

**The Chief Justice Andrew Li's Address at his
Farewell Sitting on 16 July 2010**

**Judges, Secretary for Justice, Chairman of the Bar and
President of the Law Society**

1. I wish to begin by thanking all of you most sincerely for attending this sitting of the Court to mark my retirement as Chief Justice. My retirement will bring to a close my professional journey as advocate and judge which began over 37 years ago with my call to the Bar on 6 January 1973. Your presence is greatly appreciated and represents a recognition of the importance of the office of Chief Justice as Head of the Judiciary.

2. I am most grateful for the kind and generous remarks in your speeches. It is the responsibility of the advocate in any court to make assertions which are reasonably justified by the materials. I am most doubtful whether the extravagant

statements made can be justified. But for once, I trust that I shall be forgiven for not subjecting them to the usual judicial scrutiny. However, I must acknowledge the generosity of spirit behind the statements. And I shall remind myself that they were made in the atmosphere of the occasion and that I would be well advised not to believe them in full.

3. An independent Judiciary is a cornerstone of our society. It is universally recognized that over the past 13 years, an independent Judiciary has continued to thrive under “One Country, Two Systems”. The Chief Justice as Head of the Judiciary has a range of important and heavy responsibilities: judicial, administrative and representational. I must take this opportunity to express my deepest gratitude to all concerned for all their assistance and support.

Tributes

4. As the Court Leader of the Court of Final Appeal, it has been my privilege and pleasure to have worked with all the permanent and non-permanent judges. All judges have been

strongly committed to the common purpose of building up the reputation of our own final appellate court. I greatly value the warm and collegiate relationship among the judges. We debate the issues with intellectual vigour whilst any disagreement is fully respected. And we render considerable assistance to each other. I believe that my own judgments have been much improved as a result of the input of my colleagues.

5. I owe a particular debt of gratitude to Justices Bokhary, Chan and Ribeiro, the permanent judges and to Sir Anthony Mason, the non-permanent judge who has sat in the leading constitutional cases. All of them have served for a decade or more. I thank them for their wise counsel and warm friendship. I have learnt a great deal from them and I shall treasure the memories of our collective efforts on the Court.

6. The work of the Registrar, the judicial clerks and the support staff are all essential to the Court's smooth operation. I wish to express my deep appreciation to all of them for their dedicated work.

7. The administrative responsibilities of the Chief Justice are wide-ranging. They encompass the entire judicial system and cover all issues affecting the Judiciary. In discharging these duties, I have derived invaluable assistance from successive Chief Judges of the High Court, Chief District Judges and Chief Magistrates, various judges who chair and serve on various committees and the staff of Judiciary Administration headed by the Judiciary Administrator. I am extremely grateful to all of them for their dedicated work. Among those in Judiciary Administration, I owe a particular debt of gratitude to Ms Emma Lau, the present Judiciary Administrator and previously my Administrative Assistant, and Ms Irene Li, my secretary. Both have served with total commitment for around a decade.

8. In dealing with administration, it is essential for the Chief Justice to listen to all points of view, including those which may be contrary to his initial thoughts. A thorough discussion and consideration of all aspects of a problem will

enable him to make sound decisions. I greatly appreciate the efforts of judges and administrators in being prepared to put different views to me.

9. A most important responsibility of the Chief Justice is to deal with the Executive. The Secretary for Justice, as the chief legal officer of the Government, has a special responsibility to safeguard judicial independence. During my tenure, I am most fortunate to have the Honourable Wong Yan Lung and his predecessor, Ms Elsie Leung, serving in that important office. In dealing with matters relating to the Judiciary, sensitivity, balanced judgment and courage on the part of the Secretary are required. Both of them possess these qualities and have made an invaluable contribution to maintaining an independent and effective Judiciary. I thank them for all the support they have given to me.

10. Another substantial responsibility of the Chief Justice is to deal with the Legislature. In its relationship with the Judiciary, the members of the Legislative Council who serve on

the Panel on Administration of Justice and Legal Services play a significant role. I wish to pay tribute to Dr the Honourable Margaret Ng, the Chairperson of the Panel since 1998, and her colleagues for their work on the Panel. Their concerns on issues relating to judicial independence and the operation of the Judiciary are greatly appreciated. I also wish to pay tribute to members of the Legislative Council for the sensitive manner in which they have dealt with the endorsement of senior judicial appointments, including that of my successor. The process they have adopted recognises and accords with judicial independence.

11. A competent and independent legal profession is of crucial importance to the functioning of an independent Judiciary. I wish to express my profound gratitude to both branches of the legal profession at two levels. First, the submissions before the Court of Final Appeal from counsel almost invariably have been well researched, well considered and well presented. I wish to record the indebtedness of the Court for the invaluable assistance which counsel have provided. I appreciate that the careful preparation of a case before the

Court is a team effort and the solicitors play a vital role in the process. I also wish to acknowledge and thank them for their work.

