

*Address at the Launch of the Singapore GC Report*

**THE MODERN IN-HOUSE LAWYER:  
A CALL TO ACTION**

*Justice Steven Chong*

*18 April 2018*

**I. Introduction**

1. I am delighted to have this opportunity to address you, as well as to be a part of the launch of the Singapore General Counsel Report. The report is a wonderfully insightful read. Through a series of surveys and interviews, it pieces together the aspirations, expectations, and anxieties of local in-house lawyers to provide a compelling portrait of the community. I strongly commend it to you for the rich and diverse perspectives it contains, as well as its instructive views on what it takes to do well in the present operating environment.
  
2. Indeed, my address this morning is focused precisely on the current challenges facing the modern in-house lawyer and the skills he or she needs to stay relevant. I shall come to that shortly but, first, allow me to begin by briefly recalling the in-house community's journey to where it finds itself today.

**II. Tracing the past**

3. For some time in the past, I believe it would be not inaccurate to say that in-house lawyers were generally perceived as inferior cousins to their counterparts in practice. This perception became more apparent with the emergence of big law firms in the 1950s and 1960s which became symbols

of prestige and, importantly, centres for corporate legal representation.<sup>1</sup> This left in-house lawyers with only limited routine matters to perform and the unkind stereotype of being, in the words of one commentator, lawyers “who had not quite made the grade as partner” at their corporation’s principal outside law firm.<sup>2</sup>

4. But the narrative began to shift in the 1970s with the increasing cost of external legal services and the greater sophistication of corporations and regulations.<sup>3</sup> This led businesses to see more value and purpose in expanding their in-house legal departments. This swing inwards gained further momentum in the 1990s partly as a result of the global economy slowing down which put a squeeze on corporate spending on outside counsel.<sup>4</sup> By 2010, a survey of in-house attorneys in America showed that their membership of senior management teams in corporations had risen from 47% to 62% over the past five years; in the same period, the influence of external counsel reportedly fell sharply from 35% to 14%.<sup>5</sup>
5. Today, comparing in-house lawyers against their external counterparts has become an almost archaic exercise: the general consensus is that the

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<sup>1</sup> See Jonathan C Lipson, Beth Engel and Jami Crespo, “Who’s In the House? The changing nature and role of in-house and general counsel” (2012) *Wisconsin Law Review* 237 (“*Who’s In the House?*”) at p 246.

<sup>2</sup> See Omari Scott Simmons and James D Dinnage, “Innkeepers: A unifying theory of the in-house counsel role” (2011) 41 *Seton Hall Law Review* 77 (“*Innkeepers: A unifying theory*”) at p 79.

<sup>3</sup> See *Who’s In the House?* (n 1 above) at p 239.

<sup>4</sup> See *Who’s In the House?* (n 1 above) at p 240.

<sup>5</sup> See *Who’s In the House?* (n 1 above) at p 240, citing a report by Deloitte, “Deloitte Global Corporate Counsel Report 2011: How the Game is Changing” (2011).

“reputational and expertise gaps” between the two is practically “non-existent”.<sup>6</sup>

### **III. Thriving in the present**

6. The in-house community has clearly come of age. But its steady progress in the past is no guarantee of its future. How the next chapter unfolds very much depends on whether its members are able to thrive in the present.

7. It is with that in mind that I turn now to consider the trends altering the landscape for in-house lawyers today, as well as the qualities they should strive to cultivate to deliver sustained excellence in the new environment. I will make four broad observations in this regard.

#### **A. Becoming a skilled international operator**

8. First, in-house lawyers must develop skills that allow them to operate with confidence and to recognise enterprise risks beyond their own jurisdictional silos.

9. Since the turn of the century, the world has witnessed an unprecedented level of economic integration and, increasingly, we in Asia are finding ourselves right in the thick of the action.<sup>7</sup> This is fuelled by several groundbreaking developments, of which I shall mention just three. First, , the ASEAN Economic Community was created in 2016 and it has

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<sup>6</sup> See *Innkeepers: A unifying theory* (n 2 above) at p 106.

