

Speech by Acting SJ at 8th ICAC Symposium (English only) (with photos)

Following is the keynote address by the Acting Secretary for Justice, Mr Cheung Kwok-kwan, at the 8th ICAC Symposium "Charting a New Path to Combat Corruption" today (May 22):

Commissioner Woo (ICAC Commissioner, Mr Woo Ying-ming), distinguished guests, ladies and gentlemen,

It is my honour today to deliver a keynote address at this symposium, alongside all the distinguished speakers.

In the following time, I would like to highlight the work of the Department of Justice (DoJ) in combating corruption by upholding rule of law at both local and international levels.

Rule of law in Hong Kong

The notion of rule of law is widely believed to be important for the development of society. Why is it so? Let us look at what the United Nations say. The Goal 16 of the Sustainable Development Goals of the United Nations calls for actions to, among others, "promote the rule of law at the national and international levels and ensure equal access to justice for all", and "substantially reduce corruption and bribery in all their forms".

It is no exaggeration to say that the rule of law based on our common law system is one of the bedrocks of Hong Kong's success and prosperity.

As reflected from various international indices, Hong Kong's rule of law has improved substantially since 1997. Our percentile rank for rule of law in the World Bank's Worldwide Governance Indicators has increased from below 70 points in 1996 to around 88 in 2023, ranking third in Asia.

In the 2023 World Justice Project Rule of Law Index, Hong Kong ranks the sixth in East Asia and the Pacific, and attains 23rd out of 142 countries and jurisdictions, ahead of quite a few western countries.

Credits to the excellent work of the ICAC, Hong Kong is also regarded as one of the least corrupt places under the Corruption Perceptions Index 2023 issued by Transparency International. Hong Kong has consistently remained in the top 20 since the launch of the Index, demonstrating that Hong Kong's anti-corruption efforts by the ICAC have been widely recognised.

Strong legal infrastructure

Hong Kong's success in upholding the rule of law is built on our strong legal

infrastructure.

Independent judicial power

It is constitutionally guaranteed that judicial power shall be exercised independently by the courts, free from any interference. Judges are appointed solely on the basis of their judicial and professional qualities by the Chief Executive on the recommendation of an independent commission with their tenure secured under the Basic Law.

One remarkable feature of Hong Kong's judicial system is that our final appellate court may invite eminent foreign judges to sit as non-permanent judges. Including the recently recommended appointment, there will be an increase from nine to 10 foreign non-permanent judges from the United Kingdom, Australia and Canada, who are highly regarded in their own jurisdictions and bring with them international judicial experience that enrich Hong Kong's jurisprudence.

Protection of human rights

The Basic Law also guarantees that everyone, regardless of status, profession or political belief, shall be equal before the law.

All prosecutorial decisions shall be made by the DoJ independently free from any interference, based on the law, the evidence and the published Prosecution Code.

The right to fair trial is guaranteed in the Basic Law. Court hearings are open to the public. Judicial decisions with detailed reasons are available online.

We also ensure equal access to justice. In Hong Kong, there is no ceiling on legal aid expenditure covering a wide range of civil and criminal cases. Once the statutory means and merits tests are satisfied, legal aid funding will be made available.

Legal profession

With a robust infrastructure in place, we need human talent to make it work effectively. Hong Kong is home to a deep pool of legal professionals comprising solicitors and barristers who are self-regulated respectively by the Law Society and the Bar Association of Hong Kong. We have also attracted a substantial number of overseas lawyers to provide professional services in Hong Kong.

These local and overseas legal professionals are multilingual and highly regarded internationally in terms of their expertise and strong integrity.

Promotion of the rule of law at all fronts

Fully recognising its importance, the DoJ spares no efforts in the promotion of rule of law.

We launched the ROLE Stars Train-the-Leaders Programme in November 2023 which aims at enhancing the trainees' ability and effectiveness in disseminating proper messages on the rule of law in their roles and capacities in the community. After the successful conclusion of its Phase I last year, we are actively planning to launch the second phase in Q3 this year.

The DoJ also actively collaborates with other stakeholders, including the Law Society and the Bar Association, in promoting rule of law to different sectors of the community. For example, we have put in place interactive drama performances on the rule of law for primary schools.

Speaking of stakeholders, we are most grateful for the ICAC's dedicated efforts on public education, adopting an "Ethics for All" approach to devise preventive education programmes for different sectors of the community, e.g. the iTeen Leadership Programme and ICAC Ambassador Programme for senior secondary and tertiary students. In the past years, the DoJ helped organise interesting rule of law journeys for the iTeen Leaders and ICAC Ambassadors. And this year, we are planning to send our Rule of Law Education Leaders to visit the ICAC so as to further deepen our trainees' understanding of the important role of the ICAC in upholding the rule of law. I hope that through such these exchanges, we could create synergy in our joint efforts on the promotion of rule of law.

