

“Hong Kong Legal Week 2020 – A review and looking ahead”

(Article published in the China Law magazine 2020 No. 6)

Introduction

1. 2020 is a challenging year for many. Internationally, we have seen different events and activities cancelled due to the pandemic and incidental travel restrictions. The Department of Justice of the Hong Kong Special Administrative Region (“DoJ”) embraced the challenges and strived to carry on business as usual. In this connection, for the first time, the DoJ had opted an innovative way to hold the Hong Kong Legal Week 2020 virtually from 2 to 6 November, 2020. The Hong Kong Legal Week 2020 successfully overcame geographical boundaries and attracted both local and overseas participants who are legal

and dispute resolution professionals, experts and academics, as well as people from all walks of life. The Hong Kong Legal Week 2020 also served as a platform for exchanges on a series of important and seasoned issues related to the rule of law, legal and dispute resolution.

2. The Opening of the Hong Kong Legal Week 2020 cum Opening of Hong Kong Legal Hub and the Official Launch of Vision 2030 for Rule of Law were widely reported by local media, attracting over 48,000 viewers. The Hong Kong Legal Week 2020 comprised of a series of events which covered a wide spectrum of different issues related to legal and dispute resolution, demonstrating the capabilities of Hong Kong in providing quality legal, deal-making and dispute resolution services. The Hong Kong Legal Week 2020 is therefore highly regarded by both local and overseas

professionals as well as the general public in Hong Kong.

Vision 2030 for Rule of Law

3. The Rule of Law is a cornerstone for a successful society. President Xi stressed the importance of comprehensively advancing law-based governance, and to coordinate efforts to exercise law-based governance, political power and administration, with a view to building a country, government and society based on the rule of law.¹ The rule of law, being a core value of Hong Kong, is the cornerstone of Hong Kong's success as an international financial centre and the leading centre for international legal and dispute

¹ Xi Jinping: Strengthening the Party's Leadership over the Rule of Law in an All-round Way (加強黨對全面依法治國的領導), Issue 4 of Qiushi magazine, published on 16 February, 2019

resolution services in the Asia-Pacific Region. Hong Kong's rule of law has a solid foundation which is internationally recognised. According to the Rule of Law Index 2020 of the World Justice Project, Hong Kong maintains its ranking as No. 5 in the East Asia and Pacific region and No. 16 globally.

4. "One Country, Two Systems" has its roots in our Nation's Constitution and the Basic Law. Under the Basic Law, Hong Kong enjoys independent judicial power, including that of final adjudication, and is the only common law jurisdiction in our country. The launch of Vision 2030 for Rule of Law in this year is a memorable one as the year 2020 marks the 30th anniversary of the promulgation of the Basic Law.
5. Vision 2030 for Rule of Law aligns with United

Nations' 2030 Agenda for Sustainable Development ("Agenda"). The Agenda provides a shared action plan and strengthens peace and prosperity for mankind and the planet, and a blueprint for a sustainable development for all. In order to address global challenges, including poverty, inequality, climate change, environmental degradation, peace and justice etc., all member states of the United Nations adopted the Agenda and its 17 Goals. The 17 goals are interconnected, with the rule of law being a pillar for its successful implementation. Vision 2030 for Rule of Law echoes Goal 16, which aims 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; in particular the 2 sub-goals underneath Goal 16, namely: Goal 16.3, which promotes the rule of law at the national and

international levels, and ensures equal access to justice for all; and Goal 16.5, which calls for substantially reducing corruption and bribery in all their forms.

6. Since its inception, the Belt and Road Initiative emphasises consultation, contribution and shared benefits. On the other hand, the Belt and Road Initiative aims at better connectivity in policy, infrastructure, trade and financial services, and closer ties between the peoples of various countries. Undoubtedly, the Belt and Road Initiative and the Agenda are highly consistent and are complementary with each other. The Agenda also tallies with the Nation's persistence in building a "community with shared future for mankind", while both call for joint and coordinated efforts in tackling social, economic and environmental challenges faced by mankind

as well as sustainable development. In the second Belt and Road Forum for International Cooperation which was held on 27 April 2019, President Xi Jinping remarked that support should be given to the Agenda as an integral part of Belt and Road cooperation, while alignment should be made to such cooperation with universally accepted rules, standards and best practices. President Xi further remarked that the pursuit of economic growth, social progress and environmental protection should be in a balanced manner. The Belt and Road Initiative should be beneficial to all and deliver common development.²

7. In his remarks at the high-level meeting to

² Opening Remarks by H.E. Xi Jinping, President of the People's Republic of China, at the Leaders' Roundtable of The Second Belt and Road Forum for International Cooperation, Beijing, 27 April 2019

commemorate the 75th anniversary of the United Nations, President Xi suggested that the United Nations should stand firm for justice, uphold the rule of law, promote cooperation and focus on real action. These four suggestions are highly consistent with the essence of Vision 2030 for Rule of Law, which aims to achieve rule of law and justice for all for sustainable development.

