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"THE SAD CASE OF TEO SOH LUNG - COURAGEOUS SINGAPORE LAWYER"

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Michael Kirby*

Australian lawyers paying close attention to the decisions of the Privy Council in the autumn of Empire were surprised (it takes a lot to shock them) by its judgment in a recent decision in Jeyaretnam v Law Society of Singapore [1989] 2 WLR 207. In unusually strong language, Lord Bridge of Harwich concluded the judgment with an expression of "deep disquiet, that by a series of misjudgments, the solicitor and his codefendant ... have suffered a grievous injustice". They had, he said, been "fined, imprisoned and publicly disgraced by offences of which they were not guilty. The solicitor in addition has been deprived of his seat in Parliament and disqualified for a year from practising his profession. Their Lordships order restores him to the roll of advocates and solicitors of the Supreme Court of Singapore but, because of the course taken in the criminal proceedings, their Lordships have no power to right the other wrongs which the solicitor has suffered. Their only prospect of redress, their Lordships understand, will be by way of petition of pardon to the President of the Republic of Singapore".

Those who are interested in the story of the solicitor,

who in 1981 was elected as the sole member of Parliament in opposition to the ruling Peoples' Action Party of Prime Minister Lee Kuan Yew, can read of it in the Law Reports. Sadly, it is not the only instance of harassment of lawyers who support the Opposition in Singapore. Other cases illustrate the difficulties and dangers which face legal practitioners and other citizens in that country, particularly those who take any interest in "political" questions. It seems that these include any criticism of government measures curtailing freedom of the press; calls for the independence of the legal profession and judicial independence and association with the Opposition Party which is neither Marxist nor proscribed. Do that and you put your freedom on the line in Singapore today.

I recently met an English lawyer who has fallen foul of the Singapore authorities. From him, I learned of a Singapore lawyer who has paid for her convictions, and her courage in defence of the rule of law, with prolonged loss of liberty under the Internal Security Act (ISA). Under that Act people may be arrested and detained without trial. Those detained frequently complain about prolonged interrogation, harsh conditions and physical violence amounting to torture. Such is the case of Teo Soh Lung, a lawyer aged forty who deserves to be better known in Australia. Her case is not, I suggest, unique. She is one of thousands of unknown prisoners of conscience. But what has happened to her illustrates the dangers facing lawyers in nearby countries

who stand up for principles we just take for granted.

I came to know of Teo Soh Lung's fate when I participated in a conference on human rights in Harare, Zimbabwe with Anthony Lester QC of London. Mr Lester has for many years practised before the courts of Singapore. Shortly before proceeding to Singapore to argue Miss Teo's last appeal in March 1989, he was banned permanently by the Singapore government from practising in the courts there in future cases. The given ground, ultimately stated after protests on his behalf by the British government, was Mr Lester's criticism of the independence of the courts of Singapore at a private seminar in England. But the courts who had admitted him took no action against him. The Singapore government has excluded him from practising, by use of its immigration power, denying him in future a work visa.

Ms Teo's case has had other ramifications. She is one of those lawyers in Singapore who has provided legal services to the underprivileged. She is not charged with breaking any law of the island state. Her only "offence" has been to work for the Opposition party during an election. For these activities she was interrogated by Prime Minister Lee himself at a hearing of a Select Committee of the Singapore Parliament. According to Mr Lester, she defended herself with moderation and courage under television lights. Of course this did not endear her to her interrogators. Mr Lee's chief attack was on her alleged confusion between her work for the Opposition and her work as a lawyer. To

head this off, she severed her links with the Opposition; but to no avail. Six months later, with a score of others, she was arrested and detained under the ISA. It was claimed that she had undertaken a "Marxist conspiracy" to infiltrate both the Opposition and the Singapore Law Society. She and her co-detainees challenged the detention in the courts. Courageously, the Court of Appeal of Singapore (then subject to unrestricted Privy Council appeals in such cases) reversed years of local authority based on the outdated majority decision adopted in wartime Britain in Liversidge v Anderson. That judgment had severely restricted the circumstances in which courts could review government decisions. One of Law Lords (Lord Atkin) wrote a ringing dissent asserting the duty of the courts, even in wartime, to ensure that the government and its agencies observed the law. His view has ultimately come to prevail, including in Australia. The Singapore court held that detainees under ISA were entitled to judicial review of the constitutionality, legality and reasonableness of their detention. In the case of Miss Teo, she was released on a technical flaw in her detention order. Predictably enough, she was immediately re-arrested under a fresh detention order. She has now spent almost 18 months in solitary confinement. So this is the kind of lawyer she is. She suffers greatly for her principles and her conscience. It may be assumed that she would have been immediately released but for her refusal to "confess". But she will not do so.

