

Interview with Mr Warren Chan KC SC

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Q: What was the initial reason and motivation for you to study law at HKU?

WCSC: I initially studied history at the Chinese University of Hong Kong (CUHK). After several months, I realized that although history was my passion, it would likely lead to limited financial prospects after graduation. Therefore, I had to make changes. The more financially promising options were law or medicine. Since I did not have the capability to study medicine, law became my only choice. At that time, since CUHK did not have a law faculty, I applied to HKU as a self-taught student. I started taking charge of my own future since secondary school. I believe many parents equate financial with career prospects. Law students are often regarded as superior within and outside universities. Why is this the case? Is it because their financial future is likely bright, or because they are seen as embodiments of justice?

Q: At what stage have you started developing an interest in law?

WCSC: I grew up in Government Low Cost Housing (廉租屋) and in Sham Shui Po and had no knowledge of the law. Before entering HKU, I had never even met a lawyer and rarely gone to Central. I saw many injustices in Sham Shui Po; it was difficult to achieve justice there if one was not well-off enough. I then thought of studying law so that I could help the poor in the future and hope that fewer injustices would occur to them. Thus, I had two main reasons for studying law. First, to do something meaningful and fight for justice for the poor. Second, to secure my own financial prospect.

Q: What drove you to continue this path during your law studies at HKU?

WCSC: Initially, I was really scared. Why? It was because the head of the department (D.M. Emrys Evans) had clearly warned us at the beginning of the academic year that one in three students would fail to advance to the second year. This wasn't a situation where you could switch to another major; you would have to quit university. My nightmare at the time was that after studying for a year at CUHK and another year at HKU, I would go back home empty-handed. How could my family bear all that? I was terrified and had no choice but to push forward. I had no way out. Fear for survival drove me to continue the path of law. After successfully advancing, as mentioned earlier, I wanted to secure a better financial future and reduce the injustices faced by the poor. In my third year, I chose to study labour law instead of intellectual property law for the sole reason that I thought the former could uplift workers whilst the latter was considered to help advance the rich.

Q: What does your evening teaching schedule at that time look like?

WCSC: In my first year, I taught English at night school two or three evenings per week. At that time, every law student was assigned a personal tutor, and mine was Bernard Downey. He was unsmiling and quite stern. One day, he suddenly 'summoned' me. I was quite scared and wondered why he would call me out of the blue when I was focused on advancing to the

next year. He said, 'Young man, I heard that you are teaching at night. You shouldn't do that; you won't be able to advance.' He asked if it was for money and said we could discuss it. It was nice to see such empathy from a serious-looking teacher. However, I was not used to accepting favours, and did not want to borrow money (nor was I used to doing so). Later on I switched to teaching A-Level Law, and ACCA's and AIB's law courses, and later even taught multiple subjects for external degrees offered by British universities. Eventually, I taught more and more, up to five weekday evenings and Saturday mornings. From my second year, I no longer taught just to survive but to improve my family's living quality. Travelling between Sham Shui Po and HKU took about an hour or two. Besides evening school, I also taught at places like PolyU, universities' extension courses, and HKSJU. My four years of university life were all about studying and teaching, with little free time. Those four years were extremely suffocating. I never took on any summer job because summertime was for studying materials for the upcoming academic year.

Q: We understand that you wrote a dissertation on Chinese lawyers during your time at HKU. Could you share more about that?

WCSC: In my second year, we were required to write a dissertation. This coincided with the late phase of the Cultural Revolution. I can't recall why I chose to write a dissertation on contemporary Chinese lawyers titled *The Rise and Fall of Lawyers in Contemporary China* (當代中國律師的興衰). Roderick O'Brien agreed to be my supervisor and directed me to seek assistance from Leo Goodstadt. Leo Goodstadt wrote me a letter and introduced me to the resources at the US Consulate's libraries. I was working strenuously in the library and eventually completed the dissertation in the summer of 1975. The primary sources I encountered there deepened my understanding of the Communist Party of China. It wasn't until over two decades later that I learned from a nostalgic article written by Roderick O'Brien that he gave me full marks on that dissertation. To note in passing, I declined an invitation from *Justitia*, the student publication, to publish my dissertation, nor did I submit it to the *Hong Kong Law Journal*. Instead, I submitted it to the world-class *China Quarterly*. Would you think they'd publish a second-year's dissertation? Especially, if you think about it, no one had ever written about contemporary Chinese lawyers. I was quite young and naïve at that time.

Q: You studied at HKU for four years and later became a very successful barrister. When did you realise that your career goal was to become a barrister?

WCSC: I never did any summer internship or mini-pupillage. The similarities and differences discussed in textbooks between a solicitor and barrister were somewhat clear yet vague to me. I had no specific goal to become a barrister. I ranked first in my class, and some classmates assumed that with a first-class honour, I would naturally become a barrister. They asked which chambers I would join and which barrister I would be pupil for. One senior even introduced me to Martin Lee under whom to be a pupil. These classmates made the choice for and unbeknownst to me: to become a barrister. It is said that barristers need to be well-versed in speaking and debate, but throughout my life (in primary school, secondary school or university), I had never participated in a debate competition. I disliked debating and was certainly not a skilled debater.

Q: Would you make a different choice at this stage of life given a second chance?

WCSC: Absolutely not. Being a barrister requires personal competence. It is a solo profession, with no bosses or partners, and offers great independence. I dislike financial disputes with friends, detest gossip, and would rather not socialise; in fact, I rarely dine out (not even two or three times per year). Given that, the barrister profession suits my personality perfectly, especially since I have chosen to operate a one-person chambers for many years. I would not choose to be a solicitor because my personality doesn't allow me to be a subordinate; I need to be my own master. Having no boss is invaluable to me. As a solicitor, you would have partners in the law firm, and you couldn't act autonomously and independently; I wouldn't be able to manage at all if the work requires socialising. Therefore, joining this profession by coincidence turned out to be a perfect fit for my personality. I would still choose the path of a barrister given a second go. I am completely immersed and fulfilled in this profession, for which I am endlessly grateful.

Q: Barristers typically start their careers as pupils under 'sifus' (more experienced barristers) to learn procedures and drafting. How did you manage these challenges when you started on your own?

WCSC: Initially, I worked in a three-person chambers. It was only after returning from Canada that I established my own chambers. Operating a one-person chambers means having no one to consult when problems arise and not being able to purchase too many books. For the most part, I was 'feeling for stones while crossing the river' (摸著石頭過河).

Q: Was it tough to navigate through connecting with law firms initially?

WCSC: Solicitors are barristers' clients; they are the ones who instruct barristers. Coming from Sham Shui Po to Central, who would instruct someone not from a prestigious family and having no relatives to introduce solicitors. Who would hire you? What could I do? There's no need to worry. I would sit in the office waiting for the phone to ring. It had to. Why? That's because the clerks looking for barristers have the Bar List and will seek the cheapest one, usually the least experienced at the end of the directory. 'Mr Chan. Tomorrow. Fanling Magistrates' Court. Mitigation plea. HK\$500. Fine?' I would agree without much thought. Back then, Fanling Magistrates' Court was very remote. I had to take the roaring train from Tsim Sha Tsui, and upon arrival, I would see two cows at the entrance of the court. There would usually be ten or so lawyers handling cases, mostly bail applications, pleas, or trials. When it's your turn, you shouldn't make long speeches; be as concise as possible. If you can impress them with your skills within ten minutes, by the time you return to your office, the lawyers present that day would already be seeking your availability for the next day or next week. So, whenever someone reaches out, whether it's HK\$50, 500 or 0, it's your golden opportunity. Magistrates' Courts are the best places because the High Court typically has only two or three lawyers, whereas the Magistrates' Courts have ten or more. A barrister relies fundamentally on his own skills rather than wasting time 'navigating through' relationships. I often tell my pupils that as a barrister, being dependent on relationships is a waste of time; it is a competence race. Can you rely on relationships in the boxing ring?

