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Singapore Government

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REMARKS BY PROF S JAYAKUMAR, MINISTER FOR LAW AND FOREIGN AFFAIRS, AT THE MILLENNIUM LAW CONFERENCE, 12 April, 9:00am

[Singapore's tried and tested approach of pragmatic adaptation of laws that were inherited as well as those of other countries' has provided a foundation for Singapore's safe and business-friendly environment. Continuing adaptation and innovation will be necessary to facilitate Singapore's integration with the global economy. However, Singapore must not abandon the core values that bind Singapore society.]

Minister for Law and Foreign Affairs Prof S Jayakumar said that the law and legal institutions have been critical foundations for Singapore's pursuit of economic and social development.

He identified five key principles that guided Singapore's legal developments during over 30 years, without violent upheavals or social disorder:

- "We did not jettison what we inherited but took a cautious, judicious approach in making changes and modifications to suit our needs, ie a policy of pragmatic adaptation of the common law."

- "We viewed the legal and judicial system as essential not only for our people's security and welfare, but also critical for economic growth and competitiveness."

- "We adopted an uncompromising approach in maintaining law, order and security."

· “We made maintenance of racial and religious harmony a cornerstone of our legal system.”

· “We took steps to prepare the legal infrastructure for knowledge-based economy and global trade.

First Principle

Elaborating on the first principle, Prof Jayakumar said that Singapore had inherited from the English colonial administration the legacy of the common law, with a system of courts and a legal profession that was committed to the procedures, methods and values of Anglo-Saxon common law.

“It means that we can tap the wisdom of centuries of established judicial precedents in the Anglo-American world and the Commonwealth. Trading companies and partners the world over were assured that the legal rules of trade will be the same – those of the English common law, unless otherwise altered by statute,” he said.

Singapore did not hesitate to make changes where it was necessary for its different circumstances. For example, in the 1960s, Singapore abolished the jury system, and later, in the 1970s, modified the privilege against self-incrimination to allow the courts to draw adverse inferences from the silence of accused persons.

“We took a similar approach when we separated from Malaysia and suddenly found ourselves independent. We excluded those which we considered unsuitable for Singapore. In fact, this arrangement of ‘borrowed’ provisions from the Malaysian Constitution continued for 15 years until 1980 when we had the first composite Reprint of the Singapore Constitution,” he said.

Second Principle

Prof Jayakumar said the Singapore Government viewed the legal system and administration of justice as an inseparable and integral part of the people’s lives, featuring strongly in the nation’s economic development policies.

He cited as an example the reforms made to the Judiciary and administration of justice in Singapore which had received world-wide acclaim and recognition. The Government gave full support to Chief Justice Yong Pung How in his unstinting efforts at re-organising the legal system because the existence of a legal system which is efficient, whose integrity, competence and fairness are unquestioned is important for the domestic population, as well as is a critical factor for business and investor confidence.

The Judiciary put in place innovations and other structural reforms including substantial reforms to rules of civil and criminal procedure. This year will see, for instance, the full implementation of electronic filing of court documents.

Other measures included the **Singapore International Arbitration Centre** and the **Singapore Mediation Centre, Small Claims Courts, Community Mediation Centres (CMCs)**. Singapore also used our legal system to preserve and promote desirable societal and moral values.

“The CMC is an example of an attempt to use the legal institutions to preserve social cohesiveness. Another example is our laws on marriage, which continue to treat married couples differently from couples who are merely cohabiting, and you cannot obtain a divorce in Singapore by mere agreement,” said Prof Jayakumar.

Where appropriate, to promote desirable features of family life, certain moral obligations were reinforced by legal obligations such as the **Maintenance of Parents Act**, which makes it a legal obligation for children to support their ageing parents.

Third Principle

Prof Jayakumar said that maintenance of law and order is of paramount importance in Singapore.

“The relatively safe and crime-free environment is one important attraction of Singapore to tourists and investors, and also an important factor for the Singaporean’s sense of safety and security,” he noted.

Singapore has one of the lowest crime rates among cosmopolitan cities. Our crime rate has generally been falling for more than a decade now. The fall in crime rate is quite remarkable, as in terms of the number of crimes (excluding immigration offences) in Singapore, the total number of crimes in 1999 was the lowest since 1981.

Singapore has some of the toughest laws in the world such as for drug trafficking and use of firearms offences, both of which attract the capital punishment.

Said Prof Jayakumar: “We have had to detain drug traffickers and secret society gang members without trial. Without such measures, life in Singapore, especially in the early years after Independence, would have been quite different. The control of drug abuse and secret society operations is pursued rigorously, with the interests of the community at heart.”

Prof Jayakumar referred to the Arms Offences Act which has been an effective deterrent against firearm offences in Singapore. There were only four cases of firearm robberies in the past 4 years; only one in 1999 and none at all in 1998. This can be explained by the tough gun control law here which carries the mandatory death penalty for anyone who discharges a firearm in the course of committing a serious offence, even if no one is injured or killed.

Fourth Principle

Prof Jayakumar highlighted that an important cornerstone of Singapore’s legal system, and indeed of the entire system of governance, was the maintenance of racial and religious

harmony.

