the "jaundiced view of a person who has not had satisfaction in the courts as he would have liked" -- asked: "How many countries are there in the world that he can refer to where there are appeals to the privy council in criminal and civil cases ... other than Singapore? That is the litmus test of our judicial system's independence."

The judgment of the privy council reflected severely on the integrity of the Singapore judiciary -- and was seen by many as solemn confirmation of their own unspoken misgivings about its independence. Any other government -- to use an Americanism -- would have rolled with the punch but this was a government whose sensitivity to criticism was proverbial. As long as the privy council handed down judgments supportive of the prime minister and his government, its status at the apex of Singapore's judicial infrastructure was inviolable. With that crucial decision, the privy council sealed its own doom. The minister for law, ignoring his previous rhetoric, moved in parliament for the abolition of appeals to the Privy Council decrying it as being "interventionist" and "out of touch" with local conditions -- a decision questionable both in law and in taste.

Asked about the abolition of the privy council, Goh Chok Tong -- who had succeeded to the premiership in 1990 -- responded that, in allowing Jeyaretnam's appeal against his disbarment, the privy council had "gone outside its prescribed role" and was "playing politics." It was a disgraceful statement, as well as wilful contempt of Singapore's own superior court, but as Juvenal -- the Roman satirist -- once said: *Quis custodiet ipsos custodes?* (Who will guard the guards themselves?) Implicit in Goh's contemptible statement was that the PAP government could no longer afford the hard political currency of a free and independent court. The Jeyaretnam case is unsurpassed for the pathetic attempts by the Singapore courts to stretch the law to fit the facts. It highlights the grotesque contortions the politically corrupt judiciary went through to rid a political irritant to the prime minister and his government. It demonstrates the misuse of the law in advancing the agenda and interests of the ruling political party.

Government spin:

THE Singapore government often puts a spin on the Jeyaretnam judgment claiming that the privy council had no jurisdiction over the convictions insinuating that it was out of line in making that statement, as the party most affected -- Singapore's public prosecutor -- was not heard on the matter.? That is only half of the truth. What it failed to disclose is that the public prosecutor was asked whether he wished to be heard. But the public prosecutor chose not to appear. An obiter dicta -- and, more especially that of the privy council -- would normally have been sufficient to propel a government to correct an obvious injustice -- but this was no ordinary case.

To counter public perception that the judiciary was inclined towards the executive, the chief justice was perforce to publicly address this matter:

It is our responsibility to let there be no shadow of doubt whatsoever that we are committed to these two principles -- the total commitment of the judiciary in Singapore to dispensing justice according to law, and to upholding the independence of the judiciary -- and to dispel as forcefully as lies within our power any attempt from any quarter to cast doubt that these two principles are being adhered to here.

There was, alas, a vast chasm separating the precept from the practice.

The attorney general also sought to show that the administration of justice was impartial by stressing the supervisory jurisdiction of the courts, thus:

[The] impartial and unbiased administration of the law in all matters, particularly in respect of those matters requiring strict observance of the rules of natural justice, and in respect of matters where the exercise of administrative discretion has been challenged, is the cornerstone upon which our system of justice has been constructed. Those charged with the functions of the government, in all their wide diversity, know full well that ultimately there can be recourse to these courts to correct irregularities and injustices in governmental administration. As in all countries where the rule of law prevails, it is [the] exercise of the court's supervisory jurisdiction that provides one of the most important safeguards against the arbitrary exercise of power. [Author's underlining]

In stressing the supervisory powers of the courts as the capstone of democracy, the attorney general overlooked the egregious fact that he had argued in habeas corpus applications that orders of detention under the Internal Security Act, Cap. 143 -- a law which allows preventive detention on grounds of national security -- were not justiciable. Notwithstanding the inconsistencies and contradictions in the official statements, he argued the court could "not look behind the orders," and "inquire into the reasons why and wherefore a detention order is made. This is an executive act." The court for its part willingly abdicated its judicial responsibility in favour of officialdom rather than the cause of justice.

