

Keynote speech by SJ at 2024 Annual Conference of In-House Lawyers (English only)
(with photo)

Following is the keynote speech by the Secretary for Justice, Mr Paul Lam, SC, at the 2024 Annual Conference of In-House Lawyers entitled Strategic Positioning of Hong Kong Lawyers today (September 9):

President of the Law Society Mr Roden Tong (President of the Law Society of Hong Kong), distinguished guests, ladies and gentlemen,

Good morning. It is my honour to speak to you all at this special event organised by the In-House Lawyers Committee of the Law Society of Hong Kong. You may not at all be surprised that I am, as the Secretary for Justice, also one of the in-house lawyers. In fact, my department, the Department of Justice, is the largest employer of in-house counsel in Hong Kong. Speaking from my limited experience, it is by no means an easy task to be an in-house lawyer, but you all have certainly done an amazing job. For that, I would like to take this opportunity to salute each and every one of you.

The theme for this year is "Strategic Positioning of Hong Kong Lawyers". My goal today is to share with you my views as to how you may make use of your capacities, not only to advance your legal career, but also to assist in enhancing Hong Kong's status as an international legal and dispute resolution services centre.

Hong Kong as an international legal and dispute resolution services centre

Hong Kong has long been hailed as an international legal and dispute resolution services centre because of our common law system and our diverse pool of legal talents. This is a very unique, and perhaps the most unique, advantage enjoyed by Hong Kong under the principle of "one country, two systems".

Being the only common law jurisdiction within China, Hong Kong has unparalleled advantages in offering opportunities to top-notch legal and alternative dispute resolution services, and to people doing business in Hong Kong, as well as the Mainland and beyond.

We must fully leverage these advantages. That means proactively integrating into our country's development, participating in and promoting national strategies such as the Guangdong-Hong Kong-Macao Greater Bay Area (GBA) development plan and the Belt and Road Initiative.

It is of crucial and particular importance for Hong Kong to enhance its status as an international legal and dispute resolution services centre. However, the global landscape has undergone profound transformations accompanied by an array of complex challenges. In the face of competition from global and neighbouring economies, geopolitical tensions and the advance of technology, Hong Kong is facing increasing challenges. We must strive to transform these challenges into opportunities. The in-house legal community can help to enhance our chances of realising those opportunities by providing us with ideas, by sharing with us your experiences and insights.

Without the support from all of you, our drive to strengthen Hong Kong's status as a centre for international legal and dispute resolution services would not be successful. I firmly believe that, as in-house lawyers, you should not only use your legal expertise to serve your organisations but also use it in performing four important roles. I shall describe these four roles as "PPRT" in short - representing promoters, protectors, reformers and teachers.

The first role as promoters

The first "P" stands for promoters. As I emphasised last year, you all are indispensable members not only of the Hong Kong legal community but also Hong Kong as a whole. You, as in-house lawyers, should be promoters for the use of Hong Kong's legal and dispute resolution services both internally and externally.

By internally, I mean within your own organisations. You are in a strategic position to advise your organisations to make important decisions, such as advising your organisations to move or expand their businesses to Hong Kong, choosing Hong Kong law and Hong Kong as the applicable law and the place to resolve disputes respectively in the relevant contracts and, if necessary, engaging legal practitioners from Hong Kong law firms.

This is indeed in the interests of your organisations for various reasons. As many of

you have already noted, the Hong Kong Special Administrative Region and the Mainland have concluded a number of exclusive arrangements on mutual legal assistance in civil and commercial matters, covering procedural assistance, arbitration-related matters, as well as mutual recognition and enforcement of orders and judgments relating to matrimonial and family cases, bankruptcy and winding-up proceedings, as well as other civil and commercial matters. This comprehensive mutual legal assistance regime is one of the key factors contributing to Hong Kong's unique competitiveness in legal and dispute resolution services, giving Hong Kong an advantage that is unavailable in any other jurisdiction.

Under the mutual legal assistance mechanism, the legal services provided by Hong Kong allows overseas investors and businesspeople to explore investment and business opportunities on the Mainland, while having the option of safeguarding their interests by making use of the Hong Kong common law system, which is trustworthy and familiar to the international community. With Hong Kong's impartial, independent and transparent judicial system, the international business community is assured with a predictable, certain and secure legal environment which is conducive to investment and business activities.

