

## Speech

Keynote address by

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**Society of Construction Law (Singapore) Annual Construction Law Conference  
2017**

**Thursday, 14 September 2017, 9.00am**

**Legends Ballroom, Level 1**

**Hotel Fort Canning, 11 Canning Walk Singapore 178881**

Conference theme: *“Construction law and practice in changing times – Construction law is in an era of turbulence, impacted by changes in the construction industry, in the legal profession and in the law itself.”*

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Mr Alex Wong

Chairman, Society of Construction Law (Singapore)

Distinguished Guests, Ladies and Gentlemen

### **Introduction**

1. Good morning. It’s an honour to be here among esteemed colleagues and friends from the construction industry.

2. Our industry, as we're all aware, is seeing changes. While it has always been a cyclical industry, and I'm sure most of us here have been through the ups and downs, we must be prepared that these could be structural changes that will transform this industry for good.
3. Construction law, therefore, needs to adapt to these changes too.
4. I'm obviously not a legally trained professional and so I am not here today to talk about construction law in front of many world-class lawyers! What I would like to share is my view of what these industry changes are, from a business perspective, and what I think are gaps in the current construction law. Hopefully, these observations will be useful in helping to improve the legal framework.
5. Having spent over three decades in the industry, I have participated in all parts of the value chain – from contractor, to developer and now consultant. I have also been in both the public and commercial sectors, so my perspective of the industry covers both sides.
6. Broadly, the main changes I want to share today are:
  - a. increasing globalisation of construction projects,
  - b. more partnerships among players, and
  - c. the increased use of technology

### **Increasing globalisation of construction projects**

7. Let me start with globalisation.

8. PwC forecasts that the volume of construction output will grow by 85% to USD15.5 trillion worldwide by 2030, with three countries, China, US and India, accounting for 57% of all global growth<sup>1</sup>.
9. Where we are, the Asia-Pacific region, continues to be the world leader in economic growth, with IMF projecting the region's growth at 5.5 percent this year and 5.4 percent in 2018<sup>2</sup>.
10. Separately, the Asian Development Bank estimates that Developing Asia will need to invest USD26 trillion from 2016 to 2030, or USD1.7 trillion per year in infrastructure<sup>3</sup>.
11. And of course, there is the Belt and Road Initiative. One estimate of the scale of BRI's cumulative investment over the long term is USD4 to 8 trillion<sup>4</sup>.
12. With such opportunities all around us, it is no wonder that more and more companies are pursuing overseas construction projects. Venturing overseas can be a rewarding experience for many firms, as it presents new opportunities for growth.
13. But companies going abroad need to be mindful that the social, political and economic landscapes vary greatly from country to country. And so do the legal systems.
14. In their eagerness to enter into new markets, companies may not equip themselves with proper knowledge of local ground conditions. Markets differ, from the quality of building materials, skills of workers, speed of approvals, standards in building rules, safety requirements and so on. And in developing markets, building regulations may be murky, and legislation not as straightforward as we would like.

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<sup>1</sup> [PwC Global Construction 2030 Report, Jan 2016](#)

<sup>2</sup> [IMF Regional Economic Outlook, May 2017](#)

<sup>3</sup> [ADB Publication 'Meeting Asia's Infrastructure Needs', Feb 2017](#)

<sup>4</sup> [Chairman's GII speech, May 2017](#)

15. A lack of understanding of these conditions will result in inaccurate estimates and increase the possibility of the project not going according to plan. Disputes then become inevitable.
16. The globalisation of construction projects also means that, even if you operate in your home market, more often than not, projects will be multi-party, multi-lateral and cross-border.
17. The BRI is a case in point. The Initiative is massive, not just in terms of financial investments, but also in terms of the number of countries that will be involved, which is over 60.
18. The Kunming–Singapore Railway network for example, already under way in some parts, will connect China, Singapore and all the countries of mainland Southeast Asia.
19. Such a project takes years of G2G discussions before it gets started, and many more years to execute and deliver. The project cuts through different cities, states and countries, which are governed by distinct regulations, tax systems and engineering standards. It will involve, at any one time, dozens if not hundreds of consultants, developers, contractors, sub-contractors, suppliers and other service providers. Some will be MNCs, while some will be local small companies with no international experience. Add to that mix, possible political regime change along the way, and the execution risks of such multinational projects are clear.
20. It would be helpful then, if there were ready platforms to help us easily understand the legal systems of the BRI countries, and to discuss legal concerns related to BRI projects, specifically in infrastructure construction. Something for this Society to consider perhaps?

