

Speech by DSJ at Mediation Conference 2024 (English only) (with photo)

Following are the closing remarks by the Deputy Secretary for Justice, Mr Cheung Kwok-kwan, at the Mediation Conference 2024 today (May 10):

Distinguished guests, ladies and gentlemen,

Good evening. On behalf of the Department of Justice of Hong Kong (DoJ), I would like to thank all of you for participating in the Mediation Conference 2024.

Today's Conference showcased the significant progress we have made in the promotion of mediation and charted a promising path for the future of mediation. I would like to begin by expressing my sincere gratitude to our esteemed speakers, moderators, supporting organisations, distinguished guests, online and in-person participants from Hong Kong and beyond, and my colleagues who have worked devotedly in putting together this exceptional event.

The Mediation Week is our biennial flagship event dedicated to promoting the wider use of mediation in resolving disputes. This eventful week culminates in today's Conference, which provides a valuable platform for bringing together seasoned practitioners and experts for an insightful exchange of views on resolving cross-boundary and international disputes through mediation, as well as the intersection between artificial intelligence and mediation. We also gained valuable insights from Mr Luo Houru's (Director of the Bureau of People's Participation and Promotion of Rule of Law of the Ministry of Justice of the People's Republic of China) keynote speech this morning on the Mainland's mediation system, including the enhanced infrastructure and regulatory framework.

Earlier this week, we also had four thematic seminars exploring the use of mediation in different sectors, including education, workplace, consumer and the family court.

Despite the diverse contexts, the common theme is that resolving disputes by way of mediation carries a lot of benefits. This brings me to reflect on the nature and characteristics of mediation, and I would like to highlight a few key takeaways from this week's events.

Key takeaways

Firstly, mediation is a valuable tool for resolving everyday conflicts, whether within schools, workplaces, families, or between consumers and businesses.

In the school setting, mediation can help resolve conflicts among students, teachers and parents. By fostering dialogue and understanding, mediation or the use of its skills could prevent the escalation of school

disputes, preserve relationships and promote a positive and inclusive learning environment. During the School Mediation Seminar, the thought-provoking sharing of the experienced mediators, educators, students and parents reinforces our belief that cultivating mediation culture in schools helps lay a solid foundation for a harmonious community. The signing of the "Mediate First" Pledge by students demonstrated their strong dedication to first explore the use of mediation as a flexible and constructive means in resolving disputes.

Mediation is increasingly used to address workplace disputes. We all understand how hard it could be when conflicts arise in the workplace, especially when we spend a lot of time with our colleagues. As shared by the speakers in the Workplace Mediation Seminar, mediation involves skills such as active listening and emotional management, to facilitate candid communications. Mediation can help defuse tension at the workplace, create a harmonious working environment and, if applied effectively, get everyone back to work happily. In the unfortunate event that an accident happens resulting in an employees' compensation claim, mediation would also be a preferable means to resolve the claim in the legal proceedings, addressing the needs and concerns of both the employer and the employee.

Consumer dispute is another area where mediation proves highly useful. In the modern era of digital economy, consumer disputes arising from e-commerce activities have surged. As explored in the Consumer Mediation Seminar, consumer disputes usually involve a large number of low-value disputes. Although each dispute may involve a modest sum of money, the cumulative effect of these disputes can be significant. Mediation could provide a quick and economical way to resolve them. Particularly for businesses which value reputation and customer satisfaction, not only does mediation save time and resources for both consumers and traders, it also enables them to preserve their relationships. We are delighted to learn that the Consumer Council will be launching a new online dispute resolution platform, which will surely further facilitate the effective resolution of consumer disputes.

It goes without saying that parties in family litigation can benefit from mediation. Family court cases typically involve intense emotions and personal grudges. The Judiciary in Hong Kong has been actively promoting family mediation which helps the divorcing couple to improve communication and enhance the chance of maintaining an amicable relations to handle future responsibilities. We are pleased to learn from the Judiciary's Seminar yesterday that the recently introduced Mediator-assisted Financial Dispute Resolution and Mediator-assisted Child Dispute Resolution procedures, which run in parallel with litigation, have proven to be highly effective, and the feedback is positive and encouraging.

The second takeaway is that it is a clear global phenomenon to use mediation in resolving cross-boundary or international disputes, and Hong Kong has a lot to offer in this regard.

For those who have been involved in cross-boundary or international disputes, you would likely have first-hand experience dealing with the

difficulties and complexities brought about by the legal and cultural differences. Traditionally, arbitration has been the preferred mode of alternative dispute resolution. However, as international arbitration has become increasingly costly and procedurally complex, there is a call for a more effective means of dispute resolution.

