

Speech by Secretary for Justice

Following is the speech by the Secretary for Justice, Mr Wong Yan Lung, SC, at the 2006 Graduation Ceremony for Bachelor of Laws Graduates of the Faculty of Law, University of Hong Kong, today (November 18):

Vice Chancellor, Professor Chan, members of the university, ladies and gentlemen:

Introduction

It gives me great pleasure to be joining you today at the LLB Graduation Ceremony. Although it was 20 years ago when I obtained my law degree, I can still remember the excitement and joy of graduation, which is radiating from many of your faces today at Loke Yew Hall this morning.

So, many congratulations to you all. The long years of dedication, hard work and sacrifice are today being paid off. It is a day for you to say thank you to many -- your parents, family and friends, and a day when you acknowledge their support emotional, intellectual and financial -- by showing off your achievement and sharing your pride. Today's ceremony marks the successful completion of one chapter and the opening of another exciting one.

The law in the past 20 years

Many things have changed in 20 years'. But to lawyers in Hong Kong, the change in the legal landscape in the past 20 years has simply been breathtaking.

Hong Kong changed from a British colony to the PRC's Special Administrative Region. The Letters Patent were replaced by the Basic Law. Final appeals go to our own Court of Final Appeal as opposed to the Privy Council.

Although continuity of the law is generally guaranteed under the Basic Law, the fabric of our law has been enlarged and enriched significantly. Firstly, there is rapidly developing in Hong Kong the constitutional law jurisprudence built upon the unique "one country, two systems" principle. Secondly, there is the comprehensive human rights protection conferred by the Basic Law, which could and did invalidate some longstanding local enactments. Thirdly, cases from almost all common law jurisdictions are being cited in our courts every day.

Another obvious phenomenon of course is the fact that a huge proportion of the legal services in Hong Kong are shifting their focus to the Mainland. And with her entry into WTO, globalisation has gone past the point of no return for China. Hong Kong lawyers of course benefit from the Closer Economic Partnership Arrangement (CEPA), but there is no room for complacency, as foreign lawyers are far more aggressive in trying to secure their market share in the Mainland legal services market. And of course international competition has always been here in Hong Kong.

Lawyers are in no different position. In Hong Kong, we have more than 800 foreign lawyers from 25 different jurisdictions, many of whom are well connected to international law firms.

Immediate challenges ahead

Many of you here have entered into the PCLL course and are likely to join the legal profession in due course. Those of you who have completed double degrees, either in Business and Law or Government and Law, have the benefit of two disciplines that you can draw upon. But no doubt you will still have very close interaction with the legal profession even if you are not going to be part of it.

For those of you who have already commenced PCLL, by the time when you start your legal practice after finishing PCLL, and your traineeship or pupillage, you probably will be encountering more changes affecting your future career, some of which can be fundamental.

For example, the Civil Justice Reform may be close to being implemented by legislation introducing pretty fundamental changes to the practice and procedures in the civil courts, many with a view to improving cost-effectiveness of our system. What you have learned from the Hong Kong White Book thus far may become out of date, and for a period of time, you may have to use two sets of rules during transition.

Secondly, solicitors may have made further progress on their quest for higher rights of audience. The Working Party tasked with considering this issue issued a consultation paper in June this year and the consultation has just been completed. One of the considerations is of course whether allowing solicitors higher rights of audience will reduce legal costs. The same consideration is also the driving force behind suggestions to introduce conditional fees, which was the subject matter of a Law Reform Commission Report last year.

Thirdly, it is of course the China factor and globalisation, which I have already touched upon. The entire legal services market (including both Hong Kong and the Mainland) may have become so much more sophisticated with more Mainland lawyers and foreign lawyers coming in to Hong Kong and the PRC, in competition with the locals.

ACTION Plan

In order to stand and move on amidst all these changes, perhaps I can share with you an ACTION (A-C-T-I-O-N) plan.

(1) "A" stands for "Anchorage"

The choice of values is of course a very personal matter. But it is undeniable that unless you are sure what you are pursuing is worthwhile, you might find it difficult to justify all the hard work and sacrifice.

You may think I am talking about cliches. But I can honestly say that if you are embarking on the legal profession merely because it is financially rewarding, this

motivation might not sustain you for too long or enable you to obtain deeper personal fulfilment.

While in private practice, I saw the law more as a means to resolve people's disputes, to vindicate people's rights, and to punish wrongs. It is fulfilling because it is demanding of one's intellectual and interpersonal skills. It has an element of performance, particularly if you enjoy advocacy. It is a career which allows us to assist in the personal and business lives of countless clients, from all walks of life. The late Charles Ching QC and Permanent Judge of the Court of Final Appeal once told me this was not work, this was a privilege.

Now one year into my job as Secretary for Justice, I can testify to the much wider purposes of the law. It is here, in the handling of "public" justice, in areas such as human rights, criminal law, and law reform, where you are challenged more often by hard questions of law which engage idealism, principles, public interest, proportionality and significant impact on the community. The law can also become a instrument to help enforce standards which the community at large aspire to attain. The anti-discrimination law and privacy protection law are good examples.