Q: Besides your early pupil-master Martin Lee, were there other significant figures who guided you along the way?

WCSC: I have had two pupil-masters back in the days. The first was Martin Lee. After several months with him, he was appointed QC, and QCs could not take on pupils. So, he transferred me to Wesley Wong in the adjacent room as my second pupil-master. From my first pupil-master, I learned the value of hard work, working day and night, and finding joy in the work itself. From my second pupil-master, I learned to enjoy life outside of work. I moved from a room where life was all about work (為工作而生活) to another where work was a part of life (為生活而工作). A wall separates two cultures within a single chambers.

In fact, I have mentors apart from ones under whom I was an official pupil. One must be a lifelong learner. I have had many *de facto* mentors without formal titles. I learnt momentum and cross-examination skills from Charles Ching, gentlemanly comportment and 'getting to the root' (尋根究底) work ethic from John Swaine. I saw exceptional intelligence in Denis Chang and learnt rationality and composure from Robert Tang. Each one of them was my mentor so to speak. They were also all very upright gentlemen. Besides Hong Kong's top experts, I was fortunate to have observed and learnt from the UK's top Queen's Counsel, including Michael Sherrard, John Wilmers, Robert Alexander, Robert Gatehouse, John Griffiths, Michael Thomas, Richard Scott, Neville Thomas, Anthony Hidden, Anthony Scrivener, and Peter Millett. I am truly grateful to have learned so much from these world-class barristers. I worked hard to absorb their skills, using their strengths to compensate for my own weaknesses.

Q: What particular challenges did you face when you were on your own at the start of your career?

WCSC: Other than that I was poorer, my experience wasn't particularly different from that of an average barrister. I had zero income as a pupil. I had already gotten married. Working in Central required suits, shoes, and lunches—all were expenses. How did I manage with zero income? Getting qualified after a year required upfront payment for two months' rent, buying books, hiring a secretary, and other expenses. What did I do then? My friend, I found wisdom in the saying 'deprivation leads to changes; changes then turned into a way out' (窮則變, 變則通). And that for me was to teach at evening school. In fact, facing difficulties is an opportunity to train your abilities. The greatest asset of young people is the ability to solve problems. If you can't solve your own problems, how can you solve your clients'? Throughout history, successful people find ways whilst losers find excuses.

Initially, I took on everything, including both criminal and civil cases. Most criminal cases involved the powerless ordinary citizens which aligned with my original intent to help the poor and being very grounded; it was meaningful. There was a young man in Sham Shui Po who was repeatedly arrested and charged by the police. He claimed he was being framed. As his duty lawyer, I defended him to the best of my ability. Despite repeated criticisms from the magistrate, I persevered, and eventually the young man was acquitted. I was thrilled. Later, he sought my representation again through the Duty Lawyer Scheme, and I fought hard for him again, securing another acquittal. Afterwards, I pondered: had he committed any crimes?

If he had, and I got him acquitted, and he continued to harm society, my conscience would have got me. Meanwhile, I would sometimes argue tirelessly in some other criminal cases and only to see my clients imprisoned. I lost sleep at night, wondering if their imprisonment was due to my incompetence. There was one time when as a duty lawyer, I visited a girl who looked nice but with a pair of hands full of track marks; it was terrifying. I couldn't help but lament to her that 'life is short; why not cherish yourself?' She seemed to feel repulsed and requested a different barrister. This incident made me realise that I had no common language with criminal clients. Their world was different from mine.

One day, my pupil-master took me to the church. I asked him if he had any moral dilemmas handling criminal cases. Without hesitation, he said absolutely not! He said, 'You must ask yourself, which judicial system would you choose? If you believe in the common law, the burden of proof falls upon the prosecution, and the prosecutorial standard is beyond reasonable doubt; acquittal is better than a wrong verdict. Some other body of law might favour the other way around, to consider a wrong verdict to still be better than acquittal, in order to ensure social order. My pupil-master went on saying that in the common law system, we have no duty to assist the prosecution's investigation or seek the truth. An acquittal means the prosecution failed to establish guilt according to the standard of proof. I agreed with his analysis. Would you prefer a system where you're presumed guilty whilst in prison until proven innocent? I accepted my pupil-master's view by rational thinking, my conscience still stepped in at emotional night. I realised criminal work was not for me and began to gradually withdraw from criminal cases, yet unknowingly distancing myself from grassroots society.

Q: You started in the legal industry at a time where most lawyers were non-Chinese and came from backgrounds vastly different from yours. With your peers being mostly Westerners, was that a struggle or challenge for you?

WCSC: Moving from the Chinese world to the Western world was indeed unsettling. Most judges were expatriates, and many opponents were westerners. I felt they were speaking the same native language. However, the vast majority of judges were very fair and never stooping to flattery, impartial, and adjudicated strictly according to the law. Moreover, nine out of ten British people I encountered were very kind to me. In the history of British colonialism, Hong Kong was a special colony because there was never a strong movement to 'overthrow the Brits and restore China' (反英復中). On the contrary, when China granted Hong Kong 'one country two systems' when bringing it home, quite some locals still 'yearned for colonialism' (戀殖).

Q: You mentioned earlier that you accepted all cases when you first started. How did you develop your specialisation from the early to mid-stages of your career?

WCSC: Looking back, I never consciously thought about how to build my specialisation; I was just feeling for stone while crossing the river (摸着石頭過河). My specialisation evolved together with economic transitions: work injuries, landlord-tenant disputes, sale of goods, commercial disputes, company, finance, property transactions and challenging property title, inheritance disputes, and so on. Each transition required my learning. I learned diligently, from ignorance to expertise. A barrister's work is a form of continuing education. A barrister can

always learn something new from each case. For example, after handling several insider-trading cases, you would have gained an in-depth understanding of the stock market. After dealing with several disputes on the challenging property title cases (陽契), you get a deep insight into the property market. During my work, I have had the opportunity to question or cross-examine world-class expert witnesses, which was immensely beneficial. In and outside of the court, you compete in diligence, intelligence, technique, strategy, and performance. Compete, compete, compete. The stronger the opponent, the stronger you become; it is truly enjoyable. Moreover, facing significant interests, I also saw another side of human nature (regardless of background or education). All these experiences with added value to my specialisation were funded by my clients. What more could one ask for?

Q: Is there any particular type of case that you especially enjoy working on?

WCSC: No, but I really don't enjoy handling divorce cases—quite annoying.

Q: When your career began to take off or reached its peak, was there a specific area of law that you were most interested in?

WCSC: I don't think so. I handled many challenging property title cases and inheritance cases when they hit their respective peak. I have always adapted to societal changes. Clients change as the world changes, and the scope of practice changes. I'm used to it.

Q: Are there any particularly memorable cases from your career that you could share with us?

WCSC: Reflecting on memories crystallises the lapse of time.

1. When I first started to apprentice under Martin Lee, right away he asked me to go observe a case in court led by Patrick Yu. Upon arrival, I saw Mr Yu cross-examining a witness. I initially intended to listen and observe briefly before leaving, but the more I listened, the more captivated I became, so I stayed. His cross-examination was truly remarkable. After the day's hearing concluded, I couldn't resist following him out of the courtroom to ask how I could reach his level of proficiency. He looked at this stranger and said earnestly, 'Young man, what you saw was one day's cross-examination in court, but what you did not see were many instances of burning the midnight oil.' I was fortunate to have learnt early on, before my pupillage began, that the more thorough the preparation, the shorter the cross-examination—a principle that has benefited me throughout my career. I later heard that this master once said if a barrister prioritises the pursuit of money over excellence, they are unlikely to earn much. However, if they strive for excellence, money will naturally follow.
2. During my limited practice, I represented a defendant accused of violating an injunction order and I opposed a committal application before Chief Justice Briggs. My opponents were formidable: Richard Mills-Owen QC, William Waung, and his then-pupil Robert Ribeiro (a lecturer whom I greatly respected); even their articulated clerk was more senior than me. At 25 years old, I was not intimidated, hoping my blind punches might land

on those masters, and fought hard despite the challenging circumstances. I lost, and my client went to prison. My pupil-master later said I had experienced 'baptism by fire'.