The attorney general later drafted the amending legislation depriving the courts of their supervisory jurisdiction, which was -- in his own words -- "one of the most important safeguards against the exercise of arbitrary power." But there was not a squeak of protest from the complaisant judiciary or the legal profession. In the result, applications against administrative actions, like habeas corpus, are now largely legal history.

Judicial accommodation:

ANOTHER instance of judicial accommodation may be seen in this case. In 1987, twenty-two young Roman Catholic and social activists were arrested under the Internal Security Act (ISA), accused of being Marxists involved in a dangerous conspiracy to subvert the PAP government through violence, and replace it with a Marxist state. They were released only after they had made the ritualistic television confessions. But eight of them were re-arrested when they disclosed those confessions had been coerced out of them. In the ensuing habeas corpus proceedings, the court of appeal had perforce to allow the appeal, but it did so on technical rather than on substantive grounds, thus enabling the government to hurriedly amend the constitution and the relevant laws, and order their re-arrest.

Another egregious example of judicial accommodation is the case of *Re Dow Jones Publishing Company (Asia) Inc Application*, where the court of appeal deliberately delayed giving its decision, which had the effect of denying the appellant the opportunity of pursuing its appeal to the Privy Council. Queen's Counsel for the appellant flew down specially from England to plead with the court to rule on its application, and give its decision later, but in neither one nor the other would the court be hurried. In the result, the appellant lost its right to appeal to the Privy Council. The appellant desperately tried to petition the privy council for special leave to appeal, which said:

Their lordships understand the petitioner's sense of grievance that, after the appeal from the judgment of Sinnathuray, J., had been argued and at a time when it was known that the [Judicial Committee of the Privy Council Amendment] Act of 1989 would shortly come into operation, the court of appeal in Singapore did not accede to an invitation to give their decision promptly, if necessary giving their reasons later, which would have enabled the petitioner to take advantage of the transitional provisions in the Act of 1989. ...

Those gentle words of reproach spoke volumes for a free and independent

judiciary.

Consequential role:

THE judiciary -- a bulwark between citizen and state -- plays a consequential role in the affairs of a nation, and often sets the ultimate seal of legitimacy on controversial policies and actions of the state by its decisions. Governments, therefore, try to ensure those persons, who are called upon to make these weighty decisions, understand the purpose of controverted legislative acts and policies. The PAP government is no exception. It also tries to ensure that judicial aspirants are screened for loyalty and political correctness. Although the PAP government recognizes the role of the judiciary in the body politic, it no longer sees it as a check on the balance of power in the traditional sense but rather as an important instrument for the prolongation of its political longevity.

High court judges are appointed from within the legal and judicial service and among qualified members of the bar by the president on the advice of the prime minister after consultation with the chief justice. Judges hold their appointment until the age of 65 years and thereafter at the will of the president. For many years, retiring high court judges have had their appointments extended on contract for short periods at a time and, in some cases, from month to month. Judicial commissioners are employed on time contract. Some do, indeed, make the grade to the high court bench. Needless to say, judges on contract, renewable at the will of the prime minister, is not conducive to judicial independence.

Judgments of the appellate court have to be unanimous, and are delivered by a single judge detailed by the chief justice beforehand. No dissension is countenanced lest a perception is created of disunity within the judicial ranks. Cases are allocated to judges by the registrar of the supreme court, on chief justice instructions, and not rotated, or drawn by lots, or channelled to special divisions of the court. Thus, it is not uncommon to find a particular judge, like T.S. Sinnathuray, being commonly assigned sensitive cases with predictable results. Judges known for impartiality, independence and strength of character are never assigned them.

Banker friend:

THE then prime minister Lee appointed his banker-friend, Yong Pung How, as chief justice, who had not practised law for 20 years, whose superior claim to this illustrious position was that he is a loyal crony. His hour-long defence of the appointment in parliament -- during which he delved into bathetic nostalgia, from his student's days at Cambridge University, to the way his friend, the future chief justice, kept meticulous lecture notes enabling him, a late arrival at Cambridge, to borrow his notes to catch up with his law studies; to his personal wealth and magnitude of annual income as banker; to his personal attributes, including a fine judicial temperament; and to his inquiries of his judges to name the three best persons, excluding themselves, all of whom, in a remarkable coincidence, named his friend, as "the best of the possibles" -- rang somewhat hollow and contrived.

