

Questions by Asian Lawyer Magazine – 22 June 2011

1. With the addition of new graduates from SMU School of Law, do you think there are now enough lawyers for the Singapore market, or do further efforts need to be made to stem the brain drain?

There would certainly be an increase in the absolute number of newly qualified lawyers, once this first batch gets qualified. But that is less than half the picture.

You would probably be aware that other efforts have been done to arrest the 'shortage of lawyers' or 'perceived shortage of lawyers issue'. In my view, there is not one single major contributing factor, but rather several factors that need to be addressed together, subject also to the passage of time varying the weight & impact of these factors' contribution to the central issue.

What could possibly help to increase supply of new lawyers: new law school, FPC, better retention efforts by law firms as well as industry (see later).

What doesn't help to increase supply of new lawyers: persistently increasing out flow of practicing lawyers to inhouse legal roles or non-legal roles entirely, or continuing their practice overseas. And this in turn is caused by the large demand for in-house roles: given the (a) increasingly large numbers of financial institutions / Private Equity firms that start up in Singapore, as well as the (b) increasing sophistication of financial products / legislation that forces banks & financial institutions to increase their legal & compliance personnel. Then, there is the (c) rise of China: bilingual Singaporean lawyers are popular in international firms in Hong Kong and China.

Additionally, the (d) largest employers of newly qualified lawyers are still the large local law firms. In addition, if you measure the local law firms' Partnership headcount, you will find them increasing too. Which means both at a newly-qualified as well as Partner level, large local law firms are still growing - more Partners presumably means more work brought in, which in turn requires more Associates. Therefore, in my opinion, the increased number of lawyers is unlikely to be so marked as to make a significant impact in the short term to increase the supply of lawyers given this strong demand by the local large firms.

Large firms also do not do the same work as medium sized or small firms - so this is an issue of market segmentation too. Are there enough (more) lawyers going to the right sectors to service the Singaporean law firm customer - individual and commercial-enterprise? This I feel is a very important question, and consistently over looked.

2. Will the introduction of the Foreign Practitioners' Certificate (first exams early next year) have much of an impact on numbers?

We are still in the very early days of determining this impact, would be my considered view. Even after getting past the 'qualification post', there is still the issue of talent marketability and desirability in comparison with their local counterparts. Can FPC-qualified lawyers function as fee-earners as effectively as local lawyers - that awaits to be seen. If they can, then this would help all other things being equal. If they are not as effective in advising on local Singapore law, then they would be best placed with the international law firms - if they are so desired by these firms.

3. There is a lot of talk of lawyers 'burning out' in Singapore. What can junior Singaporean lawyers expect in terms of work/life balance? Is it very different from Hong Kong, and other overseas markets?

The hours put in by lawyers in Hong Kong & Singapore I feel are more or less the same - the motivation however can be more short-lived in Singapore for the reasons below. Other overseas markets I can only comment generally that it will determine very much on the amount of legal work managed to be brought in by the individual law firm.

This is my personal area of focus - the psychology and mindset and work ethic of the typical Singaporean lawyer: what is the reality, what is the ideal, and what is within reason ?

My personal opinion is that lawyers need to work hard to earn their keep - anywhere and everywhere. And this has to do with

(1) the intrinsic nature of the legal-fee-earning work that they charge for: making a legal conclusion requires an ultimate decision to be made after the amalgamation of facts with law, superimposed by either a court/arbitral system's procedural rules, leading towards a judge/arbitrator decision (litigation/arbitration) or the predicted future outcome of commercial expectations and behavior of the various parties, i.e. the subsequent post-contract commercial behavior and successful/unsuccessful value creation (corporate).

(2) There is no certainty in an adversarial legal adjudication process, but yet any law firm client seeks assurance and certainty, so managing the client and what can be an unceasing tide of questions from the client (taking up a lawyers' chargeable time, to which the client may not agree to paying) is yet another very different skill that must be learnt.