3. Thousands of prawns were seized by the US customs, claiming they originated from Vietnam, which was under embargo. The prosecution alleged that the company repackaged Vietnamese prawns as Macau prawns for shipment to the US. Their evidence included certificates of origin and secretly recorded footage of prawns being transferred from boxes labelled 'Vietnam' to boxes labelled 'Macau,' seemingly strong evidence. The burden of proof was on the prosecution. Our submission was that the person issuing the certificates of origin could not possibly know the prawns' origin, that there must have been multiple hearsay. Additionally, what defines the origin of these prawns? Is it the place where they were born? Prawns swim in the sea; is there evidence on how far they can swim? The magistrate ruled apparently with reluctance that the defendant had no case to answer. We applied effectively to the maximum the legal principle that puts the burden of proof upon the prosecution.
4. A single mother living in a wooden house had to care for her newborn baby. One night, her other son swam from the mainland arriving at her doorstep. She brought him in. She was charged with harbouring an illegal immigrant, and her son was immediately deported back to the Mainland. I mitigated on her behalf. Before I could speak, the magistrate, cold and impatient, asked if I knew that higher court guideline mandated imprisonment, advising me not to waste time. Your Worship, could a mother, upon seeing her long-lost, hungry, and shivering son at her door, turn him away? Could I? Could you? If she is imprisoned, who will care for her baby? I was so emotional that I nearly broke down in tears. If I remember correctly, the magistrate interrupted my plea and told me to 'go'. I thought my English might not be good enough and didn't understand him. It turned out I had moved him. He released her without imprisonment. Humanity prevails. If I remember correctly, I told my clerk not to charge any fees.
5. Just a few months into my practice, I took on a landlord-tenant case. My fee was a few hundred dollars. The new legislation made it an unwinnable case. Although there was zero chance of winning, I went through it over and over again. Suddenly, in the early hours, I came up with a legal argument; I wasn't sure whether that was a genius or a fool's move. The next morning, I presented my argument to the judge. He smiled and reserved judgment. A few days later, he ruled in my favour. That day, my son was born. The next day, the case was widely reported in Hong Kong's media bilingually with intense debate reactions; some university professors published articles on newspapers. The Attorney General said the legislation was correct and the judge had erred, promising new legislation if the tenant's appeal failed. The Bar Association Chair deemed AG's remarks inappropriate. Debates went on in the Legislative Council, and Lydia Dunn asked 'if there is not a risk of damaging the integrity and independence of the judiciary'. The case was so important that the appeal scheduling was expedited. I delivered my submissions in the Court of Appeal less than a month after the tenant appealed. I abandoned my original legal argument but presented a new one. The appellate court listened attentively as time overrun, and ruled in favour of the appeal that evening. The appellate court's judgment depicted that I 'argued forcibly' for my

case (*Lam Wai v Mak Yok-jam* [1980] HKLR 236), which was my first appearance in the *Hong Kong Law Reports*. Perhaps I should mention that I had already had five reported cases in the *Hong Kong Law Reports* in my first year of practice. Although I lost the current one, it made my name. Subsequently, clients and cases flowed in, and I began the journey of continually lifting my hourly rate due to excess demand.

6. The plaintiff, a luxury car owner, sought to recover the vehicle from the bank. I acted for the bank and noticed the plaintiff's lawyers had included copies of the vehicle's ownership documents in the bundle but, perhaps being overly confident, forgot to present the originals as evidence. I waited until my closing submissions to point out that those particular documents had not been introduced to court as evidence. The judge agreed. The plaintiff's barrister immediately sought to introduce the originals, but I objected, arguing that the plaintiff's case had already closed, and the court's procedural rules must be followed; a closed case should not be reopened at random. The judge denied the request to present the originals. A huge loss for the plaintiff. Afterwards the plaintiff's appeal was dismissed based on *Ladd v Marshall*. By spotting the oversight, I applied simple legal principles effectively.
7. One day, during a landlord-tenant appeal, I answered the questions of three not-so-friendly judges of the appellate court one by one. It seemed they had already made up their minds, making things difficult for a young barrister. I almost lost control of my emotions and felt like crying. I thought there was no point in continuing and was about to sit down. Suddenly, I shouted, 'My Lord, it is trite law, trite law...' and immediately read out a short sentence from Megarry and Wade's *The Law of Real Property*. The courtroom fell silent, as the judges seemed to have overlooked a fundamental legal principle and appeared embarrassed. I sat down, and the result was a near loss turned into a significant victory. Judges are human too. Some judges form conclusions first and then attack the barrister, refusing to listen. Barristers must perform 'judge management' and know the judges' mentality well. If a judge doesn't understand your point, the responsibility lies with the barrister.
8. The appellate court was then in Battery Path. I endured a highly challenging morning, being lambasted by three British judges. After losing the appeal, I walked down the Battery Path slope with a weary body when the judicial clerk rushed down to me, saying the judge wanted to see me. Actually, I hesitated, thinking 'haven't they scolded me enough'? But I couldn't dare to refuse. When I entered the judge's chambers, he was changing his clothes and said, 'Young man, it wasn't your fault earlier; your case was just too weak. No problem, no problem.' I thought he was worried I might commit suicide. This judge was truly kind-hearted.
9. In a lawsuit over a guarantee, the plaintiff bank was represented by a renowned QC from the UK, who was highly impressive and imposing to all. With only a year or two of experience, I boldly represented one guarantor, while another guarantor was represented by another British QC. We were on the same side, so we should have cooperated. However, this QC refused to discuss a joint defence strategy with me before hearing began. At the hearing, the two British QCs dominated, debating fiercely

for over four and a half days. Around 4:30 p.m. on Friday, it was finally my turn to speak. I spoke for just five minutes. The judge instantly asked the plaintiff's QC to respond to my simple but unassailable argument. He spoke for about five minutes, beating around the bush, and I really couldn't understand him. Boldly, I stood up and interrupted, saying, 'My learned friend not only has a problem with his law (past consideration), he apparently has a problem with his English (past tense).' The judge did not reprimand my impoliteness as a young lad. From then on, I felt this judge (a Brit) was very friendly to me.

10. Early in my career, I encountered a notoriously harsh judge who tried to force me to withdraw an application for costs (about \$HK1,000) by threatening to report my alleged misconduct (i.e., not pointing out the opposing side's procedural error earlier) to the Bar Association. He said my conduct was 'a clear case of professional misconduct' in Ireland (his homeland). I was then the sole breadwinner of my family with a young kid and wife, thus genuinely frightened by him. I politely but firmly disagreed and persistently pointed out his basic error. I argued that in common law's adversarial system (對抗制), how could there be a duty on me to teach the opposing counsel ways to do things. He relented and granted my application. I did what a barrister should do when the moment came. I felt he respected me more from then on. One must always be polite to judges but never be afraid. Never back down when you believe you are right. When the moment comes, a barrister must be fearless and strive for his/her client's best interests. Those who are afraid of confrontation better not be barristers. Those who fear offending the powerful better not be barristers. A judge who once was displeased with a barrister's submissions sarcastically asked for the law school he graduated from. The barrister demanded an apology. The judge apologised and later told some other barristers the fortitude a barrister should possess. I should also commend the judge for his willingness to acknowledge and correct his mistake, despite his high displayed status and authority. I remember one of the judges was laughing during my submissions before an appellate court, to which I bluntly said 'This is no laughing matter'.
11. A middle-aged woman went to the bank to handle her fixed deposit, only to be told by the bank staff that her deposit was gone. And why is that? The bank claimed she owed money to a jewellery company, and since the jewellery company owed the bank too, the latter based on legal advice had the right to 'set off' the sum. The woman sued the bank to recover her deposit. Following my solicitor's instructions one day, I went to a high-end clubhouse to negotiate with the opposing side. I felt very uneasy; the other side was all tall, muscular and imposing westerners, seemingly looking down on me. I felt my client and I were being bullied. I channelled my anger into immense strength. Do or die. I worked doubly hard, cross-examining the jewellery store staff one after another. The truth was that my client did not owe the jewellery company, so there was no basis for set-off at all. My confidence soared, and I argued no case to answer in this civil case. The lady won overwhelmingly. I upheld justice which was very satisfying.
12. I didn't want to take on criminal cases or long lawsuits, yet I ended up taking on a criminal jury trial that lasted a year and a half.