At the same time, you should promote the use of Hong Kong's legal and dispute resolution services externally to your business partners, clients and other contracting parties. In particular, you should try your best to persuade them to agree to use Hong Kong law as the applicable law and Hong Kong as a place to resolve disputes respectively, and to dispel any misunderstanding or misgivings about our legal and judicial system, if any. I would urge all in-house lawyers to make use of every opportunity to tell the good and true story of Hong Kong's rule of law whenever possible.

The second role as protectors

The second "P" represents protectors. As a result of the complex business environment and globalisation of the world's economies, the role of an in-house lawyer as a protector has become even more challenging. Substantive legal and business issues that confront in-house lawyers include compliance and regulatory issues, such as those arising out of environmental, social and governance (ESG) and other regulatory requirements.

ESG elements such as environmental protection, ethics and data privacy are becoming

significant indicators of the effectiveness of the risk management and the long-term sustainability of a company. A company with a comprehensive and well thought-through ESG strategy would attract investment, facilitate sustainable development and in turn improve the business environment in Hong Kong. Hong Kong's international status would also be enhanced if it can demonstrate its commitment to strict compliance with these requirements.

I would, therefore, encourage all of you to procure and ensure that your organisations would comply with fast-changing ESG and other regulatory requirements, which will be critical to maintain and enhance the reputation and competitiveness of the Hong Kong business environment as a whole.

The third role as reformers

The third role requires you to be reformers. Unlike lawyers in private practice, in-house lawyers usually work very closely together with top management of perhaps the board of directors of the organisation to find solutions to business problems, manage growth, and plan for the future. In this sense, you have to be, and are in fact, directly involved in the business environment and hence, must be very sensitive to what changes to the existing law and regulations may be required in order to maintain the competitiveness of Hong Kong.

Speaking of proposed reforms, for example, very recently there have been proposals by the Hong Kong Exchanges and Clearing Limited to amend the Corporate Governance Code and related Listing Rules about non-executive directors for creating a more diverse boardroom and strengthening risk management and internal controls.

Another example, the Intellectual Property Department is exploring different ways to improve the Copyright Ordinance in view of the rapid development of artificial intelligence (AI) technology. The rising use of AI gives rise to some tricky copyright issues. For instance, if your company uses AI to create literary works, visual arts and music compositions, who would be the author of these AI-generated works?

In-house lawyers should be well-placed to put forward constructive and practical ideas to reform different areas of and to fill the lacuna in our law, for otherwise we will not be able to address complex legal issues, such as those that I have just mentioned.

The fourth role as teachers

Last but not least, the last T of the "PPRT" means acting as teachers. With your unique experiences, in-house lawyers may assist in capacity building for other lawyers, both within and outside Hong Kong.

As you would be aware, this year, the Department of Justice is committed to taking forward the establishment of the Hong Kong International Legal Talents Training Academy with a view to providing foreign-related legal trainings and nurturing legal talents conversant with, for example, international legal practice, the common law, and our country's legal system. Capitalising on Hong Kong's bilingual common law system and international status, the Academy intends to organise practical training courses, seminars, international exchange programmes so on and so forth regularly, to promote exchanges among legal talents in Hong Kong, the Mainland and the Belt and Road region.

It is envisaged that the Academy will help to promote mutual understanding regarding international, regional and national legal systems. Upon commencement of the Academy, in appropriate circumstances, we would definitely like to invite you to take part as teachers in training courses to be organised by the Academy. I am very confident that you may make significant contributions by sharing your unique and invaluable experience as in-house lawyers not enjoyed by lawyers in private practice.

To conclude, ladies and gentlemen, as in-house lawyers, I would urge and encourage you to assist in maintaining and enhancing Hong Kong's status as an international legal and dispute resolution services centre by performing the "PPRT" roles, i.e. being the promoters, protectors, reformers and teachers.

Last but not least, I would like to express once again my sincere thanks to the Law Society for organising this very special event, and I am also very confident that you all will have a successful, interesting and fruitful discussion in today's conference. I hope to see you again at lunch. Thank you very much.

Ends/Monday, September 9, 2024