(3) The adversarial nature of legal practice means lawyers typically work with customers who are in some state of anxiety or negative emotion: the fear of being sued (litigation/arbitration) / short-changed & bullied (corporate), or anger leading to a desire to sue. To maintain a positive energy & attitude, good morale & motivation towards improving one's career in such a working climate can prove challenging.

Lawyers who want to be able to balance work/life and be successful at the same time must be able to be so-skilled as to manage these aspects of the practice of law.

There is also self-entitlement at play: this applies to "Generation Yers" as well being a growing issue with each successive generation brought up in a wealthier, more comfortable, more visual and more materialistic environment, as I mentioned in the [interview with SCMP](#). More often than not I feel Singapore lawyers tend to feel themselves entitled to too much, too soon.

In Singapore it takes 4+1 years before getting qualified. In Hong Kong it takes 4+1+2 years, a good seven years, including your trainee-solicitorship term. Knowing & accepting this before signing up for law school I feel allows the average future HK lawyer to be tipped into a form of "longer haul" thinking. In other words, you have ingrained in your personal philosophy that just the starting path alone to your career is a long one - it takes a long time to be good. By my reckoning, it takes about 6-9 years (depending on the sophistication & complexity of the specie of law) for the average lawyer to have covered and practiced enough law to be confident in making legal decisions independently, with minimum supervision, that will play a significant role in determining outcomes of their clients' case. There is a lot of time, commitment and practice involved before a lawyer can make a legal conclusion/decision without the usual rummaging of legal research, cases and facts.

This alone however is not a complete picture. Choice is the other big factor - Singaporean lawyers have a lot of choices given the large in-house job market as well as being in demand by the Hong Kong & China offices of international firms (see above also). The government has indicated in recent years their wish to enlarge the financial sector. Incentives have been given to multi-national companies to set up their Asia Pacific headquarters in Singapore (which naturally follows that their Asia Pacific Legal Department is based in Singapore). Hong Kong, with China as its hinterland and by itself a larger and more competitive, freer and open market, means more "wheelin' and dealin'" here - i.e more sophisticated and 'exciting' type transactions attractive to the young lawyer.

Moreover, this "choice" creates envy and comparison. An estimated 70% leave practice. Not every Singapore lawyer can relocate to Hong Kong, or move inhouse but the choices that abound and which are received by a big segment of the legal market adds to the dissatisfaction of the remaining segment, and also fuel similar moves by successive generations.

4. What proportion of lawyers leave the profession altogether, and what do they tend to do instead?

My macro view, and an estimate, is that in recent years about 70% of each graduating year will leave practice altogether, usually within their 3rd- to 8th-year marks, largely to inhouse and perhaps 10-15% of that number will do something non legal or quasi-legal, or government legal service.

The 10-15% category includes teaching, professional services (such as banking, finance), commercial business / trade or being a homemaker. This number has seen steady increase by my estimation over the last 10 years, and in my opinion will only increase. Lawyers generally have an excellent command of communication. This is a skill which naturally finds itself an audience, and the individual's achievement through external recognition of such a skill may reinforce in the lawyer a desire to increasingly influence people – therefore increasing the likelihood of an occupation beyond the analysis of law and facts, beyond the court room or the corporate boardroom. An estimated 60% of the United States Senate for instance was formally trained in law with the vast majority of them having practiced law before stepping into a career in politics.

5. You've been quoted in ALB as saying managers in Singaporean law firms are now making "a concerted effort" to retain lawyers, with a more hands-on approach –are you able to give some examples?

Many 'hard ware'-type examples abound: catered food, recreational time, overseas trips. These are corporate decisions and to me require only a willingness to commit to monetary expenditure / apportionment of a law firm's yearly budget - not difficult decisions, so long as they make productivity and P&L (profit & loss) sense to the key partners of the firm.

Where the cookie crumbles (to me) is in the "soft ware", and four main examples I feel operate in the firms who can retain their lawyers better.

