

Statement by Chief Justice of Court of Final Appeal

The following is issued on behalf of the Judiciary:

In relation to the Reasons for Sentence delivered by District Judge W K Kwok on April 24, 2020 (DCCC 834/2019) [2020] HKDC 9, the relevant periods of time to appeal or to apply for a review of sentence having expired, the Chief Justice of the Court of Final Appeal, Mr Geoffrey Ma Tao-li, made the following statement today (May 25):

The due administration of justice by an independent and impartial judiciary is the cornerstone of the rule of law in Hong Kong. Judges have a responsibility under the Basic Law, owed to the community, to exercise independent judicial power by adjudicating on cases fairly and impartially, without fear or favour. It should be emphasised again that everyone is equal before the law.

An important aspect of this is that judges and judicial officers must not be biased nor, just as important, be reasonably perceived to be biased for or against any persons or causes. For this reason, they must refrain from unnecessarily expressing in public, including in their judgments, any views on matters that are controversial in society or may come before the courts for adjudication. This is particularly so with political views of whatever nature. Where the resolution of an issue in a court case necessitates the expressing of a view by the court on a matter of political controversy, such view must be measured and go no more than is reasonably necessary to dispose of the issue at hand.

Non-adherence to these principles threatens the public's confidence in, and its perception of, the independence and impartiality of the Judiciary. A judge or judicial officer who expresses in public unwarranted or unnecessary political views risks compromising the appearance of impartiality and ability to hear any cases in which one's political stance may reasonably be regarded as relevant.

The Chief Justice has in the past reminded all judges and judicial officers of these important principles, which are contained in the Guide to Judicial Conduct. He has also spoken to and reminded HH Judge Kwok of the importance of the above matters in discharging his judicial duties. The Reasons for Sentence referred to earlier have caused controversy in that there is a risk that some reasonable, fair-minded and well-informed persons could reasonably take the view that the aforesaid principles may have been compromised in that a wrong perception was given. Judge Kwok agreed with the Chief Justice. For these reasons, the Chief District Judge with the agreement of the Chief Justice has also decided that Judge Kwok should not for the time being deal with any cases involving a similar political context.