Using its overwhelming Parliamentary majority, the Singapore government in December 1988 retrospectively amended the constitution and the ISA. The amendments were designed to nullify the Court of Appeal's decision on judicial review. But they went further. They abolished the right of appeal to the Privy Council except by consent of both parties (including the government). Effectively this ended Privy Council appeals in detention cases or other cases challenging government oppression. Henceforth judicial review was confined to ensuring bare compliance with ISA procedures. It was to challenge the validity of these amendments that Mr Lester proceeded to Singapore on his last case before the ban on him came into force.

It is to be noted that Privy Council appeals have not been entirely abolished in Singapore. There is a perceived commercial advantage in Singapore in a line of appeal to the Privy Council in London in contract cases with no political overtones. But in cases involving the liberty of people like the courageous Miss Teo, the scrutiny of the Privy Council could be an embarrassment for Prime Minister Lee and his officials, as indeed it has been. Their Lordships don't mince words when they think things are wrong. During the argument of the last challenge in the High Court of Singapore in March 1989, the government lawyer criticised the "foreign" judges of the Privy Council. He contemptuously dismissed arguments about the rule of law as based on a "vague and indefinable concept".

Meanwhile, the Law Society of Singapore has spoken out on behalf of Ms Teo who was at the time of her original detention, a member of a committee of the Law Society. Unanimously, the Council of the Society declared that it had:

"...Always found Miss Teo to be conscientious and expeditious in the discharge of whatever duties [were] assigned to her ... She has earned and enjoys the respect and goodwill of her fellow council members ... She has never in any proceedings of the council made any statements which caused us to doubt her loyalty to Singapore, nor has she aired any political views ... The council is anxious that every consideration be given to Miss Teo's case so that she may be released as soon as possible."

Bernard Levin, writing in the London Times (10 April 1989) speaks with appropriate admiration of the high intelligence and economic skills of Lee Kuan Yew, Prime Minister of Singapore since 1959. But in the case of Miss Teo, and other persons who dissent from him politically, the Singapore leader descends to "pettiness and vindictiveness ... behaviour that can truly be called persecution". This is not too harsh a judgment.

Australian lawyers, going about their daily work in the peaceful conditions of this country should reflect upon the courage displayed by Miss Teo in defence of things which we take for granted. We should be vigilant so that we never allow the things that have happened to Miss Teo to happen here. The independence of the courts and the courage of independent lawyers is essential to prevent such things occurring. The assaults on the independence of judges and

lawyers in our region have become all too frequent, particularly of late and especially in countries which share our common law tradition and were once part of the British Empire. Judges removed in Bangladesh. Judges suspended in Fiji. The Lord President and two other judges removed from office in Malaysia. Judicial review limited in Singapore and a mainstream judgment of the Court of Appeal of that country on the duty of adherence to legality reversed. Detention without trial in many lands. Fortunately, there are lawyers and other citizens of conscience who will not submit quietly.

It is ironic that the wrongs done to Miss Teo should occur in Singapore - a major "success story" of the Overseas Chinese - at precisely the same time as the strong moves in mainland China to reinforce legality, re-establish independent courts and restore democracy as a popular movement. The great American judge, Benjamin Cardozo warned that, ultimately, freedom rests upon the will for freedom amongst the people - not the actions of judges and lawyers. But in Singapore, a supine media has prevented widespread coverage of the circumstances that led to the ban on Anthony Lester QC and the long imprisonment of Miss Teo.

Writing in her prison cell, Teo Soh Lung penned a verse which Bernard Levin reproduced in his column:

"Make me a martyr
A name I did not ask for
Make me a martyr.
A name I did not want.
All the might you have
You can throw on me.
I will try my best to survive.
Once my mind was clouded with fear

Of losing my freedom and all that I love
But now my mind is devoid of fear;
I no longer think of my freedom.
Make me a martyr
Make me a martyr.

* Justice Michael Kirby is President of the New South Wales Court of Appeal. He is a Commissioner of the International Commission of Jurists, Geneva and President of the Australian Section of the ICJ.