

Speech by SJ at Vision 2030 for Rule of Law International Symposium (English only) (with photo/video)

Following is the speech by the Secretary for Justice, Ms Teresa Cheng, SC, at the Vision 2030 for Rule of Law International Symposium today (May 26):

His Excellencies, distinguished guests, ladies and gentlemen,

On behalf of the Department of Justice (DoJ), I extend our gratitude to our distinguished guests and speakers, to those joining today's event in person and, with the aid of technology, overseas eminent speakers and participants that are able to join us virtually from all over the world.

I also extend a sincere thanks to all the co-organisers and supporting organisations, the Asian Peace and Reconciliation Council and the Asian Academy of International Law in particular for their support. This Symposium is one of the enhanced celebration events for the 25th anniversary of the establishment of the Hong Kong Special Administrative Region, as well as the first part of a series of events of the DoJ to be followed by the Legal Conference on Basic Law tomorrow (May 27), and then the National Security Law Legal Forum on May 28.

Today's Symposium has been highly successful and thought provoking, providing a valuable opportunity to gather together local, Mainland, regional and international speakers for insightful exchanges on the proper understanding of the rule of law. I am delighted to note that we have over 700 registered participants from around 40 jurisdictions.

Vision 2030 for Rule of Law

The 17 goals under the 2030 agenda for sustainable development were adopted by all member states of the United Nations to address global challenges, including poverty, inequality, climate change, peace and justice, etc. The 17 goals are interconnected with the rule of law being a pillar for its successful implementation.

In 2020, the DoJ launched a 10-year project entitled "Vision 2030 for Rule of Law". Its vision is underpinned by Goal 16 of the 2030 Agenda and Target 16.3 in particular, which is to promote the rule of law at national and international levels and ensure equal access to justice for all. It is the DoJ's commitment to build and maintain a fair and rule-based society underpinned by the rule of law through collaboration with stakeholders towards sustainable development.

Rule of law is often quoted and referred to but as Yemi (Senior Partner of Strachan Partners, Mr Yemi Candide-Johnson) asked just now, we must know

what is its purpose, and sometimes we have to ask ourselves what is it that we want out of this universal value. In legal parlance, rule of law would be represented by principles such as observance of due process, equality before the law, access to justice, efficient and fair dispute resolution mechanism administered by an independent and impartial tribunal, etc. But stripped of the legalistic and scholarly terminologies or principles, may I venture to suggest that perhaps at its core, or at the very least, what we yearn for from the rule of law, is to ensure fairness and peaceful co-existence with mutual respect. This is so, I would venture to suggest, at national levels governing the relations between people and people and the government, and also at the international level, where the world order is at stake.

The rule of law remains the cornerstone of the Hong Kong Special Administrative Region's success, both as an international financial centre and an international legal, deal-making and dispute resolution hub. According to the Worldwide Governance Indicators by the World Bank, Hong Kong's rule of law percentile ranking steadily increased in the past 25 years from 69.85 per cent in 1996 and since 2003 above 90 per cent. Commissioner Liu (Commissioner of the Ministry of Foreign Affairs in the HKSAR, Mr Liu Guangyuan) has rightly pointed out in his opening speech today that "one country, two systems" has developed on the track of rule of law, and in return rule of law has fostered the successful implementation of "one country, two systems", with the importance of rule of law being a key to maintaining Hong Kong's prosperity and stability, improving our governance and enhancing our competitiveness. Hong Kong's future is also guaranteed by the strong backing of our Motherland and the unique advantages of "one country, two systems".

One crucial aspect for sustainable development envisaged under the 2030 Agenda is that the rule of law is fundamental to international peace and security and political stability, and strengthened rule-of-law-based society should be considered as an outcome of the 2030 Agenda and Sustainable Development Goals.

Indeed, in the keynote speech by Judge Xue Hanqin (Judge of International Court of Justice), she started and ended her speech by referring to the Five Principles of Peaceful Co-existence initiated in 1954 by China, India and Burma (now Myanmar) declaring that they would develop their relations on the basis of mutual respect for sovereignty and territorial integrity, mutual non-aggression, non-interference in each other's internal affairs, equality and mutual benefit and peaceful co-existence. She reminded us of the wise words of Premier Zhou Enlai who said "if these principles are observed by all, countries of different social systems could live in peace."

