

Inauguration Ceremony of the Law Association

Hong Kong University Student Union

15 March 2018

The Rt Hon Lord Reed NPJ

Chairman of the Law Association, Dean of the Faculty of Law, Ladies and Gentlemen,

Thank you for inviting me to speak this evening. As a NPJ, it is important that I learn about the culture of Hong Kong and meet its people. I am particularly pleased that this evening gives me an opportunity to meet young people and learn about their views.

I would like to take this opportunity to share some thoughts with you about studying law.

Some of you will not be long out of school. Law is not a subject usually studied there, and it presents you with new challenges. It has some elements in common with school subjects. Like foreign languages, it involves the interpretation of texts, and working out the meaning of words whose sense is unclear. Like mathematics, it involves logic. Like history, it involves understanding how society has developed over time. Nevertheless, it is different from all of those. So as law students, you not only have to learn law. More fundamentally, you have to learn *how* to learn about law.

The first important thing you have to learn is that legal textbooks cannot be treated as if they were holy writ. If you are a lawyer advising a client who has a problem, you may look up a textbook and find that, according to the book, the law is against your client. But you don't just put the book back on the shelf and tell your client, sorry, the law is against you, there's nothing I can do. If you did that, you might not have many clients. Very often, if you look at the cases cited in the footnotes, you will find that the law is not as clear as the book suggested. Indeed, sometimes the judgments which I and my colleagues write require the textbooks to be substantially re-written. So, at the very

least, if you research the point, you may find that there is a contrary argument which you can use in negotiating a solution on your client's behalf.

Textbooks are of course useful, particularly, for an experienced lawyer, in pointing you towards the cases and statutes that you need to study. But you don't learn how to be a lawyer from reading them. The only exception to that is casebooks which set out extracts from the leading cases and then pose questions designed to make you think about the meaning of what you have read, the implications of the decision, and even, sometimes, the possibility that it might be wrong. The best casebooks are valuable aids to study.

But there is no substitute for studying the cases themselves. In a common law system, the sources of law are case law and legislation, and you have to learn how to use both of them. You don't read cases merely to find a sentence somewhere that can be cited as authority for a proposition, in the manner of many textbooks. Remember that every case you study was controversial at the time it was decided. You have to understand what the controversy was in order to understand what the judges were actually deciding. The best way to learn that is often by reading counsel's arguments, if they are set out in the report. It is important to understand what the previous law was, and what the issue was that was so unclear that it was litigated up to a final court of appeal, if that is where the case was decided, in order to understand the implications of the decision. And never forget that the cases you study are about real people living their lives, usually in a different society from our own. You should think about whether the differences between their society and ours may affect how a court should look at the case today.

When it comes to legislation, you need to be careful when using modern technology. Websites will give you the entire text of a statute as it was enacted, or as it stands at the present day, but most lawyers use another option they provide, where they set out the text of a particular provision as it stood at a given date. That is useful when legislation has been amended and you need to know which version of a provision was in force at the relevant time. But you can't interpret legislation by looking only at the section which you are concerned with. Nor can you find its meaning, as so many lawyers seem to think you can, by looking at debates in Parliament, Government consultation papers, official

reports which preceded the legislation – anything, other than the legislation itself. Just as you would do if you found a word in a foreign language text whose meaning was unclear, you have to consider the meaning of the words in a statutory provision in the light of their context in the statute as a whole. Their meaning may become clear from how they are used elsewhere. Other provisions may shed light on the intention behind the provision you are dealing with. So there is no substitute for looking at the statute.

Finally, can I repeat to you what was said to me when I was a law student by the Dean of that law school: someone who is only a lawyer isn't much of a lawyer. Law is about how people live together in society. Much of it is applied common sense, but you have to have experience of life to understand why it makes sense. And in order to be an effective lawyer, you have to have developed the social skills and experience to be able to inspire confidence in clients and in the court, to look people in the eye, to speak confidently and articulately, to deal with people when they are disappointed, angry or upset. Law firms know this. They know that the best lawyer isn't necessarily the person who got the highest marks in the law exams. They are looking for people with rounded skills.

So, if it isn't too subversive of me to say so in front of your professors, spend time in the library, but don't spend too much time there.