Hong Kong International Legal Talents Training Academy

Furthermore, the DoJ has set up an internal working group responsible for taking forward the establishment of the Hong Kong International Legal Talents Training Academy. As mentioned in the Chief Executive's 2023 Policy Address, this year, the DoJ will set up a dedicated office and an expert group to take forward the establishment of the Academy. Capitalising on Hong Kong's strengths under the rule of law, bilingual common law system and international status, the Academy will plan, organise and launch training programmes focusing on legal practices and procedures based on the DoJ's existing training and capacity building programmes, further consolidating Hong Kong's position as an international legal and dispute resolution services centre in the Asia-Pacific region. In developing Hong Kong as a national capacity-building centre for foreign-related rule of law personnel, we are better safeguarding national sovereignty, security and development interests.

Other local measures

The constitutional guarantee of prosecutorial independence in Hong Kong under the Basic Law is a linchpin of our rule of law.

Corruption undermines social fairness and justice, hinders economic co-operation and development, as well as affects government credibility and the rule of law. As the Court of Appeal forewarned us in *HKSAR v Chan Sze-ting & Anor*, (unreported), HCMA

106/1997, "If corruption was not destroyed, it would destroy society." It is against this background that the Prevention of Bribery Ordinance was enacted and the Independent Commission Against Corruption, the ICAC, was established.

Combatting corruption and upholding the rule of law are essential for a fair and just society. This involves enforcing strict regulations, promoting transparency, empowering independent judicial systems, and fostering a culture of accountability among both citizens and public officers.

The setting up of the ICAC in Hong Kong equipped with a comprehensive regime of anti-corruption offences and investigatory powers signify our determination to hit hard at the root of the social evil of corruption.

Technology has enabled crimes today to transcend jurisdictional boundaries. In charting a new path to combat corruption, closer cross-jurisdictional co-operation between law enforcement and prosecutorial agencies is more vital than ever. Joint collaborative efforts comprises the sharing of information among countries to investigate and prosecute cross-border corruption cases. The importance of experience sharing sessions cannot be overlooked.

The 11th IAP Asia and Pacific Regional Conference of the International Association of Prosecutors is an example of our endeavour in global co-operation initiatives. The Conference will be hosted by the Prosecutions Division of our department in November this year in the Hong Kong Convention and Exhibition Centre. The event will be attended by around 200 prosecutors, including the Attorney General and heads of prosecutorial agencies, from different jurisdictions in the Asia Pacific Region and across the globe. The Conference, with the theme of "Effective Prosecution Service in the Technological Age", will focus on combatting crime in the technological age and the use of technology in the criminal justice system. It is certain that much insights and perspectives can be gained through such a meaningful forum where legal knowledge and experience is shared on a global level.

International co-operation

Hong Kong is not doing all these alone. The HKSAR has always been committed to playing a proactive role in international co-operation in law enforcement. We have an ongoing initiative to establish and expand legal co-operation with other jurisdictions across the globe. Over the years, we have regularly and successfully rendered international co-operation and legal assistance in criminal matters to many other jurisdictions pursuant to applicable arrangements and multilateral conventions including the United Nations Convention Against Corruption (UNCAC), which has been applied to Hong Kong since 2006.

Domestically, the Fugitive Offenders (Corruption) Order, the Mutual Legal Assistance in Criminal Matters (Corruption) Order, the Prevention of Bribery Ordinance and the Organized and Serious Crimes Ordinance contain detailed provisions, covering the

creation, investigation and prosecution of relevant offences of bribery, corruption and money laundering; and the arrangements on surrender of fugitive offenders and mutual legal assistance in criminal matters, including provision and obtaining of evidence, as well as restraining, confiscating and repatriation of proceeds of crime.

The HKSAR has always maintained a high standard in processing requests for mutual legal assistance, the quality of which has been fully recognised and highly regarded worldwide, such as in the Mutual Evaluation Report published by the Financial Action Task Force in 2019.

The HKSAR has fulfilled its important role in the fight against cross-border crimes. In particular, the HKSAR has been fully supportive of the work of the United Nations Office on Drugs and Crime (UNODC). Legal experts from the DoJ have taken an active part as members of the delegation of the People's Republic of China in participating a wide range of UNODC-related events, including the Conference of the States Parties to the UNCAC, the Implementation Review Group of the UNCAC, the Open-ended Intergovernmental Working Group on Asset Recovery and the Open-ended Intergovernmental Expert Meeting to Enhance International Cooperation.

In the last decade, the DoJ has processed over 1 000 mutual legal assistance requests and more than 30 surrender cases that concern offences covered by the UNCAC. In the same period, over HK\$270 million of proceeds of crime had been restrained, of which over HK\$170 million was ordered by the Court to be confiscated. There are many successful cases of sharing of confiscated assets with other jurisdictions.

Moreover, I am also pleased to share with you the good news that China, the HKSAR and Macao SAR have recently been admitted as full members of the South East Asia Justice Network (SEAJust). This network aims to promote international co-operation and intelligence sharing in the combat against all forms of serious and organised crimes. The HKSAR's participation in SEAJust will complement conventional formal legal co-operation among member jurisdictions and enable us to further consolidate our effectiveness in international law enforcement co-operation and to cope with new challenges in the combat against cross border crimes.

Last but not least, I wish to express my best wishes to the success of this symposium. I am sure that the insights shared during these three days would go beyond the event, so that we could continue to fight against corruption with confidence.

Thank you very much.

Ends/Wednesday, May 22, 2024