

**The 201st Congregation of the University of Hong Kong
for the Conferment of Honorary Degrees**

**Speech of The Honourable Chief Justice Geoffrey Ma
on behalf of the Honorary Graduates**

April 2, 2019, Loke Yew Hall, the University of Hong Kong

Chancellor, Vice-Chancellor, Dr Cunich (the Public Orator), Distinguished Guests, Ladies and Gentlemen,

On behalf of my fellow honorary graduates and myself, I thank the University of Hong Kong for the great honour conferred on us by the award of the honorary doctoral degrees. It is a proud achievement for us, these degrees coming from the fine and venerable institution that is the University of Hong Kong. It is a particularly proud moment for me personally as I become a part of this University, the University of my father and my dear wife. As my good friend T L Yang, the former Chief Justice of Hong Kong, has often remarked, these are the highest honours the University can grant. We are particularly touched today by the presence of everyone here and we thank you sincerely. I am of course greatly honoured as well by this opportunity to speak on behalf of all the graduates and I thank you for allowing me this opportunity.

2. I begin by making reference to a discipline about which I know very little. In the study of economics, there is a concept called signalling. It is relevant to contract theory. Essentially, signalling describes a situation, usually a commercial one, in which a party (known as an agent) transmits information about himself or herself to another party (known as a principal) with a view to achieving a state of affairs that will hopefully be of mutual benefit. Thus, for example, prospective employer-employee relationships or a sale and purchase transaction involve an agent providing information or credentials to the principal. The crucial question is always : what information does the principal require in order to act?

3. It is perhaps not an apt comparison but I wonder then just what information the University of Hong Kong had in mind as the principal when it was decided to confer the honorary degrees to today's recipients?

4. For my fellow graduates, this question is easily answered :-

(1) Professor Spence is a towering figure. He is in demand all over the world and we are fortunate in Hong Kong to have him as Co-Chair of the Advisory Council of the University's Asia Global Institute. As you have heard, he is a Nobel Laureate, having been awarded the Nobel Memorial Prize in Economic Sciences in 2001 for his work on signalling.

(2) Dr Sin already has a number of honorary doctorates and is much involved in the humanities. He has set up a number of funds to support the humanities. You have heard that at the University of Hong Kong, the Sin Wai Kin Fund was set up to support the Hong Kong Institute for the Humanities and Social Sciences.

(3) My dear friend, Justice Robert Ribeiro is a colossus in the legal world, with a formidable reputation both in Hong Kong and elsewhere in the common law world. He has made profoundly significant contributions to the jurisprudence of Hong Kong and the common law in general. I regard him arguably as the best lawyer the Hong Kong Judiciary has ever had among its ranks.

5. For me, I regard the award of this degree as very much one which belongs to the Hong Kong Judiciary, which I represent. The importance of an independent judiciary to Hong Kong cannot be overstated. To start with, the Basic Law, the constitutional document that governs the Hong Kong Special Administrative Region (which, as its Preamble provides, was enacted by the National People's Congress to ensure the implementation of the basic policies of the PRC regarding Hong Kong) states in three different articles that Hong Kong shall have independent judicial power. The Judicial Oath required to be taken by all judges provides that judges must "administer justice without fear or favour, self-interest or deceit".

6. Independence of the Judiciary is essential when dealing with the many complex legal issues before the courts. In the area of public law, where the public interest is engaged, cases often involve the Government and public authorities. There is little doubt that, like society in general, the law and the cases handled by the courts have become much more complex than before. This is inevitable when we see the growth of the community through the years : in 1841, the population of Hong Kong was 7,450; at the turn of the 20th century, in 1901 it had risen to 283,978; after the 2nd World War, in 1950 it was 2.2 million; in 2001, the population had become 6.7 million; and it is now about 7.5 million. When one adds to this the greater awareness, particularly after 1 July 1997, of political, economic and social dimensions, it is easy to infer that life in general has become more complex.

7. I have earlier mentioned public law cases. These are cases which sometimes originate from political, economic or social controversies, on which members of the public may have strong views. These views are often diverse and at odds with one another, and at times seemingly impossible to reconcile. The various freedoms and rights that are enumerated in the Basic Law are not always easy to apply and, as a matter of law, their enforcement by the courts often involve having to adjudicate between perfectly legitimate interests which pull in different directions. Let me provide an example. Hong Kong has a Bill of Rights which is contained in a statute (the Hong Kong Bill of Rights Ordinance) and it has constitutional backing under the Basic Law. One of the fundamental rights in the Bill of Rights is contained in Article 17 : the freedom of peaceful assembly. This is a right closely associated with the freedom of speech. The Court of Final Appeal has said that these rights are precious and lie at the foundation of society. However, the right is not an unrestricted one because Article 17 states that restrictions may be placed on the right of peaceful assembly if they are in conformity with the law and are necessary in the interest of national security or public safety, public order, the protection of public health or morals or the protection of the rights and freedoms of others.

8. The difficulty for the courts can sometimes lie in how to resolve legitimate, but conflicting, considerations. Depending on the facts of any given case, some considerations will prevail over others and sometimes, a balancing exercise is required to be undertaken. It is, however, important at all times for judges to be even-handed and, just as important, seen to be so. This is why the independence of the Judiciary is important in order to ensure that all cases that come before the courts, be they controversial or not, are decided strictly according to the law and legal principle, and nothing else.

9. I mentioned just now that a balancing exercise may sometimes have to be performed. This approach is to recognize the validity and legitimacy of all reasonable points of view which a judge may have to take into account in the determination of a legal dispute. Broadly speaking, it is a recognition that not only individual rights have to be considered, but also the rights and interests of other members of the community and the community as a whole.

10. And this, surely, must be how a community should be expected to function : as I have often said in the past, there should be not only a respect for one's own rights and freedoms but also the rights and freedoms of others. After all, the guarantee of equality emphasized and repeated in the Basic Law and in the Bill of Rights, reflects the basic assumptions of tolerance, respect and compromise. These are the assumptions behind a sense of community.

11. My fellow graduates and I believe in this sense of community. The Asia Global Institute has this theme as part of its mission, the study of humanities aims at promoting this concept and the Judiciary has this objective underlying much of its work : we call it part of the spirit of the law. I believe this is what the University also expects of its graduates.

12. Once again, Justice Ribeiro, Dr Sin and Prof Spence and I thank the University of Hong Kong for these honours. May the University go from strength to strength and may Hong Kong do the same, meeting all challenges with a sense of community.