

BOOKS

The Legal Lion of the Commonwealth

A tribute to the life and judgments of Tan Sri Dr Eusoffe Abdoolcader

BY RASH BEHARI BHATTACHARJEE

“Let justice be done though the heavens should fall.” This maxim, in Latin — *Fiat justitia ruat caelum* — which adorns the cover of the first collection of the judgments of jurist extraordinaire Tan Sri Dr Eusoffe Abdoolcader, gives a brilliant clue to the character of the person who lived by its heroic standard.

“Honoured by Kings and Sultans and the toast of cities from London to Canberra, if ever a man deserves to be remembered, it is Eusoffe.” So begins the introduction, full of portent, to the two-volume publication, *The Legal Lion of the Commonwealth: Judgments*.

Eusoffe’s many outstanding qualities compete to testify for a life lived on a lofty plane, but perhaps the description of why he was justly called “the Legal Lion of the Commonwealth”, excerpted from the introduction (see “A Formidable Mind”), says it best.

The introduction itself, a concise biographical sketch of Eusoffe by the book’s editors, Angela Yap of Akasaa Publishing and Ritchie Ramesh of Avec, is the fruit of a 12-year journey to preserve the contributions of the eminent judge.

“More than a decade ago, when we embarked on a quest to revive the legacy of Eusoffe Abdoolcader, little did we know how far down the rabbit hole we would go. Our 12-year research, which continues until today, proves to us that there is always something left to discover, another stone left unturned,” they muse in a description of their publishing odyssey.

That journey is all the more remarkable because of the bond that the publishers

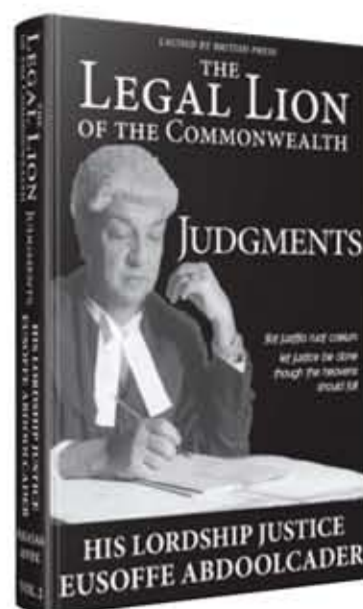
feel with their illustrious subject. “More than once throughout the course of our 12 years, we have felt the unseen hand of destiny on our side. We are neither family nor lawyers by profession or training. But the closest, most logical description of what binds us is that like Eusoffe, our individual experiences have led to a life-long preoccupation with the lofty ideals of truth, justice and sacrifice.”

If it can be said that a person’s character is known in times of adversity, perhaps the dark episode known as the Judicial Crisis of 1988 provided the ideal circumstances for Eusoffe to test his moral fibre to the fullest.

As described by the editors (see “You Only Die Once”), the dramatic events leading up to the conduct of the tribunal on the suspension of five Supreme Court judges, including Eusoffe, proved that for a person of his mettle and ethical convictions, there could be no compromise with principles such as the rule of law.

These excerpts from the introduction, provided exclusively to *The Edge* ahead of the book launch, offer a glimpse into the nature and temperament of the personage who walked in our midst at a time when the country’s judiciary was internationally esteemed.

On a biographical note, the editors state: “The Abdoolcaders hail from Surat, Gujarat in India, descendants of the Dawoodi Bohra clan, an enigmatic and closed sect even within the Muslim world. They are one of Malaya’s most illustrious families, whose intergenerational contri-



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man, after his premiership, sought admission to the Bar before the Penang High Court, he accorded the honour of moving his call to Malaysia’s most distinguished advocate, Eusoffe Abdoolcader. The Tunku described the day as ‘my proudest moment.’

Given the sterling qualities that Eusoffe displayed in his lifetime, it is remarkable that his legacy in the form of his oral and written judgments is only now being published in this definitive form.

Aptly, the launch of the publication was on Human Rights Day, Dec 10, at Ruang by Think City at 2 Jalan Hang Kasturi, Kuala Lumpur.

In the first part of the event, which was a private function, tributes were heard from prominent personalities from Eusoffe’s life, including family, friends, colleagues and young lawyers whom he has inspired.

This was followed by an introduction to The Abdoolcader Project by the publishers. Following that, an exhibition that was open to public was held from 3pm to 4pm, featuring curated images, artefacts and stories from the 12-year research project.

Subsequent tributes will be held in Penang and other cities.

As a First Collectors’ Edition, each book is numbered for collectors in the publishers’ registry. The publishers, by their own admission, feel driven to undertake their mission by an inexplicable thirst for discovering the hidden gems in our nation’s history.

“This volume is merely the beginning, the first of several other books outlining our research to revive the legacy of Eusoffe Abdoolcader and Malaya’s most illustrious forgotten family. Our emotional connection, perhaps even obsession, in uncovering the truth behind such legends, goes beyond reason,” they write.