<sup>7</sup> Much of the conversation in this area today is about how the world’s economic centre of gravity is finding its way towards Asia: see the HuffingtonPost article, “World’s economic centre of gravity shifting back to Asia at unbelievable speed: McKinsey Institute” (7 May 2012), accessible at [https://www.huffingtonpost.ca/2012/07/05/world-economic-center-of-gravity\\_n\\_1651730.html](https://www.huffingtonpost.ca/2012/07/05/world-economic-center-of-gravity_n_1651730.html).

transformed our regional 10-man grouping into a single market and production base that is set to become the fourth largest economy by 2030.<sup>8</sup> Second, ASEAN also hopes by the end of this year to conclude the Regional Comprehensive Economic Partnership with six major free trade partners, namely, Australia, China, India, Japan, South Korea and New Zealand. This is being hailed as the “most ambitious regional trade agreement to date”, covering as it does 30% of both global trade and the world’s GDP.<sup>9</sup> Finally, it would be remiss of me not to mention China’s Belt and Road Initiative, which is a stunning vision of the world connected by a sprawling network of overland and maritime routes spanning over 60 countries with a combined GDP of \$21 trillion.<sup>10</sup> This is a project of truly breathtaking magnitude.

10. With the opportunities for doing transnational business abound in the region, we are poised to see a greater number of corporations with a multinational presence. In her closing speech at the In-House Counsel World Summit in 2014, the Senior Minister of State for Law, Ms Indranee Rajah, noted at the time that there were already over 7,000 multinational corporations in Singapore, with more than half of them using Singapore as their regional base.<sup>11</sup> We can expect this figure to grow even further given the

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<sup>8</sup> See the Straits Times article, “6 things you need to know about ASEAN Economic Community” (13 October 2015), accessible at <http://www.straitstimes.com/business/6-things-you-need-to-know-about-asean-economic-community>.

<sup>9</sup> See the Today online article, “How can RCEP benefit ASEAN?” (25 August 2017), accessible at <http://www.todayonline.com/world/asia/how-can-rcep-benefit-asean>.

<sup>10</sup> See the McKinsey article, “One Belt and One Road’: Connecting China and the world” (July 2016), accessible at <https://www.mckinsey.com/industries/capital-projects-and-infrastructure/our-insights/one-belt-and-one-road-connecting-china-and-the-world>.

<sup>11</sup> See speech by Senior Minister of State for Law, Ms Indranee Rajah, at the In-House Counsel World Summit 2014 Gala Dinner (5 June 2014) (“*Speech at the In-House Counsel World Summit 2014*”) at para 11, accessible at <https://www.mlaw.gov.sg/content/minlaw/en/news/speeches/speech-by-sms-at-the-in-house-counsel-world-summit-2014-gala-din.html>.

government's recent pledge to actively encourage companies to "anchor their decisions makers with global or regional mandate in Singapore".<sup>12</sup>

11. Against this backdrop, the modern in-house lawyer will come under increasing pressure to expand his or her repertoire of skills beyond simply being able to provide technical legal advice on domestic matters. That is now the baseline, rather than the ceiling, of corporate expectation. Indeed, as corporations expand their global footprint, they are increasingly looking to their in-house teams to advise on matters which carry a multinational dimension. An important area in this regard is global regulatory compliance. A 2016 study reported that more than a quarter of the General Counsel who had been surveyed felt that this had become "the biggest challenge" within their departments.<sup>13</sup> This is a challenge that is perhaps felt even more acutely in Asia, a continent marked by a "considerable heterogeneity of laws".<sup>14</sup>

12. Faced with this "globalization of risk",<sup>15</sup> it becomes critical for in-house lawyers to acquire at least a basic working knowledge of the general

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<sup>12</sup> See speech by Senior Minister of State for Law, Ms Indranee Rajah, during the Committee of Supply Debate 2017 (3 March 2017) at para 9, accessible at <https://www.mlaw.gov.sg/content/minlaw/en/news/parliamentary-speeches-and-responses/speech-by-senior-minister-of-state-for-law--indranee-rajah--duri0.html>.

<sup>13</sup> See report by Deloitte, "Future Trends for Legal Services: Global research study" (June 2016) ("*Deloitte Future Trends Study*") at p 5, accessible at <https://www2.deloitte.com/content/dam/Deloitte/global/Documents/Legal/dttl-legal-future-trends-for-legal-services.pdf>.