Adequate economic monthly salaries payable to judges have long been

recognized as a condition conducive to a free and independent judiciary. The Judges Remuneration Act, 1994, provides that pensionable salaries of the chief justice, every judge of appeal and every other judge of the supreme court? shall be paid as the minister of finance may from time to time direct. This radical but retrogressive change in the law ensures that such payments no longer rests with parliament, making the judiciary dependent on the executive of the day for their paychecks.

The salaries, which the PAP government pays its judges, have much method in its generosity. High court judges receive A\$630,000 per annum plus a minimum bonus of three months' salary or A\$205,020 at A\$68,340 per month, totalling A\$835,020, besides other perks and privileges, like a motor car, a government bungalow at economic rent. The chief justice receives A\$1,260,000 per annum, besides an official residence (or an housing allowance in lieu thereof), a chauffeur-driven car, among other handsome perks and privileges of office. Indeed, he receives more than the combined stipends of the Lord Chancellor of England, the Chief Justices of the United States, Canada and Australia. As a Queen's Counsel pointedly queried: "Is this kind of money a salary or an income of permanent bribery? Supremely confident in the reliability of his judiciary, the prime minister uses the courts as a legal weapon to intimidate, bankrupt or cripple the political opposition, and ventilate his political agenda. He has distinguished himself in numerous legal suits against dissidents and detractors for alleged defamation in Singapore courts, and has won them all. The idea that he could possibly lose is so fanciful that it could be dismissed out of mind. Which judge would be so reckless or foolhardy to award a decision against him? Judges know on which side their bread is buttered.

'Compliant judiciary':

CONTRAST the case of former NUS senior lecturer, Christopher Lingle, who wrote an op-ed essay entitled, *The Smoke over Parts of Asia Obscures Some Profound Concerns*, in the *International Herald Tribune*, with that of columnist Bernard Levin, who published a hard-hitting essay, *The law grossly misused*, in *The Times* of London. Lingle had referred to nontolerant regimes in the region relying upon a compliant judiciary to bankrupt opposition politicians in suppressing dissent. No country was named. Nonetheless, he was sued for defamation. The prime minister went out of his way to prove that it was Singapore that Lingle had referred to, by citing a litany of legal cases which he had brought against opposition politicians and dissidents. Lingle fled Singapore. Even his NUS pensions savings were attached to pay towards the prime minister's damages and costs.

Bernard Levin's case, on the other hand, shows that no matter how grave the provocation, the prime minister does not easily embark on litigation outside his own bailiwick. Levin, a highly-respected columnist with *The Times*, had published two other hard-hitting op-ed essays on Singapore, regarding which the prime minister complained in a letter to the editor of *The Times* as "'unrestrained indictment' of my premiership ... and is false in so many respects ... so unfair, and indeed irresponsible as a piece of journalism ... Just as he [Levin] makes the outrageous allegation that judges in Singapore are 'bent or cowed', ..."

In spite of all this, the prime minister did not see it fit to sue nor even threaten to sue Levin or *The Times* for defamation. Instead, he offered to "discuss" those allegations with Levin in a debate on British television. Levin refused the proposed discussion. It does not require any great leap of imagination to realise that the prime minister knew that he could not influence their lordships at the Royal Courts of Justice in the Strand. Like Sun Tzu, the celebrated Chinese military strategist, he knows his ground, and chooses it with care.

The notorious case of Public Prosecutor v Tan Wah Piow demonstrates the parlous state of the judiciary in Singapore. Tan -- a third-year architectural student, and president of the University of Singapore Students Union (USSU) -- was charged, together with two others, with rioting inside the premises of the Pioneer Industries Employees' Union (PIEU), a government-controlled trade union, whose general secretary was Phey Yew Kok, a member of parliament and rising star on the PAP firmament. Phey was also president of the National Trades Union Congress, which has strong symbiotic ties with the PAP government.

