

# Speech by SJ at Farewell Sitting for the Chief Justice of the Court of Final Appeal (English only)

Following is the speech by the Secretary for Justice, Ms Teresa Cheng, SC, at the Farewell Sitting for the Chief Justice of the Court of Final Appeal, Mr Geoffrey Ma Tao-li, today (January 6):

Chief Justice, Members of the Judiciary, Chairman of the Bar Association, President of the Law Society, distinguished guests, ladies and gentlemen,

It is my honour and privilege to speak at the Farewell Sitting for Chief Justice Ma today. In a judicial career spanning for more than 20 years beginning from being appointed Recorder of the Court of First Instance in December 2000, to leading the Judiciary as Chief Justice for the past 10 years, Chief Justice Ma's contribution to the legal community in Hong Kong cannot be understated.

The Chief Justice has been a pioneer of major civil justice reform in Hong Kong starting from when he was Chief Judge of the High Court. As Chief Justice, he oversaw the effectiveness of the Civil Justice Reform from the advice contained in the annual reports from the Civil Justice Reform Monitoring Committee since 2009, and made sure that the reforms were fit for purpose, lowering legal costs and improving access to justice. This Herculean task could not be completed without the persistence and dedication of the Chief Justice to this cause.

The Chief Justice has overseen numerous important cases brought in the Court of Final Appeal during his tenure, including groundbreaking cases that pushed the limits of the law in Hong Kong. One of the most significant is the string of decisions involving the rights of the LGBT minority, particularly in the landmark case of *W v Registrar of Marriages* (Note 1), where Chief Justice Ma remarked:

"... the Court ought in principle to consider all the circumstances – biological, psychological and social – relevant to assessing that individual's sexual identity at the time of the proposed marriage. We can see no good reason for the Court to adopt criteria which are fixed at the time of the relevant person's birth and regarded as immutable... It is contrary to principle that the Court, in making the important determination of whether a transsexual person has in law the right to marry, should be prevented from taking account of all the available evidence" (Note 2).

Chief Justice, the follow-up work that flows from this case is still ongoing in the Government.

The Chief Justice led the Court of Final Appeal in its move from the former French Mission Building to the old Supreme Court Building here. During

a brief tour of the former French Mission Building in Hong Kong Legal Week 2020, the Chief Justice visited his room and that of the other judges and remarked that they might wish to see how their old offices have changed. Indeed, we would love to organise such a tour once the pandemic subsides.

As Hong Kong has gone through a challenging year of 2020, the Chief Justice's job has been particularly taxing in the past year. From the challenges brought about by the coronavirus, leading to Courts being closed for an extended period of time, to the unprecedented attacks on judges and the Judiciary stemming from the aftermath of the social unrest in Hong Kong, the Chief Justice has consistently upheld judicial independence and the rule of law, standing resolutely in the face of these challenges.

Now, it is rare that one has the opportunity to comment on a judge's attribute, and I am not going to let this slip by. I can think of one word that aptly describes Chief Justice Ma – kind. His professional and judicial qualities are without a doubt, prime. His patience is remarkable as evidenced by the way he slowly and kindly answered the repeated questions from the media yesterday. His amicable personality will be sorely missed. Counsel at the Department of Justice has expressed to me their appreciation of the Chief Justice's meaningful dialogues with counsel during hearings, being honest and upfront with what he thinks about their case, including its weaknesses.

Next week marks Chief Justice Ma's 65th birthday, where he will formally retire. I suspect on his birthday he might be tempted to step out of line and to enjoy some food from a franchise restaurant with the theme colours of red and yellow, whose name starts with an alphabet, the same as his surname. But for the social distancing measures, we might actually hold a birthday party there after the Ceremonial Opening of the Legal Year.

To conclude, I would like to express, on behalf of the Department of Justice and the Government of the HKSAR, our heartfelt gratitude to Chief Justice Ma for his invaluable contribution to the Judiciary and to Hong Kong, and wholeheartedly wish him a very happy, healthy and fulfilling retirement. Thank you.

Note 1: *W v Registrar of Marriages* [2013] 3 HKLRD 90; FACV 4/2012 (13 May 2013)

Note 2: *W v Registrar of Marriages* [2013] 3 HKLRD 90; FACV 4/2012 (13 May 2013) at paragraph 103.