12. Secondly, there are many matters on which the Chief Justice has to consult and work with the Chairperson of the Bar and the President of the Law Society. These include matters relating to the regulation of the profession and many issues relating to the operation of the Judiciary. Civil Justice Reform, including the promotion of mediation, is a recent example. I have enjoyed a good working relationship with successive Chairpersons and Presidents. I wish to thank them all for their unstinting support of an independent and effective Judiciary.

Court of Final Appeal and Constitutional Jurisprudence

13. During my tenure, one of the most exciting challenges has been the establishment of the Court of Final Appeal and the development of constitutional jurisprudence in the new order. It must be emphasized that the foundation of the

new order is “One Country, Two Systems” with each being part of the principle. In relation to the interpretation of the Basic Law, the Court has authoritatively laid down that a generous interpretation must be given to the guaranteed rights and freedoms, which lie at the heart of Hong Kong’s separate system. In most constitutional cases, a balance has to be struck between the rights and freedoms of the individual on the one hand and the interests of the community on the other. In searching for the appropriate solution for our own jurisdiction in constitutional and other cases, considerable assistance is derived from an examination of comparative jurisprudence.

14. No doubt, decisions of the courts in constitutional cases have widespread repercussions for society. Judges have the duty of deciding cases in accordance with law without fear or favour. It is important to reiterate that the courts are concerned and only concerned with the limits of legality. The courts are not the appropriate forum for debating or resolving political, social or economic issues, let alone one for the ventilation of campaigns for political ends.

15. Over the last 13 years, I believe that the Court has made good progress in establishing its stature. The composition of the Court with one non-permanent overseas judge has worked well. The non-permanent overseas judges appreciate that when they sit, they function only as Hong Kong judges in our own circumstances. It is appropriate that these judges are drawn from Australia, New Zealand and the United Kingdom since our legal traditions have the closest affinity with those three jurisdictions.

Exchanges

16. Under “One Country, Two Systems”, it is of great importance that Judges in the Mainland and Hong Kong have a mutual understanding of each other’s system. Since 1997, considerable efforts have been made to develop this. It is also of great importance that Hong Kong continues to maintain its links with leading common law jurisdictions.

Access to justice

17. Another important challenge which our judicial system has faced and will continue to face is to seek to ensure access to justice for all. There is no magic solution. All concerned, including the Government, the Judiciary and the legal profession need to consider the matter and make concerted efforts to assist. Measures which the Judiciary has undertaken include Civil Justice Reform, the promotion of mediation and the establishment of the Resource Centre for Unrepresented Litigants. It is important that every effort is made by all concerned to ensure that the ordinary citizen has access to justice.

Serving the community

18. As the institution of government exercising independent judicial power, the Judiciary belongs to and serves the community by resolving disputes, whether between citizens or between citizen and government in an impartial, fair and

efficient manner. In a world of rapid change, the Judiciary has a responsibility to keep its administration under review with a view to making further improvements so as to ensure that our citizens are well served.

Judges

19. Whatever position the Judge occupies in the Judiciary, his or her contribution is invaluable and is greatly appreciated. All Judges are conscious of the community's high expectations of the Judiciary and of the important responsibilities resting on their shoulders. Over the last 13 years, we have recruited good talent from the legal profession. It is important to maintain momentum in this regard. It is of the utmost importance that Judges observe the highest standards of conduct both in and out of court. This is essential for the maintenance of public confidence in the Judiciary and the administration of justice.

Farewell

20. In a few moments, I shall be taking off my judicial robes for the final time. In a few weeks' time, I shall be laying down the burdens of office to resume life as a private citizen. In carrying those burdens and indeed throughout my professional life, I have always been blessed by the steadfast and unfailing support of my wife and my family. As I bid farewell, I can say in all conscience that I have no regrets. I have always striven to serve in a spirit of humility to the best of my ability.

21. I must reiterate that it has been the greatest honour of my life to serve as the first Chief Justice in the new order. I have been greatly enriched by the experience. As a son of Hong Kong, it was my duty to serve in these historic times with the reunification of Hong Kong as part of China. I thank the community for giving me the opportunity to contribute.

22. I wish my successor, Mr Justice Ma, every success. I have every confidence and an unshakeable belief that an

independent Judiciary upholding the rule of law and safeguarding the rights and freedoms of the individual will continue to thrive under “One Country, Two Systems”.

23. I wish you all good health and every success and happiness. That concludes the sitting. I thank you all again for your attendance.