

# Mismatch? Mr Au versus the AGC

## Attorney-General's Chambers defends contempt of court law in response to blogger's post

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**I**F THIS were a boxing match, it would appear to be a mismatch. At one corner, you have a blogger, Mr Alex Au of Yawning Bread fame.

At the other, you have the government prosecutors from the Attorney-General's Chambers (AGC).

Mr Au threw the first punch, suggesting bias in a June 18 blog post – after a judge fined on plastic surgeon Woffles Wu \$1,000 for getting an employee to take the rap for traffic offences. (See report below.)

On July 6, the AGC replied with a velvet glove, informing Mr Au that he would be charged with contempt of court, a serious offence, if he did not withdraw his comments within five days from the date of the letter, and also fulfil two conditions – post the apology prepared by the AGC and run the full letter on his blog.

Mr Au removed the post by July 10 and the apology was put in place. But he did not post the letter, and on July 10, the AGC reminded him to do so by July 12.

### Complied

He eventually complied late at night on July 11, later clarifying that he had misread the letter.

Out for the count?

No, Mr Au returned with another post on July 15 questioning the contempt of court law and arguing that by not being able to comment on the judgment, his freedom of speech was curtailed.

Yesterday, the AGC responded and said Mr Au got it wrong. In a statement, a spokesman said the law of contempt exists to protect public confidence in the administration of justice.

The spokesman added: "A judge can be criticised, even fiercely criticised for getting the law or facts wrong, for getting the decision wrong or for imposing the wrong sentence. This is regularly done by lawyers, academics and lay persons.

"Such criticism is not contempt. There is no curtailment of free speech that would prevent such criticism.

"It is contempt, however, to say that the court was biased if there is no objective rational basis to do so, as Alex Au did."

The spokesman said Mr Au's June 18 post went beyond merely criticising the judgment.



**QUESTIONING:** Blogger Alex Au. ST FILE PHOTO

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– Socio-political blogger and former Nominated MP Siew Kum Hong

The statement continued: "He deliberately misrepresented the facts, and then accused the court of being biased, on the basis of his false facts. This is very wrong.

"To make his points sound valid, Alex Au decided to mislead. Thus AGC asked Mr Au to remove his remarks setting out the false facts, and apologise for making the contemptuous remarks of the judiciary.

"It is misleading of Mr Au to now allege that our laws on contempt prevent debate and curtail free speech without acknowledging what he has done."

A knockout blow? Hardly, said observers.

Not even down for the count.

Political watchers said the exchange was a marked contrast from the iron-handed approach of the past.

Individuals such as Singapore Democratic Party leader Chee Soon Juan, as well as three men who wore T-shirts depicting a kangaroo in judge's robes (implying a kangaroo court characterised by unfair legal proceedings) have previously been sentenced to jail for contempt of court in 2006 and 2008 respectively.

Socio-political blogger and former Nominated Minister of Parliament Siew Kum Hong said that "it is very encouraging that the AGC has chosen to engage in a public debate on this important issue of public interest, instead of taking legal action".

"This was consistent with their earlier action of not prosecuting Alex for contempt of court if he published the apology letter."

He added that "this is all part and parcel of the so-called 'new normal', and everyone who participates (including office-holders, politicians and the public) must be ready and willing for robust debates."

Dr Tan Ern Ser, faculty associate at the Institute of Policy Studies and sociologist at the National University of Singapore, believes that "the Government would rather not resort to legal action", citing the new political climate that has evolved since last year's General Election as the main reason.

In fact, such a pattern of exchange would serve as a reminder for citizens of the "acceptable procedures for raising questions of reasonable doubts, without committing 'contempt of court'," he added.

He said that such doubts, if not shared openly in the social media, can remain unaddressed in public opinion, which may lead to more misunderstandings.

### Learning process

Nominated MP and SMU Assistant Professor Eugene Tan sees it "as an reiterative, learning process".

"The AGC is also trying to come to grips with new media and ensure that the laws are relevant in a new media environment," he said.

"There is the hope that bloggers like Alex Au will appreciate the legal intricacies and understand why these laws are in place."

This is not the first time that a contentious blog post has been asked to be removed.

In February, Mr Au had to remove from his website allegedly defamatory comments about Foreign Affairs and Law Minister K. Shanmugam.

That same month, one of the editors behind socio-political website TR Emeritus, Mr Richard Wan, had to apologise and remove defamatory posts about Prime Minister Lee Hsien Loong and his brother, Mr Lee Hsien Yang.

But not all exchanges are limited to the velvet glove.

Earlier this month, two teenage boys were arrested for posting racist remarks online, and could be charged under the Sedition Act.

Prof Tan added that if the situation calls for it, "certain legal options will not be foreclosed."

"If someone can determine that there was malicious intent, we shouldn't be surprised if they choose to pursue the matter."

Even in Mr Au's case, such an exchange could also be the start of the legal process.

"If there was no compliance or defiance by putting up another problematic post, there could be further legal consequences," he said.

## Background

**JUNE 12:** Plastic surgeon Woffles Wu is fined \$1,000 for allowing an employee to take the rap for two speeding offences.

Under the Road Traffic Act, Wu could have been sent to jail for a maximum of six months, the Attorney-General's Chambers

(AGC) later said.

**JUNE 14:** In a blog post, Member of Parliament for Bishan-Toa Payoh GRC Hri Kumar Nair expresses surprise at the \$1,000 fine, writing that such offences – getting someone else to take the rap – were serious as "they seek to undermine the course of justice".

Lively online discussion ensues regarding the law under which Dr Wu had

been charged, the crime he was convicted of and his apparently lenient sentence.

**JUNE 16:** Law Minister K. Shanmugam dismisses speculation that Dr Wu was spared a jail sentence "because he's rich".

He said the decision to prosecute was made independently by the AGC.

Sentencing is for the courts to decide, and a fine is "within the norm of usual sentences" though there have been cases

where the offender was jailed.

**JUNE 18:** On his blog, Mr Alex Au posts "Woffles Wu case hits a nerve" in which he takes issue with some of the charges and investigation in the case.

**JULY 6:** The AGC sends a letter to Mr Au to take down the post, post an apology and the AGC's letter.

**JULY 11:** Mr Au posts AGC's letter after earlier posting the apology.