

Chief Justice's speech at 18th Biennial Conference of LAWASIA 2003

The following is the speech (English only) delivered by the Hon Chief Justice Mr Andrew Kwok-nang Li at the 18th Biennial Conference of LAWASIA 2003 held in Tokyo, Japan today (September 2) :

The Legal Profession : The Exciting Challenges Ahead

President, Chairman, Delegates, Ladies and Gentlemen,

I am honoured and delighted to be invited to address you on the subject of "The Legal Profession : The Exciting Challenges Ahead" at this LAWASIA Conference.

Since its foundation in 1966, LAWASIA has grown and established itself as an association of high distinction and great influence. And I would like to congratulate the Organizing Committee for this 18th Conference for putting together such a varied and stimulating programme.

In the last six years, Asia has learnt many lessons from the Asian financial crisis. The experience of this period has been a salutary one. Many Asian jurisdictions have had to take a close look at the effectiveness of their governmental and regulatory institutions. In many cases, painful restructuring has been necessary. The previous unbounded enthusiasm of economic youth has been tempered with experience. In the result, somewhat wiser but still equally vigorous, Asia has managed to overcome temporary difficulties and has continued to progress.

What does the future hold? This century has been hailed as the "Asian Century". Despite recent setbacks, many predict that Asia - and particularly the People's Republic of China - will in the years ahead substantially enhance its economic power and its influence in world affairs. But as with the rest of the world, Asia must grow and progress in the context of ever-increasing change. For I believe that only one thing is certain about the future. The 21st century will bring rapid and profound changes in all spheres of society. This follows the trend in the last few decades of the 20th century. But the pace of change is likely to accelerate.

Equally certain is that, as a result of continuing economic development, Asia's citizens will become better educated, better informed and more affluent. And as that occurs, those citizens will have an increasingly greater expectation of the institutions that serve them. High among those institutions will be the legal profession.

It will be against this background of constantly rising expectations of professional excellence and integrity in the context of a fast changing world that lawyers who work in Asia to contribute to its economic success must face the exciting challenges ahead.

Foremost among those challenges will be the demands of globalization. Not so long ago, virtually all lawyers, no matter what their field of practice, were confined to the jurisdiction in which they had been educated and qualified. Generally speaking, it was enough to know the statutes and the judge-made law of your own jurisdiction. Little, if any, attention was paid to the laws, regulations and court decisions of other jurisdictions. Today, however, the rapid advances in science and technology, the increasingly free exchange of ideas between societies and the dynamic growth in international trade have brought all of us much closer together. We talk today - without poetic license - of living in a "global village".

In the result, ensuring that multi-national transactions are secured by enforceable agreements is no longer an exotic area to be dealt with by a small number of specialist lawyers. Increasingly, for the business lawyer it is everyday fare. Nor is the required expertise confined only to a knowledge of foreign regulatory systems. Law is fundamentally a social institution. Multi-national transactions will therefore encompass not simply a range of territorial laws based on differing traditions and principles but will encompass different cultural dynamics too. All of these inter-lock and, to a greater or lesser degree, must be understood.

In the face of increasing globalization, it is, of course, critically important that lawyers in different jurisdictions engage in a free exchange of ideas and opinions, learning from each other's thinking and experience. Mutual understanding and co-operation, for example, in the greater harmonization of regulatory systems, can only be achieved by constant cross-fertilization. If Asia is to maintain and increase its share of global trade, its lawyers cannot afford an inward-looking approach, concerned only with knowledge of their own domestic jurisdiction. That is why conferences of this kind which bring together legal experts from so many jurisdictions and foster lively debate are of such significance.

With increasing globalization, lawyers like everyone else, live and function in the age of information technology. Cyberspace - a medium which is oblivious of both time and territorial boundaries - brings to every lawyer's office almost instantaneous links with developments elsewhere in the world. And with that, inevitably, in the context of globalization, comes a demand for greater efficiency and speed of execution.

Lawyers today cannot survive without keeping pace with technological developments. There is no choice in the matter. If in the global village of which I speak, through the medium of cyberspace, legal matters - including research - can be dealt with as swiftly anywhere in the world, then lawyers in Asia must prove themselves as efficient and cost effective as any other legal centre. If not, the geographical advantages which they enjoy will inevitably be eroded. Competence in information technology and its associated

management skills has become - and will remain - one of the core competencies required of all lawyers.

