

**Speech by the Hon Wong Yan Lung, SC, JP,
Secretary for Justice
at the Farewell Sitting for Mr Justice Hartmann
on 28 June 2012**

Chief Justice, Chief Judge, My Lords and My Ladies,

We are gathered here today to say farewell and "Thank You" to My Lord, Mr. Justice Hartmann, on the occasion of this special sitting to mark his retirement.

2. If you key in the name "*Michael Hartmann*" in the search engine of Wikipedia, you will find four "*Hartmanns*" emerging, with very different backgrounds and disciplines. They include a football player, a sociologist, a politician, and a judge. And the judge of course is no one else but Your Lordship.

3. Having had the privilege of knowing Your Lordship for some time, and having gathered information and intelligence from my colleagues and friends in the legal fraternity, I believe it is not an exaggeration to say that Your Lordship does possess certain qualities belonging to the other three Hartmanns.

Football player

4. **The 2nd Mr. Hartmann is a football player.** I am not sure if Your Lordship plays football, but Your Lordship certainly enjoys that muscle strength befitting a striker in the league of Ronaldo. I was told by my colleague of the International Law Division who travelled with Your Lordship to the Hague in April this year that Your Lordship's exceptional physical might was fully revealed at the Amsterdam Railway Station. Seeing a lady struggling with her big suitcase, Your Lordship graciously took it over in one hand, while having your own big suitcase in the other, and walked up a long flight of stairs effortlessly, in the superman movie style, to the amazement of all.

5. And if the administration of justice can somehow be equated with the activities in the football field, Your Lordship has been playing the all important role of the goal-keeper, safeguarding justice and the proper administration of the law.

6. Your Lordship has extensive experience and acclaimed expertise in many specialized areas of the law including, as mentioned by the Chief Judge, family law and public law, in particular. Your Lordship probably hold the record within the Hong Kong Judiciary in terms of length of hearing in one single case¹.

¹ *Ng Siu Tung v Director of Immigration*

That was of course *Ng Siu Tung v. Director of Immigration*. Owing to the large number of applications involved in the case, it took almost five years for your Lordship to finish hearing all the applications which commenced in March 2003, and with the last judgment handed down in January 2008. So obviously, Your Lordship does have the stamina of the best footballer.

Sociologist

7. **The 3rd Mr. Hartmann is a sociologist.** What has sociology got to do with Your Lordship's career as a judge? Well, sociology is of course the scientific study of society. A sociologist is a person with expert knowledge of the human social activities, which knowledge is applied to promote the welfare of mankind.

8. As a judge sitting in the family court for a long period of time, Your Lordship has a reputation as the understanding and compassionate judge, having a heart for the litigants and their children coming before you. And hence the name "Hart-Mann". You have a deep understanding of human being and human relationship, which enables you to arrive at judicial decisions not just correct in law but also beneficial to all.

9. Your Lordship's continual interest and involvement in family mediation and implementation of international treaties concerning

children's welfare, despite your rapid rise up the judicial ladder, evidently demonstrate these noble qualities of Your Lordship.

10. As an understanding judge, Your Lordship possess exemplary judicial temperament, forever courteous but firm in principle and absolutely impartial. I have had the privilege of appearing before Your Lordship in judicial review matters during my private practice days and can personally testify to that. And whenever lawyers get together to gossip about judges (yes, we do), so far as I am aware, the almost invariable verdict is: *How can anyone not like Mike Hartmann?*

Politician

11. **The 4th Mr. Hartmann is a politician.** Pausing there, Chief Justice, My Lords and My Ladies, no doubt you are about to review me: How dare you, Mr. Secretary for Justice, even though ceasing to be one in three days' time, equate a judge as a politician.

12. No, no, the last thing I dare to do is to politicise the Judiciary. But as is well-known, an important quality of a politician is the ability to strike the right balance between competing interests.

13. Chief Justice Barak of Israel said from his judicial experience, he had learned that "balancing" and "weighing" though

neither essential nor universally applicable, are very important tools in fulfilling the judicial role². I think it is fair to say these tools are particularly applicable in resolving issues in the difficult area of constitutional and administrative law, where questions of proportionality and competing public interests are often at the heart of the disputes.

14. Because of Your Lordship's mastery over these tools, you have made enormous contribution to the development of Hong Kong's jurisprudence in the areas of constitutional law and administrative law through celebrated judicial review cases. The Chief Judge has given us some examples of how you deal with the wide and extensive spectrum of the important cases that Your Lordship has done. The Secretary for Justice must have been the most frequent litigant coming before Your Lordship's court in that connection. When we in the department know the case has been listed before Your Lordship, win or lose, we know we are in good hands. We know that not only shall we get a fair hearing but also we will be appearing before a judge with understanding and with the most astute judicial capabilities.

Other contribution

15. Your Lordship's commitment to serve Hong Kong and its

² Aharon Barak, *The Judge in a Democracy*, pg.164

people does not stop at your judicial duties.

16. Your Lordship also contribute to the legal system by serving as the Chairman of the Higher Rights Assessment Board, the statutory body entrusted with the task to make rules for, and to determine, applications for higher rights of audience before the High Court and the Court of Final Appeal. Under your able Chairmanship, the relevant rules have been made and have just come into operation last Friday (22 June).

17. And more importantly for us at the Department of Justice is Your Lordship's agreement to take up the position as the first Representative of the Regional Office of the Hague Conference on Private International Law, which is going to be officially open in Hong Kong in the last quarter of this year.

18. The setting up of the regional office is a significant vote of confidence in Hong Kong's position as a regional legal services centre by an international institution of high repute. It is not an exaggeration to say that without Your Lordship's agreement to take up this position, Hong Kong might not be able to clinch this important deal.

19. Your Lordship has long enjoyed an international reputation having participated in the Hague International Network of Judges

since its establishment. The objective of this body is to facilitate, at the international level, communications and co-operation between judges and assisting in ensuring the effective operation of the Hague Convention on the Civil Aspects of International Child Abduction. Your Lordship took an active part in several Special Commission meetings to review the practical operation of this Hague Convention as well as another convention on protection of children. Your Lordship was also a prominent speaker at the Third and Fourth Asia Pacific Regional Conferences of the Hague Conference.

20. Apart from being exceedingly well qualified as a jurist, Your Lordship has got excellent credentials as an international ambassador. For Your Lordship truly is an international person. Born in India, Your Lordship, as is widely known, began your career as a journalist. You then received your legal education in England and Zimbabwe. In 1983, Your Lordship came to Hong Kong and joined the Attorney General's Chambers. You were rapidly promoted to the rank of Deputy Principal Crown Counsel, before leaving the department for the Judiciary in 1991. I notice that the Chief Judge has given us more information about your stay in Australia. In so far as there are inconsistencies, of course, the Chief Judge's version is to prevail.

21. Your Lordship can take great pride in all the impressive achievements and the well-deserved accolade. However, unlike other farewell sittings where we will ask the outgoing judges to relax

and enjoy life after retirement from the bench, in the case of Your Lordship, I have to say: We wish you a most rewarding experience upon taking up all new challenges including your work with the Hague. The only caveat is that your future commitment, however noble and meaningful, must not deprive you and Mrs. Hartmann, Melanie, of plenty of quality time together which the two of you so well deserve, and also family time with your children and grand children.

22. In closing, may I say Your Lordship's service in and out of the judiciary has brought great benefits to Hong Kong and its people. We owe you a big "Thank You" for your huge contribution. On behalf of myself, my Department, the entire Hong Kong SAR Government, and dare I say the people of Hong Kong, we wish you every success in your new position and all your new pursuits, and we wish you and your family good health and happiness.