

CJ's Address at Ceremony for the Admission of the New Senior Counsel

The following is the full text of an address by the Honourable Chief Justice Geoffrey Ma Tao-li at the Ceremony for the Admission of the New Senior Counsel today (May 11):

Secretary for Justice, Chairman of the Bar, Mr Wong (Past President of the Law Society), fellow judges, ladies and gentlemen,

Among the various duties of my office, the ceremony for the call to the Inner Bar is among the most pleasant. For all those lawyers present today, including especially the eight barristers who are about to take silk, for all those judges sitting in court and for me, the law has been our professional life. For most of us, we have known no career other than the law; for most of us we have had fulfilling lives in the law. It must therefore be a very special day when the eight new Senior Counsel are able to share the happiness of a significant milestone in their legal careers with those who are closest to them. I am referring of course to their families, friends and professional colleagues.

Achieving the status of Senior Counsel has never only been about seniority at the Bar, legal ability and knowledge or even success as a lawyer. It is more than that. The status of Senior Counsel carries with it leadership responsibilities, responsibilities which not only the legal team which is engaged in any particular case expects, but, on a broader scale, which the public interest demands. Last year, I referred to the five connected characteristics which make a person suitable to become a Senior Counsel: integrity, honour, ability, industry and above all, a true respect for the law. I wish today to focus on the facet of honour and the leadership qualities which the public interest requires in that context.

Ever since I was a student in law (it will be 40 years next year when I first started my studies - yes there are those in this court room who can date the start of their legal studies even before me), the legal profession has been described an honourable profession. Within this, Senior Counsel (or, in those days, Queen's Counsel) were the leaders of this honourable profession. Through the passage of many years and the numerous developments to make the legal profession more "marketable", the "honourable" part of the profession has at times (and I hope really no more frequently than this) been lost sight of.

An important part of the honour here is to treat the legal profession as a profession and not primarily as a business. The honour lies in the recognition that the ultimate objective of the law is to further the ends of justice, to assist those who seek justice and to uphold

those principles which make up the rule of law. It is here that the concept of duties owed to the court - much referred to but often misunderstood - assumes importance. The duty to the court is not just, as many lawyers think, merely a duty not to lie. It is a duty to assist the court to reach a just outcome in a legal dispute, to facilitate and not to obstruct. Particularly in a system in which proceedings are essentially adversarial, this duty, which in truth is owed to the public rather than to judges as individuals, assumes fundamental importance.

The duty to justice of course also involves ensuring that all those who require legal representation and who deserve access to justice, get it. I was reminded of this aspect when I read that marvellous collection of lectures and talks given by the recently-retired Sir Sydney Kentridge QC (the book is called "Free Country: Selected Lectures and Talks"). In referring to the days of apartheid in South Africa when he, together with a number of other counsel, represented opponents of the regime, Sir Sydney says this:

"During the long years of apartheid in South Africa, I believe that one of the things which kept the flame of liberty flickering was that opponents of the apartheid regime charged with offences including high treason were able to find members of the Bar to defend them with such skill as they had and with vigour. This was not because they necessarily sympathised with the aims or methods of the accused, but rather because they recognised their professional duty to take on those cases."

Two matters instantly emerge from this passage:

First, it has always been a fundamental part of a barrister's responsibility to the public that there is adherence to the "cab rank principle". It is no part of an advocate's professional make-up to pick and choose clients, or to refuse to act for clients merely because the advocate does not like the client. As Lord Pearce famously said in *Rondel v Worsley* [1969] AC 191, at 275:

"It is easier, pleasanter and more advantageous professionally for barristers to represent or defend those who are decent and reasonable and likely to succeed in their action or their defence than those who are unpleasant, unreasonable, disreputable and have an apparently hopeless case. Yet it would be tragic if our legal system came to provide no reputable defenders, representatives or advisers for the latter."

Secondly, it has long been a tradition of barristers to do at least one legal aid case a year. I hope our new Senior Counsel (with of course the exception of the two Senior Counsel from the Department of Justice) will continue this trend.

These facets which help make up the honour in the legal profession ensure that what is

primarily the object of the law - justice - is at the forefront of that profession. This is not to say that lawyers are not permitted to earn a good living, far from it, but it is I think important to distinguish a profession, and an honourable one at that, from purely a business.

In this respect, I have every confidence that the eight new Senior Counsel will fulfil their leadership responsibilities. You will presently hear details of their individual skills and expertise, and perhaps some anecdotes as well. I will not dwell on those aspects.

It gives me immense pleasure to welcome the eight barristers before us to the Inner Bar. This, I think, is the largest number of barristers to take silk since 1990. It gives me even more pleasure to see that their families, friends and professional colleagues are here to share in today's celebrations. It is particularly special that of the eight new Senior Counsel, three are mothers as well. Today marks a hundred years to the day (May 11, 1913) when the legislators on Capitol Hill passed a law making the second Sunday of May, Mother's Day. Tomorrow is the second Sunday of May and it is our Mother's Day too. Happy Mother's Day to all mothers.

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