

# Ensuring Access to Justice



An important part of the Law Society's mission is sustaining a competent and independent Bar which upholds the Rule of Law and ensures access to justice. In this message I will talk about access to justice, and in next month's I will talk about the rule of law.

Without lawyers there can be no access to justice. Lawyers are the experts and intermediaries who provide representation to individuals and groups in the community. For individuals, access to justice is critical in enabling self-realisation through stable and enforceable rights. Compared to a status and relationship-based society, where one's life, liberty and property depends on who you know, a justice-based society is far superior in enabling people to achieve personal goals. At a social level, moreover, access to justice makes a society stronger and more cohesive, because of the assurance that grievances and disputes will be resolved fairly and effectively through a common system of justice. In post-communist countries, perhaps the most critical step towards genuine freedom has been the establishment and institutionalising of non-state lawyers as part of the justice system. But access to justice is not ensured merely by the fact that a society has lawyers. It depends too on how lawyers conduct themselves.

Our mission statement focuses on two essential qualities of a profession committed to access to justice. The first is competence. The second is independence. Competence is an individual and collective responsibility. Each of us, and all of us together, must strive to improve our skills in representation, our knowledge of the law and our communication with clients. Independence means that the profession as a whole must be prepared to consider issues of common concern to the Bar and give voice to the profession's position — as was done this year in the submission of papers to the subordinate courts for its workplan. We must keep doing so — from big issues like criminal discovery and representation of arrested persons to the 'small' issues of fixing of trial dates and timelines. It is not that our view must always be accepted or implemented. There are other perspectives too. But what is essential is that the Bar speaks up and makes its views known, so that those views are taken account of, and, where sufficiently persuasive, will win the day. Otherwise, by default, convenience will triumph.

In addition, there are two related personal qualities of lawyers that I would like to emphasise in the context of the profession's mission to ensure access to justice. One is tenacity; the other generosity. Both these qualities are needed because the essence of our job is to represent other people's causes, not our own. The temptation is always for personal feelings to interfere in the representation of clients — it is not unnatural for the advocate whose ineffective presentation has contributed to his client's conviction to worry first about professional embarrassment and only after that about his client's fate. So we must consciously put aside personal feelings, and strive to push the client's case as hard as we can (within the bounds of our professional duties to court and opponent, of course). This is where tenacity comes in. It is not uncommon for a judge to be initially sceptical of an argument and yet ultimately be persuaded by it. The good advocate must keep going. I am sometimes told by lawyers that they do not get a good hearing — they are urged to cut short their submissions, or the judge does not seem to listen. In such a case, the advocate must exercise his judgment — perhaps the point is not a good one and he should move on to better points. But perhaps it is the client's best point, and then you must persevere, perhaps reformulating it, or approaching it from another angle, or coming back to it a bit later. How to do this comes from experience, but learning how to do it also requires tenacity — a thick-skinned and determined approach to the presentation of the case. Ask awkward questions, push tough arguments — don't just go with the flow.

The second quality — of generosity — is most clearly displayed when we take on pro bono work, whether through the Criminal Legal Aid Scheme or directly, and when we represent unpopular causes or litigants. In such cases, the lawyer makes the most obvious and clear difference, because without the lawyer's efforts, the litigant would go unrepresented, and have great difficulty in presenting his case. But an advocate must give of him or herself in every case, whether fee-paying or not: this is of course one reason why advocacy work is so draining, and why lawyers suffer so much stress, but it is an essential part of our calling. It is by generosity (speaking up for someone not able to speak on his own behalf) and by tenacity (keeping going under fire) that we give life and meaning to the phrase 'access to justice'.

**Philip Jeyaretnam, SC**  
 President  
 The Law Society of Singapore