

Candidates Watch Campaign – Replies
Jerald Gomez

Question 1

In not more than 80 words, please provide a brief introduction about yourself and how you perceive yourself as a legal practitioner.

I am happily married with two lovely children. I have practised law for 21 years. I love the law and believe that the administration of justice is crucial in ensuring secure and happy lives for all. Law is a tool for good or evil and it falls on those who know the law to ensure its proper use as “It is enough for good men to do nothing for evil to triumph” - Edmund Burke

Question 2

Which committee would you seek to chair and what are your aspirations and intentions for the said committee during your tenure? If you do not intend to chair a committee, please state your reasons for the same and tell us what do you intend to achieve during your tenure as a Council Member?

I am interested to chair either the Court Liaison Committee (CLC) or the Professional Standards and Ethics Committee (PSEC).

CLC – Let me first say that the CJ’s initiative has done much to expedite the completion of cases and has substantially cleared the backlog, which we are thankful for as the situation before was quite unbearable having cases drag on for 10 to 20 years with constant adjournments for the flimsiest of reasons. However the pendulum has swung too far - from ‘Justice Delayed is Justice Denied’ to ‘Justice Hurried is Justice Buried’. On far too many occasions cases are now disposed of to fulfil the KPI rather than to mete out justice.

The success in the system is measured not only by the timely disposal of cases but in the quality of decisions and the manner in which those decisions are arrived at. I believe that if enough incidences of injustice are properly collated and structurally presented to the CJ and the various supervising judges of the states, they will see the truth of this fact and will strive to find a proper balance. There must be a complaints mechanism set up which allows lawyers to immediately raise such incidences. This process must be strictly confidential and not expose lawyers or their clients to adverse consequences. A cordial working relationship must be developed between the Bench and the Bar.

During my tenure as chair of the Public Relations and Court Liaison Committee of the KL Bar, the committee had a cordial and professional working relationship with the KL judges. We met with them regularly and raised concerns/problems of

members which were addressed. We implemented a complaints mechanism and collated the incidences. We then prepared a report and proposed changes which were adopted by the judges like staggered times for hearing of cases, that cases will only be struck off after being called a second time with an hour in between, lawyers will be informed in advance if matters are adjourned, etc.

I appreciate that the problems now must be handled more comprehensively but I hope, together with the committee, to do this at the national level.

PSEC – I am concerned at the disparity in professional standards and ethics amongst members of the Bar. A course both at entry level and as part of the Continuing Legal Education programme that educates us on our common beliefs and values at the Bar, will help not only to unify us as a body but will also serve to inculcate in members the public duty aspect of our profession. The traditions of the Bar and our rich heritage - the courageous stands taken by our predecessors must be shared, especially with the new members joining the profession.

Equally or more important than the syllabus and content are the lecturers – who must inspire and instil confidence as well as cause the values and traditions of the Bar to resonate with the members. This has to be constantly supervised and adapted to ensure that the correct people participate and we achieve our objectives.

Question 3

The issue of setting a term limit for members serving the Bar Council has attracted many supporters as well as detractors. Do you think that there should be a term limit for members to be in the Bar Council? Please provide reasons for your answer.

No I do not think there should be a term limit. It is a democratic process and members will have to evaluate and decide who they want as their Bar Councillors. Our current system only allows 12 members to be elected at the national level, the others are State Bar Chairs/Reps who generally change every few years. It is the 12 members who get elected continuously, sometimes in excess of 10 years. Having served on the Council before, I can assure you that we do benefit from the experience, knowledge, contacts, wisdom and more importantly the sense of continuity that these Councillors bring to the Bar Council. At present we have only a few that have been re-elected continuously for over 10 years. I do not think it is a problem, if there is a need for more members to serve then we should increase the number of Council members to be elected under the Act as was done for the State Bar Committees.

Question 4

Based on feedback received, many Young Lawyers are leaving the profession because of perceived deteriorating working conditions at the Bar. What are your views about the working conditions that Young Lawyers are being subjected to and how would you seek to improve these conditions?

When I started practice 21 years ago we had similar problems - it was low pay, long working hours, stress and the difficulty in making partner. Many left the legal profession within the first 3 years of practice. I was advised by my seniors then and can now say with certainty that the practice of law is a marathon and not a sprint. It really rewards you after many years of practice. The hardest years of practice are normally the first 5. Unfortunately during the early years there is also a huge and steep learning curve and many other pressures that impinge on a young lawyer. There may be some firms that have unreasonable working requirements/demands but we lawyers are free to choose the environment and the people we want to practice with. Having said that I think that we should organise meetings/forums to consider the difficulties young lawyers are having today and invite senior lawyers and Bar Council members to address these concerns and also share why the practice of law is different, some short-cuts in researching, the use of internet and technology in practice, file and time management, how and where to get help, and networking.

Question 5

The Johor Bar and the Penang Bar have recently held EGMs, *inter alia*, to obtain feedback in relation to the Fast Track System implemented by the judiciary which places emphasis on a Key Performance Index (“KPI”). Has the quality of justice dispensed by the Courts suffered as a result of the KPI that has been put into place? What would you do to improve the situation?

See answer to Question 2

Question 6

Do you think the Solicitor’s Remuneration Order (SRO) has achieved the objectives it was put in place for? Do you think more should be done by the Bar Council to ensure adherence to the SRO or alternatively, should the SRO be done away with all together?

The SRO should not be abolished. It should be enforced strictly but not in its present form. There should be fixed discounts which lawyers should be allowed to give for various types of relationships as well as types of work e.g. relatives, developers’ work, one-off transactions etc but there must be a minimum amount that is not discountable. To abolish it would lead to undercutting to a level that would adversely impact on the quality of the work. Professionalism would be

compromised altogether, leading to many more negligence suits and losses to clients and members of the public.

Question 7

What are your views on the failure of the Attorney-General to bring charges against the individuals named by the Royal Commission of Inquiry in their findings on the leaked video-clips *vis a vis* judicial appointments? What action do you propose the Bar Council take?

Though the Court of Appeal has allowed the appeal and granted leave to challenge the findings of the Royal Commission, I do not think that the Attorney General (AG) should wait for the decision of the High Court on the findings before commencing investigations. The evidence taken by the Royal Commission in any event, is inadmissible in any civil or criminal proceeding except in a charge of fabricating or giving false evidence. The AG should order investigations independent of the findings and recommendations of the Royal Commission, based on the evidence already in the public domain and the testimonies given on oath during the inquiry. All witnesses who disclosed facts that constitute an offence should be questioned under the CPC and their statements should be recorded, all documentary evidence should be collated and authenticated/verified by the law enforcement agencies. The AG should then decide, based on all the evidence available, independent of the findings of the Royal Commission, whether an offence or offences have been committed and charge those culpable.

The Bar Council has appointed lawyers to hold a watching brief during the hearings but should also ask for leave to address the Court. The Bar Council has also initiated its own action as empowered under the Legal Profession Act 1976 before the Disciplinary Board. In addition the Bar Council should present all relevant testimonies (especially the ones on oath) and also all documentary evidence that they have in their possession in the form of a report or memorandum to be submitted to the AG and Minister of Law for investigation, copying such a request and its enclosures to all members.