

COMMENTARY

Do aspiring lawyers who cheat deserve a second chance?

Singapore's legal fraternity must be a tireless advocate of its own ethical standards. BY EUGENE KB TAN

WHEN so many applicants cheated in a professional qualifying examination in so many papers, including one for "Ethics and Professional Responsibility", then something is wrong somewhere.

Is there "a culture of cheating brewing in the earlier stages" of an aspiring lawyer's education? Why did the applicants learn "so poorly" from a course meant to instill ethics and professional conduct?

Justice Choo Han Teck posed these pertinent questions last week in his grounds of decision in respect of 6 applicants who had applied for admission as an advocate and solicitor of the Supreme Court of Singapore.

They had cheated in the exams in 2020. The following day it was reported that another 5 applicants had cheated in the same exam.

That Justice Choo was palpably concerned was evident. The senior judge agreed with the Attorney-General (AG) to postpone the hearing for the 6 applicants for 6 to 12 months. This was the first time the AG had objected to such applications.

The public reaction was understandably livid at the egregious conduct of these aspiring lawyers. The debacle raises pointed and troubling questions about the values of the legal profession.

Were these cases only the tip of the iceberg? Is the legal profession cavalier about the state of its soul? Justice Choo is right that "even lawyers in the embryonic stage – law students – must be trustworthy".

This is a concern I share. In January 2014, as a Nominated Member of Parliament, I had filed a parliamentary question asking the Law Minister whether any persons had been denied admission to the Singa-

pore Bar for misconduct or ethical breaches committed during their undergraduate law studies locally or overseas.

I also asked whether there was a mechanism in place for our law schools to inform the relevant parties of persons who may not be suitable for admission to the Singapore Bar due to misconduct or gross ethical breaches during their law studies.

Then Senior Minister of State for Law Indraneel Rajah replied that under the Legal Profession Act (LPA), an applicant had to affirm or swear, by way of affidavit, facts that affected his suitability to practise as an advocate and solicitor, including any misconduct or ethical breaches.

The applicant must also provide a certificate of diligence from a Singapore law practice where he had received supervised training.

Such a certificate cannot be issued if the law practice knew of any misconduct or ethical breaches that affected the applicant's suitability for admission as an advocate and solicitor.

The Bar admission criteria did not distinguish between misconduct or ethical breaches during or outside the course of an applicant's law studies, said Rajah.

Soliciting the right lessons

The legal fraternity, including the 3 local law schools, must learn the right lessons from this debacle. Are the traits of dishonesty, of ends justifying the means, tolerated within the legal profession? Is the acquisition of legal skills and knowledge much prioritised over ethics?

Justice Choo observed that the exam cheating pointed to other vices such as "a lack of diligence, and a propensity to take shortcuts – neither of which are sound professional qualities".

He noted that a lawyer who had acted dishonestly would be disciplined according to the disciplinary process under the LPA.

In serious breaches, the errant lawyer could face the Court of Three Judges which can suspend or even bar the lawyer from practising law.

The Singapore Institute of Legal Education (Sile), chaired by the AG, conducts the professional training and examinations for aspiring lawyers. The Sile has a code of conduct for "the maintenance and enforcement of discipline among the students".

The law mandates every student to comply with the code of conduct. A student disciplinary committee, comprising of Sile directors who are prominent legal personalities, is established for that purpose.

In Sile's code of conduct, "academic integrity and honesty" is most extensively described.

For example, "all work submitted by a student must be the student's own work" and "copying in part or in whole the work of any other person whether on exams, assignments or tasks is cheating, is dishonest and will carry severe consequences".

The public's incandescent outrage was accentuated by the perceived light punishment handed out.

The court had also directed that the relevant court files be stored away from public access.

On redacting the names of the 6 applicants in the published ruling, Justice Choo explained that it was done "in the hope that they will not be prejudiced in the long run".

To be clear, the court in granting the postponement of hearing applications was not punishing the applicants; the hearing was not about disciplining the 6 applicants.

Advocating the best values of the profession

The question now for the various stakeholders (viz Sile, the Law Society, AG) is how best to strike the delicate balance between taking the culprits to task and not ending their legal careers even before they have begun.

The Sile stated that it had disciplined, in accordance with its rules, those who were found to have cheated. Sile should disclose the sanctions meted out.

The postponement of the admission applications does not mean that the 6 applicants will be automatically admitted to the Bar after the 6 to 12 months interval.

It may well be that an applicant who had cheated in the Bar examinations could have his admission application denied indefinitely.

Under the LPA, an order may be made against a trainee lawyer prohibiting him from applying to the court for admission to the Bar until a specified date.

In light of a cheating record, an applicant will probably have to show that he has turned the page on his prior misconduct and demonstrated the honesty and integrity that every lawyer is expected to possess.

If the applicant unequivocally shows that he is remorseful and has made amends, he should be afforded the opportunity to pursue meaningful legal careers.

Even a disbarred lawyer can be reinstated. Justice Choo had advised them: "Second chances are for those who seize them. If ever they were to plead for a third, I wish them good luck."



The legal profession would be setting itself up for ethical breaches and professional misconduct should it be lax on values and ethics. Blaming "bad apples" for the transgressions is missing the point. BT FILE PHOTO

The debacle highlights the fundamental issue of how the legal fraternity can better support and enable lawyers, especially junior ones, to meet their ethical duties and professional responsibility.

Justice Choo was incisively clear: "Dishonesty is a big problem" in a profession where "every member must be like Caesar's wife – beyond reproach."

We often hear of law firms being overly focused on billable hours and billing targets, with lawyers described as "fee earners".

To be sure, profits are important but cannot be the be-all-and-end-all in measuring a lawyer's worth. More importantly, how lawyering is practised and profits made are of greater importance and deserve far close scrutiny.

As with most professions, in tandem with strong market and managerial logic, legal practice has tended to emphasise technical mastery and rigour.

This is not surprising, but the danger in valorising professional knowledge above professional values and ideals is that it can relegate ethics and the ethos of professionalism, to the detriment of the lawyer and the profession.

The big local law firms have

been reported to offer starting monthly salaries in excess of S\$7,500 for freshly minted lawyers, indicating the premium placed on legal smarts.

The legal profession would be setting itself up for ethical breaches and professional misconduct should it be lax on values and ethics. Blaming "bad apples" for the ethical transgressions is missing the point.

The legal fraternity must be a tireless advocate of its own ethical standards – one that not only meets regulatory requirements and industry norms but also strives to go beyond community needs and standards. This would infuse the practice of law with a soul and a social purpose.

A values-driven legal fraternity is more likely to practise law as a noble profession, rather than as a soulless for-profit enterprise.

If law is a humanistic endeavour, it must give full expression to positive human values, ensuring that the legal enterprise furthers and enhances fundamental human values rather than debases them.

The writer teaches at the Singapore Management University's Yong Pung How School of Law. Admitted to the Singapore Bar in 1996, he has taught applied ethics and social responsibility since 2002.