The Five Principles of Peaceful Co-existence are in line with the principles of the Charter of the United Nations, Articles 1 and 2 in particular. Article 2 lays down, inter alia, the principles of sovereign equality of states, peaceful settlement of international disputes and non-intervention of internal affairs of other states. In her recount of the development of the world order, Judge Xue also reminded us of the Bandung Conference where Asian and African states enunciated the Ten Principles of

Bandung which encompasses, amongst others, the essential elements of international relations including sovereign equality of states, territorial integrity, peaceful co-existence, multilateralism and mutual co-operation, stressing settlement of international disputes by peaceful means. This, she highlighted, was the first time that developing countries, collectively, made their voices heard in promoting a fairer and perhaps a less Euro-centric world order. The importance of this breakthrough cannot be overstated. The setting up of Asian-African Legal Consultative Organization (AALCO) and its work now to provide the perspectives from Asian and African states in the study and research on various topics on international law should make an important impact on its codification and progressive development that will reflect a genuine world order.

Strengthening universal peace is one of the important purposes of the United Nations as conveyed in the UN Charter. However, in order to maintain and safeguard peace and security throughout the world, the principle of sovereign equality must be genuinely observed. It calls for mutuality in respect, self-restraint, non-intervention. To put these principles into practice, international dialogue and diplomatic channels are vital. Whilst States remain the major and decisive players for the direction of international law development, two anomalies call for attention. Unilateral acts of major powers have the tendency to usurp the fine balance struck in international co-operation and multilateralism premised usually on equality and mutual respect. A tilt in the balance will not be conducive to a rule-based world order that aims for peaceful co-existence. Double standards in the application of international law is plainly impossible to justify. Put simply, it is just not fair.

As explained by the panellists this morning, it is evident that international law has strengthened the rule of law in international affairs and contributed to the maintenance of world peace and promotion of international co-operation. Importantly, international law is setting norms and rules that are reflected in national law and domestic practice. It is no longer just a matter that affects States and international relations, but it is, as Judge Xue pointed out, affecting our lives in all ways. We want to look at in the afternoon how the rule of law is practised at the national level in a diverse and inclusive global order.

For the panel discussions this afternoon, we have heard that there is no "one-size-fits-all" approach to the system of rule of law. In his opening speech this morning, Commissioner Liu rightly pointed out that different countries have developed different rule of law practices that fit their specific national conditions, creating a diverse legal civilisation, with there being no best model or standard version of rule of law. Our Chief Justice (Mr Andrew Cheung Kui-nung) has also pointed out in his speech during the Hong Kong Legal Week 2021 that a particular version of the rule of law which functions well in one jurisdiction may not necessarily be transplanted into another jurisdiction; further, due regard must be given to the unique circumstances and context of the particular jurisdiction concerned. Imposing one society's standard of rule of law on another would be contrary to the universal principle of inclusiveness, which is not conducive to the creation

of a sustainable international order. Professor Dr Surakiart (Chairman of the Asian Peace and Reconciliation Council and former Deputy Prime Minister of Thailand, Professor Surakiart Sathirathai) also reiterated the point that there is no "one-size-fits-all" approach to the rule of law in his keynote speech. Instead, as he mentioned, understanding cultures is the key to success in shaping the rule of law, which leads to successful application and enforcement of law. This is shown by the example as illustrated in his speech on the late King of Thailand's successful initiative in taking into account cultural differences in curbing the level of illicit cultivation. Professor Dr Surakiart also shared his insightful views on the important role of the rule of law in the age of digital economy which needs to be fairly regulated so that it can assist in promoting, amongst others, the rule of law by bridging inter-generation gap and dialogue. To me, the most important take that I have from Professor Dr Surakiart's speech is that, unless there is a recognition and respect for different cultures and traditions across different jurisdictions, it will be difficult to achieve sustainable development for rule of law.

That said, notwithstanding different societal values and socio-political systems, there exists commonly shared values and basic fundamental elements of the rule of law, although the degree of the respect for such shared values may differ across jurisdictions as we hear from the sharing of Professor Hayakawa (Secretary General of Japan International Dispute Resolution Center, Professor Yoshihisa Hayakawa), Professor Tian (Head of the Center for National Index of Rule of Law of Chinese Academy of Social Sciences, Professor Tian He) and Professor Zhang (Professor of Law of Tsinghua University, Professor Zhang Yuejiao).

On the other hand, different jurisdictions and regions have unique and diverse cultural, geographical, socio-economic, socio-political and legal traditions which may colour upon the way of how they have been practising the rule of law. To take but a few examples, we hear from Professor Tian and Professor Zhang noting that one important characteristic of the rule of law practised in China is people-centric. Commissioner Liu observed that the rule of virtue is equally important "德者本也，财者末也。外本而内末，反其本也。" – virtue is the basis and the law is to supplement.

