

Speech by SJ at Closing Session of Hong Kong Legal Week 2020 (English only)
(with photo/video)

Following is the speech by the Secretary for Justice, Ms Teresa Cheng, SC, at the Closing Session of Hong Kong Legal Week 2020 today (November 6):

Good evening everybody. Thank you Christina (Law Officer (Civil Law) of the Department of Justice, Ms Christina Cheung) for an excellent closing of the Mediation Conference.

Ladies and gentlemen, I am saddened to have to bid you farewell at the end of the Hong Kong Legal Week 2020, but I am also honoured to say a few words by way of closing remarks here.

I must start by thanking you all for joining online participating in the events of Hong Kong Legal Week. My heartfelt thanks to the speakers and moderators who have provided us with a lot of food for thought and of course my colleagues who have worked devotedly in putting this whole week of events together.

The opening of the Hong Kong Legal Hub epitomises the efforts the Hong Kong Government has put in to provide the hardware for the promotion of Hong Kong as a legal, deal making and dispute resolution centre.

The software is the people, and by launching the "Vision 2030 for Rule of Law", we aim to promote the rule of law, fair and inclusive societies, access to justice and furthering the Department of Justice's mission of "Rule of Law and Justice for All". I will share with you at the end the wise words of some of our members of the Task Force on Vision 2030 for Rule of Law.

The Inaugural Rule of Law Congress addresses two matters: legal aid and judicial capacity building. Professor Albert Jan van den Berg asks the pertinent question: "What is legal aid?". His experience and that of Mr Robert Pé and Mrs Olufunke Adekoya reveals that it can take various forms from the provision of public funding, provision of services by government legal aid lawyers, pro-bono services, and provision of fees for third party neutrals in ADR (alternative dispute resolution). All these are only effective, as Mr Hans van Loon pointed out, if legal aid is available for cross-border matters, and the importance of revisiting the International Access to Justice Convention is pertinent, thereby leaving no one behind. Much to be considered

and do in this area.

In the session of judicial capacity building, ICJ (International Court of Justice) Vice-President Judge Xue stated that "even a case has political implications, the ICJ addresses only the legal aspect". The same approach is shared by Justice Hartmann from his experience in Hong Kong. He also shared with us the judicial methods he had used in discharging judicial duties. Judge Xue shared the challenges and measures taken by the ICJ to ensure justice is still being administered during the pandemic. Professor Nico Schrijver explained the situation in the Netherlands in light of the epidemic, and in particular brought out the importance of still observing the rule of law whilst introducing measures to counter the pandemic. Lessons learned from this session should really be shared with more jurisdictions in our judicial capacity building work. This gives us a lot of ideas on the UNCITRAL (United Nations Commission on International Trade Law) Judicial Summit that will be held in the Hong Kong Legal Week 2021.

Access to Justice

Efficient and effective dispute settlement processes are essential to access to justice. The 14th Annual Generations in Arbitration Conference bears the signature of international commercial arbitration: inclusiveness and diversity in gender, and legal culture (Note), as the speakers opined, striving for absolute uniformity among different legal systems is not the goal as arbitration is beautiful for its diversity and flexibility.

The Case Settlement Conference (CSC) Pilot Scheme at the District Court of the Judiciary will be launched in January 2021. The CSC Pilot Scheme introduces the concept of assisted settlement in the case management process. At the CSC, which will be part of the litigation proceedings, the CSC masters will attempt to narrow down issues in disputes, and will review the ongoing process of without prejudice negotiations that may be taking place. We believe that the CSC will provide a useful platform for the litigants to communicate constructively with a view to achieving amicable settlement.

This year, we have garnered a wealth of insights and observations from experts in the Sports Dispute Resolution Conference. Arbitration and mediation have their own distinctive features and may suit different kinds of sports disputes. They can complement with each other in a hybrid or multi-tiered form of dispute resolution

process. A specially devised sports disputes settlement scheme at local and national level that complements what the Court of Arbitration for Sport has been offering will be very useful for Hong Kong's sports sector. The Department of Justice is looking at how to take this forward.

The annual Hong Kong Mediation Lecture sponsored by Herbert Smith Freehills invited Mr Mark Appel, the Chair of the IMI (International Mediation Institute) Investor-State Mediation Task Force, as the speaker. Mark shared with us how investor-state mediation was underused before, and that now we are at "the tipping point". It is popularised as more states are aware of the benefits of investment mediation; there are more ISDS (investor-state dispute settlement) mediation rules available; and there is an upsurge of investor-state mediator trainings. I am glad to say that the Department of Justice and the Asian Academy of International Law are riding on this trend, and have been co-organising with ICSID (International Centre for Settlement of Investment Disputes) the investment law and investor-state mediator training since 2018. May I add one more tipping point for investor-state mediation - investment mediation clause. This has been incorporated in the CEPA (Mainland and Hong Kong Closer Economic Partnership Arrangement) Investment Agreement between the Mainland China and the HKSAR. Next Monday, at the UNCITRAL Working Group III Pre-intersessional meeting, the use of mediation in ISDS would be further explored.

Looking Forward

Before this closing ceremony concludes, as I have promised, I will share with you the words of some of the members of the Task Force on Vision 2030 for Rule of Law. They have been excellent in providing us very good advice and guidance, and their thoughts have been so inspirational and I really hope you will watch the video that we are to broadcast to you. And before I leave you, thank you very much all of you again, and I look forward to seeing you all in Hong Kong Legal Week 2021. Thank you.

Note: Professor Kun Fan made the remarks during Panel 2 and her views were shared by other panel members.

Ends/Friday, November 6, 2020