

**Speech by The Honourable Chief Justice Geoffrey Ma  
at the University of Hong Kong  
Faculty of Law 50<sup>th</sup> Anniversary  
Kick-off Ceremony  
25 June 2018**

Pro-Chancellor, Distinguished Guests, Staff and Students of  
the Law Faculty, Ladies and Gentlemen,

1. It is a great honour to be asked to say a few words at this ceremony to begin the 50<sup>th</sup> Anniversary celebrations of the Faculty of Law. Together with many others, I warmly extend my congratulations to both the Faculty and the University.

2. I was recently looking at a series of paintings of the American landscape in the 19<sup>th</sup> Century done by members of that school known as the Hudson River School, founded by Thomas Cole and including influential artists such as Frederic

Edwin Church and Albert Bierstadt. These were romantic portraits of the American wilderness and they bring a real sense of the pioneering spirit during that time. This reminded me of the founding of the Faculty of Law in the University of Hong Kong.

3. It must have felt like being a pioneer in those times when the Faculty of Law began in the University of Hong Kong in 1969. Then, it was not a separate faculty, but a department within the Faculty of Social Sciences. I have also looked at photographs of the lecturers and the students at that time; they too resembled what we imagine pioneers to look like: rugged, full of hair and distinctly unkempt!

4. Today, the Faculty of Law has become what the Department of Law and Professor Dafydd Evans<sup>1</sup> must have

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<sup>1</sup> Then the head of the Department of Law.

hoped for: one of the foremost and most prestigious law schools in the world. The latest newsletter of the Faculty<sup>2</sup> reminds us that among law schools in Asia it is ranked first and worldwide, ranked 18<sup>th</sup>.<sup>3</sup> The statistics, the accomplishments, the many alumni who have made great achievements<sup>4</sup> all evidence the remarkable development of the Faculty over the past 50 years.

5. Yet, for me, all these facets of a successful faculty within a modern, prestigious university, important as no doubt they are, nevertheless do not represent the ultimate achievement of the Faculty. And this achievement can be described as the contribution it has made to the community and the Faculty's proper role within it. This lies in the teaching of what law represents. Ultimately, the true

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<sup>2</sup> Issue 1, 2018.

<sup>3</sup> The Times Higher Education World University Rankings 2018.

<sup>4</sup> Such as, most recently, The Honourable Mr Justice Andrew Cheung, the present Chief Judge of the High Court who will join the Court of Final Appeal in October.

reputation of a law school and its overall success are to be seen in the light of the significance and success of the contribution it has made to the understanding of the rule of law in the community.

6. Law is integral to a society and the existence of the rule of law, critical. We all should know what is encompassed in the concept of the rule of law. The rule of law in a society means first, the existence of laws which respect the dignity and rights of individuals and also respect the rights of others in a community and secondly, the existence of an effective legal system that enforces such rights. I emphasise here the importance not only of respecting the rights of the individual but of the respect for other people's rights as well.

7. Law is not just an auxiliary part of society, merely smoothing the way for commerce, daily living or any of the

other routine and necessary parts of our lives. Law actually represents the way a community functions or should function. This is another way of saying that law represents the public or community interest. History has shown us that in numerous instances, the operation of the law has actually changed a society's perception of itself. The recognition that rights should be enjoyed without any differences based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status is now firmly established as part of our law.<sup>5</sup> The theme of equality is not just a legal concept of recent origin. It resonates throughout philosophical literature, although admittedly it is at its clearest when studied in the context of justice and the work of the courts. Plato's *Republic* (380 BC) – the starting point for the philosophical discussion of almost every aspect

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<sup>5</sup> Article 25 of the Basic Law states that "All Hong Kong residents shall be equal before the law". Article 1 of the Hong Kong Bill of Rights (which implements the provisions of the International Covenant on Civil and Political Rights under Article 39 of the Basic Law) states in terms that rights are to be enjoyed by all without those differences just enumerated. It is no coincidence that the right to equality is the first of the fundamental rights stated in the Basic Law as well as in the Bill of Rights.

involving political theory in society – placed equality at the forefront of the discussions on justice.<sup>6</sup> In *The Social Contract* (1726) Rousseau proceeds along the premise that laws which are intended as a manifestation of the general will must obviously be general in their application and not be selective.