8. Vision 2030, a visionary initiative which spans over ten years for the promotion and education of the rule of law, seeks to promote the proper understanding and recognition of the rule of law by studying its various elements through research, stakeholders' collaboration and capacity building, thereby contributing to the sustainable development of inclusive and fair societies at both domestic and international levels. In accordance with the DoJ's motto: "Rule of Law and Justice for

All”, the DoJ will continue to promote the rule of law and justice by handling judicial matters in a robust, effective and fair manner and through the adoption of strategic legal policies, with a view to achieving inclusive and sustainable development. The DoJ emphasises “inclusiveness” and is tasked with the mission of facilitating access to justice and providing equal opportunities for people from all walks of life and for all sectors of the economy without boundary, advancing the United Nations 2030 Sustainable Development Goals in this region and beyond, with a view to creating peaceful and inclusive societies to facilitate sustainable development and to ensure access to justice for all.

9. The DoJ has set up a Task Force on Vision 2030 for Rule of Law (“Task Force”) with members comprising renowned and reputable international

and local academics, experts and notable public figures. To date, the Task Force has successfully held two online meetings. Chaired by the Secretary for Justice, members of the Task Force include: Ms. Olufunke ADEKOYA (Member of the World Bank Group Sanctions Board), Mr. Makhdoom ALI KHAN (former Attorney General of Pakistan), Mr Michael John HARTMANN (Former Non-Permanent Judge of the Court of Final Appeal, Hong Kong SAR), Professor Yoshihisa HAYAKAWA (Professor of Law, Rikkyo University, Japan), Ms. Aigoul KENJEBAYEVA (Chair of the Board of the Kazakhstan Bar Association, Kazakhstan and Central Asia Managing Partner, Dentons Kazakhstan LLP)³, Judge LIU Daqun (Judge of the International Residual Mechanism for

³ Ms Aigoul KENJEBAYEVA had stepped down from the Task Force on

Criminal Tribunals), Professor Dr. Surakiart SATHIRATHAI (Former Deputy Prime Minister of Thailand, Chairman of Asian Peace and Reconciliation Council), Professor Nico SCHRIJVER (State Councillor, Council of State of the Netherlands, Professor of Public International Law, Leiden University, the Netherlands), Dr. Thomas SO (Member of the Chinese People's Political Consultative Conference, former President of the Law Society of Hong Kong), Ms. Winnie Tam (former Chairman of the Hong Kong Bar Association), Professor Albert Jan van den Berg (Honorary President of the International Council for Commercial Arbitration), Mr. Hans van Loon (Former Secretary General of the Hague Conference on Private International Law), Judge XUE Hanqin (Vice President, International Court of Justice) and Professor ZHANG Yuejiao (former

Chair of the Appellate Body of the World Trade Organization, Adjunct Professor, Tsinghua University, China).

10. Under Vision 2030, various stakeholders including youths, legal professionals and academics can participate in exchanges, capacity buildings, research activities and other events with counterparts in other jurisdictions; with a view to strengthening the community's proper understanding of the rule of law and its practice, thereby facilitating the international development of the rule of law, and ensuring the prosperity and sustainable development of Hong Kong. The DoJ has commenced a wide array of public education and capacity building programmes, including but not limited to "Studio DoJ", empowerment programmes on rule of law tailored for primary and secondary school students. These programmes

aim to engage, empower and enrich different stakeholders. In order to raise awareness and facilitate youths' proper understanding of the rule of law, notable activities will be launched by the DoJ, which include: "Rule of Law through Drama", "e-Resources for Rule of Law and Basic Law", "Youth Empowerment Exchanges to Advance the Rule of Law in the Asia Pacific Region" etc. For professionals, the DoJ will launch the Young Professional Overseas Enrichment Program, to enrich participants through international exposures so as to safeguard the rule of law in Hong Kong. The DoJ will continue to explore collaborations with relevant stakeholders and organisations in coorganising different public education and capacity building projects.