Concepts such as the rule of law, justice, freedom and equality are noble motivators of mankind. They are not remote concepts. They can be, and dare I say should be, your motivators as you develop your career.

The legal profession has a cardinal role to play in upholding the rule of law, our most treasured asset. We owe to the community the responsibility to help them understand and protect their rights and freedoms and, if necessary, to enforce them through the judicial process.

Of course getting rich is not a wrong motivation, but it should not be the only motivation. Let your pursuit of the legal career be anchored on something more, and something more secure.

(2) "C" stands for "Courage"

When you start your traineeship or pupillage, the most daunting feeling is "ignorance". You could be completely at a loss when instructed by your principal or pupil master to draft something which was described as elementary and straightforward. And after you have done the work, it could be completely crossed out as inaccurate or feeble. Do not fret, true courage does not mean having no fear, but overcoming it. True courage also means you are brave enough to admit your ignorance and to ask for guidance, and to have the strength and determination to do it again and again.

Once you start your practice, you will encounter confrontations and opposition, which are hallmarks of litigious business. Your opponents can be in the person of an aggressive partner of a leading law firm, or a pompous senior barrister on the other side, or a difficult judge, or even your own boss or clients.

What is required of you is being firm. Jeremy Collier once said the following of "fortitude":

"Fortitude implies a firmness and strength of mind, that enables us to do and suffer as we ought. It rises upon an opposition, and, like a river, swells the higher for having its course stopped."

(3) "T" stands for "Thinking as a professional"

I have 12 pupils so far. From my experience of supervising their work, I can tell the difference between one who thinks he is a barrister and one who thinks he is still a law student albeit at an advanced level. I can tell the differences from the perspectives they took in approaching the problems, the questions they posed, the style and tone they used for their written advice, and the depth and tenacity of their legal research.

In essence, your mindset should be that of a true practitioner, engaged to solve intricate problems affecting your clients' livelihood, rather than that of someone answering an examination question, routinely adopting a formula of "on the one hand, on the other hand".

(4) "I" stands for "Integrity"

As key players in the resolution of disputes, lawyers have a great responsibility. They must ensure that, when protecting their clients' interests, they do so in ways that are entirely honest and in accordance with the rules of the professional conduct laid down by the Bar or the Law Society.

This is of immense importance. Any lawyer who does not observe these principles puts his own reputation and career at risk, and also undermines the reputation of the whole profession.

I had spent a few years working as a member of the Bar's special committee on disciplinary matters. It is a great pity whenever I came across cases of young barristers who had flouted the law by touting or other misconduct, bringing themselves and the profession into disrepute. A good name counts a lot in the legal profession and takes many years of effort to build. However, any question mark on a lawyer's integrity is enough to utterly destroy his name. So you must, at all costs, guard your integrity.

(5) "O" stands for "Off-loading"

Many of you have experienced stress even as law students. The two cases of student suicides in the past week are very tragic and exposed a vulnerability which could easily be taken for granted. Lawyers are famous for leading very stressful lives. My advice is to take "stress" seriously, tackle it before it gets on top of you. A lot depends on how you assess success and failure, how you prioritise your goals and objectives, how well you know yourselves, and how prepared you are to accept you are who you are.

Needless to say, you should find your own ways to relieve your stress. Regular exercise is the invariable advice. But "smoking" is definitely not a good option. It is bad for your health and you may get sued if you smoke at indoor premises come next

January when the Smoking (Amendment) Ordinance comes into force.

(6)"N" stands for "No-frills"

Finally, while you are still on the verge on embarking on your career as a lawyer or otherwise, let me exhort you to go back to basic in terms of training and equipment. There can be no shortcut in building up expertise and experience. Strengthen your store of legal and general knowledge. Sharpen your skills in terms of analysis, language, communication and presentation. The 15-minute oration in court by the eloquent advocate is usually the product of days and days of research, preparation and anticipation. There is simply no substitute for hard work.

Because of the vastness of the legal field, you must decide on the direction your career will take. Many of you would have a pretty good idea whether or not you want to be a barrister or a solicitor. Furthermore, it is perhaps not too early to consider what particular areas of practice you wish to develop. At the beginner stage, it is of course important to get as much exposure as possible. However, in the long term, specialisation is a must and an early informed preference can do no wrong.

While you should be confident in presenting your views and arguments, there should still be the humility that enables you to appreciate you might not always be right and there are bound to be someone out there who can do better than you. Any arrogance, at this stage in any event, is totally out of place.

Conclusion

Well, ladies and gentlemen, you are about to develop your career with a complete clean slate. There are many pathways ahead of you. Start it well. Give your best to it. Make the most of what you have. ACTION it. But most importantly, enjoy it.

Thank you very much. I wish you all good health and happiness in the years ahead.

Ends/Saturday, November 18, 2006

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