

**Keynote address of Ms Teresa Cheng, SC
Secretary for Justice
7th Asia Pro Bono Conference
25 October 2018 (Thursday)**

Chief Justice, Distinguished Guests, Ladies and Gentlemen,

I am delighted to be invited to speak at the 7th Asia Pro Bono Conference. This year marks the first time the Conference is held in Hong Kong. On behalf of the Hong Kong Special Administrative Region (HKSAR) Government, I would like to take this opportunity to express gratitude to the organisers' choice of Hong Kong as the conference venue, attracting representatives from NGOs, lawyers, legal practitioners, scholars and students from around the region.

2. This year's Conference's theme is "Inspire.

Impact.” A brief glance of the topics listed in the programme reveals that *pro bono* legal services can encapsulate a number of different areas of protecting interests of children, refugee, migrant worker, drug user, etc. In the upcoming three days of the Conference, I believe that you will be able to gain a lot from the panel speakers in discussing *pro bono* legal services in respect of pressing international and social issues, how future technology will enhance access to justice, and exploring different models and possibilities in providing *pro bono* legal services.

3. The excellent platform that has been provided in this Conference will allow you all to tell your story and connect with your peers, and importantly, to inspire and impact. Let me say a few words why ensuring access to justice is so important, a theme that I am sure is very

familiar and close to your heart.

I. Why is ensuring access to justice important?

4. The major benefit of *pro bono* services is to improve access to justice, which is an important element of the rule of law. Despite distinguished legal scholars and judges having examined the concept of rule of law throughout the years, there is no single definition of it. But some common ingredients can be found, and this is something that most of us will be able to agree to. For instance, equality before the law and that all are bound by and accountable under the law irrespective of their social status, political view and motive.

5. The rule of law is a core value of the HKSAR. It is also the cornerstone of Hong Kong's success as a

leading international financial and legal services centre.

6. Hong Kong has a just, fair and robust legal system. The rule of law and the independence of the Judiciary are enshrined and guaranteed in our Basic Law, the constitutional document of the HKSAR. We also have safeguards in the Basic Law guaranteeing the right to choice of lawyers for timely protection of lawful rights and for representation in the courts. In criminal cases, the right to a fair trial without delay is also ensured.

7. The rule of law in Hong Kong has received international recognition. Whilst one does not always rely on ranking, to look at the substance of the judgments and the actual practice of law in the jurisdiction, it is sometimes useful to look at how some of these international ranking bodies have looked at Hong Kong's

position. Hong Kong is constantly ranked high in various indicators. For example, Hong Kong is ranked 8th out of 140 economies in the judicial independence indicator in the 2018 Global Competitiveness Report of the World Economic Forum. We have been ranked first in Asia for a number of years. In addition, in the Worldwide Governance Indicators project of the World Bank, Hong Kong's overall score in respect of the rule of law has improved from 69.9 in 1996 to 93.8 in 2017, representing a leap from top 70 to top 14. Since 2003, Hong Kong's score in the rule of law under this particular study has consistently remained above 90 (out of 100).

8. The rule of law is a core value shared within the global community. The Sustainable Development Goals under the United Nations Resolution “Transforming our world: the 2030 Agenda for Sustainable Development”,

and in particular Goal 16, which provides this: it is to “*promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels*”. One of the key objectives thereunder is to “*promote the rule of law at the national and international levels and ensure equal access to justice for all*”. So this particular Conference is very timely not just at the regional level, but also at the international level, supporting the 2030 Agenda.

9. The rule of law will be a mere slogan if not actually practised and implemented. In order for everyone to be bound by the law, there must be means for people to enforce their legal rights and for the authorities to sanction those who breach the law. The importance of access to justice comes into play here.

The means for resolution should be expeditious and the costs of it should not be prohibitive.

II. The role of Government and the value of *pro bono* legal services in promoting and ensuring access to justice

10. In every community, there will be some less privileged groups of people who require legal assistance, and they deserve *pro bono* service if they cannot afford to engage lawyers on their own. It would be a social duty for the legal profession and the wider community to assist the less privileged. In this context, *pro bono* service plays an indispensable role in enhancing access to justice, and reflects the community's commitment to the rule of law.

11. Hong Kong has well established and funded legal aid schemes, covering pre-action matters and stages after the commencement of proceedings. These Legal Aid Schemes are administered by the Legal Aid Department, with safeguards to ensure proper use of public money and quality of legal services received by the legally aided. To cater for the need of the ethnic minorities in Hong Kong, the Legal Aid Department also provides free interpretation service to help them with the legal aid application process.

12. In addition, there is also the Legal Advice Scheme for Unrepresented Litigants on Civil Procedures which provides free advice on court procedures for unrepresented parties to civil proceedings in courts of various levels.

13. The government's initiatives alone are not sufficient to fill the gap of legal needs. I wish to highlight the efforts and contributions of the two branches of the legal profession in providing and promoting *pro bono* services.

14. The Duty Lawyer Service managed by the Hong Kong Bar Association and the Law Society of Hong Kong is under full subvention by the Government. The scheme provides legal representation by qualified lawyers in private practice to eligible defendants, and free preliminary one-off legal advice to members of the public as to their legal position in real cases. There are currently over 900 volunteer lawyers participating in the Scheme, handling over 6 300 cases in the 2017-2018 financial year.