The trial was partisan justice at its ugliest before the ambitious district court judge T.S. Sinnathuray, who kept Tan and his co-accused on a choke-leash. Tan's application for an adjournment to enable his counsel, John Platts-Mills, QC -- who had already been specially admitted to the Singapore bar -- to travel to Singapore for the purpose was twice denied by the trial judge. Vital defence witnesses were arrested on the morning of the trial, and deported.

The defendants claimed the riot within, and damage to, the premises had been fabricated by Phey Yew Kok, but they were not allowed to produce evidence of it at the trial, as indeed other matters they considered crucial to their case. Concerned at the judge's selective recordings of the proceedings, Tan applied for the trial to be tape-recorded, which was denied. The judge for his part made no bones of what the outcome of the proceedings would be. His periodic ejaculations, "Forget about public interest!", "Forget about justice!", and "Forget about a fair trial!" -- albeit vented in exasperation to Tan's urgent applications or protestations to his rulings -- punctuated the proceedings, setting a leitmotif, which became a grim reality. All three accused were found guilty, and convicted. Tan was sentenced to one year's imprisonment, and his co-accused to one month's imprisonment each. Shortly afterwards, Sinnathuray was promoted to the high court.

An Australian Queen's Counsel, Frank Galbally, who observed the trial for the Australian Union of Students, said: "In Australia, the case would be laughed out of court ... the evidence and procedure ... would, in my opinion, have aborted any trial in Australia ... [The three accused] did not get a fair trial. ... In my opinion, it is just a political trial."

The experience of an English silk in a criminal trial in Singapore provides another perspective. Alun Jones, QC, discharged himself "for the first time in 23 years' practice," describing the judicial proceedings as "a travesty of a trial" and a "perversion of a judicial process." The trial judge displayed a "craven attitude" towards the prosecution.

Political interests:

THE New York City Bar Association, after a fact-finding mission to Singapore led by the late Robert B. McKay, then dean of the New York University Law School, observed:

What emerges ... is a government that has been willing to decimate the rule of law for the benefit of its political interests. Lawyers have been cowed to passivity, judges are kept on a short leash, and the law has been manipulated so that gaping holes exist in the system of restraints on government action toward the individual. ... Any US venture contemplating business in Singapore or with a Singapore company is likely to encounter a wide variety of enterprises in which the government has an economic interest. If a dispute arises with such an enterprise, the US company faces the prospect of a law suit before Singapore's judiciary. The same forces which have led that judiciary to be sensitive to the PAP government's political interests would lead it to take account of its economic interests. ... The only check on the Singapore judiciary is the prospect of ultimate appeal to the Privy Council in London.

That report was published in October 1990. Since then, appeals to the privy council have been abolished. The supervisory powers of the courts have been removed.

HPL issue:

LAST but not one. The recent barrage of defamation actions by senior minister Lee Kuan Yew and other PAP leaders against lawyer and opposition Workers Party candidate, Tang Liang Hong, reveals further the politics of the Singapore judiciary.

HPL -- Hotels and Properties Limited -- is a public company listed on the Stock Exchange of Singapore. One of its directors, Dr Lee Suan Yew -- a younger brother of Harry Lee Kuan Yew, the senior minister -- and one other bought a luxury condominium unit in an HPL development. As they were connected persons and associates, HPL was enjoined under the rules of the Stock Exchange to seek shareholders approval for sales of the units to them. It did not do so. Some 11 months elapsed. Several disgruntled shareholders served notice of their intention to call a shareholders meeting. To thwart unpleasant publicity, HPL sought waiver of the rule from the Stock Exchange, which, on April 22, 1996, censured the directors and reminded them of their duty to maximise the return to shareholders. It was, therefore, only a matter of time before the identities of any other purchasers, who had also been given similar discounts, became known to all and sundry.

On April 23, 1996, the following day -- to pre-empt the inevitable adverse publicity -- senior minister Lee Kuan Yew and his son and deputy prime minister Brig Gen Lee Hsien Loong disclosed that they, too, had each purchased a unit in NassimJade/Scotts Road No. 28, at discounted prices, and paid the discounts they had received into government Treasury.