11. As the Chinese saying goes "Women hold up half

the sky”. Since the inception of the People’s Republic of China, the liberation of women and the facilitation of gender equality had become a national policy. When the first plenary session of the Chinese People’s Political Consultative Conference was held in 1949, 69 female members attended while Madame Sun Yat-sen (Soong Ching-ling) was elected as the Vice Chairperson of the People’s Republic of China. The first plenary session of the Chinese People’s Political Consultative Conference passed a constitutional document titled “the Common Programme”, which solemnly declared the old feudal system prejudicial to women null and void. Since then, women in China had been enjoying equal right to education; as well as equal political, economic, cultural and social rights with male, symbolising a new era of liberation of women in China. Since the establishment of the People’s Republic of China,

the law had also prescribed for equal right to vote and right to stand for election, as well as the right to participate in the governance of our Nation. At the same time, our Nation did not overlook the education of women. During 1950s, our Nation had achieved the end of illiteracy for 16 million female. When the Constitution of the People's Republic of China was enacted in the year of 1954, Article 96 prescribed that women in the People's Republic of China shall enjoy equal rights with men in all spheres of life: political, economic, cultural, social and familial. The state shall protect the rights and interests of women, implement a system of equal pay for equal work, and train and select female officials. There is an increasing trend for women in our Nation to join the management positions of the government. As per my understanding, newly recruited female civil servants in central government bodies consist of

over 50% of all the new intakes, while the corresponding figures for local governments are more than 40%. I also noticed that female members of the judiciary of Mainland China had been increasing. As of the year of 2017, 32.6% of procurators were female, reflecting a 23.6% increase comparing to the proportion in the year of 1982. 32.7% of all judges were also female in 2017, reflecting an increase of 21.7% comparing to the figure in the year of 1982.⁴

12. In a high level meeting held by the United Nations to mark the 25th anniversary of the Fourth World Conference on Women, President Xi Jinping stressed the need to strive for genuine gender equality, while pointing out the women's rights

⁴ Information extracted from the Chinese publication of the State Council Information Office of the People's Republic of China titled “平等 發展 共享：新中國 70 年婦女事業的發展與進步”，September 2019

and interests must become the commitment at national level. He further stressed the need to eliminate prejudice, discrimination and violence against women and make gender equality a social norm and moral imperative observed by all. In order to echo our Nation's effort in advocating for gender equality and safeguarding women's rights, the DoJ will hold different seminar(s) and/or event(s) and to advocate for gender equality in the Hong Kong society, thereby fostering gender equality as one of the core values of Hong Kong society.

Hong Kong Legal Hub

13. Hong Kong has a long and rich common law heritage. Its mature legal system, which ranks well internationally, is renowned for being transparent, trustworthy and fair. Our Nation has all along been

supportive of Hong Kong to establish itself as the centre for international legal and dispute resolution services in the Asia-Pacific region, which is clearly stated, for instance, in the Outline Development Plan for the Guangdong-Hong Kong-Macao Greater Bay Area (“GBA”). To show the emphasis and recognition Hong Kong places on the rule of law and legal related services and to consolidate and enhance Hong Kong’s status as an international centre for legal, deal-making and dispute resolution services in the Asia-Pacific region, the Government of the Hong Kong Special Administrative Region offers space in the West Wing of the former Central Government Offices (“CGO”), a Grade 1 historic building now known as the Justice Place, and the former French Mission Building (“FMB”), a declared monument nearby, as well as part of Two Exchange Square to accommodate offices of more than 20 local,

regional and international law-related organisations. Together with the offices of the DoJ housed in the Main and East Wings and part of the West Wing of the former CGO, the whole area forms an international Legal Hub in our central business district. Among them, the FMB is to be the centre for international law where local, regional and international bodies gather to set up offices, thereby facilitating easy and effective exchanges. Two Exchange Square is to be the centre for international dispute resolution, where various dispute resolution bodies will be housed. The other part of the West Wing serves as the centre for local and regional legal and dispute resolution bodies, a very important backbone of Hong Kong's legal and dispute resolution services. The Hong Kong Legal Hub was officially opened during the Hong Kong Legal Week 2020, while the following organisations had already moved in with

their offices set up: Hague Conference on Private International Law Regional Office for Asia and the Pacific, DoJ Project Office for Collaboration with UNCITRAL, Asian Academy of International Law Limited, Hong Kong International Arbitration Centre, eBRAM International Online Dispute Resolution Centre Limited etc. The above reflects the status of Hong Kong as the centre for international legal and dispute resolution services in the Asia-Pacific region.

14. It is my expectation that the establishment of the Hong Kong Legal Hub will be conducive to the exchanges and to achieve synergies between different local, regional and international law-related organisations, with a view to strengthening and promoting the rule of law internationally.

