

32nd LawAsia Conference
“Harmonisation through Synergy”
SJ’s Special Address for the Opening Ceremony
Wednesday, 6 November 2019

Chief Justice (*The Honourable Chief Justice Geoffrey Ma Tao-li, GBM*), Mr Leong (*President of LAWASIA, Mr Christopher Leong*), Ms Pang (*President of the Law Society of Hong Kong, Ms Melissa Pang*), Mr Choi (*President-Elect of LAWASIA, Mr Chunghwan Choi*), distinguished guests, ladies and gentlemen:

Let me start by thanking all of you for making the decision to hold the 32nd annual conference of LawAsia here in Hong Kong, and importantly, to keep to that decision and hold it notwithstanding the challenging times that we are facing here in Hong Kong now, I thank you all for that.

As you have heard from the Acting Chief Executive and the Chief Justice, the challenging times, I think, are wide-ranging. But to us, the most concerning one is the challenge to the rule of law. We all understand that the rule of law has many aspects, and it is not just a matter of the laws that are written in the legislation or in the case law.

What I would like to focus on is the organic side of the rule of law, namely the people. Insofar as that is concerned, I think you will all agree with me that the rule of law can be best manifested in three aspects in terms of the organic side: the judges, the legal professions and the general citizens.

Insofar as the judges are concerned, they are actually the most important aspect in upholding of our rule of law. We, in Hong

Kong, are most fortunate to have a strong and independent judiciary which applies the law based on the evidence and accounts to well-reasoned decisions that we can look at in a transparent system. We have all the judgments available on the website. They are described two days ago in the UNCITRAL Judicial Summit as the guardian angels of international treaty, but I would like to say that they are also the guardian angels of the rule of law overall. It has also been mentioned that the law is important, and if I may quote what Professor Tirado (Secretary-General of International Institute for the Unification of Private Law, Professor Ignacio Tirado) said, “the judges who apply them are actually more important,” and I totally agree with such statement. I am very happy to say to you, as you would have known, that Hong Kong’s judicial independence is well protected in the Basic Law as well as very much respected in the legal community.

The second aspect of the organic side I would like to talk about is the legal profession: your good selves, and of course the Department of Justice (DoJ) and the ministries of justice in other jurisdictions. Insofar as the DoJ is concerned when it comes to prosecutorial decisions and the advice to the Government, we maintain an independent and professional approach. The independence of the prosecutorial decisions is guaranteed under the Basic Law, and that is very much respected and practised. Insofar as the legal profession is concerned, again the society looks to their guidance and support that would be rendered through opinions that are expressed. Therefore, the legal profession's professional objective and informed opinion is a very important aspect.

The last aspect of the rule of law on the organic side that I would like to mention is its citizens. This is at the moment

the challenge that Hong Kong is facing. I feel that the legal profession as well as the DoJ, and indeed all of us who are able to spread the correct messages and explain some of the legally important aspects of the rule of law to the citizens, all have a role to play. We all know that law exists only in practice, and therefore it is important that our citizens do respect and abide by the law, so that the society will be restored back to the Hong Kong that we are all familiar with.

The Four “I”s of Legal Week and LawAsia Conference

The 32nd LawAsia Conference, the 3rd Asia-Pacific Judicial Summit that was held on Monday, and the inaugural Hong Kong Mediation Lecture that was held last night, are the series of international events that form the inaugural Hong Kong Legal Week 2019. In this Hong Kong Legal Week, we

aim to achieve four “I”s: inclusive, informative, innovative and interactive.

Interactive and Informative – LawAsia Conference

The LawAsia Conference this week with over 600 participants coming from 30 jurisdictions all over the world is a perfect manifestation of the interactive and informative exchange of views on various cutting edge legal issues.

The theme of “Harmonisation through Synergy” is particularly timely not just to Hong Kong, but also to the world as we are at a critical juncture when “synergy” and “harmonisation” are very much in need to bridge our differences in opinions and legal cultures and systems.

Furthermore, on international co-operation, within this week, I am very happy to inform you that Hong Kong has signed a Memorandum of Understanding with the United Nations in relation to the work regarding UNCITRAL and also a Memorandum of Co-operation with the Office of the Judiciary of Thailand. These are in addition to the similar ones that the DoJ signed with Japan and Korea in January and September this year.

