

Disclaimers of no use if cartoonist is charged

Lawyers say Leslie Chew's case is unique, given medium and satire of his comic strip

Walter Sim

If local cartoonist Leslie Chew, who is being investigated for sedition over his "racially insensitive" cartoons, is charged, the disclaimers that he had inserted into his comic strips will be ineffective in his defence, lawyers unrelated to the case say.

The contentious March 27 cartoon in the online strip called Demon-crat Singapore is about how an allegedly fictional government treats the Malay population.

The 37-year-old cartoonist had written on the page that "Demon-crat Singapore" is the full name of a fictional country "referred to as Singapore for short". The page also said that the series is "a totally fictional comic with entirely fictional characters based on wholly fictional events".

But lawyer Irving Choh of Optimus Chambers pointed out that "the figures drawn are too similar to actual persons to be mistaken" for anything else.

Lawyer Tan Hee Joek from Tan See Swan Co added: "If disclaimers alone were sufficient, then everybody will be making seditious comments and getting away with it."

Other lawyers interviewed described the circumstances of the case as "unique", given the cartoon medium and the element of satire.

In 2005, Mr Choh represented Mr Benjamin Koh in a landmark case. Mr Koh was one of three men convicted of making racist remarks online under the Sedition Act, which was enforced for the first time since 1966. He was jailed for a month.

A-G CHAMBERS TO TAKE 'A FIRM LINE'

The Attorney-General's Chambers said yesterday that it would take "a firm line" in dealing with "heinous" words or deeds.

In a statement, the AGC said it would respond to any words or actions that insult a particular religion or race, or seek to engender hatred among races or religious groups, or which suggest that the Government is using race or religion for its own purpose.

It was replying to queries it has received on the general principles as to when investigations would be conducted and action taken against people.

The statement came after the April 19 arrest of cartoonist Leslie Chew, who is being investigated under the Sedition Act for "a series of racially insensitive cartoons which are circulating online".

The AGC statement noted that "there are hundreds of commentaries...on socio-political matters both in the mainstream media and online", many of which "do not contravene the law, and no

"In Benjamin Koh's case, he was direct in his writings. The sedition and intention were clear so there is no running away," Mr Choh said. "But in this cartoon, you have to be intelligent and read a little between the lines."

Speaking through his legal adviser Choo Zheng Xi of Peter Low LLC, Mr Chew said his cartoons "do not have any seditious tendency and are meant to be humorous".

legal action will be taken by the AGC on behalf of the State".

But due to the importance of racial and religious harmony to society and peaceful living in Singapore, the AGC urged Singaporeans to "remain vigilant against any threats to racial and religious harmony" as "words or deeds touching on race or religion have the potential to create fault lines within our society".

Any responses from the AGC would "depend on what is uncovered by investigations".

The AGC said that "where comments are made in the heat of the moment, or by relatively immature persons who did not know better, a more nuanced response may follow".

It added "any statement or action that seeks to impugn or undermine the independence of the Judiciary" will similarly be met with action from the AGC because "the rule of law is another fundamental tenet of our society", and "unwarranted allegations of bias or partiality strike at the heart of the judicial process".

Hoe Pei Shan

Mr Tan said: "The authorities will have to consider how seriously people would look at all these cartoons so the context of trying to be humorous will be relevant to a certain extent."

Singapore Management University assistant law professor Eugene Tan said the Sedition Act does not "bar satire or black comedy but even something uttered as a joke

can have seditious tendency", and the authorities have to look into such complaints.

Mr Chew has not been charged. If found guilty of sedition, he could face a fine of up to \$5,000 and/or a jail term of up to three years.

Since 2005, the Sedition Act has not been used to prosecute netizens, although police warnings have been given. The authorities can investigate the most serious charges and then eventually proceed on another provision, lawyers said.

For greater prosecutorial discretion, the scope of Section 298 of the Penal Code was expanded in 2007 such that any word, gesture or action intended to hurt the religious or racial feelings of a person is a criminal act.

Then Senior Minister of State for Home Affairs and Law Ho Peng Kee told Parliament the 2005 cases raised the question of whether there was a need to prosecute such offenders under the Sedition Act, which carries a heavier punishment.

Ms Amy Cheong, a former assistant director of membership at the National Trades Union Congress, was given a stern warning under Section 298A of the Penal Code for an expletive-filled racist rant on Facebook last year.

One key difference between the Sedition Act and the Penal Code is that the Sedition Act prohibits acts that "may bring into hatred or contempt, or to excite disaffection against the Government" while the Penal Code does not, lawyers note.

Mr Tan said it is a "very tough balance" to achieve. "If the authorities are too strict, people may criticise they're stifling creativity, but if they are too relaxed, then people may take it that the authorities do not regard complaints about such issues seriously."

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