8. A number of examples can readily be given as to how community perceptions have been changed by the law. The development of women's rights provides a good illustration to make this point. Plato makes the critical point in *The Republic*: "Women bear children and men beget them; but apart from that, the differences are really only in degrees of capacity, not essential distinctions of quality; even as men differ among themselves. The natures being the same, the

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<sup>6</sup> *The Republic* takes the form of dialogues in which Socrates takes a leading part.

education must be the same and the same careers must be open.”

9. Another illustration of a societal change in perception is the long struggle in the United States regarding African-American rights and the fight for equality. One of the towering legal figures in the 20<sup>th</sup> Century was Thurgood Marshall, the first African-American associate justice of the Supreme Court of the United States.<sup>7</sup> Marshall was perhaps more well known for his work with the NAACP<sup>8</sup> which included his participation in the famous case of *Brown v Board of Education*.<sup>9</sup> He trained under Charles Hamilton Houston, the Dean of Howard Law<sup>10</sup> in the early 1930s and spoke often (and fondly) about his erstwhile mentor. In a

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<sup>7</sup> Thurgood Marshall joined the Earl Warren Court in 1967 after having served two years as Solicitor General.

<sup>8</sup> The National Association for the Advancement of Colored Persons.

<sup>9</sup> 349 US 294 (1955). This was a case involving the Warren Court.

<sup>10</sup> This was the School of Law of Howard University in Washington DC.

“*Tribute to Charles H Houston*”,<sup>11</sup> Thurgood Marshall said this about the way Dean Houston taught law:-

“He [Houston] brought in visiting professors. Some people were from the smaller schools, like Dean Roscoe Pound from Harvard. Then he brought in practicing lawyers – like Clarence Darrow, Arthur Garfield Hayes, you name them. And they taught us how the law was practiced, not how it read. Because, you see, in those days Harvard, Yale, Columbia – you name them, the big law schools – were bragging that they didn’t train lawyers, they trained clerks to start off in big Wall Street law firms. Charlie Houston was training lawyers to go out and go in the courts and fight and die for their people.”

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<sup>11</sup> Published in *Amherst* magazine, Spring 1978. This extract comes from the book *Thurgood Marshall: His Speeches, Writings, Arguments, Opinions and Reminiscences* edited by Mark V Tushnet.



10. This quote is admittedly somewhat exuberant but the point is really this. Of course, the Faculty of Law does train successful lawyers and some of the most successful legal practitioners in Hong Kong have read law here, but that is not the sum total of what a law school should aspire to. What Dean Houston was really telling us was that there is not only the practice side of law that is important, but as lawyers, we must also bear in mind the wider impact of the law and the rule of law itself within the community. In other words, the law does not just serve private interests. There are public aspects which are as, if not more, important. The significance of public law is emphasized by conferences such as the International Society of Public Law Conference taking place in Hong Kong at the moment.

11. The proper appreciation of the role of the law in Hong Kong is as important now as it has ever been in our

history. Some people may believe that the law is there only to serve individual interests, but in truth it is there to serve everyone and everybody is equal before the law. As I stated earlier, while individual rights and freedoms are there to be respected, so are the rights and freedoms of other people within a society. No one person's rights trump another person's although sometimes a balance of interests must be reached. And when different interests are balanced, the exercise does not involve upholding the validity of one principle while denying validity to other principles: the balancing approach reflects the notion that the legal validity of all conflicting principles is kept intact.

12. I believe that the Faculty of Law, like many other law schools around the World, understands these concepts I have briefly alluded to, because they represent the very foundations and values of the law. If the students who are

produced by the Faculty understand all this, the University has succeeded in perhaps its most important task.

13. As we face increasing challenges in Hong Kong and elsewhere, and while we must keep up with changes, certain fundamentals must be kept firmly in mind, and the rule of law is one of them. In order for any community to remain cohesive (the opposite of divisive), fundamental notions of rights and freedoms must not be undermined. I once again congratulate the Faculty of Law on this significant milestone, and wish it every success in all its ambitions and in its continued service to the community as a whole.

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