13. I took on a case lacking in merit and truly troublesome, and was prepared to face embarrassment before going to court. Before the hearing, my instructing firm's clerk unintentionally did something procedurally inappropriate but legally permissible, which turned out to give me an excuse towards victory in law. The judge disliked the technical point and was very harsh on my submissions. He was aggressive, but I stood firm, not yielding an inch. In the end, he reluctantly ruled in my favour, saying, 'Mr Chan, I find your submissions distasteful. But you are legally right.' I fought based on legal reasoning, and the judge ruled according to the law. Hearsay came that this judge mentioned me as one of two 'formidable' barristers when answering questions in a professional development course on litigation organised by the Law Society. He later referred to my 'customary skill and ability' in one of his judgments.
14. I represented a part of residents when the government planned to demolish Tiu Keng Leng. The government as the landlord wanted to evict residents who were not authorised to stay, so how could there be room for defence? Hard work paid off. I discovered through asking around and research that in 1961, the government said 'Most of the residents in the area will be allowed to continue to reside in the existing buildings indefinitely' in order to quell public discontent. In other words, they could stay *indefinitely* (無限期). The residents sought judicial review of the government's decision to reclaim the land. The judge ruled that 'indefinitely' meant just that, and the government lost the case.
15. During the HKU Public Opinion Programme controversy, I represented the Vice-Chancellor of HKU. The director of the programme alleged that the Chief Executive, through intermediaries, pressured him to stop conducting public opinion polls on the government. The independent investigation at the time was conducted like a court hearing and was unprecedentedly broadcast live on television.
16. A wealthy man was in a legal dispute with his ex-girlfriend. I represented the wealthy man, but I was displeased with his behaviour and sympathised with his ex-girlfriend. However, as a barrister, not only can you not refuse a case (the cab-rank principle), but you must also do your utmost in the litigation. I fought based on legal principles and won a case I would rather not win.
17. One of the three judges in an appellate court was very displeased with my client's (who bought goods without paying and sued the seller) appeal. I only spoke few words before he glared at me and angrily asked 'How can you say this?' I thought, I haven't said anything wrong so why was he so unfriendly? I looked at him, and firmly and loudly replied 'My Lord, not only do I say this, I say this as loudly and as forcefully as I can, and I say this nine times.' I noticed the other two judges were smirking. Subsequently, the courtroom's atmosphere calmed down.
18. I once represented a super-rich conglomerate with whom I had a nice relationship. One day, an ordinary person wanted me to sue this conglomerate. I disclosed my relationship with the conglomerate to the client, who said it was fine and asked if I was

concerned. I wasn't afraid for sure. He wanted me to represent him. Barristers cannot refuse work (the cab-rank principle), so I could not and also had no reason to decline. The conglomerate did not and could not have objected (as there was no conflict of interest), I took on the case. On one side was a wealthy man; on the other an ordinary person. I gave it my all, publicly criticising the conglomerate during the trial as my duty. If I were this wealthy client, I wouldn't have instructed this counsel again.

19. I represented a Mainland company. After the trial began, the judge repeatedly expressed doubts about the defendant's (my client's) case during the plaintiff's opening submissions and suddenly raised concerns about documents' authenticity. This judge was very candid and too honest, as he could have kept quiet and ruled against my client. Throughout, this judge had been very kind to me, and I respected him. Out of duty I reluctantly applied for his recusal, citing apparent bias against my client. This was a serious accusation against a judge. But time marches on and we may meet again. How would I face him after that? Would I get fair treatment in future cases? At the time, I didn't consider my personal repercussion. As a barrister, one must act without fear or favour on matters within our duty.
20. Throughout my career, basically I've been living to work, early to bed and rise. I rarely dined out more than two or three times a year except for travel. I once had a terrible night's sleep and had to appear before the CFA the next day, facing questions from five judges in turn. My lack of sleep affected my performance, and coffee didn't help; I struggled to answer the judges' questions properly. I still wonder to this day how a barrister (or a surgeon) should handle intensive work with high concentration running low on sleep. Can you request an appeal adjournment? Can you ask your junior to step in right before the hearing begins in the morning?
21. I'm sharing the above memorable cases, but please don't be confused or assume I won more than I lost. It was roughly fifty-fifty. I remember the spectacular wins and forget the unpleasant losses.

Q: Could you share your experience of emigrating halfway through and later returning to Hong Kong?

WCSC: I immigrated to Canada in 1987, with no intention of returning, planning to spend the rest of my life enjoying a simple lifestyle there. I had been a barrister for eight years at that time and was only 33 years old, with what I subjectively considered to be *sufficient* wealth. I made my informed choice not to practice law in Canada due to not only lower income but also higher taxes. Moreover, my personality was not suited to be a subordinate. I enjoyed over three years of leisurely life in Canada, truly living a relaxed lifestyle. Unlike Hong Kong, most Canadians work to live rather than live to work, and they generally would not sacrifice their leisure time for more money.

When I was a pupil, I'd already had a few encounters with John Griffiths QC, who was AG before returning to the UK. He was very kind to me, and I visited him in the UK after my emigration. He asked me about my life in Canada, and I said I was happy. He suddenly looked

at me seriously and said, 'You need to return to Hong Kong, or you will be failing God.' At that time, I found it puzzling as I had no religious beliefs; how could my not returning to work in Hong Kong be related to God? He explained that everyone has a role in life, and mine was not in Vancouver but in the courts of Hong Kong. Reflecting on his wise suggestion, I eventually did not know whether it was his suggestion and encouragement, or my own passion for money, that led me to return to the Hong Kong courts. I established a one-person chambers. Although I had been away for more than three years, I became extremely busy within a few months. As a barrister, if you have the capability, there is nothing to worry about. After working for three years, I was appointed QC. I once told my pupils that every morning when you come to office, what you're seeing everywhere on the floor is gold because each and every file is money. Why do so many solicitors instruct you? The answer is your capability. Therefore, you must work hard; work hard and work smart. Perhaps I should mention as my fees continued to increase, I gradually moved away from the poor, and my early dream of helping the poor had long been out of my mind.

Q: Have you always operated a one-person chambers before and after emigrating to Canada?

WCSC: I am a lone person ('獨行俠'). Before emigrating, I practiced in a three-person chambers, and after returning, I started practicing on my own. For a few years, I allowed two or three young barristers to join. While some chambers have more than one hundred or dozens of members, I have mostly operated alone.

Q: Besides the benefits of fewer gossips and social obligations, what are the advantages of operating independently?

WCSC: In fact, operating a one-person chambers generally has more disadvantages than advantages. Typically, larger chambers have senior, mid-level, and junior barristers. Chambers will usually gather same-level barristers so they can easily transfer work among peers if one barrister is unavailable, and junior members can assist. Barristers can also casually discuss and learn from each other, which is crucial. Thus, larger chambers are more efficient. However, bigger is not necessarily always better.

Q: Have you ever considered joining the judiciary, such as serving as a deputy judge?

WCSC: I have never considered it. I have always wanted to write one or two judgments that contribute to the legal field and leave a lasting legacy. However, my personality is too free-spirited and I do not want my schedule to be controlled by someone. I prefer to choose rather than be chosen. The thought of being bound by a schedule, having to work punctually every day, is unappealing to me. Therefore, I have never served even a half-day as a deputy judge. The judiciary should know I am not interested in becoming a judge. Nonetheless, one year I received an invitation to serve as a deputy judge for a month. I apologetically declined directly. Similarly, I seldom take on long cases; most of my cases last only one or two days.

