

CJ's Speech at Opening Ceremony of the 16th Commonwealth Law Conference in Hong Kong

The following is the full text of the speech delivered by the Hon Chief Justice Mr Andrew Kwok-nang Li at the Opening Ceremony of the 16th Commonwealth Law Conference in Hong Kong today (April 6):

I am honoured to be invited to open this, the 16th, Commonwealth Law Conference. And I am delighted to see so many of you.

This is the first time when the Commonwealth Law Conference is held in a non-Commonwealth jurisdiction. The Hong Kong Special Administrative Region, as part of the People's Republic of China, is delighted to host this Conference. Since July 1, 1997, when China resumed the exercise of sovereignty under the principle of "one country, two systems", the common law system has continued to be maintained and indeed has continued to thrive in Hong Kong in accordance with the Basic Law, our mini-constitution.

The convening of this Conference in Hong Kong represents a recognition of the successful implementation of the principle of "one country, two systems". And it provides a useful opportunity for Hong Kong to maintain and strengthen its professional exchanges with common law jurisdictions both within and outside the Commonwealth.

The Commonwealth Law Conference is always a highlight in the calendar of the common law world. The speakers and participants from around the world and Hong Kong make up a galaxy of talent which is rarely assembled in one forum. I would like to congratulate the Commonwealth Lawyers' Association and the Law Society of Hong Kong for organising such a rich and stimulating programme under the theme "The Dynamics of Law in a Rapidly Changing World", with four streams: Constitutional Issues, Human Rights and the Rule of Law; Corporate/Commercial Law; Judges, the Legal Profession and the Community; and Contemporary Legal Issues. I would like to thank all speakers and participants for taking part. To our overseas visitors, I would like to welcome them warmly to Hong Kong and to wish them an enjoyable stay in our metropolis.

Hong Kong had previously played host to the Commonwealth Law Conference. This occurred in a different era. It was just over a quarter of a century ago, in September 1983, that the 7th Commonwealth Law Conference was held here.

At that time, China was in the early years of modernisation. It was only in December 1978 that she had proclaimed her open door policy, which ended years of isolation and set her on an irreversible road to modernisation and prosperity. In September 1983, we were in the midst of the Sino-British negotiations over the future of Hong Kong. The negotiations had begun in September 1982 and were concluded in December 1984 with the signing of the Joint Declaration.

The last 25 years have seen the most momentous changes in the world. We have seen massive and the most amazing advances in science, technology and medicine and in every field of human endeavour. There have been sea changes in the geopolitics of the world. With the rapid advances in information technology, the dynamic growth in international trade and services, and the free exchange of ideas between societies, the forces of globalisation have gathered strength. We talk today, without poetic licence, of living in a global village. What happens in one part of the world inevitably affects, to a greater or lesser extent, other corners of the world.

At the same time, with better education, citizens have high and indeed rising expectations of institutions which serve them, including the Judiciary and the legal profession. They expect and indeed have every right to expect high standards of integrity, competence, transparency and accountability.

It is in the context of these momentous happenings that those concerned in the law have had to function and discharge their duties. In the last 25 years, both in parallel with and in response to major political, social and economic changes, there have been many striking developments in the legal and judicial systems around the world based on the common law. They cover many areas, including those which will be discussed at this Conference.

In various spheres, the common law has evolved along divergent paths in different jurisdictions. The courts in different jurisdictions in developing the common law have not adopted a uniform pattern. Further, in enacting statute law to regulate many areas of activity in the public interest, legislatures in various common law jurisdictions have used different methods and solutions. There is no universal common law and no single common law system.

That there is diversity across the common law world is a strength and not a weakness of the common law. The genius of the common law as developed by the courts lies in its capacity to adapt, both to changing times in the light of experience and to the circumstances of the society in which it functions. At the same time, legislatures functioning in common law systems have to search for answers to complex problems which are appropriate to the times and suitable for the conditions of the society concerned.

In view of such diversity, common law jurisdictions, both within and outside the Commonwealth, provide a flourishing market place of ideas for dealing with the challenging legal issues of our times. Faced with any problem, courts are able to consider a rich source of comparative jurisprudence. The decisions of common law courts outside one's jurisdiction provide useful assistance in the search for the appropriate solution in the circumstances of one's own jurisdiction.

For us in Hong Kong, the significance of comparative jurisprudence is regarded as so important to the continuation of the common law that our Basic Law contains an express provision that our courts "may refer to precedents of other common law jurisdictions" (Article 84).

Comparative materials are of course not only helpful to courts but are useful to the executive and legislative branches when they search for and formulate solutions to the problems confronting society in modern times.

The Commonwealth Law Conference, with so many common law jurisdictions present, including those outside the Commonwealth, provides a most valuable opportunity for informed discussion and lively debate in the market place of ideas. Issues are subject to critical examination and fresh ideas and new perspectives are explored.

Whilst there is diversity in legal developments in common law jurisdictions, the same fundamental values underlie all common law systems. These values are based on the cardinal importance of the rule of law, with an independent Judiciary and an independent legal profession, and on the fundamental respect for human rights and the dignity of the individual. The Commonwealth Law Conference provides an opportunity for all concerned in the law to remind ourselves of the vital importance of these values, to re-affirm them unequivocally and to renew our steadfast and resolute commitment to them in a fast changing world.

With these remarks, it is my great pleasure to declare this Conference open. I wish you all an enjoyable and successful Conference. Thank you.

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