15. Since 2010, the Pro Bono Committee of the Law Society of Hong Kong has been reviewing the *pro bono* work undertaken by the legal profession, promoting public awareness of *pro bono* services and encouraging participation by the profession. The Committee also has a working group for social enterprises which reviews the legal issues on the formation and running of social enterprises in Hong Kong.

16. The Hong Kong Bar Association also operates the Bar Free Legal Service Scheme to provide free legal service and representation in cases where Legal Aid is not available or where the applicant is unable to afford legal assistance.

17. In addition, various non-governmental organisations have also been engaging hundreds of

lawyers in providing different forms of legal advice and consultation services to the public.

18. I am pleased to note that many legal practitioners are finding time out of their very busy schedule to provide free legal services to the public. Their efforts will certainly supplement the Government's role in ensuring access to justice for all.

III. The development and future of *pro bono* legal services

19. It is natural that with Asia being the world's main economic engine, people are increasingly aware of their legal rights and demanding more affordable legal services. In the following ways, I would like to briefly touch on a few welcoming trends which show that the

legal services sector is exploring ways to enhance its capacity to cope with such demand.

Role of technology in pro bono work

20. Developing artificial intelligence to improve accuracy and efficiency of legal research has now become a major trend. If we can significantly reduce the number of hours a lawyer needs to spend researching the law, while cutting the associated costs, that time can be spent more focused on more clients and helping to level the playing field.

21. Technology has an important role to play in strengthening the infrastructure of *pro bono* work. We can see more and more application of technology in providing pro bono services. For example, there are

websites facilitating the involvement of *pro bono* lawyers by connecting them with the underprivileged through online platform. Some websites help low-income people by providing answers to questions about legal rights, court information, self-help tools to complete legal forms, and links to social service agencies. One may expect that in the near future, *pro bono* clients and lawyers may match through automated intelligent means, that will enhance and provide such services to even more people who are in need.

22. In applying technology in legal services, the Department of Justice (DoJ) encourages the development of online dispute resolution. As mentioned earlier, access to justice includes providing means to the underprivileged to protect their legal rights. In this connection, dispute resolution services help create more

paths to resolve conflicts and achieve this aim.

23. In the commercial perspective, which can be explored and expanded to other areas, it is important to bear in mind that a mutually agreeable solution is not necessarily easy to achieve. The issues are sometimes complicated by the diversity in culture, language and business practice. In view of the increasing demand on these easily accessible dispute resolution services, the DoJ supports the development of online dispute resolution platforms by non-governmental organisations, so that Hong Kong will be able to provide efficient and cost-effective online dispute resolution services.

24. In resolving disputes, mediation, a highly effective tool for achieving harmony, is also suitable for Asians who have a common historical culture of peace and

conciliatory generally in nature, and tend to be less litigious. The conciliatory nature in Asians may actually enhance the success of the mediation that can be adopted. Back to Hong Kong, we have also been promoting more extensive use of mediation to resolve disputes. The Mediation Ordinance provides a good use of mediation, and the Apology Ordinance also enables certain disputes and conflicts to be resolved without fear of other implications by making an apology often by government officials or others who are handling a particular area. And in order to promote and encourage more use of mediation, the DoJ will provide mediation facilities in the vicinity of the West Kowloon Law Courts Building to encourage the use of mediation by members of the public to resolve suitable Small Claims Tribunal cases and other appropriate types of disputes through a pilot mediation scheme.

Proliferation of pro bono culture

25. What is more encouraging, and perhaps more important in the long term is the proliferation and the wide-spreading of *pro bono* culture. Asian jurisdictions are fast catching up with their European and American counterparts in the building up of a sense of pride and prestige around *pro bono* work.

26. Law firms are increasingly aware of the advantages of committing to *pro bono* work, through which they gain not only goodwill, but also practical professional experience and social capital. It is conducive to training of juniors and gives them an opportunity to obtain first-hand experience and sharpen their communication and legal skills by engaging with

various clients. Legal practitioners are actively seeking out opportunities to serve the community and drive social change.

27. In more developed jurisdictions, some law firms enter into *pro bono* declarations, establish their own *pro bono* departments and allocate resources to undertake *pro bono* work and training. They may reward lawyers participating in *pro bono* work by giving them internal awards and compliments, providing some form of billable hour credit for *pro bono* work, taking *pro bono* performance into account in determining bonuses and promotion. Full-time *pro bono* counsel is also becoming more common. I hope such culture will gradually spread across Asia.

28. Education is also crucial in cultivating the mind

set and values. Various universities have taken on board *pro bono* clinics, allowing young students under supervision to provide legal services as and when suitable.

IV. Closing

29. The emergence of a tech-aware *pro bono* community and the maturing of *pro bono* culture will contribute to enhancement of access to justice and the rule of law in Asia. While developing lawtech and promoting the use of dispute resolution services, the HKSAR Government will also continue to listen to views of different stakeholders and the public on what could be done to close future service gaps.

30. Taking this opportunity, I wish to congratulate the

organisers for their success in putting together the Conference for seven years in a row. I believe that the Conference will inspire action and bring about real impact in the Asian *pro bono* landscape. My thanks also go to the many who devote themselves to the improvement and upholding of the rule of law and access to justice across the continent.

31. On this note, it remains for me to wish the Conference every success. And for those of you coming from other jurisdictions, I hope you also find time to enjoy this dynamic city.

Thank you very much.