Many years ago, there was a rumour that I might be appointed as Secretary for Justice, which genuinely frightened me. I told the media, 'I have always enjoyed a free and unrestrained life

since young, and my dream is to be a wealthy idler. The role of Secretary for Justice... does not suit my personality.' I also said, 'some people can say 'never say never', but I can 'say never'.' However, I have a bottom line. If I believe an unsuitable person might become Secretary for Justice due to my refusal, and this would harm Hong Kong's core values, I will step forward. Fortunately, this situation has never arisen.

Q: Have you held any positions in the Bar Association?

WCSC: One year, a friend persuaded me to join the Bar Council. Under his persistence, I eventually complied. At that time, I was second senior after the Chair. One day, I heard rumours that I might become the next Chair, so I immediately approached the Chair planning to resign. Besides, I have served on two or three committees within the Bar Association. Due to my personality, I have absolutely no interest in such work.

Q: I want to briefly follow up on a previous point. You mentioned that you studied law not only for financial reasons but also out of a sense of justice and family background. Later, you were reluctant to take on public roles or participate in certain activities. Is that because you felt they could not meet your expectations?

WCSC: Absolutely not. My reluctance to take on public duties is due to my personality, not because of unmet expectations. In fact, what is 'justice'? It may seem simple, but it is not a straightforward question. 2,500 years ago, Mozi (墨子) said that one person has one sense of justice, and ten people have ten senses of justice. In ancient Greece, the goddess of justice was depicted as blindfolded, signifying that there is no such thing as 'your justice' or 'his justice' but only one justice: justice according to the law.

Q: Is justice determined by adopting a democratic approach by which the legislative process considers what is discussed in society as right or wrong?

WCSC: Yes, the laws enacted should be justice for the majority. If the legislature is undemocratic, that is undesirable. However, this does not mean that laws enacted by a non-democratic legislature are unjust. During the colonial era, the Legislative Council was not democratic, but one cannot say the laws it enacted were unjust. If the laws are not representative of the majority's sense of justice, we can seek reform within the system, which may be slower but less violent. Striving for democracy cannot be rushed; one must continuously 'pocket what you can' (袋住先) because haste makes waste (欲速不達). The UK's current electoral system has undergone evolution over a very long time, with the British repeatedly 'pocketing what they could.'

Q: Have there been any significant turning points in your career?

WCSC: Reflecting on my life, there have been numerous turning points. It truly has been a case of 'doing whatever I want' (任我行), pursuing interests as they arise and stopping when the interest ceases. During my five years in secondary education, I attended five different schools (including a six-month period at a "boarding school" with work-study at a textile factory, which was essentially equivalent to suspension). These five secondary schools were all my

choice. I did as I pleased, and my parents never interfered. While in a pre-university class for HKU, I self-studied to sit for the CUHK entrance exam. During my first year at CUHK, I self-studied again to take the HKU entrance exam. Before starting the Postgraduate Certificate in Laws (PCLL), I chose to get married. I have retired three times as a barrister and returned to practice twice. Throughout these events, my family never uttered a word of reproach. This might be an unprecedented and never-to-be-repeated instance of doing whatever I want.

1. After practising successfully as a barrister for only eight years, I retired in 1987 at the age of 33. My plan was not to return to Hong Kong nor to work in Canada. However, shortly after settling in Canada, a solicitor travelled a long way to my home to ask me to return to Hong Kong for a case. He accepted all my conditions, including multiple first-class flight tickets and five-star hotel accommodations.
2. After living in Canada for over three years, I returned to Hong Kong to resume my practice in 1991. Just three years into my practice, the then Chair of the Bar Association called me unexpectedly, asking me to apply for a QC title. I declined her kind suggestion outright, as I was content with my current situation and had plans to leave Hong Kong before 1997. Given that, why was there a need for changes? A few days later, she called again, urging me to reconsider. After several nights of contemplation, I finally agreed to apply. After becoming a QC, both the quality of my cases and my fees saw a substantial increase.
3. The 'One Country Two Systems' concept was unprecedented. Can a communist China and a capitalist Hong Kong co-exist? When I resumed practice in 1991, I had planned to return to Canada for good before 1997. However, an unexpected family matter compelled me to stay in Hong Kong. The People's Liberation Army arrived, and yet horrifying episodes did not unfold. Eventually, after much contemplation and consideration of the times, I made an informed choice for the second half of my life. I decided to make Hong Kong my home.
4. Another turning point was breaking my own rule to accept interviews from newspapers and magazines, with the hope of inspiring young people from impoverished backgrounds to not feel inferior, not to give up, and to strive upwards. 'There is no inherent nobility; everyone must strive for success' (將相本無種, 人人當自強). As far as I know, the impact at that time was positive. Over a decade later, a lawyer wrote an article in a monthly titled 'From Poor Teenager to QC.' He told me that the article continued to have an inspirational effect in grassroots schools, with one student writing, 'From now on, I will study harder,' and another student saying he would 'fight for his ideals without regret.' It was truly encouraging.
5. After practising as an SC for about 15 years, with both fame and fortune, I retired for the second time in 2008 at the age of 54. Each to their own. I believe that life is short, and one works to live, not lives to work. When I had traversed more than half of my life's journey, I asked myself three questions: First, 'If I were to stop receiving money for court appearances from tomorrow, would I continue?' Second, 'If I didn't continue, would I starve?' Third, 'If I didn't starve, would I be bored to death?' For me, the

answers to all three questions were clearly 'No.' Having sold my time to clients for many years, it was time to keep my time for myself. During my retirement, I wrote two books, one on the history of Chinese dynasties (《古今中外》), and the other on world history: *All Kinds of Everything*.

6. Four years later, whether it was due to 'itching for work' or 'love of money', I resumed practice in 2012. This time, I slowed down, took fewer cases, and implemented a work-life balance. Aside from handling the Occupy Central case, I also dealt with numerous other cases. However, after enjoying the carefree life, money was no longer a significant lure, and I still preferred the lifestyle of doing whatever I want.
7. I began my third retirement in 2017, after which I wrote a book titled *Another Side of America* (《美國另外的一面》). My three retirements (at 33, 54, and 63), and two returns to practice were essentially driven by interest; doing whatever I want. After retirement, my standard of living remained largely unchanged, including continuing to use my original office and secretary. Was my pension fund sufficient? In reality, my wealth only made me subjectively feel 'adequate', far from 'wealthy'. My pension plan was simply to 'live off my savings'. I was born with nothing and I do not mind leaving with nothing.

Q: So, transitioning from a busy career to retirement, apart from writing books, playing tennis, and travelling, how do you spend your time?

WCSC: In retirement, I do not have the problem of finding things to do to spend time; rather, time is insufficient. I rarely take on public roles, but through this interview, reflecting on the past, I realised that I have done quite a bit behind the scenes, giving back to society.

1. My interest lies in education, particularly university education. As early as 2003, I wrote an article, 'Go Out to Grab', urging HKU to go out and 'grab' students, scholars, and donors. During the era of 'waiting for talents,' I was already advocating for 'grabbing talents'. Additionally, I support private investment in universities. As early as 2004, I told the media: 'Hong Kong's donation culture is a disaster relief culture. Running a university is generally considered the government's responsibility. I hope this culture can change.'
2. My 'China Dream' is a 'Rule of Law Dream'. I support the Tsinghua University School of Law, which has a moot court named after me. I am pleased to see my name appear in a top university in Beijing. The then Dean (Wang Zhenmin) later recalled in an article: 'After the donation, we named the moot court after him. He requested no ceremony, no publicity, and repeatedly told me that if anyone else was willing to donate, his name could be replaced at any time.'
3. I support HKU's Law Faculty. I also support the establishment of the School of Law at CUHK. Why would a HKU alumnus support CUHK? At that time, I told the media: 'Post-1997 Hong Kong is the first time in Chinese history that Western common law is practised on Chinese soil. High-quality legal talent is crucial. Donating to law schools is a great investment.' I also said: 'A monopoly makes significant progress difficult. Just

like Oxford without Cambridge, or Harvard without Yale alike, it may become complacent and conduct less research. Pressure from competition is necessary.’ At that time, the Dean of the HKU Faculty of Law (Johannes Chan) said: ‘You may have heard that the Chinese University has proposed to set up a new law school. It is a timely reminder that we should never be complacent with what we have achieved, and we look forward to the challenges.’ One evening, the President of CUHK invited me to dinner at his home and suddenly told me he wanted to name a moot court after me. I love CUHK and am pleased to see my name appear at the Graduate Law Centre of CUHK Law.