First, the ability of young / senior / very senior managers & partners, to accept the 'No I do not / will not / cannot....' from young associates - when they reject work, when they argue back, when they disagree. The more managers & partners in law firms are able to tolerate / accept / candidly defuse the objection / influence to acceptance, the better the retention rate.

Second, whether there is a pervasive acceptance within a corporate culture that managing young lawyers is a skill & craft that needs to be learnt, practiced and certainly updated time and time again. There is no running away from this. The legal profession is after all made up of people. The more managers and partners you have who have learnt this, the better the retention rate.

Thirdly, transparency and candor throughout the company - top-down, bottom-up, and the feeling of inclusion applying to even the most junior associate. Not easily achievable – after all, what does a junior associate know about the substantial commercial issues affecting the bottom line or running of a big law firm ? But yet he or she wants to feel included. You can't have it totally one way or the other, so to me, open & transparent communication is the key here - even

when it comes to talking about things they can't talk about. Learn to agree to disagree - learn to accept that there will be a tension that needs to be managed when managing younger staff. It is not simply about rule-compliance, and things are not (although lawyers by nature of their training would very much like to be) black or white.

Finally, the ability of managers and partners to clearly, candidly delineate the parameters of decision-making by junior lawyers. Imagine if you will a typical argument between a junior lawyer and a partner when a mistake is made by the former. The Young Lawyer responds defensively: "You did not tell me". The Partner retorts "You should have anticipated this issue and prepared for it". And argument over "elucidation" and "anticipation" goes on and on and on.

Being clear about the parameters of decision making a young lawyer can have will clarify expectations. Tolerating their mistakes made within that realm of decision making will help even further. But all this is easier said than done, especially in the midst of a difficult deal or litigation. Nevertheless, this final point is to me the most important in improving management of young lawyers. It allows for their exercise of autonomy, self-discovery through mistakes and failure, and recognition for their initiative and efforts if done well. This is a skill that should be practiced and learnt by personnel managers in law firms.

6. Is relocation to Hong Kong an attractive option for associate-level lawyers in Singapore? Do you deal with many lawyers considering such a move, and what advice do you give them?

Very much an attractive option: bright lights, big city, although when presented with the full facts it may meet with some disappointment. My considered opinion is that Hong Kong will provide you only with a very good opportunity - to see legal work done on a more intense, wider, often more exciting scale. The negative flip side is that salaries may not be commensurably higher (even though the cost of living is higher), especially with the strong Singapore Dollar (against the USD, which HK is pegged to). The heavy lifting to move up still needs to be earned by the individual lawyer - and there would be more chances / work (because its a larger commercial market) to afford enough opportunities to show how good you are, but does not remove the deserving condition.

7. NQ salaries at top Singaporean firms are quite low, but they claim to offer competitive bonus packages. How true is this?

As the majority of NQ will go to large local firms, my answer is yes Singaporean firms can offer more competitive bonus packages: typically ranging from 2 to 6 months, whereas with international law firms it is usually a clear [base salary] x 12 mths.

Note: the range is a reflection of quality too. If you did not perform well, then you are not going to deserve more. This is the aspect of a competitive market economy / industry that I feel NQ lawyers must quickly understand and accept (and like most fresh graduates they need to make the change - work is not school, and school is not work) - because this is going to be the permanent condition short of you moving to a non-market economy such as North Korea :)

On the other hand, a foreign international firm's hiring is smaller in numbers - they can be more selective - and choose the better ones. So to me I feel more "competitive bonus packages" must be qualified in this sense:

(i) as above, local law firms have a bigger averaging base with it comes to comparison, so direct comparison is not fair in this sense

(ii) International firms who hire US and UK qualified lawyers can also take into account their longer training / qualification time period - I believe existing salary benchmarks themselves already factor in this, which should be taken into account when comparing dollar for dollar in your question.

All views and errors remain mine.

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