<sup>14</sup> See the keynote address delivered by Sundaresh Menon at the launch of the Asian Business Law Institute, "Doing Business Across Asia: Legal Convergence in an Asian Century" (21 January 2016) at para 5, accessible at <https://www.supremecourt.gov.sg/news/speeches/chief-justice-sundaresh-menon--doing-business-across-asia-legal-convergence-in-an-asian-century>.

<sup>15</sup> See KPMG's report, "Over the Horizon: How corporate counsel are crossing frontiers to address new challenges" (2014) ("*Over the Horizon*") at p 6, accessible at <https://assets.kpmg.com/content/dam/kpmg/pdf/2014/05/general-counsel-survey-report-v3.pdf>.

architecture and operation of other legal systems to offer timely and effective advice. But that is not all. Building up familiarity with another jurisdiction's general legal ecosystem is merely the starting point from which they might then go deeper to develop an understanding of the intricacies of the regulatory regime that governs their principal's area of business. This is hard work but there are no two ways about it. An in-house lawyer who either obstinately refuses to accept or plainly ignores that this is what the current reality requires of him puts the corporation at grave risk of getting entangled in the present-day "panoply of laws",<sup>16</sup> which Ms Indranee Rajah has aptly described as being akin to a "compliance tsunami".<sup>17</sup> And looking past legal and regulatory concerns, there is also a "cultural piece" to excelling as a global in-house lawyer today.<sup>18</sup> As the General Counsel of Airbus Group has observed, the "real challenge" for the modern in-house lawyer is in developing a good grasp of "the differing mentality, business practices and perceptions in the different countries". In his words "[y]ou have to know the environment; you have to understand the sensitivities" of the places in which you are operating.<sup>19</sup>

13. The idea for the modern in-house lawyer is therefore to acquire an enlarged view of his or her field of operation and an embedded knowledge of the different national laws, systems, and cultures that come within that broadened sphere. This is critical to staying relevant.

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<sup>16</sup> See *Innkeepers: A unifying theory* (n 2 above) at p 99.

<sup>17</sup> See *Speech at the In-House Counsel World Summit 2014* (n 11 above) at para 9.

<sup>18</sup> See *Over the Horizon* (n 15 above) at p 6.

<sup>19</sup> See *Over the Horizon* (n 15 above) at p 10.

## **B. Becoming a technologically competent lawyer**

14. The second broad point I make is that in-house lawyers must become adept at operating the growing range of technological tools at their disposal.
15. Corporate behaviour is generally driven by profit and the search for value. This partly explains the earlier mentioned historical shift in corporate attitude away from costly outside counsel towards the in-house option. Today, however, in-house legal departments are themselves vulnerable to the same corporate impulse because there exists in the market an abundance of technologically-driven options which enable legal services to be delivered in a more cost-effective way.<sup>20</sup>
16. Let me illustrate with a few examples.
  - a. Last year, it was reported that JP Morgan Chase had implemented a new programme called COIN (short for Contract Intelligence) which runs on artificial intelligence to perform a slew of routine tasks, such as interpreting commercial-loan agreements.<sup>21</sup> These tasks, which would previously have taken the bank's in-house lawyers and loan officers a total of 360,000 hours each year to perform, can now be completed in "a matter of seconds".

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<sup>20</sup> See generally, Larry E Ribstein, "Delayering the Corporation" (2012) Wisconsin Law Review 305.

<sup>21</sup> See the article in Futurism, "An AI completed 360,000 hours of finance work in just seconds" (8 March 2017), accessible at <https://futurism.com/an-ai-completed-360000-hours-of-finance-work-in-just-seconds/>.

- b. LawGeex is a platform for automated contract review that has been around since 2014 and, during that time, it has built up a customer base that is largely made up of corporate legal departments.<sup>22</sup> The way in which the platform works is that users upload contracts onto it and, within an hour on average, they receive a report that informs them of the clauses that do not meet common legal standards, vital clauses that are missing, and existing clauses that might need revision.
- c. Less than two months ago, a new study conducted by LawGeex in consultation with leading American universities pitted twenty top lawyers against an AI platform to review five non-disclosure agreements. They were scored by how accurately they could identify a fixed number of legal issues. The results?
- i. The human lawyers achieved an average accuracy of 85% whereas the AI platform registered 95% accuracy.
  - ii. The highest accuracy achieved among the human lawyers was 97%, compared to 100% for the AI platform.
  - iii. The human lawyers took an average of 92 minutes to complete the task, compared to an astonishingly quick 26 **seconds** for the AI platform.