Ultimately, we must all remember that the legal profession is not merely a market driven business. And that the practice of law is not merely about a relentless drive for profit and a selfish pursuit of economic success. It is a profession with honourable ideals and traditions. The lawyer is not and should not be a mere legal technician but is and should be a legal professional with a concern for the public good. It is most important for this to be fully recognized and appreciated by lawyers if the legal profession is to continue to maintain public esteem and confidence. In this connection, I wish to make a number of inter-related points.

First, as an important institution in a civil society, it is essential for the legal profession to be and to remain independent. That is, independent of any centre of power, both public and private. An independent legal profession has a crucial role to play in upholding the rule of law and the administration of justice, and in safeguarding the independence of the Judiciary. The independence of the profession will ensure that it can take an objective view on issues concerning these matters that will be given credence and respect by society. It is only a profession that is independent and is perceived by society to be independent that can discharge this responsibility effectively.

Secondly, the most valuable asset of any profession must be its collective reputation and the legal profession is no exception. There is a serious danger that increasing economic pressures will lead to a decline in ethical standards and that the public will take the cynical view that lawyers only serve themselves. The profession must take every step to ensure that this does not happen. Proper and transparent standards of professional behaviour must be set and rigorously enforced. These would have to include all proper measures to avoid conflicts of interest, so that the problems which have in recent years bedevilled certain sectors of the financial services industry will be avoided. It is only by maintaining strong ethical standards that the legal profession can continue to command the respect of society.

Thirdly, it is important for any society to ensure that there is access to legal advice and justice by all. It will bring the law and the legal profession into disrespect if the law and justice were regarded as tools worked by lawyers only for the rich and powerful and are not accessible by the weak and the disadvantaged. Providing access to legal advice and justice by all members of society require the concerted and co-ordinated efforts both by government and the legal profession in the private sector. Governments have to ensure sufficient public funding for an appropriate system of legal aid and citizen advice centers. And the profession has to participate in the effort by the contribution of voluntary pro bono services.

Fourthly, just as our corporations in the business sector should aspire to be good corporate citizens, so lawyers should aspire to be good professional citizens. In many jurisdictions, there are commentators who lament and regret the passing of the good old days : when the practice of law was carried out by smaller firms and involved much more

personal relationships, both between colleagues as well as between lawyer and client; when the legal profession was regarded as a vocation of service with a measure of concern for the public good rather than as an impersonal business with only a profit view of legal practice; when the ethos of the profession was focused more on professionalism and less on commercialism with the relentless drive for billable hours which could go to extremes. The story is told of the lawyer who rendered a bill to a client which contained a charge for an item which read "To recognizing you in the street and crossing the busy road to talk to you to discuss your affairs and recrossing the road after discovering it was not you".

It is pointless to hanker after the so called good old days. It must be recognized that, as a result of many factors, including the requirements of corporate clients particularly in the context of globalization, the need to invest heavily in technology and training and the advantages of economics of scale, the good old days are gone for ever and will never return. But it does not follow that the ideals of the legal profession should necessarily be swept away with change. Rather, these ideals should remain as enduring values and find expression in new avenues of action.

In the 21st century, no less than in the 20th and 19th, the lawyer should remain committed to a vocation of service with a regard for the public good. The lawyer as a good professional citizen, whether serving in a big, medium or small firm, should contribute to a fair share of pro bono work, should participate in the regulation of the profession and should take an interest in legal issues that confront modern society, particularly in the challenging area of the protection of human rights. It is only through good professional citizenship that the lawyer can find true professional satisfaction and continue to command the confidence and the respect of society.

In conclusion, the exciting challenges ahead for the legal profession lie not merely in coping with rapid changes brought about by globalization and developments in information technology in a highly competitive environment but in being able to retain its ideals of service with a concern for the public good and to implement them as good professional citizens through new ways of action. These are daunting challenges which must be met if the legal profession is to maintain its esteemed position in society.

Thank you all for listening.

End/Tuesday, September 2, 2003

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