

Chan Leng Sun

'A Journey through the Cultures'

It is not time yet to stow my counsel's gown. One does not have to reach one's destination to pause by the side and glance back at the road traversed. Prompted by the kind invitation of the Swiss Chinese Law Association, and confined in the spring of 2020 by a lockdown in Singapore, I took the opportunity to reflect on the education in life and in law that I acquired in the past thirty years.

I have worked in different capacities in a varied career. What I am really grateful for are the diverse experiences in numerous countries, in different settings amongst people of all persuasions.

I started my career in Kuala Lumpur, Malaysia after obtaining my first degree in law from the University of Malaya. Mah, Kok & Din has now become Raja, Daryl & Loh. But I joined its litigation department and worked on a variety of domestic civil litigation cases. We operated primarily in English but since the Malaysian courts operate in Malay, we also had to be proficient in both languages. Hearings were frequently conducted in Malay in the lower courts, but the senior judges in the higher courts were comfortable with the use of English.

Besides the basic pre-requisite competence in law, Malaysian lawyers have to be a hardy and practical bunch. Those were the days before the internet and before electronic documents. Files had to be moved from place to place. Unfortunately, papers were not always where they were meant to be, causing disruption to hearings. Lawyers learnt to roll with the unpredictability of the process. We travelled all over Malaysia, adapting to the expectations of the judges in each town we landed in.

The year I started practice was a watershed for the Malaysian judiciary. In 1988, a period of tension between then Prime Minister Dr Mahathir Mohamad and the judiciary led to the Lord President of the Supreme Court of Malaysia, Tun Salleh Abas, being suspended from office and a tribunal formed to hear charges against him. Five law firms, including Mah-Kok & Din, acted *pro bono* in defence of Tun Salleh Abas without fear or favour. I was a pupil then, roped in to assist the stalwarts of the Malaysian bar. The Malaysian Bar Council, fiercely independent and courageous, stood resolutely on the side of the judiciary. The story is dramatic with many twists and turns, but to cut it short, the Lord President and two other Supreme Court judges who had dared to sit in an urgent appellate hearing to stay the tribunal proceedings were removed from office. It took twenty years to vindicate them. In 2008, Prime Minister Tun Abdullah Ahmad Badawi announced *ex-gratia* payments to Tun Salleh Abas, Tan Sri Wan Suleiman and Datuk George Seah who unjustly lost their offices. A joint report that year by the Malaysian Bar Council, LAWASIA, the IBA and Transparency International (Malaysia) disagreed with the findings of the tribunals against them.

In 1990, I was fortunate enough to pursue a Master in Law (LLM) at the University of Cambridge as a Kuok Foundation scholar, an Honorary Shell scholar and a Pegasus Cambridge scholar. I had hardly travelled before that. My first trip on a plane was as a Jessup International Law mooter representing Malaysia in Washington for the moot finals. That I could one day be studying in Cambridge was not even in my mind when I started law school. I arrived in Cambridge on a bus from London late in the evening. Walking along one of the town's many cobbled alleys, I turned a corner and was struck by the vision of King's College Chapel in all its gothic splendour. That first encounter with the intellectual bastion left a visceral impact that has lasted to this day. I soaked in my time as a student of

Sidney Sussex College, wandering the historical halls of Cambridge as a privileged insider.

The Pegasus Cambridge scholarship arranged for its scholars to do a few months of internship in the Inner Temple and Clifford Chance in London after our graduation. I experienced for the first time the environment of a big, international law firm and the distinctive traditions of the English bar. It is interesting how completely different the two offices are and yet how seamlessly they work as one. An international law firm is a hive of activity that buzzes throughout the day. A barrister's chambers is quiet, each barrister cloistered in his room in solitary research and drafting, save for the occasional meeting outside or afternoon tea with other members of chambers. Solicitors are pragmatic and commercial problem solvers for their clients. When deep legal analysis or advocacy is needed, they turn to the barristers. Solicitors and barristers complement each other. My time with them was too brief for me to be of much use to either, but the people assigned to me were all grace. A highlight for me was when the late Lord Robert Goff of Chieveley (as he then was) invited us scholars into the House of Lords where he and other Law Lords were sitting to hear a case. They took a break from their hearing to host us for lunch.

From the UK, I ended up being a lecturer in the Law Faculty of the National University of Singapore on the recommendation of a Cambridge classmate who was teaching there. I enjoyed research, reading and teaching, specialising in shipping law, contract law and international business transactions. At that time, that was the only law school in Singapore. Many leading lights of the legal profession were its alumni and the brightest minds gathered there as faculty and students. I have fond memories of the campus at Kent Ridge and the friendships I made there.

Despite the comforts of academia, I felt that my knowledge was mostly theoretical as I had not seen upfront the application of principles to commerce. After three years as an academic, I decided to join Ang & Partners, a boutique law firm in Singapore with a strong reputation in maritime law. There were just a handful of lawyers but that meant every person counted and the learning curve was steep. The juniors worked hard to try to keep up with the three founding partners, who were among the hardest working lawyers I have encountered to this day.

