
Kluwer Mediation Blog

Rule of Law and Mediation

Ting-Kwok IU (Kwok, Ng & Chan, Solicitors & Notaries) · Friday, December 2nd, 2022

Secondary school students also have an important role to play in upholding the rule of law.

The idea of organising a mediation essay competition for secondary school students was mooted in 2019. Despite the covid pandemic, the Mediation Essay Competition 2020 was successfully organised by the Department of Justice, the Education Bureau, Rotary International District 3450 and Asia Conflict Resolution Institute. On 21 November 2020, the Prize Presentation Ceremony was held as one of the programmes of the School Mediation Seminar. Time flies and the Mediation Essay Competition 2022 Prize Presentation Ceremony will be conducted on 3 December 2022. As the founder/director of Asia Conflict Resolution Institute, I shall give an opening speech (in Chinese) on the morning of 3 December 2022 (Hong Kong Time) at the Justice Place of the Department of Justice. The following is the English translation of my speech to be delivered in front of the essay competition winners and some of the peer mediators, who are secondary school students. I hope secondary school students and their teachers no matter whether in Hong Kong or other jurisdictions will be interested to read my piece and uphold the “rule of law” by supporting mediation.

Fellow students, if you cannot grasp the concept of the “rule of law”, please don’t feel ignorant or inadequate.

After serving in the legal profession for more than 30 years, the phrase “rule of law” still appears distant and difficult to me at times.

Some say that the phrase “rule of law” originated from the masterpiece “An Introduction to the Study of the Law of the Constitution” by A.V. Dicey, an eminent law professor at Oxford University in 1885. Others suggest that the concept of the “rule of law” was first explored by the Greek philosopher Aristotle as early as 300 B.C.

Lord Bingham, the former Lord Chief Justice, published the book “The Rule of Law” at the beginning of this century. The book is only around 200 pages long, and its text is relatively straightforward. It seeks to explain the concept of the “rule of law” to the public in an easily comprehensible manner. In the second part of the book, the author lists out eight principles of the “rule of law” and one of which is “Dispute Resolution”. In elaborating such a principle, Lord Bingham mentioned that when disputing parties are unable to resolve bona fide civil disputes, such disputes should not be allowed to remain unsolved because of prohibitive legal costs or inordinate delay.

Last month (November 2022), in a public event, the Honourable Chief Justice Cheung Kui-nung mentioned that the natural extension of the “rule of law” is to develop different mechanisms for resolving disputes. As society progresses rapidly, courts must respond by developing cost-effective and timely methods of dispute resolution to meet the needs of the society.

Thus, it can be seen that the concept of the “rule of law” is closely related to “mediation”.

Fellow students, you were taught mediation knowledge and skills, participated in the mediation essay competition 2022, and joined activities like the Hong Kong Secondary School Peer Mediation Competitions. I believe that all these have sowed seeds for upholding the “rule of law”. Why? It is because you now embrace, recognise and promote mediation. I trust that when you come across disputes in the future, you will be better prepared to resolve such disputes efficiently, thereby easing directly the impact of the aforementioned negative factors affecting the “rule of law”, such as prohibitive legal costs and inordinate delay.

As the mediation ambassadors of the new generation of society, you should continue to advance and promote particularly mediation-based alternative dispute resolution mechanisms amongst your peers, with the aim to build a harmonious society, to lay a foundation for mediation and amicable settlement and to establish a positive environment for resolving disputes, so that dispute resolution, being a component of the “rule of law”, can prosper.

Practically speaking, when your relatives and friends come across disputes, please tell them not to resort to litigation immediately. You could remind them that there are different dispute resolution platforms and services in Hong Kong, and that they can even resolve their disputes through online platforms. A good example is the government-endorsed eBRAM International Online Dispute Resolution Centre Limited (“eBRAM”). In fact, eBRAM’s online arbitration platform and online mediation platform were officially launched on 24 October this year. It provides an affordable, reliable and secure platform for amicable resolution of local, cross-border and international disputes through mediation and arbitration.

If your relatives and friends run into family disputes such as divorce, please advise them that divorce cannot and should not be resolved by litigation. Communication is always better than confrontation. Divorced parents should redefine their relationship and jointly take up parental responsibilities to raise their children.

All in all, the promotion of the “rule of law” and the promotion of mediation should not only rest on the judiciary and legal practitioners. It should begin with secondary school students like all of you here.

As the founder of this essay competition, I would like to take this opportunity to express my gratitude to all participating students and their teams. My gratitude is also extended to the adjudication panel members, the Department of Justice, the Education Bureau and Rotary International District 3450 for their effort and tremendous support. I hope everyone will utilize the knowledge gained from this essay competition in the future. And I look forward to meeting you all again on the path of promoting mediation. Building a harmonious society begins with us. Thank you!

Grateful to (1) Mr Andy C. Y. Kwok, barrister of Anthony Rogers Chambers for assisting in the Chinese text; and (2) Miss Tiffany Lim, Government Counsel of the Alternative Dispute Resolution Team, Civil Division, Department of Justice for translating the speech into English.

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