An informal inquiry, conducted by the minister for finance, assisted by a MAS -- Monetary Authority of Singapore -- deputy managing director, at the behest of Prime Minister Goh Chok Tong, purported to clear them of any impropriety. Prime Minister Goh ordered Treasury to return the difference to father and son, which they gave to charity instead. It is not impertinent to ask why did the senior minister and his son, the

deputy prime minister, consider it necessary to divest themselves of the proceeds, if the purchase was above board!

Parliament was convened to enable members to ask questions of the senior minister, whose rambling defence of those controversial purchases has to be seen, heard and read to be believed for sheer arrogance and obfuscation. Even so, Prime Minister Goh Chok Tong introduced new rules requiring ministers to declare all property purchases, including prices, discounts and preferential terms received. There, the matter rested, until Tang was interviewed by the Hongkong-based Chinese weekly magazine, *Yazhou Zhoukan*. In that fateful interview, Tang observed:

"Why wasn't this matter handed over to a professional body like Commercial Affairs Department or Corrupt Practice Investigation Bureau? They are government departments not only rich in experience, but are also well-known for being iron-faced with selflessness" [a Chinese phrase meaning firm and impartial]. They would be more detached and their reports would have been more convincing to the people. Koh Beng Seng and Finance Minister Richard Hu are after all not experts in this field."

Lee and his son took offence at those remarks, and commenced a libel action. The presiding judge was Justice Lai Kew Chai, a former partner of the prime minister's law firm of Lee and Lee.

Defamation writs:

PENDING the hearing, Tang Liang Hong stood as an opposition Workers Party (WP) candidate in the January 1997 general election, during which Lee and his PAP colleagues accused him of being an anti-Christian and anti-English-educated Chinese chauvinist. Tang retorted they were lies. And made a cardinal error in announcing that, if elected, he would raise the HPL matter in parliament. Lee and his colleagues responded by filing defamation writs against Tang for calling them liars. Tang made a police report against them alleging a conspiracy to defame and cause him harm only to be met with further defamation suits totalling 12 in all. On December 31, 1996, they filed their writs which were served on him the same day. It was not a season for good will among men. Significantly, only Tang was sued. None of the mass media, which reported the alleged libel, was sued at all. Justice Lai presided over all those cases, and issued several orders touching the suits, including on Lee's application, a Mareva injunction freezing Tang's and his wife's assets in Singapore and elsewhere.

Tang applied to have Lai disqualified as the presiding judge and the several orders in the various suits, including the Mareva injunction, be set aside. It transpired that Justice Lai had also purchased a unit in the same HPL Nassim Jade development together with his wife, at even deeper discount than the Lees. It was contended that one of the issues for determination at the trial would be the propriety of HPL giving large discounts to persons holding high positions in government and other public institutions, and whether HPL, as a public-listed company, had discharged its duty to its shareholders to obtain the best price for its property development in the circumstances. And, therefore, Justice Lai's purchase of the HPL unit could be in issue.

Conceding that some people might question if he should be ruling on a matter

which concerned himself, Justice Lai observed that Tang could save recourse to a court of appeal if he disagreed with the ruling. Thus, he did not recuse himself from the case, but cleared the court, heard the application in camera, and ordered Tang to appear before him at the adjourned hearing because of factual errors, chiding him for not fav[ing] the courage or decency to face him in court ...?

As for the Mareva injunction, there was no evidence that Tang had done anything in regard to them, which could be construed as attempts to defeat any possible judgment against him, save for his temporary presence in Malaysia, and Lee's bare allegations: "I was baffled. He [Tang] claimed that his life was under threat. But of all places he went to Johor. That place is notorious for shootings, muggings and car-jackings." It was -- to put it kindly -- sheer hyperbole. When it was revealed what Lee had deposed to in his supporting affidavit, it upset the Malaysian government and its people. Lee apologised nonreservedly? through his press secretary, but made no retraction, pleading that it was not meant to be made public. In any event, no reasonable judge, it is submitted, would have allowed such a sweeping scandalous assertion to ground the application. Under increasing Malaysian pressure, Lee finally retracted the offending paragraph -- and, in the process, opened a Pandora box as to the legal effects of the several orders and the judgments. The effects of this case are still rippling beyond the shores of Singapore.