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<sup>22</sup> See the article in Futurism, "An AI law firm wants to 'automate the entire legal world'" (30 January 2017), accessible at <https://futurism.com/an-ai-law-firm-wants-to-automate-the-entire-legal-world/>.

- iv. In short, “the human lawyers were trounced”.<sup>23</sup>
- d. My final example has potentially game-changing ramifications for in-house lawyers. In a recent article, it was reported that the Swiss branch of the big four accounting firm, PricewaterhouseCoopers, is building up its proprietary technology as part of a broader strategy to “take over the entire in-house legal functions for clients”.<sup>24</sup> This has so far involved PwC lawyers creating a wide range of automated contracts which are then directly sold to corporations at an affordable rate through a start-up firm it has partnered with. A non-disclosure agreement for an M&A deal, for example, costs about \$100. Indeed, as PwC has explicitly acknowledged, their model is designed around offering legal services “at a lower cost compared to running those operations inside the company as a cost centre”.
17. These examples clearly illustrate that modern legal technology has a vast potential that corporations are on the threshold of unlocking. Indeed, a 2016 survey of CEOs, CFOs and General Counsel found that over half of the respondents believed that technology would replace the tasks of in-house lawyers in the next five years.<sup>25</sup>

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<sup>23</sup> See the article on Yahoo News, “An AI just beat top lawyers at their own game” (26 February 2018), accessible at <https://finance.yahoo.com/news/ai-just-beat-top-lawyers-050100810.html>.

<sup>24</sup> See the article on American Lawyer, “As law firms stall, who will overtake them in the innovation race?” (1 February 2018), accessible at <https://www.law.com/americanlawyer/sites/americanlawyer/2018/01/30/as-law-firms-stall-who-will-overtake-them-in-the-innovation-race/>.

<sup>25</sup> See *Deloitte Future Trends Study* (n 13 above) at p 6.

18. Yet despite the profound changes that lie ahead, lawyers as a whole have generally shown little urgency to move decisively away from old and inefficient practices to adopt technologically-enabled solutions. A survey in America has found a “frightening disconnect” between the numbers of law firm leaders who are aware of the increasing need for practice efficiency and those who have actually significantly changed their approaches to deliver efficient services.<sup>26</sup> Unfortunately, we do not fare much better in Singapore. The Ministry of Law released a note last year extolling to local law firms not merely the virtues but the existential imperative of integrating technology into the way they work.<sup>27</sup> The note revealed that **only 9%** of the local small and medium law practices interviewed as part of a consultancy study use technologically enabled tools: in other words, an astounding 91% do not! These numbers are certainly a source of great concern, as is a key finding in the report being launched today that most local in-house lawyers consider themselves “not very innovative” and “behind the curve” when it comes to areas such as change management.
19. Many commentators have spent time investigating why lawyers show little proclivity to embrace change. Some have said that it is because our training makes us creatures of precedent and therefore we generally approach change incrementally and conservatively.<sup>28</sup> In similar vein, others have said

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<sup>26</sup> See Altman Weil Flash Survey, “2017: Law Firms in Transition”, at p iv, accessible at [http://www.altmanweil.com/dir\\_docs/resource/90D6291D-AB28-4DFD-AC15-DBDEA6C31BE9\\_document.pdf](http://www.altmanweil.com/dir_docs/resource/90D6291D-AB28-4DFD-AC15-DBDEA6C31BE9_document.pdf).

<sup>27</sup> See the note from the Senior Minister of State for Law, “Tech Start for Lawyers” (16 May 2017).

<sup>28</sup> See report by the International Bar Association Legal Policy and Research Unit, “Times are A-Changin’: disruptive innovation and the legal profession” (May 2016) (“*Times are A-Changin’*”) at p 27, accessible at

that “pursuing innovation is almost the opposite” of what we are taught to do, which is to identify and mitigate against risks.<sup>29</sup>

20. Let me suggest to you that, whatever the reasons may be, we offer them up as excuses to our own peril. Standing still is simply not a tenable option. Though one may wish to hold on wistfully to a simpler time untouched by the new wave of technological tools, the stark reality is that “ready or not, they’re already here”.<sup>30</sup> Indeed, we are familiar with buzzwords like machine learning, big data, blockchain technology, artificial intelligence, and cloud computing precisely because they are so pervasive and have entered the lexicon of today’s workplace.