4. I have participated in committees at HKU and CUHK. My experience is that the management mostly looks down from above, rather than from the students' perspective, and the higher the level, the more complacent they are. I frankly told the management ‘You are “high above, unaware of grassroots issues”; “I rule while you serve, which is outdated”.’ I did my best to bring the students' voices into the committees, hoping the management would better understand the grassroots. I believe there is too much supervision of university students, turning universities into secondary schools. Once, a dean who considered himself grounded invited a few student representatives to attend a part of a meeting with important figures, giving them a chance to speak. Initially, the students were polite and had little criticism. I felt this was abnormal and told the students that I did not believe things were so smooth. I encouraged them to be bold and said the university was there to serve them and urged them to express their true feelings. Subsequently, they became increasingly bold, raising various issues, which left the management quite astonished. I have also done some work for the Legal Education Fund and the Friends of Tsinghua University Law School Charitable Trust.
5. I believe this world has too many people who start with a conclusion and then find the evidence to support it. They only present their own facts and arguments without listening to and understanding the facts and arguments presented by others. Moreover, there are too many instances of double standards throughout history and across the world. I wrote 《古今中外》 (*Chinese Civilisation*) and *All Kinds of Everything* to ‘increase general knowledge, know oneself and others, reduce prejudice, and think independently.’
6. For many years, I have enjoyed visiting university campuses around the world. I found that, generally speaking, Western law schools and courts not only have independent buildings but are also quite solemn, which I believe represents their emphasis on the rule of law. Many years ago, HKU Faculty of Law successfully secured land on campus to build its own building. I saw a short article with my photo in the Faculty of Law's May 2012 publication *RES IPSA LOQUITUR THE FACT SPEAKS FOR ITSELF* on page 190: ‘At Your Convenience... Warren Chan, S.C. (an alumnus and a major donor of the Faculty of Law) was having lunch with the Vice Chancellor and was telling him about a university in China that he had visited in the early 1980s because it was one of the few to have a functioning Faculty of Law. Mr. Chan gave a graphic description of the dilapidated condition of the building and its peripheral, but convenient, location

next to the public toilet and a bus stop. It was, he said, a symbolic representation of the value placed on the Rule of Law in China, at least at that time. It is said that it was this conversation that alerted the University to the importance of the location and design of the new accommodation of its own Law Faculty.'

7. Once, Tung Chee-hwa invited me to have meal through an intermediary, but I did not go. He was a former Chief Executive and a state leader, and in hindsight, I was truly rude and excessive. A few months later, he contacted me through another person, saying he had read the two books I had written and wanted to meet me. After discussing the two books, he invited me to join his organisation, Our Hong Kong Foundation. I tried hard to decline, but he was too charming, and felt obliged to agree. Later, he asked me to become a director of the foundation. Among my friends, there are those pan-democrats and pro-establishment political views. I believe that most of my pan-democratic friends are patriotic; it's just that people's 'China Dream' focuses on different aspects. Generally speaking, pro-establishment friends have a biased and limited understanding of the ideas of pro-democracy friends; of course, vice versa. Different people sit in different wells, observing the sky, then gather around the fire place for warmth, leading society to increasingly severe polarisation. During my time as a director, I took every opportunity to convey the thoughts and ideas of my pan-democratic friends to my pro-establishment friends. Likewise, I gave pro-establishment friends a voice in front of my pan-democratic friends. I hoped everyone would know themselves and others, be harmonious in differences, and coexist peacefully. Tung Chee-hwa invited me for private conversations many times, even after my resignation from the Foundation, and almost every time, I spoke about the issues Hong Kong's pro-establishment and Beijing faced from pan-democrats' perspective. He listened attentively each time and shared his views. We had very pleasant conversations. Twice, I became emotionally uncontrollable and broke down in tears (once for the pan-democrats and once for the poor), which was quite embarrassing. He is a good man, truly a very good man, with a high degree of tolerance. He never said a word about my repeated rudeness. I respect him. When I had the opportunity to speak with high-ranking officials from Beijing, I would passionately articulate the issue of the return of Hong Kong people's heart (香港人的人心回歸) within a few short minutes, fearlessly expressing my thoughts. In my personal profile as a director of Our Hong Kong Foundation, I stated my 'China Dream': 'Warren is a patriotic individual holding a foreign passport. He sincerely hopes that the rule of law in his motherland can develop more rapidly and substantially so that every Chinese person, regardless of wealth, status, or political views, can receive genuine and fair protection under the law.'
8. I have written thirteen essays for newspapers. The first was about 'The Income of Barristers', and after writing 'Starting with a Conclusion, Then Finding the Evidence', I announced my retirement from writing. I started writing when I wanted to and stopped when I didn't, again doing whatever I want. Several months later, I accepted an invitation to write an essay on 'The Path to Life and Death for Israel and Palestine'.
9. Some people speak extensively about human rights, while others speak about responsibilities. The simple truth is that when exercising human rights and enjoying

freedom, one cannot forget responsibilities. I hope everyone will strike an appropriate balance between human rights and responsibilities. After much consideration, I not without long hesitation donated a sum of money to establish a 'Human Rights and Responsibilities' Professorship in Law at the University of Hong Kong. I said: 'Human rights are important, and human responsibilities are equally important. Ask not just what your rights are, but also what your responsibilities are, to yourself, to others, and to the environment. Every society will have to strike its own balance of such rights and responsibilities.'

10. I received a grade D in the English subject of the Hong Kong Certificate of Education Examination (HKCEE), and to gain admission to the law faculty, I started reading English magazines. I achieved an A in Use of English at HKU. In Form 6, within a few short months, I made a great leap from the bottom of the class in the HKCEE to the top. For twenty years, I have established the 'Best Improvement Award' at that secondary school (where I only studied for one year), with awards from Form 1 to Form 6. I set up an 'Enrichment Scholarship' at HKU's Faculty of Medicine, established a 'General Education Award' at CUHK and supported the I.CARE Programme, set up scholarships at the City University of Hong Kong's School of Law, and established the 'Best Academic Improvement Award' at the Education University of Hong Kong. Today, my pension fund is fast diminishing, and must be kept for my use.
11. Today, I disclose my 'extracurricular activities' so that young people do not think I am merely an alumnus who only made money and retired, without giving back to society, inadvertently becoming a bad example in their minds. Many years ago, HKU notified me of their intention to nominate me to become an Honorary University Fellow. At the time, I did not even know what a 'fellow' was. One day, the President of CUHK suddenly called me, saying he had already nominated me for an Honorary Fellowship. I am grateful to HKU and have a deep affection for CUHK, so I was happy to accept the honour. One day, Lingnan University, with which I had little interaction, called me, saying they wanted to nominate me for an Honorary Doctor of Laws degree. I was quite astonished and asked what I had done to deserve it. They said: first, I had contributed to the legal profession; second, I had contributed to legal education; third, I had contributed to liberal education. Momentarily feeling self-important, I agreed with their assessment and accepted the nomination. I hope to do something for Lingnan University at an appropriate time.

Q: It is well known that you have many pupils, and now many outstanding Senior Counsel are your former pupils. What common traits do you think they possess that have led to their success?