As a matter of interest, according to the latest UN Commission on Justice on crime statistics worldwide, the homicide rate in Malaysia (1.76 per 100,000) is in fact lower than that of Singapore (1.77 per 100,000). But the rate for total assaults in Singapore (34.12 per 100,000) is more than twice that of Malaysia (14.54 per 100,000), while the rate for robberies is almost twice as high in Singapore as in Malaysia (56.30 for Singapore against 32.75 for Malaysia).

On March 10 -- two months and eleven days -- Lee and his colleagues obtained judgments against him in the 12 suits estimated at S\$12 million in damages, excluding costs. In an unprecedented move, two high court judges sat in succession to determine the matter -- Justice Lai from 2.30 pm until 8 pm on Tang's application to recuse himself, immediately after which the case was assigned to Justice Goh Joon Seng, who sat till well past 9 pm, struck out all Tang's defences, and awarded judgments to Lee and his colleagues. The 13th suit filed by Prime Minister Goh Chok Tong was heard the next day.

'Instant justice':

JUSTICE was swift but was it fair? Lee and his political colleagues had no difficulty in filing any application in court, their papers were served and heard the same day -- a privilege and sense of urgency, however, denied to Tang and his wife, who had been dragged into the proceedings. Tang described it as PAP's constant justice.? they can easily get instant judgment on pre-set terms. When his wife applied to set aside what Tang termed the absurd order making her a co-defendant to the suits against him, her application was set down for hearing one month away. In all my years at the bar, I have rarely seen such purposeful judicial industry. Tang's complaint of selective justice is by no means an isolated case. There are others. I have recounted

similar experiences in my book, *To Catch a Tartar: A Dissident in Lee Kuan Yew's Prison.*

In a 40-page impassioned judgment Justice Lai dismissed Tang's application, describing his allegations as false, and it move calculated to delay the proceedings. ... In the process, he muddied the waters and spread a lot of poison against me, senior minister Lee and deputy prime minister Lee Hsien Loong. He was so mendacious that he did not care at all if the reputations of a judge, senior minister Lee and deputy prime minister Lee were unjustifiably attacked and sullied. It was a vicious, collateral and totally unwarranted attack on my integrity. ... [Tang] appeared to be speaking from two ends of his mouth at the same time. ... In his absence from court, there was no opportunity to test his veracity.?

Let me recall to mind the dreadful words of Dr Joseph Goebbels, Hitler's notorious minister of propaganda: "Justice must not become the mistress of the state, but must be the servant of state policy". Those words could just as well have been spoken by Harry Lee Kuan Yew or by any one of the PAP ministers. For Singapore's judiciary is well on its way to this Goebbelsian utopia.

Superb illustration:

THE situation is replicated in the subordinate courts. My case provides a superb illustration. After a date for mention had been fixed in open court, and counsel departed the court building, an embarrassed registrar cancelled it on higher instructions, and, ignoring the congested court calendar, brought the case forward over strenuous objections of counsel -- who had been summoned to return to court -- to dovetail the new date with the forthcoming general election -- which the prime minister had secretly fixed, but had not yet announced. As it originally stood, the trial would have taken place long after the general election was over. The fact of the trial was critical as election fodder to the PAP government, and as damper on the growing groundswell of support for me. Indeed, during the election, voters were warned it was "useless" to vote for me, for, if elected, I would have to vacate my seat since I would be convicted. This was exactly what happened! You may think it was an amazing display of the PAP government's faith in the infallibility of its judges!

Be that as it may, counsel applied to the high court for an urgent revision of the registrar's decision, after prevailing upon a reluctant supreme court registry to accept the requisite motion papers. By a strange coincidence, the emergency judge for that day was the ineluctable Sinnathuray, who was not available. After a long wait, it became painfully obvious that he was not overly anxious to hear the motion. Counsel was advised to leave the registry and await word of the judge's availability. No word came through that whole day. Upon inquiry the next morning, counsel was tersely informed that the ever-reliable judge Sinnathuray had dismissed the application. It illustrates the obstacles which beset dissidents who seek justice in the courts. The manipulation of court calendars to suit the prosecution's hidden agenda is well-known in the profession.

Source: <http://www.sfdonline.org/>