Innovative – New Initiatives in the Sphere of Dispute Resolution

The “one country, two systems” principle is an innovation. China is a unitary state practising civil law and a socialist system. By the decision of the National People’s Congress under the Constitution of the People’s Republic of China in 1990, the Hong Kong Special Administrative Region was

established with the Basic Law promulgated. The Basic Law preserves the capitalist society and way of life, but importantly it preserves the use of the common law here in Hong Kong. The common law here has a very strong tradition and is well respected by the international community, in particular those involved in trade and businesses. The final adjudication power under the Basic Law is also vested in the Court of Final Appeal where eminent judges of the apex courts from other common law jurisdictions also sit on it as the non-permanent justices.

Capitalising on the strength of the “one country, two systems” policy, Hong Kong has implemented various innovative and synergistic initiatives in the sphere of dispute resolution.

On arbitration, for example, we have the ground-breaking “Arrangement Concerning Mutual Assistance in Court-ordered Interim Measures in Aid of Arbitral Proceedings” with the Mainland, which recognises the difference of the “two systems” in the legal and arbitration context, whilst at the same time capitalising on the national policy of China and rendering Hong Kong the first and only jurisdiction outside of the Mainland where, as a seat of arbitration, parties to arbitration proceedings administered by eligible arbitral institutions would be able to apply before the Mainland courts for interim measures.

We are also exploring synergy of mediation and arbitration as complementary and innovative hybrid dispute resolution processes, as was discussed in the inaugural Hong Kong Mediation Lecture last evening.

To perhaps take a broader perspective, in the Greater Bay Area, which is uniquely characterised by “one country, two systems and three jurisdictions”, the DoJ has taken the initiative to form a joint conference mechanism together with the legal departments of Guangdong and Macao to discuss on collaboration and creative proposals, and the very first one was to look at how mediation can be better utilised in serving the Greater Bay Area businesses.

In the context of the Belt and Road Initiative, we have also been watching with much interest the development of the China International Commercial Court, where the initiative or the innovative “all-in-one” approach in investing the synergy of litigation, arbitration and mediation is taking place. We, in Hong Kong, are also actively pursuing and trying to

encourage the use of innovative and diverging whilst collaborative ways in which disputes can be resolved.

Inclusive – “Vision 2030 for Rule of Law” Initiative

Inclusiveness is crucial to the rule of law-based society. In particular, Goal 16 of the United Nations 2030 Sustainable Development Goals also emphasises the provision of access to justice for all and the building of effective, accountable and inclusive institutions at all levels.

The “Vision 2030 for Rule of Law” Initiative that we are going to launch next year is going to be an ambitious project that fully echoes Goal 16 of the United Nations 2030 Agenda on Sustainable Development and contributes to “China’s

National Plan on Implementation of the 2030 Agenda for Sustainable Development”.

To that end, the Initiative will be entrusted with a broad scope of mandate to work on matters including the establishment of global rule of law, open and transparent governance, anti-corruption and access to justice.

Furthermore, what we envision under the Initiative is an inclusive and dedicated platform that harnesses synergy and shares the “three principles” and “five connectivities” as enshrined in the Belt and Road Initiative, which is based on “mutual consultation, joint contribution and shared benefits”.

We hope that the “Vision 2030” Initiative will lead us to a promising future. We are ready to join hands with reputable

international and regional organisations, such as LawAsia, dedicated to the promotion of rule to law to take the Initiative forward. In fact, the Initiative resonates very much with LawAsia’s objectives of advancing the science of jurisprudence, fostering exchanges among legal practitioners, and most important of all, promoting and reinforcing the rule of law and high standard of practice in the Asia Pacific region.

Hong Kong is opening the Legal Hub, which is intended and is now gradually completing the target, for hosting and providing premises for international law related organisations. We do look forward to LawAsia joining the Legal Hub because that will provide a very good link by which we will be able to work together in order to promote the rule of law as well as part of the “Vision 2030” agenda to promote global international rule of law.

With that note, I wish you all a very successful, interesting and fruitful discussion in the conference, and I wish all of you coming from overseas a very enjoyable stay in Hong Kong.

Thank you very much.