

**Welcome Remarks by
The Honourable Chief Justice Andrew Cheung
at the Judicial Conference of the
4th UNCITRAL Asia Pacific Judicial Summit 2021
on 1 November 2021, Hong Kong**

Sustainably Adapting to a New Normal

Secretary for Justice, Secretary Joubin-Bret, Distinguished Judges and Arbitrators, Ladies and Gentlemen,

It gives me great pleasure to welcome you to this fourth UNCITRAL Asia Pacific Judicial Summit today. The theme of the Judicial Summit is “Sustainably Adapting to a New Normal”, which is only too relevant at the present time when all of us are still coping with challenges arising from the COVID-19 pandemic.

2. Like almost all of our counterparts in other common law jurisdictions, the Hong Kong Judiciary was presented with extraordinary challenges, particularly during the early stage of the pandemic. Arising from public health considerations, the courts were closed and all proceedings were adjourned for three months from the end of January to early May 2020. Only urgent and essential hearings took place. Understandably, concerns were raised about the impact of the prolonged court adjournment on litigants’ access to justice. The silver lining of this unprecedented disruption to our court work was that it forced us to expedite the use of technology in our courts. Ever since the resumption of court services from early May 2020, the Hong Kong Judiciary has adopted various measures to apply, and to speed up the application of, information technology to handle court business.

Opportunities brought about by the COVID-19 epidemic

3. First, the wider use of remote hearings for civil proceedings since April 2020. By three successive Guidance Notes issued in 2020, the Judiciary first started with remote hearings for handling interlocutory applications at the High Court. They did not require the physical presence of the parties or others concerned, but sought to replicate as closely as possible the core requirements of physical hearings. The successful implementation of remote hearings in the High Court was followed by their extension to more complicated court proceedings such as trials at the High Court and at other levels of courts. In the Court of Final Appeal where we normally sit with one overseas non-permanent judge, appeals were heard with our overseas colleagues sitting remotely via video conferencing facilities. Due to time difference, sometimes our sitting hours had to be adjusted, but this was manageable. Likewise, overseas leading counsel, who were admitted to appear before the court on an ad hoc basis, also appeared before us remotely via video conferencing facilities.

4. In January 2021, the Judiciary modified our video conferencing setup and introduced a low-cost and user-friendly interface for court users. Since then, they can use common browsers and commonly-used desktop or laptop computers to connect to the Judiciary's video conferencing facilities. This means that parties, including litigants in person, no longer need to have access to specific VCF hardware or software systems in order to connect to the court VCF system. This has drastically facilitated the use of remote hearings in civil proceedings. Up to 30 September 2021, over 1,000 remote hearings have been conducted at various levels of courts. To further facilitate court users, in particular those without ready access to computer facilities, the Judiciary is making arrangements to provide additional facilities at court buildings so that court users may join remote hearings using those facilities.

5. For criminal proceedings, remote hearings cannot generally be used because of legal requirements such as those mandating defendants' physical appearance in court. The Judiciary is working on the necessary legislative amendments to enable both the civil and criminal courts to conduct remote hearings as they see fit, having regard to all relevant circumstances, including in particular the dual requirements of open justice and fairness. Taking into account the need to further consult stakeholders and finalise the proposed legislative amendments, we plan to introduce the Bill into the Legislative Council sometime next year. The Bill will provide a comprehensive legislative framework to govern the conduct of remote hearings, covering the aspects of technical feasibility, security, fairness and open justice.

6. To minimise queuing time for registry services and reduce physical contacts amongst court users, the Judiciary has extended the scope of an electronic submission platform to various levels of courts. We have also introduced an e-appointment system for selected registry services in the Probate Registry, Family Court and Lands Tribunal since early March 2021. The operating experience so far has been positive. We will consider extending the use of the e-appointment system to other courts and tribunals.

Information Technology Strategy Plan

7. Even before the outbreak of COVID-19, the Judiciary has been embarking on the implementation of an ambitious Information Technology Strategy Plan ("ITSP") to provide better services to court users through the greater application of information technology. The key initiatives of the ITSP include:

- (1) Implementing an integrated court case management system (“iCMS”) to support the litigation processes of courts and tribunals. This would enable data sharing and data driven workflow, and would also support the use of electronic documents among court users.
- (2) Enabling and encouraging electronic services: Electronic services (“e-services”) would be introduced in phases to enable court users to interact with the Judiciary via the iCMS. Major proposed initiatives include a new webpage, the electronic submission of documents to the courts, the acceptance of electronic payment, an electronic mode of listing of cases for hearing, and the expansion of the scope of information and documents to be made available for electronic search. All these measures would reduce the need for court users to visit the courts or registries in person.
- (3) Enabling electronic court records: In combination with the expanded e-services, the Judiciary would seek to support the use of electronic records in court proceedings and move towards a less paper environment.
- (4) Enhancing courtroom technologies: The courtrooms would be equipped with an appropriate information technology infrastructure, equipment and communication network to support court hearings, including the use, retrieval and display of electronic documents.

8. In this regard, the Court Proceedings (Electronic Technology) Ordinance (Cap. 638) and the relevant subsidiary legislation which provide for the legal framework for the electronic handling of court-related documents have

come into effect since 1 October 2021. The relevant Practice Directions are under preparation to tie in with the staged implementation of the iCMS for different types of cases at different levels of court.

9. In conclusion, the outbreak of the COVID-19 pandemic in 2020 has, rather ironically, given us a much-needed impetus to move forward in terms of the use of technology. It has helped us speed up the greater use of information technology in the conduct of court business such that the due administration of justice can continue to be delivered effectively and efficiently, without compromising the fundamental requirements of open justice and due process.

10. This Summit provides a valuable platform for sharing and discussion on the various topics in the programme, all revolving around this all-important theme of adapting to the “New Normal”. I have no doubt that the sharing and discussions will prove thought-provoking and insightful. It remains for me to extend the best wishes of the Hong Kong Judiciary to the success of this Summit.

11. Thank you.

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