

**Speech by the Hon Rimsky Yuen, SC, JP,
Secretary for Justice
at the Farewell Sitting for the Hon Mr Justice Patrick Chan PJ
on 18 October 2013**

Chief Justice, Chief Judge, Members of the Judiciary, Chairman of the Bar, and President of the Law Society,

We are gathered here today to pay tribute and to express our utmost gratitude to My Lord, Mr. Justice Patrick Chan, on the occasion of this special sitting to mark his retirement as a Permanent Judge of the Court of Final Appeal (“CFA”).

Distinguished legal and judicial career

2. With a Bachelor of Law degree and a Post-graduate Certificate in Law from the University of Hong Kong, Your Lordship was called to the Hong Kong Bar in 1976, appointed as a District Judge in 1987 and later as a High Court Judge in 1992. Your Lordship was appointed as the first Chief Judge of the High Court of the Hong Kong SAR in 1997. Three years later, Your Lordship was further elevated to become a Permanent Judge of the CFA, the first locally trained law graduate appointed to the highest Court of the Hong Kong SAR.

3. The achievement of Your Lordship is widely recognized, and rightly so. Amongst others, Your Lordship was conferred the Honorary

University Fellowship by your alma mater in 2003 and by the Chinese University of Hong Kong in 2011. In addition, Your Lordship was conferred the honorary degree of Doctor of Laws by two universities in 2008 and 2011. This year, as just pointed out by the Chief Justice, the Government awarded to Your Lordship the Grand Bauhinia Medal in recognition of your distinguished service in the Judiciary.

4. Behind the long list of awards and credentials is the early foresight, relentless efforts and concrete achievements by Your Lordship throughout your judicial career. In particular, as a Permanent Judge of the CFA over the past 13 years, Your Lordship took part in numerous cases with far reaching implications for Hong Kong. The judgment in the Congo case decided in 2011 concerning the principle of state immunity is a case in point. The CFA decision in landmark cases of this kind have shaped the development of our jurisprudence in the new order of Hong Kong as a Special Administrative Region under the principle of "One Country Two Systems" enshrined in the Basic Law.

5. Apart from the making of important judicial decisions, Your Lordship has made sterling contributions in numerous areas which are of paramount importance to the rule of law in Hong Kong.

Legal education

6. First and foremost, legal education, which is obviously one of

the matters close to the heart of Your Lordship.

7. Over the past decade or so, the landscape of legal education has undergone significant change. As an international financial centre and a hub for legal and dispute resolution services in the Asia Pacific region, it is vital for Hong Kong to maintain a world-class legal profession, and our legal education can ill afford not to produce law graduates of high quality and global vision. Your Lordship has taken an active role by, amongst others, serving in the Standing Committee on Legal Education and Training since it was first established in 2005, and has assumed the position of its Chairman since 2010.

Promotion of the use of Chinese in courts

8. Another area for which much credit must go to Your Lordship is the promotion of the use of Chinese in courts.

9. Given the common law tradition of our legal system, the task of enabling the effective use of Chinese in our courts was unprecedented and required careful planning with huge wisdom. We are most indebted to Your Lordship for all that you have done. In 1993, Your Lordship was appointed to chair a working group and carry out a study on the use of Chinese in the District Court. In January 1998, a set of guidelines was issued by Your Lordship, as the Chief Judge of the High Court at the time, to assist judges regarding the use of Chinese in court proceedings.

10. With the concerted efforts of other members of the Judiciary and the relevant stakeholders, we have seen significant progress in the use of Chinese in courts. The use of Chinese in courts is not just a matter of language. It is a matter of access to justice, which is an indispensable part of the rule of law.

Law Reform

11. The third area which I should mention is law reform, to which Your Lordship is a firm advocate and a keen supporter.

12. Your Lordship had devoted much of your time and expertise for the work of the Law Reform Commission during your tenure as a member between 2006 and 2012. Moreover, Your Lordship, as the Chairman of the Working Party on Civil Justice Reform ("CJR"), was instrumental in revamping our civil procedure and making the 150 recommendations in the Final Report published in March 2004. Launched in 2009, the CJR has successfully introduced a wide spectrum of measures to improve access to justice, including initiatives to encourage the use of mediation as a means of dispute resolution.

Charity and Social Work

13. Paragraph 3 of the Guide to Judicial Conduct published by the Judiciary stated that "*[j]udges are part of the community which they*

serve" and that "[i]n the modern world, a perception that judges are remote and out of touch with their community would not inspire and may undermine public confidence in the Judiciary and the administration of justice".

14. In this regard, Your Lordship has exemplified how the maintenance of the highest judicial standards on the one hand, and the passion and care for the needy in the society on the other, can complement and sit well with each other. The contributions of Your Lordship go well beyond the legal arena, and extend to areas of social and community services, including the Boys' and Girls' Club Association of Hong Kong, the Scout Association of Hong Kong, and the Department of Social Work of the Chinese University of Hong Kong, in which Your Lordship takes up positions of different nature.

Concluding remarks

15. Judicial career is a career often full of challenges, and such challenges can only be met by judges who firmly believe that they are serving the cause of humanity. Sir Fred Phillips once described the unique position of a judge as follows:

"The position of a superior court judge is an almost impossible one. Such a person must be judicious, well-read, restrained in manner and language, aloof without being grave, erudite, humane, learned, independent, impartial and humble --- all rolled into one. Above all,

such a judge must hear courteously, answer wisely, consider soberly and decide impartially. He must in a word be as near super-human as any individual can ever be.”¹

Your Lordship falls squarely into this description, and is highly respected by members of the Judiciary, the profession and the community at large.

16. Whilst this is a farewell sitting, Your Lordship will continue to serve in the CFA as a Non-Permanent Judge. I am sure Your Lordship will continue to give your best in the years to come as a Non-Permanent Judge.

17. Finally, may I, speaking for myself and also on behalf of the Department of Justice, take this opportunity to wish Your Lordship every success in the next phase of your life and all your new pursuits. I trust Your Lordship will enjoy more quality time with your family. May I also wish you and your family good health and happiness.

Thank you.

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¹ See Sir Fred Phillips, *Commonwealth Caribbean Constitutional Law* (London: Cavendish Publishing Ltd.) (2002), p. 302.