“Singapore is a multi-racial, multi-religious society. Multi-racialism is critical to the stability and success of Singapore as a nation,” Singapore did not hesitate to make bold and significant departures from the legal and political traditions we inherited:

- **Presidential Council for Minority Rights (PCMR):** Established in 1969 under the Constitution, the PCMR examines all Bills passed by Parliament (before they are assented to by the President) to ensure they are not discriminatory.
- **Presidential Council for Religious Harmony:** Established under the Maintenance of Religious Harmony Act 1990, it comprises the leaders of the major religious groups in Singapore to ensure that no one would do or say anything to cause ill feelings among members of another religious group.
- **Group Representation Constituencies (GRC):** Introduced in 1988, the GRC guarantees minority groups are always represented in Parliament.

Fifth Principle

To prepare the legal infrastructure for the knowledge-based economy and global trade, not just in goods but also in services, laws were enacted to facilitate and protect those who are in the computer industry. Amendments were made to the **Copyright Act**, to deal with copyright relating to computer programs.

The **Electronic Transactions Act** now deals with various matters such as liability of network service providers, recognition of digital signatures, electronic contracts, certification authorities and so on. Powers of the law enforcement agencies to apprehend and bring to trial cyber-criminals have been considerably strengthened. The **Computer Misuse Act** provides for various types of unauthorised uses of computers as well as enhancing punishments for them.

Bankruptcy laws were recently amended to encourage and not penalise those engaged in e-commerce or other information technology related ventures to take risks. The **Legal Profession Act** now allows local firms to set up joint ventures with foreign law firms to enable them to network with the more established foreign firms, and to increase both their expertise in cross-border transactions, as well as their client portfolios.

Future Trends and Challenges

Prof Jayakumar noted that Singapore was still on the road to nation-building. After 35 years of development, he believed Singapore had got the fundamentals right and had a good legal framework, enjoying stability and security.

However, we now had to gear up for the challenges ahead, which were not peculiar only to Singapore. The changes sweeping the world are “mind boggling”, and “some crystal

ball gazing” was necessary. He anticipated three main areas of challenges - nature of transactions, types of services rendered and crimes being perpetrated.

Information Age and Knowledge-based Economy

Legal systems will be profoundly affected by the speed of transactions and a closely networked world. Legal systems and law enforcement agencies have to be agile to respond more quickly and adeptly. There is also likely to be fundamental realignment of ways where values are created and exchanged, especially as economies place greater premium on information and knowledge as a resource.

As an example, Prof Jayakumar pointed to Amazon.com’s “one click” ordering” patent controversy and the call for new protection schemes for business methods and software patents.

Also, there may be new categories of intellectual property rights and calls to modify or restrict such laws on grounds of generating more dynamic, innovative climate. The traditional ways of protecting intellectual property rights may come under challenge.

Prof Jayakumar noted that the knowledge-based economy will also spawn a new breed of workers, who will be highly mobile, sought by all nations who do not want to be IT have-not nations. Such talents can operate as independent contractors, rather than employees, and nations will compete for them. Immigration and labour laws and policies will be affected.

As crime escalates across borders, new ones such as international vandalism will emerge, making it more difficult to catch such criminals.

“The problem here is that to be effective, law enforcement has to be intrusive or the evidence will be wiped away. Yet people expect the State not to infringe on private matters as it impedes entrepreneurial activity,” noted Prof Jayakumar.

“If one asks: which country’s laws will one have to comply with when he trades on the Internet? The answer is probably, ‘Every country’. The jurisdictional issues caused by such connectivity must accelerate the process of internationalisation and harmonisation of laws.”

Existing bodies (like UNCITRAL) as well as new regional and international bodies will play greater roles in setting rules and codes. There may be rapid development of international conventions such as the Rome Statute on the International Criminal Court, the Financial Action Task Force (on money laundering), the UN Convention against Transnational Organised Crime.

Rising concerns for human security

Globalisation, trade liberalisation, and the speed of technological advancements bring about feelings of insecurity at the personal level. Nations will have to deal with this. Not just

human rights, but also in health, food, environment, even preservation of national culture and national identity.

This accounts for the rising phenomenon of Non-governmental organisations in the international arena. They can be constructive or disruptive (witness Seattle). National and international systems must decide how they will react to the role of NGOs.

“Governments will have to be proactive, and much more international in outlook. How governments respond effectively to human security may be the biggest challenge to legal systems in the 21st century. If not handled properly, there may be a backlash in revival of protectionism and isolationism,” said Prof Jayakumar, adding that responding to the IT challenge needs courage, imagination, and willingness to adapt and innovate.

Concluding comments

For Singapore to be an active part of the global economy, we need a law reform mechanism to monitor developments on a global basis and make changes when needed. But no matter how Singapore deals with these challenges, we should follow our tried and tested approach which has stood us well.

“We should set our own pace. Our legal system must still reflect our core values. We must protect our societal bonds from the onslaught of negative international forces. For 35 years, we have worked hard to promote a sense of national identity, racial and religious harmony and community values. The challenge for us is to ensure that we do not jettison these values as we seek to be an active player in the global economy,” said Prof Jayakumar.

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