Speech by SJ at YBC Conference 2026 (English only) (with photo)
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Following is the speech by the Secretary for Justice, Mr Paul Lam, SC, at the YBC (Young Barristers' Committee) Conference 2026 today (November 13):

Mr Martin Hui, SC (Vice-Chairman of the Hong Kong Bar Association), the Hon Mr Geoffrey Ma (Former Chief Justice of the Court of Final Appeal), Mr Felix Tang (Chairman of the Standing Committee on Young Barristers of the Hong Kong Bar Association (Bar)), distinguished guests, fellow members of the Bar, ladies and gentlemen,

Good afternoon. It is my great pleasure to, once again, join this annual conference organised by the Standing Committee on Young Barristers of the Hong Kong Bar Association.

Let me begin by extending my heartfelt thanks to the Hong Kong Bar Association, especially the Standing Committee on Young Barristers, for organising this meaningful event year after year. The Bar has been a pillar of the rule of law in Hong Kong, and its independence, professionalism and commitment remain among our city's most valuable assets. For young barristers, the early years of practice may be both exhilarating and demanding. You are building your reputation one brief at a time, and honing your judgment under pressure. Events such as this provide a not-too-often chance to learn from those who have walked the path before you, and to support one another along the way.

The panel discussions of today's conference focus on two topics, namely, "Dealing with Interjections from Judges and the Arbitral Tribunal" and "The Emergence of Sports Law". Although they appear to be separate and distinct issues, both are of crucial importance in the light of Hong Kong's determination to strengthen its status as an international legal and dispute resolution services centre.

Under the principle of "one country, two systems", Hong Kong proudly stands as the only common law jurisdiction in China, and the world's only bilingual common law jurisdiction operating in both Chinese and English. In the First Five-Year Plan for Economic and Social Development of the Hong Kong Special Administrative Region (HKSAR) published in September this year, it is stated that "We will better leverage Hong Kong's unique advantages as a common law jurisdiction under 'one country, two systems' to deepen Hong Kong's status as an international legal and dispute resolution services centre. We will enhance our diversified and high-level dispute resolution services, including litigation, arbitration, and mediation, etc." Among other things, the Government will "support the Judiciary...in advancing the establishment of the International Commercial Court..." and "step up the promotion of arbitration services in specific fields such as maritime, IP (intellectual property), and sports, etc."

I shall leave it to my deputy, Dr Horace Cheung (Deputy Secretary for Justice, Dr Cheung Kwok-kwan), to address you on the topic of the first panel discussion, namely

"The Emergence of Sports Law". So, let me focus on the topic of the second panel discussion, namely, "Dealing with Interjections from Judges and the Arbitral Tribunal". This topic touches upon an essential component of oral advocacy.

Lord Hamblen delivered very recently on October 22 the Jill Poole Memorial Lecture 2026 titled "The international importance of English commercial law". He opined that there are two main reasons why London is a popular jurisdiction for the litigation of high-value cross-border disputes. First, the qualities of English law; second, the reputation and experience of English judges. In respect of the second reason, he pointed out that the high quality of English judicial decision-making is not down to individual judges but derives from four important institutional and procedural features of the English system, namely, judicial recruitment, professional experience, oral advocacy, and the judgment-writing process.

For the present purpose, it is most important and significant that Lord Hamblen referred expressly to oral advocacy. And this is what he said:

"66. A third contributor is our tradition of oral advocacy. Although substantial submissions are provided before a hearing and judges will have spent considerable time reading the papers in advance, it remains a central feature of our legal system that a judge's decision is not settled until the arguments have been tested in court. As Lord Justice Laws observed, 'that judges...change their minds under the influence of oral argument is not an arcane feature of the system; it is at the centre of it.'

"67. The substantive hearing is accordingly an essential aspect of the decision-making process. Judges can and do ask questions of counsel, and it is often at this stage, through testing the arguments of both parties, that decisive issues will be identified. This allows the judges to focus on the issues that truly matter.

"68. The quality of judicial decisions therefore also depends on the quality of the advocates who appear before them. In commercial disputes, which frequently involve complex contractual arrangements and market practices, skilled advocates can assist the judiciary with understanding the relevant background, legal framework and implications of its decision. In this way, oral advocacy helps to refine judicial reasoning and contribute to the clarity and rigour of final decisions, which can be relied upon as authoritative guidance in the future."

What Lord Hamblen said must apply equally to Hong Kong. To enhance Hong Kong's position as a centre to resolve international commercial disputes whether by litigation or arbitration, to maintain a high standard of oral advocacy is essential.

For reasons explained so eloquently by Lord Hamblen, interjections from the court should be regarded as part and parcel of a constructive dialogue between counsel and the judge. Lord David Pannick KC made the same point when he propounded 10 essential principles of advocacy in the Hamlyn Lectures 2021. Principle 5 is "Respond to Questions from the Court". He said "The advocate should recognise that questions

provide an opportunity to find out and address what interests or concerns the court. Questions and comments from the court are a window into the judicial mind"; and he further said "You cannot help the court, and persuade the judges on behalf of your client, if you resent interruptions as a distraction from presenting the argument you have prepared."

Interjections from the court may, sometimes, make counsel feel uncomfortable. In considering how to react, it is useful to remember the reminder given by Lord Pannick KC: "Counsel sometimes forget that the object of the exercise is to persuade, not to lecture the judge or show their client how combative they are in confronting an unreceptive judge". Principle 9 propounded by Lord Pannick KC should also be borne in mind: "Do not lose your temper with the Judge or your opponents or insult them (however strong the provocation)" because "you will simply demean yourself". We must accept the reality that "There are cases where counsel puts up a fight but it becomes clear during the hearing that he is not going to win."; "You may think you have a good case, but the judge may then disappoint you". Lord Pannick's advice is that "If you cannot persuade the judge, and you think she has made the wrong decision, save it for the appellate court."

