

Book tracks birth and growth of S'pore legal system

K. C. Vijayan
Senior Law Correspondent

Judicial dissent – when one appeal judge disagrees with the others he sits with – is rare in Singapore compared to other major common law countries.

Law professional Lau Kwan Ho writes in a new book that this achievement may be the “envy of fractured judicial systems elsewhere”. However, he suggests that appeal court judges often disagree in private conferences – meaning “internal dissent dissipates before making it to the public eye”.

Mr Lau's study on separate judgments is one of various legal topics contained in the book *Singapore Law – 50 years In The Making*, launched yesterday by Chief Justice Sundaresh Menon as a tribute to the nation in its 50th year.

Written by different legal luminaries and edited by Singapore Management University's Associate Professor Goh Yihan and lawyer Paul Tan, it tracks the birth and growth of Singapore's legal system spanning different aspects such as constitutional, civil and criminal law as well as the people who contributed to its growth.

Attorney-General V.K. Rajah and Judge of Appeal Andrew Phang write in a joint foreword that “virtually all of the authors of this book are drawn from some of the best and the brightest of the next generation”.

Pointing out that there is little public knowledge of the internal workings of Singapore's appeal courts, Mr Lau examines separate judgments over 47 years. A Court of Appeal panel usually issues a single judgment after hearing a case.

Separate judgments are issued by a judge who differs from the majority view, or when a judge on the appeal panel concurs with the majority but for a different reason.

Mr Lau – a former Justices' Law Clerk writing in his personal capacity – said these are an “inherent safeguard” which can “promptly highlight any perceived deficiencies in the majority's decision”.

About 1.5 per cent of appeal cases between Singapore's independence in 1965 and November 2012 featured a dissenting judgment, said Mr Lau. This compares to 59 per cent in the US Supreme Court in the decade from 1998 and 46 per cent in Australia's High Court for the 10 years from 1999.

But he makes clear the question is not “whether there needs to be more dissent in the Court of Appeal”. “That by itself would be quite an unhelpful inquiry, proceeding as it does on the unsteady premise that an increased rate of dissent is automatically a step in the right direction.”

In a 2005 Court of Appeal case about a right of way through another's land, Appeal Judge Chao Hick Tin wrote a dissenting judgment which three years later was heard by a different appeal court that vindicated his view.

At yesterday's event, the Chief Justice also launched the Old Supreme Court mobile app, which takes users through a virtual tour of the former Supreme Court building that is now home to the National Gallery.

The \$90 book is available via the Singapore Academy of Law online bookshop www.sal-e.org.sg

vijayan@sph.com.sg