

Address by Mr C M CHAN
President of the Law Society of Hong Kong
Admission of Senior Counsel
20 May 2023

Chief Justice, Honourable Judges, Secretary for Justice, Chairman of the Bar,
Distinguished Guests, ladies and gentlemen

It gives me great pleasure to be here today, in this ceremonial occasion, to congratulate Mr Christopher Chain Siao-liang, Mr Anthony Chan Ho-ki, Mr Mike Lui Sai-kit and Mr Bruce Tse Chee-ho on the appointment to Senior Counsel. I am pleased to see your appointments. Your talent, expertise, advocacy skills, as well as knowledge in the various fields of law, not only advance clients' cases, but also contribute to the jurisprudence of Hong Kong. This is particularly important when Hong Kong is developing her own jurisprudence in various areas of law. From the public interest perspective, the depth of knowledge and expertise of the advocates from time to time help push the boundaries and inspires confidence in the laws in Hong Kong.

On public interest, I recall that on a similar occasion of appointment of Senior Counsel some eight years ago, the then Chief Justice said the following¹.

“There is a great public interest consisting of the existence of a body of advocates who, first, make possible the access to justice for all persons requiring the assistance of the law and who, secondly, in turn recognise an obligation to assist the court in arriving at just outcomes in the adjudication

¹ CJ speech of 2 May 2015: <https://www.info.gov.hk/gia/general/201505/02/P201505020255.htm>

of legal rights. These twin roles of the advocate have existed since at least the middle of the 19th Century. ...

A great public interest ... consists of recognising advocates who, through years of experience in the courts, have shown themselves to be exemplary in discharging the two functions just mentioned... “

I wholly agree to the above views. A body of strong and independent advocates is a fundamental pillar for the legal system of Hong Kong. It safeguards the fair administration of justice and underpins the rule of law for Hong Kong. This is of extreme importance.

The relevancy and importance of the continual presence of a strong and independent advocates are embraced in the Basic Law itself. Article 35 of the Basic Law states that -

"Hong Kong residents shall have the right to confidential legal advice, access to the courts, choice of lawyers for timely protection of their lawful rights and interests or for representation in the courts, and to judicial remedies.

"Hong Kong residents shall have the right to institute legal proceedings in the courts against the acts of the executive authorities and their personnel."

The public interest in having a body of strong advocates is immense.

I need to add that apart from barristers as advocates, nowadays Solicitor Advocates appear quite often in civil proceedings and arbitration proceedings. We will be delighted to see appointment of Senior Counsel be made to Solicitor Advocates in a not too distant future.

Whether it is barristers or solicitor advocates, they are to receive instructions from instructing solicitors under the current referral system. From the perspective of instructing solicitors, I could share some observations with you.

First, I note that nowadays, engagement of Senior Counsel in early stages of matters has become more frequent, in particular with complicated cases. When a Senior Counsel is engaged in early stages, he could settle strategies and lay down a roadmap for the parties. The parties could tactically prepare their case, be focused on evidence and usefully decide on the way forward. A clear strategy formulated in early stages also helps parties to consider and reach settlements. That in turn help save time and costs.

Second, I observe that more Senior Counsel nowadays are amenable to work and advise on a matter on their own, and they are not obliged to have a junior. This is quite unlike the past when there was a “convention”, so to speak, for a junior be routinely engaged to work with a senior.

Third, lay clients are now more demanding on legal advices they are to receive. Although most of them are not to challenge the legal advices they are given, clients are more prepared to ask questions for them to understand the advices. Some clients would also do their own research on internet on the legal issues they are facing. They could also have views on choice of advocates. And also,

clients are expecting more affordable advices. These client pressures pose challenges to both barristers and instructing solicitors.

Lastly, the legal landscape has become more complex with the evolution of third-party funding for arbitration and mediation, the introduction of the Outcome Related Fee Structures scheme for arbitration, the continual focus on ADRs and exploration of sophisticated settlement. There are also expectations and drives from the Judiciary and clients to make more use of court technology and remote hearings. All the above mean a shift in the focus from simply researching and preparing legal arguments, to the wholesale consideration of an array of complex and closely-related issues. Barristers and Instructing Solicitors are to look to each other and work closer to meet these challenges.

A well-conducted litigation would continue to have a division of labour between solicitor and barrister, but I would anticipate more collaboration between the two legal professions, in the light of all of the above.

Let me once again take the opportunity to congratulate each of you warmly and I wish you the very best for the future.