WCSC: The more successful of my pupils typically possess several key qualities: they have competence, confidence without arrogance, a strong sense of responsibility, respect for their mentors, and they earn money without being greedy. Those less prominent in reputation also work diligently and maintain good personal and family lives. The mentor-mentee relationship, lasting only a year or so, cannot fundamentally change an adult who has already graduated from university. Essentially, a mentor's primary role is to teach how to be a good barrister. In

this respect, leading by example is more important than verbal instruction. In litigation, there are winners and losers. The highest level of professionalism is when, regardless of winning or losing, the client believes you have given your all.

A barrister is in the service industry, serving both your clients and the solicitors who instruct you. No case is small, and no client is insignificant. Every case should be fought for the client's interests within the bounds of legality, reason, and fairness. At the Mei Ho House in Shek Kip Mei (Public Housing Museum), my words are quoted: 'In my mind, no single case is of minor importance. The poorer the client, the more effort I must put into their case. I was born poor, and I understand what 500 dollars means to a poor person.'

Q: With the change in mindset after your retirement, have you ever considered taking up teaching roles, such as lecturing at a university?

WCSC: My personality is to do whatever I want, pursuing interests as they arise and stopping when the interest ceases. Teaching requires scheduling. If I agree today to lecture on a certain day, I might not be in the mood to lecture when the day comes, but once agreed, I cannot back out. It's too troublesome!

Q: Finally, we would like to ask you about your observations on the legal profession in Hong Kong and the overall situation in Hong Kong. Firstly, what major changes do you think have occurred in Hong Kong from when you started practising to now on, particularly regarding changes in the legal profession and the overall state of the rule of law?

WCSC:

1. *The Changing Hong Kong*

When I started, Hong Kong was neither an international metropolis nor a financial centre; it was merely an industrial city with numerous factories (textile mills, dyeing factories, plastic factories, electronics factories, etc.) and many workers. The initial cases involved industrial injuries, traffic accidents, landlord-tenant disputes, and sale of goods. The facts were simple, the sums involved were not large, and barrister fees were not high, with no significant legal points at issue. Later, as Hong Kong's economy transformed, it evolved into an international financial centre. Cases became more complex, the sums involved in litigation grew larger, and barrister fees increased accordingly. Initially, the clients were mostly locals, then came the British. As the British presence waned, Americans came. As the Americans decreased, the Japanese came. As the Japanese decreased, the Taiwanese came. As the Taiwanese decreased, Southeast Asians came. As Southeast Asians decreased, mainland Chinese came. People from all over the world have come to this place. Why?

2. *The unchanged Hong Kong*

First, a glance at the map reveals Hong Kong's advantageous geographical position (location, location, location). Second, a comparison shows that Hong Kong people are both smart and hard-working. Third, in Hong Kong, most of what you earn is yours:

low taxes, low tax rates (tax haven). Fourth, people and capital move freely in and out of Hong Kong (freedom of movement, people and capital). Fifth, personal and property safety are protected by the rule of law, making it very safe (law and order). Sixth, Hong Kong practices a common law system, offering high levels of protection for human rights and private property rights (common law). These are the main factors behind Hong Kong's long-term success. Additionally, other advantages include its beautiful harbour (like a beauty attracting many suitors), infrastructure, education, and healthcare. Currently, there is also a huge market nearby. How many places in Asia or even the world have such conditions?

3. *The World Changes, You Do Not—Is It Nostalgia?*

Every time the economy transforms, there are voices proclaiming the end of Hong Kong. They often view the new world with old thinking (their own golden years). I still remember when the scale fee for property transactions by solicitors was abolished, many successful solicitors claimed the legal profession was 'finished.' When property prices plummeted, a real estate tycoon told me in a meeting that Hong Kong was 'a dead pond' (一潭死水). Sell, sell, sell, and no longer playing the game. Those who have had their glory days tend to be nostalgic, thinking the past was better. Would you prefer practising in the 'cottage factory' era or in an international financial centre? At any time, there are both successful and unsuccessful people. The successful find ways, the unsuccessful find excuses.

Hong Kong people excel at adapting to changes, becoming stronger after each downturn. The facts are clear: time and again, Hong Kong has not ended with all its ups and downs. On the contrary, the repeated claims of Hong Kong's demise have ended. It's no wonder some say that those who bet long-term against Hong Kong are losers.

4. *The Development of Local Lawyers*

When the law school was first established, the legal profession in Hong Kong was uncertain about the quality of its graduates. In an era of Western admiration, how could local law students compare to expatriates and returnees from the UK? In this regard, we must thank the first cohort of barristers from the law school, especially Ronny Tong, Kenneth Kwok, Edward Chan, and Andrew Liao, the 'Four Heavenly Kings' (四大天王). Additionally, another barrister, YC Mok, stood out. They were all 'formidable fighters,' each one a star. Ronny Tong even achieved first-class honours in the Bar exams in England, truly enhancing HKU Law's reputation. At that time, solicitor firms and barrister chambers in Hong Kong were mostly filled with expatriates and returnees from the UK. Suddenly, a few local youngsters arrived, who might have initially lacked confidence in being hired. However, once hired, it was clear they were competent, not inferior to the 'returnee' barristers. The first cohort was small in number, yet it produced four Queen's Counsel. As far as I know, YC Mok did not apply to become a QC himself. From my experience, these five senior brothers could hold their own against most British QCs. I haven't mentioned solicitors because I'm less familiar with that side, but I believe their standards are similar to those of the barristers. The first cohort of

graduates from HKU Law truly gave the legal profession a boost of confidence, making the legal community more willing to accept its graduates. I am grateful to my seniors.

5. *Changes in the Legal Profession*

Essentially, the legal profession reflects the political and economic environment. During the 'cottage factory' era, litigation was simple, the sums involved were small, and the cases were not significant, holding little reference value in the common law world. Now, it's entirely different. Hong Kong is indeed an international financial centre as such. Major litigations are no longer about industrial injuries, landlord-tenant disputes, or sale of goods but commercial, financial, and listed company-related cases, large inheritance disputes, and property transaction disputes, sometimes reaching an extraordinary level of complexity. The sums involved in cases are increasingly large, and naturally, high-profile cases attract top barristers. High-level arguments by barristers naturally elevate the quality of judicial opinions. Over a decade ago, I seriously asked a British QC about the quality of judges of the Court of First Instance of the High Court in Hong Kong. This serious old gentleman sternly told me: 'Hong Kong High Court judges are as good as any High Court judge in London.' Now, our judges are held in high regard in other jurisdictions, with others referencing our court cases. The quality of our judgments today cannot be compared with those from the 'cottage factory' era.

6. *The Overall State of the Rule of Law*

The world is constantly changing. Today's Hong Kong is no longer the Hong Kong of the past. After the handover, it is 'One Country Two Systems,' not a colony. Every society in the world has its problems. Some societies have democracy and the rule of law, yet still face many issues. Some have the rule of law but no democracy; some have democracy but no rule of law. In short, the world is imperfect. Throughout history, there are opportunities in crises and crises in opportunities (古今天下事，危中有機，機中有危). Successful people do not only see the crisis and miss the opportunity. My nature of doing whatever I want means I pursue democracy and yearn for freedom. Of course, I have my dissatisfactions. I believe judicial independence is the cornerstone of the rule of law and Hong Kong's priceless treasure. Judges have no bosses when handling cases and are not influenced by factors outside the court. In this respect, I have never heard of the Chief Executive calling a judge or through others instructing a judge on how to make decision. I have not heard of Beijing officials instructing judges on how to decide cases either. Of course, individual judges 'knowing what to do' is another matter, which happens globally. However, I do not believe Hong Kong's judicial independence is compromised to the extent that it cannot be maintained. Of course, there is always room for improvement in the rule of law, and we must continue our efforts.