21. My advice to lawyers is that they should strive to become conversant in these technologies, not merely at a superficial level but in the very real and practical sense of knowing how to operate what is available to their advantage. It certainly bears noting in this regard that the American Bar Association has modified its Model Rules of Professional Conduct to confirm that a lawyer’s duty of competence requires him or her to keep “abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology”.<sup>31</sup> I think this is as clear a statement as any that, in the current environment, technological competence is not

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[file:///C:/Users/issuser/Downloads/Disruptive%20Innovation%20report%20\(May%202016\)%20\(1\).pdf](file:///C:/Users/issuser/Downloads/Disruptive%20Innovation%20report%20(May%202016)%20(1).pdf).

<sup>29</sup> See *Times are A-Changin* (n 28 above) at p 27.

<sup>30</sup> See report by Thomson Reuters, “Ready or Not: Artificial intelligence and corporate legal departments” (2017) at p 15, accessible at [https://abovethelaw.com/?sponsored\\_content=ready-or-not-artificial-intelligence-and-corporate-legal-departments](https://abovethelaw.com/?sponsored_content=ready-or-not-artificial-intelligence-and-corporate-legal-departments).

<sup>31</sup> See Comment 8 to Rule 1.1 of the American Bar Association’s Model Rules of Professional Conduct.

merely an optional extra but a vital component in a lawyer's make-up to enable him to discharge his functions to an acceptable standard.

### **C. Becoming a strategic business adviser**

22. I come now to my third observation, which is that in-house lawyers today must be prepared to step beyond their traditional role of providing purely legal advice to give strategic business advice as well.
  
23. With businesses becoming more sophisticated, regulations growing in complexity, and technological innovation outpacing legal precedent, corporate actors will increasingly find themselves operating in that uncertain penumbral space where acceptable and unacceptable corporate behaviour seem to shade into one another. This has driven corporations to involve their in-house lawyers more directly in the implementation of business decisions so that relevant risks are properly identified and managed. Indeed, in-house lawyers have become a natural focal point because so often they "sit at the intersection of most corporate activity".<sup>32</sup> As one commentator has noted, they have "(i) access to information and institutional knowledge, (ii) the power to promote internal action, (iii) responsibility for outside counsel, and (iv) the capacity to engage in preventive law".<sup>33</sup>
  
24. There is overwhelming empirical support for this evolution in the modern in-house lawyer's role.

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<sup>32</sup> See *Innkeepers: A unifying theory* (n 2 above) at p 113.

<sup>33</sup> See *Innkeepers: A unifying theory* (n 2 above) at p 113.

- a. For example, a 2016 study of US corporate directors and executive officers showed that 97% of respondents expected the General Counsel to be part of the executive management team by 2020.<sup>34</sup>
  - b. In Canada, a 2015 study of the in-house lawyers there showed that 78% of them had a strategy component as part of their roles.<sup>35</sup> This was up from 62% four years earlier.
  - c. And, in a global survey of business leaders in 2016, it was widely acknowledged that “the benefit of having the GC present at board meetings ... is increasingly beyond question”.<sup>36</sup>
25. The modern in-house lawyer must change to meet these shifting boardroom expectations. This requires, first and foremost, a mindset change. We are all lawyers by training and so it is understandable that we should find ourselves most comfortable in interpreting, applying, and advising on the law. But an in-house lawyer who thinks that he can insist on confining his role within that narrow ambit is being plainly unrealistic and ignores the new operating landscape. As the former General Counsel of Deutsche Bank and Nomura International has said, “[t]he legal ivory tower disappeared years ago”; now, in-house lawyers develop their all-round skills by being

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<sup>34</sup> See the joint report by NYSE Governance Services and BakerGilmore, “The Rise of the GC: From legal adviser to strategic adviser” (2016) (“*The Rise of the GC*”) at p 2, accessible at [https://www.nyse.com/publicdocs/2016\\_BarkerGilmore\\_The\\_Rise\\_of\\_the\\_GC.pdf](https://www.nyse.com/publicdocs/2016_BarkerGilmore_The_Rise_of_the_GC.pdf).

