

**"New Era, New Challenge" Opening of the First ICAC Symposium Keynote  
Address by the Hon Chief Justice Andrew Li**

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Commissioner, Ladies and Gentlemen,

I am greatly honoured to be invited to speak at the Opening of the First ICAC Symposium. And I am delighted to be here to share a few thoughts with you on the theme 'New Era, New Challenge'.

With so many participants coming from so many countries and territories all over the world, this Symposium is truly an international event. To those who have come from overseas, may I extend a very warm welcome to you and wish you a most enjoyable stay in Hong Kong.

**New Era – A Few Trends**

At the threshold of a new millennium, we are entering into a challenging new era.

First, this will be an era of rapid change. It is certain that the new millennium will bring many developments in all spheres of society. Above all, the continuing advances in science and technology will have a far-reaching impact in all areas of human endeavour. This follows the trend set in the last few decades for the pace and scope of change is likely to accelerate.

As a consequence of rapid change, our societies will be more affluent and better educated. Our citizens will be more conscious of their rights. And they will have rising expectations of all institutions, public and private.

Secondly, with the increasing trend of globalisation, we will need to look beyond our traditional concepts of physical locations and territories. Nowadays, products are rarely produced in one single territory. Our business people handle multi-national projects and our lawyers are required to deal with cross-boundary legal issues and transnational transactions. Many are engaged in transactions in cyberspace with no physical boundaries.

At the same time, our law enforcement agencies are also required to tackle cross-boundary criminal activities. And corruption can find its ways in borderless trade and services.

Thirdly, closely related to the deed of globalisation, there will be increasing liberalisation in economic activities. There are calls for greater liberalisation in international trade in goods and services. All over the world, we are moving towards less governmental intervention in many spheres of economic activities, with de-regulation as the norm. In this process, communities are attaching greater importance to the protection of the privacy of individual citizens and this applies to financial transactions.

Fourthly, we are undergoing a revolution in information technology, not only has this transformed how businesses are transacted, this has a far reaching influence in all fields of human affair. But advances in information technology can be used for both good and evil. They can be effective tools to achieve dishonest objectives such as corruption. This would make crime even more difficult to detect and combat.

Last but not least, we are becoming increasingly conscious of the benefits of enhanced cooperation and collaboration between the public and private sectors in the pursuit of common goals. There is a general recognition of the need for both sectors to work together in serving the community.

What does this mean to us all ? This means that we cannot stand still. We have to adapt and change too; in how we think, how we achieve our mission and how we work with other stakeholders in the process. It is in this context of rapid change and rising expectations that we must meet the challenge of the new millennium in fighting corruption.

## **Meeting the New Challenge**

### ***The infrastructure***

To meet this challenge, we must ensure that first and foremost there must be and continue to be a solid and effective infrastructure. This consists of a sound legal framework, an effective enforcement agency and an independent judiciary to uphold the rule of law. Equally important, there must be a supportive community.

In this regard, I would like to refer to the Hong Kong experience.

*(1) (a) A sound legal framework*

A sound legal framework is crucial to the successful investigation of corruption and bringing suspects to trial. In Hong Kong, as from 1 July 1997, the status of the Independent Commission Against Corruption is firmly entrenched in the Basic Law, our mini constitution. Article 57 provides that a Commission Against Corruption shall be established in the Hong Kong Special Administrative Region. It shall function independently and be accountable to the Chief Executive.

In Hong Kong, three pieces of legislation provide the legal basis for combating corruption: The Independent Commission Against Corruption Ordinance, the Prevention of Bribery Ordinance and the Corrupt and Illegal Practices Ordinance.

The first Ordinance provides for the appointment of the Commissioner and his officers and other matters relating to the management of the ICAC. It also sets out the responsibilities of the Commissioner and empowers the Commissioner to investigate corruption-related offences.

The second Ordinance sets out the offences of bribery and corruption in both the public and private sectors and the penalties for them.

The third Ordinance governs the conduct of elections and sets out the offences which should be investigated by the ICAC.