7. *The Path to Popularising the Rule of Law*

The rule of law should be for everyone, not just the wealthy. A healthy rule of law society requires many barristers to handle different issues for people of all classes. When I first started, the legal profession was quite "noble", with few law firms located outside Central. Is it healthy for the rule of law if an ordinary person cannot afford

ordinary legal fees? There should be law firms and barrister chambers in places like Tin Shui Wai and Sham Shui Po, serving the local populace. More lawyers and greater competition are healthy phenomena in a rule of law society. We should not talk about the rule of law while harbouring an elitist mindset. I told a weekly magazine in as early as 2004 that 'some say there are too many lawyers. I strongly disagree... If we don't train more lawyers, how can there be law firms in Tuen Mun and Tai Po? How can there be '\$999 for a divorce'? This is certainly a good phenomenon. The middle class and the underprivileged should also have lawyers protecting them!' The more law students, lawyers, and barristers, the better. The more judges, the better. Someone who aspires to the rule of law should welcome the growth of successive generations in competition, serving citizens of all classes. We should say goodbye to the rule of law for the few and the elite.

8. *Is There a 'Lucrative Path' in Being a Barrister?*

Barristers' incomes have always seemed somewhat mysterious. My fees are based on the supply and demand for my time. For decades, my time has been in short supply, so why fear that my fees might be too high? Whether a barrister's fees are low or high isn't the issue; the important thing is that the instructing solicitor feels it is worth it. Therefore, I do not concern myself with other barristers' fees.

Where can one find general objective data on barristers' incomes? Over twenty years ago, a barrister friend complained to me about how 'hard it was to make a living' and 'having to pay high rent.' In fact, I have heard many other barristers (living in grand places) say the same thing. I held back for a while and then asked, 'I don't believe you made less than \$500,000 last year.' He calmly replied, 'Well, I paid more than \$500,000 in taxes.' A person's subjective 'hard to make a living' might be an objective dream income. Barristers' fees have no lower or upper limit. Generally speaking, the more competent a barrister, the higher the fee. The first day's court appearance fee is called a 'brief fee,' which includes general preparatory work. The 'brief fee' can range from a few thousand to millions or even tens of millions. Subsequent court appearance fees are calculated daily, called a 'daily refresher,' ranging from a few thousand to over two hundred thousand. Barristers' 'conference fees' are generally billed hourly, from a few hundred to tens of thousands per hour. Many Senior Counsel are 'moon inhabitants' 「月球人」 (earning over ten millions annually), and 'star inhabitants' 「星球人」 (earning over more than fifty million annually) are also there. Years ago, a solicitor joked: 'When you use a QC, you know the fees are high. When you use SC, you know the fees are deep!' Meanwhile, some barristers do not earn enough and have to 'change careers.' Success and failure are natural phenomena. Of course, a barrister can choose to 'serve the people.' I would never say that a barrister earning \$500,000 annually serving Sham Shui Po residents contributes less than a Senior Counsel earning \$50 million serving the wealthy. On the contrary, their work is more grounded. In civil cases, most lawsuits are about money. Friends, spouses, siblings, and parents turning against each other are all about money. Money, money, money. In a commercial case, my opponent was a human rights Senior Counsel. During the trial, he emotionally said he didn't understand why businessmen would sue each other over money again and again. I believe, in his heart, fighting for human rights was

meaningful work. Each to their own, we should not judge a barrister's achievements by their fees. A barrister's golden period is limited. As age advances, health deteriorates, and at the peak of fame, one may unknowingly head downhill. Each new generation excels the previous (長江後浪推前浪), and no glory is eternal.

Q: What valuable advice would you give to current law students in Hong Kong?

WCSC:

1. *Where is my home?*

Everyone must make an informed choice regarding their future. For me, if (and of course history does not entertain 'if') I were practising in today's environment, I would find it more challenging (an international financial metropolis rather than a 'cottage factory') and more meaningful ('One Country Two Systems' rather than a colony). Moreover, I firmly believe my income would be higher, and I could donate more money. The world is changing, and the rule of law in different places may progress or regress at times. When it regresses, we must continue to work and not give up easily. Hong Kong is a fascinating place: colonial interests and patriotic sentiments, tradition and modernity, Confucianism and the rule of law, Buddhism and Christianity, parental authority and democracy, authoritarianism and freedom, subjects and citizens, 'parental officials' (父母官) and public servants, integration and conflict, one country and two systems. In Hong Kong, you will never be bored. Today's Hong Kong is a once-in-a-lifetime city in Chinese history. However, if you are pessimistic about 'One Country Two Systems,' living in constant fear, believing that the 'new Hong Kong' has no future or financial prospects, or is uninhabitable, then shouldn't you seriously consider relocating to your ideal place, striving hard in a new land, contributing to the local society, and proving through your actions that your informed choice is correct? Staying in Hong Kong, constantly complaining, living in fear, and rejoicing in Hong Kong's decline, is beneficial neither to yourself nor to others.

2. *Seek knowledge and be adaptable*

Studying (legislation and cases) to pursue legal knowledge is fundamental. Equally important is understanding the principles of law and the spirit behind them. You should read the words and contemplate their meaning, applying the principles dynamically. The adage 'Learning without thinking is useless; thinking without learning is dangerous' (學而不思則罔, 思而不學則殆) applies both in academic and professional life. When you are both knowledgeable and adaptable, you will naturally have confidence, and your answers to questions will be straightforward and clear. During my student years, I spent almost a third of my time teaching. My first-class honours were achieved by reading on the ferry (between Sham Shui Po and Sheung Wan) and contemplating on the bus. During my practice, my cases were the result of relentless thinking and rethinking day after day. Do you remember the case that made my name when I first started? Was it luck? A 'small case' with no chance, if not for my attitude at the time, thinking and rethinking until midnight... When opportunity comes, you need to be capable; opportunities are reserved for those with ability.

3. *Facing the world with confidence*

We should neither be arrogant nor self-deprecating; we must be confident. During my practice, I have observed the performance of many renowned British Queen's Counsel and have worked with lawyers in New York and Chicago. In my youth, I revered British QCs like gods. However, after more interaction, I realised they were not so extraordinary. Let me tell you, the standard of Hong Kong's legal profession is not below world standards, and students educated in HKU Law are of world-class calibre. As early as 1999, I wrote in an article ('Hard Work') highly praising our legal education which goes, 'During my past twenty years of practice, I have had the privilege of meeting and working with top lawyers from a number of common law jurisdictions. As a result of such experience, I believe that (notwithstanding my many inadequacies) I have been justifiably proud of the quality of my legal education.'

4. *Make an informed decision when choosing between being a solicitor or barrister*

The work of solicitors and barristers is very different, even their work environments are quite different. Do you want to be a barrister? You need to make an informed choice. A barrister relies on ability; once in the boxing ring, it no longer matters who your father is or which university you graduated from. What sacrifice do you have to make for being a barrister? Do you know the income of barristers (both average and famous)? If you lack such basic objective data, how can you make an informed decision? Remember, do not make a life-impacting decision based on hearsay. In any society, most people are ordinary. Hong Kong needs ordinary barristers to serve ordinary citizens, and these barristers do not need to be the best of the best. Students, do not be discouraged from becoming a barrister because of poor grades. How would poor exam results prevent you from becoming a great cross-examiner?

5. *Walk the path of the rule of law for yourself and others*

In an article I wrote for the Faculty of Law in 2003 ('To China with Love'), I said 'The rule of law is of particular importance to mainland China. Hong Kong is the first place in the history of China to have a common law system. If our legal system continues to do well, it will certainly have a beneficial effect on the development of the rule of law in mainland China... Just by doing your job, and doing it as best as you can, you will already be making a contribution to the development of the rule of law in mainland China.' Students, for your own prosperity and for the rule of law in Hong Kong, quickly embark on a wonderful life journey that you will not regret.

6. *Giving back to society*

There are three stages in life: studying hard as a student, working hard during your career, and enjoying life while also giving back to society during retirement. You are the elite and should not have an 'entitlement' mentality, nor should you think that 'society owes you.' Instead, you should cultivate the mindset that you must give back to society in the future.