It is no surprise that people resort to mediation. In essence, mediation, as a voluntary and flexible process, avoids the need to tackle different legal rules and traditions. It is also solution-oriented and interest-based, and allows parties to develop tailor-made solutions which could go beyond traditional judicial remedies. Mediation even has the potential to turn disputes into deals and new opportunities.

Our distinguished speakers from Panel 1 and Panel 2 today have shed light on what Hong Kong is able to offer in this area.

Regionally, working together with Guangdong and Macao, we have established the Greater Bay Area (GBA) Mediation Platform. We heard from Panel 1 today that there are remarkable opportunities presented by the mediation standards and model rules promulgated by the GBA Mediation Platform. With the official promulgation of the local accreditation rules for accreditation of GBA mediators in late March this year, we are one step closer to forming a consolidated panel of GBA Mediators.

I would like to add that the DoJ released the Action Plan on the Construction of Rule of Law in the Guangdong-Hong Kong-Macao Greater Bay Area (Action Plan) last month. The Action Plan underpins the guiding principle of "Three Interfaces, Two Connects and One GBA". Building upon the Action Plan, through "Three Interfaces", namely the interfaces of mechanisms, regulatory frameworks and talents, the DoJ will actively seek to foster "Two Connects" – the connectivity of hardware and software in the construction of rule of law in the GBA, thereby eventually achieving the goal of "One GBA". The GBA Mediation Platform will surely play a crucial role in improving the interface of non-litigation dispute resolution services in the GBA.

On an international level, the recent announcement that Hong Kong will host the headquarters of the International Organization for Mediation signifies a resounding vote of confidence in Hong Kong as a leading international legal and dispute resolution services centre in the Asia-Pacific region. Earlier this afternoon, we had the privilege of hearing from Dr Sun Jin (Director-General of the International Organization for Mediation Preparatory Office) on the vision and latest developments of the International Organization for Mediation, followed by the esteemed speakers of Panel 2 elaborating on Hong Kong's edge in providing top-notch mediation services to the international community, that is, the unique advantages under "one country, two systems", ample experiences, strong and diversified pool of talents, just to name a few.

Coming to the third and last takeaway – we should be fully prepared to embrace the opportunities, as well as the challenges, brought about by the evolving technological landscape.

We heard from the interesting discussion in Panel 3 just now on how artificial intelligence is reshaping the dispute resolution sector. On the one hand, the use of technologies could streamline the dispute resolution process and improve cost efficiency. On the other hand, there are legal and ethical implications which demand our close scrutiny. While we may not have immediate answers to some of the novel questions, it should not stop us from exploring and harnessing the potential of artificial intelligence.

DoJ's mediation initiatives

It is the Department of Justice's long-term policy initiative to promote the wider use of mediation. We firmly believe that mediation transcends boundaries, and is a key to fostering cultural understanding, and ultimately shaping a better and brighter future.

We are committed to promoting the use of mediation in Hong Kong through various measures, including publishing and disseminating mediation leaflets and e-newsletters to the public and stakeholders, as well as organising capacity-building activities and promotional events, such as the Mediation Conference today.

As the Secretary for Justice pointed out in his opening remarks this morning, "deepening the mediation culture" is one of the key initiatives in the Policy Address 2023. To take the lead, the Government is actively pursuing the initiative of incorporating standard "mediation first" dispute resolution clauses in government contracts in so far as practicable. It is hoped that this will encourage private companies to follow suit.

Further, in terms of capacity building for dispute resolution talents, we have been co-organising the Investment Law and Investor-State Mediator Training for mediation practitioners and government officials from various jurisdictions since 2018. The next round of the training course will take place later this month. Through the training course, we would continue nurturing local and overseas talents on investment mediation, and impressing upon governments from different jurisdictions to opt for mediation in resolving investment disputes.

Closing

Throughout the Mediation Week and today's Conference, we have garnered a wealth of insights and observations from our distinguished speakers with diverse backgrounds and expertise. Their inspiring sharing has provided us with food for thought and given us the confidence to continue promoting mediation locally, regionally and internationally.

As we set our sights on the future, Hong Kong will no doubt continue to capitalise on its advantages in bridging connections with the Mainland and international community, and strengthen its position as a leading international and dispute resolution hub in the Asia-Pacific region under the National 14th Five-Year Plan.

Before I close, I would like to draw your attention to our "Mediate

First" logo where you can see the pair of holding hands forming a heart shape under the Hong Kong skyline. Hand in hand, heart to heart, together, we can "bridge cultures, build futures".

Thank you once again for joining today's Conference and the Mediation Week 2024. I look forward to seeing you all again in our future events. Thank you.