<sup>35</sup> See the report by Deloitte, “Spotlight on General Counsel” (2015) at p 8, accessible at <https://www2.deloitte.com/content/dam/Deloitte/ca/Documents/finance/ca-EN-fa-2015-General-Counsel-Survey-AODA.pdf>.

<sup>36</sup> See the report by KPMG International, “Through the Looking Glass: How corporate leaders view the General Counsel of today and tomorrow” (September 2016) (“*Through the Looking Glass*”) at p 7, accessible at <https://assets.kpmg.com/content/dam/kpmg/xx/pdf/2016/08/through-the-looking-glass.pdf>.

embedded in the business units.<sup>37</sup> Or as another General Counsel has put it, “excellent legal skills will always be valued but thought of as something that can be purchased as needed”.<sup>38</sup>

26. Indeed, legal services are fungible but a good in-house lawyer realises that, unlike his external counterpart, he is perfectly placed to develop a close understanding of the “collective history of the company and its goals and its strategic objectives”.<sup>39</sup> That understanding is what will allow him to render the kind of advice which a company cherishes for being set within its proper commercial context.

27. In this regard, I note that the competency framework launched by the Singapore Corporate Counsel Association specifically identifies “Business Skills” as one of three core competencies that the modern in-house lawyer should possess.<sup>40</sup> For the reasons I have already given, I think this is eminently sensible.

#### **D. The importance of perpetual striving**

28. In fact, let me take this opportunity to use the competency framework to make my fourth and final observation, which is an overarching point. If you look at the competency framework, what you will notice is that, other than distilling the core competencies expected of an in-house lawyer, its tiered and progressive structure also seeks to give expression to the importance

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<sup>37</sup> See *Through the Looking Glass* (n 36 above) at p 9.

<sup>38</sup> See *The Rise of the GC* (n 34 above) at p 4.

<sup>39</sup> See *The Rise of the GC* (n 34 above) at p 4.

<sup>40</sup> See description of the SCCA’s competency framework at <https://www.scca.org.sg/competency-framework>.

of perpetual striving. As the Chief Justice has spoken of elsewhere, a commitment to continuous learning in pursuit of excellence is quintessential to what it means to be a lawyer, never mind an in-house lawyer.<sup>41</sup> I therefore encourage you to make a deliberate effort to seek out opportunities to develop yourselves not merely in the areas that I have identified today, but elsewhere too. Indeed, years from now, the landscape will have altered again and the need for new competencies will grow. Yet my assurance to you is that you will not slip into irrelevance if you hold fast to the desire to constantly evolve and improve.

#### **IV. Going back to the future**

29. Before I conclude my address, let me turn briefly to say something about the future. The point I am about to make does not involve any bold claims or predictions. Instead, it is an important reminder to the in-house community that even as their roles continue to evolve with changing expectations and conditions, they must never compromise on their core identity as keeper of the corporate conscience. This has been their calling card from the start and it must continue to remain so in the future.

30. I think this is a point worth highlighting because the demands on in-house lawyers are constantly on an upward tick. My address this morning probably already makes that clear. But to bring home the point, I will mention just one report which notes that in-house lawyers today are “commonly expected to

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<sup>41</sup> See the Mass Call Address 2017 delivered by Chief Justice Sundaresh Menon, “A Conscientious Bar: Organisation, learning and public service” (28 August 2017), accessible at <https://www.supremecourt.gov.sg/news/speeches/mass-call-2017---address-by-the-chief-justice>.

wear all, or some, of at least 12 hats”: these include litigation regulation, business alliance and outsourcing, corporate social responsibility, compliance, ethics, management of contracts, and more.<sup>42</sup>

31. In the attempt to keep all these plates spinning, in-house lawyers must not lose sight of the need to keep themselves firmly anchored to a strong ethical base from which they can advise on the business decisions of the corporation dispassionately. I have no doubt that this will assume even greater importance as in-house lawyers become more deeply integrated within the commercial decision-making process. Ben W Heineman Jr, the influential former General Counsel of General Electric Company, said that the “greatest challenge” for the modern in-house lawyer will be in “reconciling the dual—and at times conflicting—roles of being both a partner to the business leaders and a guardian of the corporation’s integrity and reputation”.<sup>43</sup>

32. Indeed, history has shown us that dangers lie ahead when in-house lawyers begin to exhibit qualities of “entrepreneurialism” – by this, what is meant is that they “adapt their images and lawyering styles to the prerogatives of contemporary management”.<sup>44</sup> As a group of academics have noted, it is no coincidence that the end of the dot-com and M&A/IPO boom of the 1990s “was replete with corporate scandals” which included the collapse of Enron

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<sup>42</sup> See *Through the Looking Glass* (n 36 above) at p 8.