Extensive powers are provided to the ICAC under these Ordinances. Experience have shown that these provisions are effective in combating corruption, but there is a need to keep the legislation under constant review to see if further improvements are required in the light of changing circumstances. In doing so, one should always be conscious of the importance of striking a balance between giving the Commission sufficient powers to deal with the problems effectively and the Commission's accountability and the rights and freedoms of the individual which are treasured in a civil society.

*(b) An effective enforcement agency*

Whatever powers there are, they would only be used effectively by an independent, efficient and incorruptible enforcement agency.

Since its establishment in 1974, the ICAC has worked unswervingly for more than a quarter of a century. It has earned the respect and the confidence of the community. It has the well deserved reputation of one of the most effective anti-corruption agencies in the

world. Its strenuous efforts have helped to ensure a clean public service and a level playing field in business. And despite its past achievements, the ICAC has always been striving to improve itself to becoming a more effective anti-corruption agency.

*(c) An independent judiciary*

While a sound legal framework and an effective enforcement agency are essential to bringing suspects to trial, it is the courts which are vested with the responsibility to give a fair trial to those prosecuted for such offences and to sentence those found guilty. Hence, an independent, competent and incorruptible judiciary with judges ready to perform their duties without fear or favour is of the utmost importance. An independent judiciary must include a number of elements: institutional independence from other branches of the government, a sound system of appointment of and security of tenure for judges.

We have all these elements for the Hong Kong Judiciary. The principle of judicial independence is enshrined in the Basic Law (Article 85). Under it, judges are appointed by the Chief Executive on the recommendation of an independent commission with judges chosen on the basis of their judicial and professional qualities (Articles 88 and 92). The security of tenure for judges is constitutionally protected. Judges may only be removed for inability to discharge his or her duties, or for misbehaviour on the recommendation of an independent tribunal comprising of judges (Article 89).

*(2) A supportive community*

However sound the legal and institutional framework, we need the support of the community. The public recognition of the evils of corruption and their determination to have a clean public service and business environment are fundamental in fighting corruption successfully. In this regard, the ICAC has been most active in their efforts in conducting public education campaigns and corruption prevention activities. All these have proved to be a success.

***The future***

In the fight against corruption, we can never afford to be complacent. Every era gives rise to fresh challenges. Let me share a few thoughts with you.

First, in this era of rapid change, we need to be alert to new trends and new types of corruption related activities. We must adapt and update our skills and knowledge in

combating corruption. We need to respond to changing circumstances promptly and appropriately, and we have to anticipate changes and devise strategy to cope with the problems. We need to review our legislation, refine our strategy and strengthen our skills and efforts in the fight against corruption.

Secondly, with increasing globalisation, we need to broaden our horizons in carrying out our tasks. We should not only focus on problems in our own jurisdictions, but we need to keep abreast of developments all over the world. We must attach great importance to cross-fertilization among jurisdictions, exchanging views and sharing experiences with our counterparts in other countries and territories, as we can learn a lot from each other. And we should strengthen cooperation and exchange of information with each other within the limits of the law.

Thirdly, with increasing liberalisation of economic activities, enforcement agencies need to update and equip themselves with the necessary knowledge and skills in detecting corruption related activities involving sophisticated financial instruments and transactions. And governments need to review if existing legislation is adequate in this regard.

Fourthly, with fast developing technology, enforcement agencies need to be equipped with and make the best use of up-to-date information technology to further enhance their efforts in combating corruption.

Finally, let us not forget the growing importance of continuing cooperation and collaboration between the public sector, the private sector and the community in the fight against corruption. There must always be concerted efforts on all fronts, and the battle cannot be left to the government alone.

### **Concluding Remarks**

The theme of this Symposium is most timely. I am very delighted to see that this Symposium represents one of the best efforts of the public and the private sectors in their pursuit of the common mission of fighting corruption. The extensive international participation provides valuable opportunities for the exchange of ideas among jurisdictions. The carefully planned and focussed agenda facilitates discussion on the most relevant and important subjects that are of crucial importance to the work of delegates.

With these remarks, I have the greatest pleasure in declaring the First ICAC Symposium open. Thank you.

13 November 2000