In 2002, the United Nations Compensation Commission (UNCC) offered me a job as a legal counsel in Geneva. I accepted it and took a sabbatical from Ang & Partners. The UNCC was created to process claims and pay compensation for losses and damage caused by Iraq's invasion and occupation of Kuwait in 1990-1991. Funds for the compensation came from the Government of Iraq. The UNCC legal teams verified and evaluated the claims based on the methodology approved by the UNC. They presented their findings to commissioners who made their assessments and recommendations in reports to the Governing Council. The Governing Council reported to the Security Council. Working in the UN and living in Geneva was a completely new experience for me. It took some adjustments. One cannot be impatient and take the shortest path to achieve the outcome, as practical practitioners like to do. We paid allegiance to the UN processes and procedures, as these were often under scrutiny. Obviously, the teams were as multinational as you could expect. The diversity was an asset, not a hindrance. We could see that differences between people came from their characters and not their nationalities. Switzerland is as beautiful as those who live there know and those who dream of it imagine. It helps to know French if you intend to live in Geneva. I struggled valiantly with the language but my lovely Swiss neighbours often ended the torture (to them) by suggesting that I spoke in English.

My contract with the UNCC was for two years and they contemplated extending my contract. Then Ang & Partners asked me to return to Singapore as they were going through changes and wanted me on board as an equity partner. So I returned to practice in Singapore in 2003.

The new millennium saw downward pressure on fees for shipping work coupled with a shrinking volume of shipping litigation. This was especially so in Singapore. What this meant was that bigger law firms had to diversify their services and smaller law firms could not really expand. In the competition for talent, shipping law firms could not offer competitive salaries and growth to attract enough bright new lawyers. I had enough interesting work but insufficient team support. At one point, I was litigating against two big firms with sizable teams led by their senior partners in a USD200 million dispute with only one pupil supporting me.

In 2011, when Baker McKenzie came calling for the second time, I said yes and moved to what was then the largest law firm in the world. The environment and work culture were completely different. Going in as a full international partner, I had enviable resources to draw on, both legal and administrative. There was also a lot more responsibility: on business development, firm policies and team building. Before long, I was made Asia-Pacific Head for Arbitration and, a short while after that, Global Head of Arbitration. This was more of a coordinating role than a "head honcho" designation, as there were many more experienced and distinguished colleagues than I in the many Baker McKenzie offices around the world. I had frequent telephone and in-person meetings with many colleagues from different offices with a myriad of specialisations. I learnt about legal practices in markets in the Americas, Europe, the Middle East, Africa and Asia. It was a real privilege to work with the multi-cultural teams with such varied competencies. Not forgetting the amazing range of talent that surfaces when the lawyers come out to play in social functions.

The size and spread of a global firm can give it a competitive advantage, but can also be a yoke. Conflicts of interest are one real problem. The decision-making process can also be complicated.

In 2017, former Attorney-General, Mr V K Rajah, SC who was also a Justice of Appeal decided to set up Essex Court Chambers Duxton (Singapore Group Practice) (ECCD) to offer specialist advocacy services. This was a game changer. Singapore practitioners had hitherto practised in a fused profession. In other words, they are both "Advocate and Solicitor", as the title of a Singapore-qualified lawyer suggests. Work which may be described as solicitors' work includes taking instructions from clients, taking statements, preparing paperwork, filing, correspondence, some degree of legal research and advice. The advocate's work, as the word suggests, is to prepare for and conduct the advocacy in court or arbitration. This distinction is particularly obvious in the English system, where the profession is split between solicitors' law firms, such as Baker McKenzie or Clifford Chance in London, and barrister's chambers, such as those of the Inner Temple, Middle Temple or Lincoln's Inn. Law firms in Singapore do not have this work division and handle all aspects of a dispute, from taking instructions right to the advocacy at a hearing.

Mr Rajah, SC felt that it was time for Singapore to have specialists who focus on the advocacy work, as in England. He therefore set up ECCD to operate on a pure chambers model. Mr Toby Landau, QC

Leng Sun, Chan, 'A Journey Through the Cultures', page 45-7.

who is admitted to practise in Singapore, joined him as a member, along with three junior members. Each member of ECCD operates in a similar fashion to a barrister in London. Each member is an independent and self-employed advocate who can work with any law firm on any dispute. ECCD is not a partnership, nor is any member an employer of another member. It is not a law firm, but a "group practice" comprising independent members. It remains the only chambers model with Singapore-qualified members.

In 2018, on their invitation, I joined ECCD. I am back in a cosy set-up, this time focusing on truly legal work. My work comprises rendering legal opinions, conducting litigation in court or arbitration

as lead counsel, sitting as arbitrator and occasionally acting as a mediator. Clients instruct me directly or through a law firm. Where a law firm instructing me has the capability to act in the dispute, I will work with the team of supporting solicitors from that law firm. Where it does not, or if the client comes to me directly, I will assist in forming a team of solicitors from the many good law firms that are available. This allows me to customise the team for the needs of a particular case. It is also common for the clients to appoint one of the junior members of ECCD to assist. The ECCD platform has opened up infinite possibilities of collaboration with any law firm, within or outside Singapore. Within a year of starting, I had already worked with clients and lawyers from the USA, Europe and Asia.

I am still on a journey, picking up lessons and experience along the way. As this year's terrible pandemic has shown us, no one can predict the vagaries of life or career. Whatever happens next, it is clear that the legal profession is multi-dimensional. It has taken me on an incredibly enriching peregrination that reveals so many perspectives on, not just law, but peoples and the lives they live. For that, I am immensely thankful.

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