

Candidates Watch Campaign – Replies
Steven Thiru

Question 1

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

My name is Steven Thiru and I am a litigation partner in Shook Lin & Bok. I have been in practice since 1992 and I consider diligence, commitment to excellence and ethical values as virtues that every lawyer must possess. I have an abiding interest in public law and contemporary issues. I am currently a member of the Bar Council. I have chaired the Professional Standards and Development Committee and the Industrial Court Practice Committee of the Bar Council. I was also previously a member of the KL Bar Committee where I served as the Chairman of the Continuing Legal Education Committee as well as the KL Bar representative to the Bar Council. I believe in combining practice with service to the Bar.

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?

It is no secret that my passion lies in legal education and professional development at the Bar. I currently chair the Bar Council's Ad-Hoc Committee on the Common Bar Course (CBC) , which has been tasked with charting the future of legal training (post law degree). The CBC will replace the CLP and function as a single entry to the Bar. If elected, I shall be happy to continue leading this committee and work towards changing the landscape of legal education in Malaysia. I believe the CBC will ultimately engender standards in the profession that is often lacking. I am also now the Deputy Chair of the Committee on Orang Asli Rights. It is a committee that is ably led by Dato'Ambiga Sreenevasan and it has become a strong voice on Orang Asli rights. If elected, I shall be pleased to also continue serving in this committee.

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.

This is not an easy question. On the one hand, a limit in the term of service will allow for new blood and with that possibly new ideas. However, there is no substitute for experience and with that, hopefully, wisdom. It is really a delicate balancing exercise. I am comfortable with the present system where there is only a limit to the term of the Chairman of the Bar (two terms). The system has been effective and the Bar has seen a succession of new leaders emerge. Thus, in the recent past, the composition of the Council has been a good mix of junior and senior lawyers. Accordingly, I would not want to reinvent the wheel. However, I do believe that sitting Council members should not be averse to change and we must all be alive to the dynamics of the modern Bar. I believe Council members must constantly evaluate their position and make way for new members, particularly if they are unable to contribute anymore.

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?

I accept that working conditions for young lawyers could be better. At the moment, too much is left to the individual employer law firms and the vagaries of market forces. The Bar should have a uniform system of training and support for young lawyers. The system of training must act as a safety net in terms of the basic knowledge and skills that a young lawyer must have in the early years of practice. As for support, a mentoring scheme that would allow young lawyers to call on senior members of the Bar for guidance and advice should be put in place. This is after all in the finest traditions of the Bar.

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?

All responsible lawyers will welcome an efficient and fair system of administration of justice. Sadly, the KPI system in our courts has largely not achieved these twin objectives. It is unfortunate that the administration of justice has today, in many instances, been reduced to a numbers game i.e. which court is able to dispose of the most number of cases in the shortest possible time. While some may argue that this is merely perception, there is enough anecdotal evidence to suggest otherwise. There are astonishing tales of cases being disposed off at

lightning speed (in the absence of critical witnesses and with little or no advocacy) and where credible applications for adjournments (e.g. on medical grounds) or for the matter to be stood down (where Counsel is engaged in another court) are refused. In the result, the quality of justice has certainly been impaired and in some cases, justice has become a casualty.

I accept that in the past we had a poor system that was weighed down by the backlog of cases. I also accept that there is a need to improve the system. However, all the ills of the past cannot be cured hastily overnight. We cannot have “*directives*”, for example, that all cases before 2008 **must** be cleared by end of 2010. What if it is a trial and there are interlocutory appeals (e.g. amendment) still pending in the Court of Appeal ? How is justice served if cases are struck off shortly after 8.30am? In this way, the KPI and “directives” manifest injustice.

Undoubtedly, the backlog needs to be cleared. But it must be done over a reasonable period of time that both the courts and the Bar can manage. It can be worked out and the Bar will cooperate. On our part, the Bar must accept that the days of adjourning matters at the drop of the hat are no more (if ever they were). We must be prepared to accept that the norm is for cases to go on. However, there must be sufficient latitude for exigencies of litigation (e.g. the unavailability of expert witnesses) and efficiency must be tempered with fairness. Further, the courts must recognise that lawyers handle more than one case at any one time and adjustments must be made to enable lawyers to discharge their duties to all their clients. It is pointless to tell lawyers that they should not take on too many cases.

Finally, the relationship of trust between Bar and Bench must be re-established. So, if a lawyer says he is ill and is unable to proceed, there should be no questions about the nature of his illness or the type of treatment he is receiving. The adjournment should be granted. After all our word is our bond and if we breach that bond, we should be prepared to pay the price.

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?

I am reliably informed by my colleagues in the Conveyancing Bar that the SRO is more often than not honoured in breach rather than in compliance. Be that as it may, I support the Bar’s stand on the need for the SRO .I am aware of the experience of other jurisdictions that have seen a decimation of conveyancing practice of lawyers *sans* the SRO. I would not want that predicament to befall any member of the Malaysian Bar. However, I accept that many lawyers are suffering

under the rigours of the SRO (because there are other lawyers who readily ignore the SRO). The key is therefore in the enforcement of the SRO and I agree more should be done. This is of course easier said than done. It is admittedly difficult to enforce the SRO in the face of human ingenuity. The Bar Council must come up with new methods of enforcement if the SRO is to apply equally to all members of the Bar.

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?

The AG's approach to the findings of the RCI is puzzling. It is difficult to dispute that there is sufficient evidence to prefer charges, what more with the proverbial "*smoking gun*" revealed in the video clip itself. I can imagine that there are cases where the AG has preferred charges on much less evidence! It is therefore very unsatisfactory that no action has been taken and the AG's blanket refusal to lay charges cannot be accepted. Insofar as the Bar Council is concerned, we must continue with our efforts to persuade the AG to prosecute. We should also keep the matter in the public eye and in the public domain. If all else fails, perhaps the Bar needs to march again in Putrajaya. This time we should march to the AGC.