Indeed these features may actually tally with a number of Asian cultures, and it is common for example that Asian traditions of harmony have a preference to resolve disputes amicably through mediation or conciliation in contrast to litigious societies which stress on determining who is the winning party in a dispute.

The sharing from the Iranian Consul-General (Mr Alireza Esmaeil Zadeh) we hear how the foundation of the Iranian legal system and its rule of law is Sharia law-based and of course Sharia law as he explained is an expression of divine will. Yet, we hear how the common essence of rule of law principles, as we now describe, such as equality before the law, independent judiciary and supremacy of law, can also have strong roots in the Islamic legal traditions.

In Africa, we hear from Yemi about people generally sharing and being

more accustomed to the substantive customary law and practice, and therefore those are matters that all to be taken into account when looking at the practice of the rule of law.

Given the importance of rule of law for a society's success and sustainable development, to foster the progress and practice of the rule of law, as well as to improve public understanding and awareness of the rule of law, it is considered that there should be an objective mechanism to review and monitor progress and practice of rule of law which can facilitate further research and capacity building.

This is also the backdrop of the launch of the Vision 2030 initiative back in 2020. Alongside the launch of Vision 2030, the Task Force on Vision 2030 for Rule of Law was established, with membership comprising internationally renowned experts and academics, to advance the work for effective implementation of the initiatives under Vision 2030.

To summarise the discussions of the Task Force, the recommendations that have been made were the proposed indicators which may form the "common denominators" of the rule of law, should be used as a starting point for formulating an objective methodology to review the practice of the rule of law. The Task Force also observed that varying practices of rule of law in different regions and/or jurisdictions attributable to their unique cultures, socio-economic features and legal traditions, etc, should be integrated to gain a fair and objective overview of the "basic fundamentals" of the rule of law in a wide range of jurisdictions.

The Task Force also noted that it would be more meaningful for a rule of law review mechanism to be based on objective data and information rather than perception-based and subjective elements so as to generate useful and empirical evidence about the actual situation of the rule of law practices in different jurisdictions.

The importance of developing an objective review mechanism of rule of law for enhancing successful implementation of the rule of law has been supported by legal experts as we see in the panel discussions today.

With the guidance of the Task Force, the DoJ launched an objective rule of law database in November 2021, as one of the important projects under the Vision 2030 initiative. Looking forward, the methodology for the objective review mechanism would be devised. This would involve complex consideration of appropriate ways to convert data into appropriate "referencing points", as well as to consider how to reflect or evaluate the practice of the rule of law when culture, socio-economic, socio-political, legal traditions are to be taken into account.

The need to engage professional specialists in the fields of economics and social science, etc, to further research on the interplay between cultural factors and the practice of the rule of law is recognised. On this front, the DoJ has recently signed a framework arrangement for collaboration with the Chinese Institute of Hong Kong, which is authorised by the Chinese Academy of Social Sciences (CASS). In the earlier panel session this

afternoon, we have also benefited from the sharing of Professor Tian He, Head of the Center for National Index of Rule of Law of CASS, about the main factors underlining the rule of law in.

The invaluable advice and guidance of the Task Force members on how to promote the proper understanding and recognition of the rule of law at regional and international levels are captured in the Task Force Report, which marks a milestone of the Vision 2030 initiative. Looking ahead, the DoJ will take forward the insightful and pragmatic recommendations as set out in the Task Force Report.

I must once again thank the Task Force members for their dedicated work and invaluable inputs these two years. Now, I am delighted to announce that the Task Force Report is officially launched. An e-copy of the Report is available on the website of the Vision 2030 for Rule of Law, and a hard copy is available onsite the venue for all the guests and participants.

Ladies and gentlemen, I would like to conclude my remarks by echoing what Mr Camacho (Council Member of the Asian Peace and Reconciliation Council, Mr Jose Isidro (Lito) N Camacho) commented. To achieve sustainable development as envisaged in the 2030 Agenda, it has to be by collective work and collaboration, not to use a zero-sum game approach, but to adopt and use a win-win approach. I also totally agree with what Mr Camacho has pointed out, and that is to achieve the 2030 Sustainable Development Goals, we need active participation from the business sectors. He has shared the needs of the business sectors, which are the stability of law, predictability of law, consultation and formulation of laws, transparency and equal and consistent interpretation and application of laws. I am sure the legal community and the governments would have heard and bear in mind these very important words so that we can all join hands in achieving the sustainable development of rule of law. And the DoJ looks forward to further engagement and collaboration with you all. Thank you very much.