Hong Kong Legal Week 2020 – a review

15. As aforementioned, the Hong Kong Legal Week 2020 comprised of a range of events and activities, with an array of issues relating to legal and dispute resolution discussed. These events and activities are: (i) Inaugural Rule of Law Congress “Towards 2030: A Decade of Action for Rule of Law”, (ii) The 14th Annual Generations in Arbitration Conference, (iii) The 2nd Hong Kong Mediation Lecture, (iv) Case Settlement Conference Pilot Scheme to be launched in the District Court of the Judiciary, (v) Sports Dispute Resolution Conference and (vi) Mediation Conference 2020 “Mediate First – More Than You Can Imagine”.

**(i) Inaugural Rule of Law Congress
“Towards 2030: A Decade of Action for
Rule of Law”**

16. The Inaugural Rule of Law Congress focused discussions on two aspects: enhancing legal aid services in ensuring access to justice for all and capacity building for judicial officers. I am glad that internationally renowned law academics, judges and legal professionals acceded to our invitation and generously shared their insights.
17. Hong Kong has a comprehensive system of legal aid, which is available to any person, whether or not a resident in Hong Kong. At the same time, there is no ceiling on Hong Kong's annual expenditure on legal aid services, which can be rarely found in other jurisdictions. For the year 2019/20, the annual expenditure on legal aid services amounted to HKD\$1.1338 billion, with more than 16,000 applications for legal aid received in the year of 2019. These statistics demonstrate the fact that Hong Kong cherishes the

inclusiveness and the importance of equal access to justice.

18. The Basic Law provides a solid foundation for the judicial system of the Hong Kong Special Administrative Region which guarantees that the exercise of judicial power will be free from any interference. Article 80 of the Basic Law provides that the courts of the Hong Kong Special Administrative Region at all levels shall be the judiciary of the Region, exercising the judicial power of the Region while Article 85 of the Basic Law which clearly states that the courts of the Hong Kong Special Administrative Region shall exercise judicial power independently, free from any interference.

19. Judicial officers, at both domestic courts and even international courts, will inevitably have to handle

cases involving complicated legal and political issues; which will certainly be a challenge. Judge Xue Hanqin, Vice President, International Court of Justice (“ICJ”) shared her experience that "even when 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. I believe that these invaluable experiences will be conducive to capacity building for judicial officers in the future.

(ii) The 14th Annual Generations in Arbitration Conference

20. The 14th Annual Generations in Arbitration Conference (“Arbitration Conference”) drew a group of young elite arbitrators around the world to discuss a range of issues related to international arbitration, including arbitral seat, governing law

of an arbitration agreement as well as the appointment of experts in arbitration and issues concerning their neutrality. Speakers include academics and seasoned practitioners. The Arbitration Conference also looked into the need for continuous professional developments and capacity building of arbitrators, such as the skills in drafting an arbitral award.

21. The Arbitration Conference was organised by the Moot Alumni Association. Having around 5000 members, the Moot Alumni Association was established in 1997 in order to introduce potential opportunities in the fields related to the Vis Moot to its members and to promote the Vis Moot competitions (i.e. Willem C. Vis International Commercial Arbitration Moot and Willem C. Vis (East) International Commercial Arbitration Moot). Organised by the Vis East Moot

Foundation Limited, the Willem C Vis (East) International Commercial Arbitration Moot had been successfully organised 17 times in Hong Kong since its inception in 2003. I am also pleased to see that Vis East Moot Foundation Limited becomes one of the law-related organisations with its office established in the Hong Kong Legal Hub.

(iii) The 2nd Hong Kong Mediation Lecture

22. This year is the second year which the Hong Kong Mediation Lecture was successfully organised since 2019. Mr Mark Appel, a renowned independent international mediator and arbitrator, was the speaker of the 2nd Hong Kong Mediation Lecture, who delivered a lecture with the theme “Investor-State Mediation at the Tipping Point”. The 2nd Hong Kong Mediation Lecture discussed in depth the global developments surrounding

investor-state mediation in the last 5 years, and their effects as to the relevant best practices, training, capacity building, international agreements and mediation rules of institutions. I am delighted to see that the 2nd Hong Kong Mediation Lecture was co-organised by Herbert Smith Freehills. Achieving synergies with the two Investment Law and Investor-State Mediator Training Courses that were co-organised by the DoJ, the International Centre for Settlement of Investment Disputes and the Asian Academy of International Law, which were successfully held in 2018 and 2019; the successful holding of the Hong Kong Mediation Lecture for the last two consecutive years symbolises the international leading status of Hong Kong in capacity building for mediation.