## More partnerships among players

21. My second point is on partnerships. In tying up with like-minded partners, we expand our capabilities and reach that we may not achieve easily on our own.
22. Surbana Jurong, for example, has a strong track record in urban planning, housing and industrial development. We augmented our C&S with the bringing on board of KTP, and extended into infrastructure through SMEC and security through AETOS.
23. More recently, we tied up with a unit of ADB to offer financing solutions, as well as the world-renowned Moshe Safdie to offer design services for iconic projects.
24. I am a strong believer in pooling resources and strengths to achieve win-win. Especially when we recognise that huge market opportunities exist outside our home base, joining forces brings success for all.
25. Traditionally a fragmented and highly competitive industry, we need to rethink how we can better work together. Instead of squeezing each other, let's see how we can create more value for each other.
26. Players along the value chain can explore more tie ups, and advance together overseas. Partnerships provide us with a stronger value proposition, and enable us to pursue bigger projects and achieve more international wins.
27. The pie is huge, and only by working together can we all have a bigger slice of the pie than we would be able to achieve had we gone alone.

28. A recent example is the partnering of six companies, including Surbana Jurong, to jointly pursue international high speed rail projects, starting with the KL-Singapore High Speed Rail. The partnership leverages unique strengths of each company, and together, our solutions cover the entire value chain of financing, design, construction, system integration, operations and maintenance.
29. A perfect illustration of leveraging each partner's unique proposition that results in a whole that is greater than the sum of its parts.
30. So as we explore more collaborations and partnerships, perhaps we should also relook the way we do our contracts, to reflect a partnership arrangement instead of client-vendor, for example. There are some innovative contractual models around, which I won't go into details here.
31. But I believe key to the success of such contracts must be shared common goals and transparent KPIs.
32. Incentives should be built around these objectives, such as sharing of cost savings achieved and bonus for early completion. Such contracts should also encourage dispute prevention and early dispute resolution.
33. Only when we view each other as partners can we achieve win-wins – and contractual arrangements should be structured along these lines rather than adversary in nature.

### **The increased use of technology**

34. Lastly, the increasing digitalisation of and fast-changing technology in our industry means there might be some grey areas that need to be addressed in our construction law.

35. An example is Building Information Modelling, or BIM. BIM can dramatically improve the way the industry designs and construct buildings as it enables integration of a project across the entire construction value chain, from architects to engineers, to builders, and eventually to facility managers.
36. An integrated BIM model which is accessible by all parties necessitated changes in copyright law, contracts and insurances due to concerns on the ownership and accuracy of the models.
37. As the use of BIM permeates the construction industry, other concerns regarding its legal and contractual implications arise and need to be reviewed.
38. Does the party managing the BIM model assume additional liabilities and risk?

Is there a recognised system of allocating risks and liability amongst the various stakeholders in the event of an error in the process?

Does the use of BIM alter the traditional allocation of responsibilities?

Does the standard form of appointments and building contracts need to be altered to account for the use of BIM?

39. Besides BIM, there is also the prevalence of Artificial Intelligence, or AI.
40. Surbana Jurong, for example, leverages AI for our lift management systems, using machine learning and predictive analytics to predict and pre-empt lift breakdowns.
41. We also employ AI in BIM. Using AI, a range of design solutions is proposed based on various parameters, including the client's requirements, financial considerations and building regulations.

42. While the use of AI, or for that matter, any technology, can optimise productivity and cost savings, there are some areas that would require more clarity. For example, the ownership of data collected, copyright of solutions, privacy and personal data protection, liability and so on.
43. Are current legislations robust enough to address these concerns, or does the growing use of technology in the construction industry call for more discussions on the regulatory frameworks?

### **Importance of a holistic view**

44. The common theme running through the points I mentioned, is this: While businesses pursue business growth, having a strong legal framework to underpin that growth, as well as a good understanding of local and international regulations, could mean the difference between making or losing money.
45. This is true no matter the size or type of the contract, be it public or commercial, single or multi party.
46. Legal practitioners then, play a critical role in business success in our industry. You all are integral part to our mutual success.
47. Just as business people should have an understanding of construction law, lawyers should also appreciate how construction businesses and the industry function.
48. Adopting a holistic view by all will ensure positive business outcomes.



## **In Conclusion**

49. In conclusion, there are many exciting changes that are taking place in our industry, and there will be many more. These developments present many opportunities for all of us, in Singapore and beyond.
50. Whether it's about capturing global opportunities, creating more meaningful partnerships with each other or leveraging technology for growth, we, as an industry, must collectively make sense of, and make the best of, these changing times. The law must also recognise the evolving landscape and stay ahead of these changes.
51. I congratulate The Society of Construction Law for organising this Conference, which is a valuable platform for cross disciplinary engagement and discussion of pressing topics in the industry.
52. On that note, I wish you all a fruitful day ahead.
53. Thank you.

*End.*