<sup>43</sup> See Ben W Heineman Jr, “Resolving the Partner-Guardian Tension: The key to general counsel independence” (2017) 42 Delaware Journal of Corporate Law 149 at p 153.

<sup>44</sup> See Constance E Bagley, Mark Roellig and Gianmarco Massameno, “Who Let the Lawyers Out? Reconstructing the role of the chief legal officer and the corporate client in a globalizing world” (2016) 18(2) U of Pennsylvania Journal of Business Law 419 (“*Who Let the Lawyers Out?*”) at p 436.

and WorldCom.<sup>45</sup> The academics observe that the fall of these corporate giants was largely precipitated by a tendency among general counsel during that period to give undue “priority to business objectives rather than legal [imperatives]”.<sup>46</sup>

33. These are important lessons from the past that ought not quickly to be forgotten. Unfortunately, yet more recent troubling episodes have caused us again to ask “*where were the lawyers?*” Back in 2013, when I was serving as the Attorney-General, I gave a speech where I echoed this very same question which was made famous by Judge Stanley Sporkin in the wake of the American Savings and Loans crisis of the late 1980s.<sup>47</sup> In that speech, I emphasised the “gatekeeping” role of lawyers in policing corporate conduct. Five years on, and it remains as relevant as ever, especially for those within the in-house community. I need only mention the illegal rigging of the London inter-bank lending rate (LIBOR) by several leading banks in 2015<sup>48</sup> as a stark reminder of how those with a duty to keep corporations on the straight and narrow must always keep vigilant to ensure that they themselves do not stray in their counsel.

34. There are many more examples but let me return to the point in all of this, which is that in-house lawyers should be careful not to allow themselves to become “too comfortable” with their principals to the point that they are

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<sup>45</sup> See *Who Let the Lawyers Out?* (n 44 above) at p 439.

<sup>46</sup> See *Who Let the Lawyers Out?* (n 44 above) at p 438.

<sup>47</sup> See the AG’s plenary address delivered at the 2013 LawAsia Conference, “The lawyer, the law and regulations – Is there a case for gatekeeping?” (28 October 2013), accessible at [file:///C:/Users/issuser/Downloads/Plenary+Session+1+--+AG+Steven+Chong+SC%20\(1\).pdf](file:///C:/Users/issuser/Downloads/Plenary+Session+1+--+AG+Steven+Chong+SC%20(1).pdf).

<sup>48</sup> See *Who Let the Lawyers Out?* (n 44 above) at p 422.

incapable of objectively assessing and advising on the risks involved in a business decision.<sup>49</sup> The modern in-house lawyer must always be mindful of the tension inherent in his twin role as gatekeeper and strategic adviser to the company and remember that, whenever the two are in seeming conflict, the former must prevail. Of this, there can never be any doubt.

## **V. Conclusion**

35. In this address, I have sought to give you with a sense of how far the in-house community has come, the terrain that lies ahead, and some of the traits needed for traversing it now and in the future. I hope this has been useful in providing you with a renewed sense of your own professional identity within the larger frame of the community as well as a deeper understanding of the attitude, skills, and mindset that you will need to cultivate in order to thrive and excel. Indeed, I hope that you will search yourselves for those aspects of your practice where you can make improvements on and follow through with meaningful change. At the end of the day, if each of you answers this call to action in your own thoughtful way, then I am confident that the standards of the entire community can only improve further. That would be a most desirable outcome for the in-house legal community and the corporations they serve.

36. Thank you all very much.

\*I would like to record my appreciation to AR Bryan Fang for his assistance in the preparation of this address.

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<sup>49</sup> See *Who's In the House?* (n 1 above) at p 246.