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Doctor of Laws *honoris causa*

Address

On Engagement and Transformation

Council Chairman Andrew Yao, President Leonard K Cheng, Distinguished Guests, and Fellow Honorary Graduates,

Thank you, Lingnan, for conferring on us this rare honour – and I am exhilarated to be in the company of Prof Woo Chia-Wei and Dr Zhang Yimou. Both have enriched our lives in so many ways, and I see the world better through their lenses.

When I was studying law, I could not see how the law related to reality. And, as an intern, I was as clueless as my clients when presented with their confused mass of facts. In time, however, I learned to see the law in action and how it related to reality, and it came alive for me. Thinking back, I am sure I would have benefitted tremendously from a liberal arts education before studying law.

Both as a lawyer and as a participant in public life, I often face conflicts and have to resolve them. Conflicts may occur for any one of us at different levels – anytime and anywhere – a traffic accident, a commercial dispute, a neighborhood squabble, even a public protest. These do not come in neat packages or with what-to-do manuals. We are surrounded by conflicts, and we can't disown them – and if they are not resolved, we can't move on. So we become negotiators, sometimes unknowingly, seeking solutions and building consensus, and we muster whatever skills we have to engage and to induce effective outcomes.

Effective engagement begins by researching facts and evidence, and our understanding of reality must be firmly grounded in them. 'Seeking truth from facts' yields real value. Since the first inquiry into the 1966 Kowloon Disturbances, Hong Kong has had successive Commissions of Inquiry appointed by government to establish facts, to determine problems, and to make recommendations for change. And in the case of court proceedings, a lawyer using material facts and evidence to demolish an opponent's position wins the day.

Effective engagement also lies in tackling our opponents' strongest arguments, not their weakest, and that requires listening with care and humility.¹ Seizing a quick opportunity to demolish a straw man's fallacy may give us superficial relief, but will not

¹ *Adapted from, "Make a steel man of others' arguments" in "11 Small Ways You Can Help Mend the World", the New York Times article of 12 June 2022 by Tish Harrison*

actually get us very far. And a dispute cannot be won by a punch or a kick. The power of the process is always driven by well-reasoned and well-based propositions. Listening closely and responding thoughtfully are indeed the highest forms of respect we can pay to our opponents.

A peace negotiator once described a peace negotiation to me as “bringing the war from the outside into a room with four walls, and laying it out on the table.” He told me that we must learn to step out of our comfort zone, to have conversations with our adversaries. A process of engagement must also provide safe space for both sides, while allowing the free expression of widely contested views. Indira Gandhi said, “You cannot shake hands with a clenched fist.” (We do fist bumps for a different reason these days.) Our mindset must be very open; we must establish trust and respect in order to engage.

Engagement is not an adversarial process, and the spectrum of possible strategy and solution is not a zero sum game. Court actions, however, are adversarial, and there is no middle ground. That said, let me tell you about a very interesting 2001 case² in which the court did craft a middle way.

The case involved a paraplegic, Ma, seeking an apology for discrimination and harassment from a taxi driver, Ko. The case required the de-escalation of social conflict, and healing of a social relationship. An apology to the victim would have done it. But Ko asserted his rights to freedom of thought, conscience and expression to resist an order for an apology. So should the court order Ko to make a reluctant and insincere apology?

On final appeal, the court did not order an apology but a judge ingeniously proposed, for future reference, that an offender could choose either to heal a rift with an apology or pay a substantially higher price for the hurt caused. This was brilliant and masterful: resolving the dispute by offering an offender a choice – a choice that incentivised good behavior.

Conflict resolution is meant to resolve differences, achieve closure, and allow parties to move on. In fact, the HK government has used many consultation exercises to achieve these same objectives. And they can be made even more effective through improved processes.

² *Ma Bik Yung (Appellant) v. Ko Chuen (Respondent), Final Appeal No. 25 of 2000 (Civil) Date of Judgment: 5 October 2001*

Our recent past has been beset by grievances and deep rifts. Many of our youths are pessimistic about the future of Hong Kong.³ Many need to heal their bruised spirit. What can be more important than encouraging our youths to explore the constraints and opportunities in the community together, and build a shared future for themselves and others? This is the time to equip them with essential transformative skills. Let them be the architects of human relations and create space for interaction and engagement.

In closing, let me, on behalf of Prof Woo and Dr Zhang and myself, thank Lingnan once again for bestowing this honour on us. We will cherish it, and may Lingnan grow from strength to strength.

³ *According to the Hong Kong Federation of Youth Groups results of a survey completed in May 2022, 46.9% of those surveyed, aged 15 to 34 out of a group of 1,054, are pessimistic about the future development of Hong Kong and only 17.5% are optimistic.*