Responding to interjections in an inappropriate manner will not merely be unhelpful to your case; more importantly, it will very likely spoil your reputation, which is the most valuable asset of counsel. Under paragraph 10.34 of the Code of Conduct of the Hong Kong Bar Association, "A practising barrister must at all times act with due courtesy to the Court before which he is appearing"; and I want to emphasise the phrase "at all times".

It is important to appreciate that what is at stake is not merely the personal reputation of counsel. Inappropriate responses to interjections from the court may impair public confidence in the judicial process and lead to wastage of judicial resources. This was unfortunately what happened in an infamous jaywalking case tried before a Deputy Special Magistrate a few years ago. The trial of such a minor offence, originally set down for two days, ended up lasting for 91 days. The conduct of the magistrate and lawyers acting for the defence was heavily criticised by the Court of Appeal in HKSAR v Kelvin Y C Leung and How Chun Fai [2022] HKCA 1414. The Court of Appeal held that "the scandalous exchanges that the Deputy Magistrate had with [lawyers acting for the defence], fuelled by mutual disrespect and animosity, and the disproportionate use of judicial time and resources, are unseen in the long and combined experience of this Court." Among other things, it was observed that the Deputy Magistrate and the defence counsel engaged in bickering from the very early stage of the trial, which continued until Day 40 of the trial. The bickering, sometimes childish, sometimes bitter, had hugely disrupted the proceedings and prevented the magistrate and the defence counsel from using the time meaningfully. With tension and mutual animosity mounting, it eventually escalated into a most personal insult levelled by the defence counsel against the magistrate on Day 40. Although the defence counsel withdrew the remark almost immediately (but without any apology), the Court of Appeal took the view that "viewed against the continuous bickering preceding it and the context in which it was made, it was

more than a personal insult. It amounted to a frontal attack against a presiding judicial officer in ongoing proceedings in open court, thereby undermining the public confidence in the judicial authority that the Deputy Magistrate represented." The court considered it a very serious disciplinary matter that the Bar Association should look into. The defence counsel tried to explain away his conduct by claiming that the magistrate was very difficult to deal with. The Court was not impressed, and held that "when what transpired between bench and bar is viewed objectively, the same can be said about [the defence counsel]. In any event, it does not detract a bit from the impropriety of his conduct." And I think the simple point is that two wrongs do not make a right. Even if interjections from the judge are inappropriate, they do not and cannot justify inappropriate responses from counsel.

This unfortunate case is a good example of how counsel's mishandling of interjections from the judge, even if they are inappropriate, may add fuel to the fire. As the Court of Appeal concluded "By engaging in such bickering, the Deputy Magistrate and [the defence counsel] had abandoned the decorum and professionalism required of them in conducting the proceedings in an objective, courteous and dignified manner. It threatened to bring the criminal process into disrepute, rendering the considerable wastage of judicial time, which is already a serious matter, a collateral damage." The court found it necessary to criticise the magistrate and counsel because what happened "had seriously affected the public confidence in the criminal process".

I am not suggesting that all forms of judicial interjections are acceptable. In fact, what happened in the case that I just mentioned shows that, in rare circumstances, judicial interjections may be inappropriate. Judicial interjections would become inappropriate if they constitute judicial bullying. To adopt the definition of the Judicial Commission of Victoria in "Judicial conduct guideline on judicial bullying" published in May 2023, judicial bullying is conduct by a judicial officer towards an individual that: (a) is unreasonable; and (b) includes, but is not limited to, conduct that a reasonable person would, having regard to all the circumstances, perceive as belittling, humiliating, insulting, victimising, aggressive or intimidating. Judicial bullying is, however, an extremely serious allegation that should not be lightly made. Even in rare and extreme circumstances where counsel genuinely believes that he or she has fallen victim to judicial bullying, the prudent approach is to exercise the utmost restraint as required by the Bar's Code of Conduct, and speak to a senior member of the Bar afterwards; and if the complaint is justified, a report may be made to the Bar Association, which may consider to raise the matter with the Judiciary.

In my speech delivered at this year's Ceremony for Admission of New Senior Counsel, I reiterated the crucial importance and indispensable role of court advocacy under our common law system, and that court advocates play an essential role in ensuring that justice can and will indeed be seen to be done, which is critical in maintaining people's overall confidence in our legal and judicial system. I explained why we should cherish and safeguard the present system of appointing Senior Counsel. The reason that I gave is that "As guaranteed by the Basic Law, Hong Kong's common law system shall continue to apply. That being the case, the significance that we attach to court advocacy

must be maintained."

For the present purpose, what I wish to emphasise yet again is that people would judge the quality of justice in Hong Kong by observing the interactions between counsel and the judge in open courts. And therefore, handling interjections from the court in an appropriate manner to ensure that oral advocacy would serve its intended purpose in our common law system will materially impact people's perception of the standard and quality of our legal and judicial system.

I hope I have said enough to convince you that this topic to be discussed at today's conference is highly relevant and important to Hong Kong's status as an international legal and dispute resolution services centre. I am sure that, after hearing the valuable insights of eminent speakers who will speak very soon, all of you, as counsel, would be in a better position to contribute to strengthening Hong Kong's said status.

On this note, I wish all of you a fruitful and inspiring conference. Thank you very much.

Ends/Friday, November 13, 2026