For the sake of posterity, this mission deserves every helping hand. Further details are available at www.akasaa.com. ■

Excerpts from the introduction

‘A FORMIDABLE MIND’

Of the countless judges that have graced the annals of history, you may ask why Eusoffe alone was bestowed the sobriquet The Legal Lion of the Commonwealth? The answer is thus: Firstly, his many judgments created ripples far beyond Malaysian shores and influenced the direction of other Commonwealth nations. Cited as foreign precedents by constitutional judges in countries such as New Zealand and Australia, the ‘even here — even there’ approach was applied when these courts relied on progressive foreign precedents such as Eusoffe’s to initiate into their legal system new or revised perspectives in their respective constitutions. For instance, the High Court of Australia referred favourably to Eusoffe’s judgment in the Franklin Dam case, “one of its most important constitutional law decisions in our time, if not since the creation of the federal system of government in Australia...”

Secondly, of the innumerable Commonwealth judges, he is one of the hallowed few with the distinction of having his judgments — Mak Sik Kwong and Chan Siew Kim — cited with approval by the Judicial Committee of the Privy Council in London circa 1981, a rare honour in the days when the Privy Council was the highest court of appeal for the Commonwealth. This illustrates the immense esteem in which Eusoffe was held internationally, a time when the Malaysian judiciary was deemed progressive, leading the way for others in the Commonwealth, and was one of her most respected. Unsurprisingly, a leading British Queen’s Counsel, speaking to *The Observer* newspaper in London, singled Eusoffe out for praise as “a legal mind as formidable as can be found in any Court in the Commonwealth”.

But above all, ‘The Legal Lion’ is a fitting moniker for a man whose fierce and regal qualities mirrored that of the king of the jungle. A king lion maintains order and balance in the savannah; it

fears no other animal but protects its inhabitants: in the clear and present danger of enemies, it tackles such hyenas with strength and grace. “He was feared as well as fearless” is a phrase we have heard countless times throughout our interviews and research.

The judicial crisis of 1988:

‘YOU ONLY DIE ONCE’

As an advocate, Eusoffe had a reputation for being “deadly in cross examination”. As a judge, he took on a tribunal — and won. In the ensuing tragedy of the 1988 judicial crisis, when the then Lord President of the Supreme Court of Malaysia, Tun Salleh Abas, was suspended, sources say that Salleh Abas was initially hesitant to take on the Executive branch of the nation. It was Eusoffe who encouraged him to uphold the independence of the judiciary and pledged to stand by the Lord President should it come to a standoff between the executive and judiciary. When the five judges were suspended for alleged “gross misbehaviour” in supporting the

contributions to the administration of law are all but forgotten.

“Eusoffe was the third son of the honoured statesman and barrister, Sir Dr Husein Abdoolcader, Malaya’s first Indian bestowed a knighthood by King George VI in 1949 and Penang’s longest-serving lawyer.”

Eusoffe’s career path was stellar. The editors write: “Had he accepted the offer of judgeship when it was first proffered in the 1960s, Eusoffe would have been the youngest High Court judge in Malaysian history. But when he did, finally in 1974, accept a High Court appointment, his rise was meteoric, owing in no small measure to his brilliant judgments. Within four years, he was adjudicating on appeal cases at the Federal Court although his formal appointment as a Federal Judge came only in 1982. Three years later, in 1985, Eusoffe ascended as a Supreme Court Judge of Malaysia.”

The editors say that much of Eusoffe’s work remains uncredited, being a private man who, above all, valued discretion. But one historical connection deserves to be put on record.

“...as a young King’s Scholar in post-war London, he tutored a family friend, the much-older Tunku Abdul Rahman, who was then not yet the prime minister of Malaya and was resitting his examinations to the English Bar. They spent many evenings at the latter’s flat and Eusoffe’s tutelage resulted in the Tunku finally passing his Bar examinations.

“In June 1974, when Tunku Abdul Rah-

suspended Lord President, there was apparently a moment of hesitation as they sought a place to meet and discuss their next steps. Eusoffe suggested the courthouse — they thought it unwise. He then offered his home — still they hesitated. Impatiently, the samurai within him declared ominously: “I’m not afraid. You only die once.”

The nation was on tenterhooks. A tribunal was convened to hear their case and determine their guilt. In that moment, there was not a speck of doubt in Eusoffe’s mind that the best counsel to represent him ... was himself. “I’ve always felt I could do things better than anyone else,” he said. Of the five Supreme Court judges on trial, he alone fought his own defence. Despite the closed-door tribunal, stories of verbal swashbuckling were whispered along court corridors and invariably made its way into daily kopitiam conversations.

Eusoffe had taken off his judge’s robes and, once again, donned the mantle of advocate, crossing swords with opposing counsel as

he stealthily prowled the courtroom floor. Even as a defendant, he took no prisoners and argued there was no misconduct and no error — he had strictly applied the letter of the law. Oral recollections from sources state that throughout the trial, he vigorously pointed out to the prosecution the errors in their own submissions and points of argument — “that fact is wrong”, “that’s inaccurate” he would unabashedly state — so much so that the prosecution itself would check with Eusoffe — “Tan Sri, was that right?” and “Is that correct, Tan Sri?”.

At one point, an exasperated tribunal called out: “Who is conducting this trial... the prosecutor or the defendant?” In the end, there was no other alternative. Eusoffe had proven beyond a shadow of a doubt that he had applied the law as it stands and together with another two judges, Azmi Kamaruddin and Wan Hamzah, was reinstated to his former positions at the Bench. Sadly, Wan Suleiman Pawan Teh and George Seah, however, were not.