

The 12th Red Cross International Humanitarian Law Moot
15 March 2014

Speech by
the Honourable Chief Justice Geoffrey Ma

1. Sir TL, Mr Lo, Mr Ho, Mr Ryter, judges, participants, distinguished guests, ladies and gentlemen. It is always an honour, certainly a great pleasure to be invited to attend this ceremony. I see as one of the judges of the Final Round Mr Justice Patrick Chan, who I know has for many years taken a keen interest in the Red Cross International Humanitarian Law Moot and supported it. He retired from the Court of Final Appeal last year. I hope he will not mind me saying this but for me, Patrick Chan represents precisely what a Judge should be: learned, fair to all who come before him and above all, just.

2. Justice is sometimes an elusive concept either to define or to achieve in any given case. No doubt many of you in this courtroom today are or are destined to become lawyers, and you will understand the point I am trying to make. Most members of the public see little difficulty in judging. After all,

surely it is a simple matter of deciding who is good and who is bad, who is honest and who is dishonest, and so on. They also do not understand why, for example, cases take so long to argue by lawyers, why Judges may take a long time to arrive at their determination in cases and when written judgments are produced, why they can be so lengthy. Our friends here from in particular Australia, perhaps Singapore too and Hong Kong, will know that judgments can sometimes run to tens if not hundreds of pages. The mooted problem for the Final has required all participants to read lengthy and at times, quite dense, judgments.

3. There are often good reasons for lengthy judgments. If one was cynical about this, one would say that some Judges were self-indulgent, writing for posterity. Far from it. There are two reasons why judgments have at times to be long and detailed:-

- (1) First, there is the obvious point that a Court's judgment is one of the main ways of demonstrating the transparency of the law, and in this way therefore

promoting the rule of law. A reasoned judgment shows to the world that a Court has decided a case in the only way that Judges are constitutionally mandated to act, that is, to decide cases according to law and legal principle, and nothing else.

- (2) Secondly, a lengthy judgment shows that quite often courts have to deal with extremely difficult issues, and none more so than when the opposing arguments each have force and each can be said to be a plausible and reasonable argument, even though quite diametrically opposite in result. And yet, since the buck stops with the Court, a decision must be made, but adequate reasons must be given.

4. In the context of warfare and international crimes where, as the flyer for the Seminar on International Humanitarian Law (part of this year's Red Cross International Humanitarian Law Moot) says, "Even war has limits", this feature of reasonable, sometimes even compelling, opposing

arguments is certainly present. The arguments for and against the prosecution of General R Stun before the International Criminal Court will have been finely balanced. While, for today's purposes, the actual result of the proceedings before the Court matters little, in real life it does.

5. What matters today of course is the wonderful participation of 25 universities from over 17 countries. I congratulate all participants and the organizers, and hope that everyone has found the experience a useful one.