

Statement by Chief Justice of Court of Final Appeal

The following is a statement by the Chief Justice of the Court of Final Appeal, Mr Geoffrey Ma Tao-li, today (March 25):

"Our community is facing challenges arising from the COVID-19 virus that are unprecedented in terms of seriousness and extent. The Judiciary has certainly not been shielded, whether directly or indirectly, from the effects brought about by the virus. Almost 18 per cent of the annual caseload of the courts at all levels have been affected since cases began to be adjourned on January 29, 2020 (this was the start of what has been referred to as the General Adjourned Period (the GAP)). Given the fact that the administration of justice has been adversely affected by the current situation, the Hong Kong Bar Association, the Law Society of Hong Kong, the Department of Justice and many other interested parties - not to mention the public as a whole - are obviously concerned over the disruption and inconvenience that have been caused.

"Many organisations and people including those earlier mentioned, have given their views and assisted the Judiciary in devising and planning appropriate measures during this time. I am grateful for all their input and assistance. The Judiciary has from the earliest stages been active in planning and taking action to deal with the problems caused by the effect of the virus on court operations. Judges and Judicial Officers, and our Judiciary staff have worked constantly and tirelessly in this regard.

"However, by reason of the latest developments, concerns have emerged in the past few days over the uncertain duration of the GAP, and if the return to the normal operations of the courts is to last into the foreseeable future, over what further measures the Judiciary plans to take to alleviate the situation. I understand and share these concerns. With the progress that had been made dealing with the health situation in Hong Kong, we had originally planned the resumption of normal activities in the courts to take place last Monday (March 23). Unfortunately, this was not possible in the light of events over the past few days and we had to announce as a matter of urgency the continuation of

the GAP for another two weeks. This has made immediately pressing the Judiciary's consideration of how to deal with the further suspension of court services. Here, I would like briefly to highlight the work that we have been doing in this regard. Fuller details are contained in an Information Note that has been prepared for the Legislative Council Panel on the Administration of Justice and Legal Services issued today. The Information Note also provides details of the work that has been done so far during the GAP. I refer you to that Information Note.

"Up to now, we have adopted a conservative approach to the types of cases that have been heard during the GAP. A number of exceptions aside (these have involved special features), mainly urgent and essential hearings took place. The reason for this approach was public health and safety. Court buildings are places where at any one time many people are gathered and the potential spread of infections is a very real one. It should also be noted that not only do court hearings take place in court buildings, there are also registry and other services. All of these activities also involve the presence of many people. Public health and safety remain paramount considerations in determining our approach to the present problems.

"That said, we have nevertheless been urgently exploring further ways to increase court services during this time without compromising the health and safety of court users, our staff and judges. For example, many judges have been proactively managing cases (for example by giving appropriate directions) and making determinations on paper (thus avoiding the need to have parties physically present in court). Further, as far as hearings are concerned, the judiciary is actively considering expanding the scope of hearings (beyond just urgent or essential matters) by hearing submissions by telephone, by video-conferencing or similar means of visual aid and generally making use of technology. The greater use of technology has been urged on the Judiciary and generally I agree with this approach. The only qualifications that I would wish to make here is that the use of such means to facilitate hearings must not only be logistically feasible but also legal in terms of being permitted by applicable court rules and procedures. Additionally, information technology security issues must be addressed.

"If the GAP is to be extended and the return to normality delayed, I wish to assure the community that the Judiciary is doing its best to deal with the situation. Meetings with interested parties have taken place and continue to take place. However, it is important not to lose sight of the fact that the present challenge faced by the community is a public health and safety one, and in considering what best course to take, we must at all times bear in mind the health and safety of the public, court users, our staff and judges. I hope we will be able to return to normality soon but if the GAP is to continue, we will do our best to have the courts operate as much as practicable and safe."

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