(iv) Case Settlement Conference Pilot Scheme

to be launched in District Court of the Judiciary

23. I am also delighted to see that the Judiciary took the lead to officially launch the Case Settlement Conference Pilot Scheme (“Pilot Scheme”) in District Court during the Hong Kong Legal Week 2020. During the official launch, judges and legal practitioners were invited to share their views and experiences, thereby facilitating stakeholders’ understanding of the Pilot Scheme. It is expected that after the implementation of the Pilot Scheme, the judicial process of the District Court will become more efficient, thereby facilitating Hong Kong citizens’ access to justice. At the same time, the Pilot Scheme symbolises the wider implementation and mature development of mediation in Hong Kong, which is also conducive to the further promotion of mediation in Hong

Kong.

(v) Sports Dispute Resolution Conference

24. With the 2020 Tokyo Olympics and 2022 Beijing Olympics coming soon, the smooth running of these significant sports events will require a comprehensive, effective and efficient dispute resolution mechanism. Both arbitration and mediation and their latest developments from a sports dispute resolution perspective were discussed in the Sports Dispute Resolution Conference. Although arbitration as a sports dispute resolution mechanism is more common nowadays, sports mediation is comparatively more creative, flexible and quick, thereby facilitating parties to reach an amicable settlement of their disputes and to achieve a win-win situation. Sports mediation, while underused in the past, has been

gaining worldwide attention in recent decades. I am most delighted that the Sports Dispute Resolution Conference was able to attract locally and internationally renowned experts in legal and dispute resolution, as well as famous athletes and stakeholders in the sports sector, to discuss together how to better promote the development of sports dispute resolution (arbitration and mediation) both domestically and internationally. I am also most grateful for the support of the Sports Dispute Resolution Conference by the Court of Arbitration for Sport by arranging its Head of Mediation Services as one of the Speakers.

(vi) Mediation Conference 2020 “Mediate First – More Than You Can Imagine”

25. The theme for the Mediation Conference 2020 is “Mediate First – More Than You Can Imagine”,

which attracts both internationally and locally renowned speakers to discuss and exchange a series of seasoned topics regarding mediation, including the in-depth discussion regarding the application of the United Nations Mediation Convention, and the challenges faced by mediators in light of its constraints and exceptions on applicability of the Mediation Convention. The Mediation Conference 2020 also introduced the COVID-19 Online Dispute Resolution Scheme (“Scheme”) and discussed about issues surrounding mediation advocacy.

26. The eBRAM International Online Dispute Resolution Centre has been engaged to provide online dispute resolution (“ODR”) and related services under the Scheme. The parties are required to enter into a dispute resolution agreement under the Scheme and pay \$200 each as

registration fees, which will then allow the parties to try to resolve their disputes online through a multi-tiered dispute resolution mechanism comprising negotiation, mediation and arbitration. The successful implementation of the Scheme strengthened Hong Kong's LawTech capability, and at the same time reflects Hong Kong's utilisation of technologies in mitigation of the COVID-19 pandemic.

27. The successful holding of the Mediation Conference 2020 and its wide participation once again symbolise Hong Kong's societal recognition of mediation as an efficient and effective cooperation and consensus oriented dispute resolution mechanism, which further reflects Hong Kong's leading status as the centre for international legal and dispute resolution services in the Asia-Pacific region.

Looking ahead

28. We are witnessing major changes unfolding in our world, something unseen in a century. The COVID-19 pandemic adds further instability. We can also see the rise of protectionism and unilateralism, posing unprecedented challenges to globalisation. Notwithstanding the above, the DoJ is further committed to strengthen legal education to the public, thereby facilitating the proper understanding and recognition of the rule of law in the society of Hong Kong. At the same time, the DoJ will step up efforts in consolidating Hong Kong's status as an international legal and dispute resolution services centre in the region in the face of keen competition from other jurisdictions. The DoJ will actively explore the developments in LawTech in Hong Kong, as well as to strengthen

Hong Kong's internationally leading status in the development of mediation, sports dispute mediation and the promotion of investment mediation and its relevant capacity building.

29. Riding on the success of this year, the DoJ will organise the Hong Kong Legal Week 2021 which will comprise of events including the 4th United Nations Commission on International Trade Law ("UNCITRAL") Asia Pacific Judicial Summit, the 3rd Hong Kong Mediation Lecture as well as other locally and internationally significant legal events. With the support of our Nation and the Central People's Government, I am confident that Hong Kong will scale new heights and make a greater contribution.