

**FAREWELL SITTING FOR THE HONORABLE
MADAM JUSTICE MARIA CANDACE YUEN KA-NING
JUSTICE OF APPEAL OF THE COURT OF APPEAL**

FRIDAY, 15 DECEMBER 2023 AT 9:30 AM IN COURT NO.1

SPEECH OF THE PRESIDENT OF THE LAW SOCIETY

1. Chief Justice, Chief Judge of the High Court, Madam Justice Yuen, Members of the Judiciary, Secretary for Justice, Chairman of the Bar Association, distinguished guests, ladies and gentlemen, today, we gather here to bid farewell to a distinguished jurist and a true pillar of the legal profession of Hong Kong – Madam Justice Yuen.

2. Madam Justice Yuen has been playing a pivotal role in the development and evolution of civil law in Hong Kong. Her contributions are invaluable and often transformative. By interpreting and applying the law, she ensures the legal system adapts to the changing societal needs and norms.

3. Her contributions are far too numerous to list in full, but I would like to share with you within the limited time here just one of the legal milestones Madam Justice Yuen has established for Hong Kong. In the landmark case of *DD v. LKW* (reported in [2008] 2 HKLRD 523¹), Madam Justice Yuen heard the case along with two other Justices on the panel. The case is a significant family law case in Hong Kong. It involved the division of assets following a divorce. The wife appealed the lower court decision that only one-third of the joint assets should go to her.

¹ *DD v. LKW*; Reported in: [2008] 2 HKLRD 523
https://legalref.judiciary.hk/lrs/common/search/search_result_detail_frame.jsp?DIS=60321&QS=%2B&TP=JU

4. The Court in that case was presented with the question as to whether the "reasonable requirements" approach, which had been applied in Hong Kong at that time, should be replaced by the "fairness" approach of the House of Lords decision in *White v White* [\[2001\] 1 AC 596](#). In analysing the case, Madam Justice Yuen rightly considered that the developing socio-economic conditions and increasing human rights awareness applied as much in Hong Kong as they did in England. And as Hong Kong had herself advanced socially and economically, the maxima set by "reasonable requirement" in previous cases could no longer serve the overriding objective of fairness.
5. Madam Justice Yuen justly considered it was fair for the wife to receive half of the joint family assets.
6. The importance of this judgment should be seen against the background of many emerging divorce cases around that time, and the wish of many to have clarification on the impact of the English case *White v White* (supra) in Hong Kong, as well as the interpretation of the Matrimonial Proceedings and Property Ordinance, in light of the case law development in England and Wales and in Hong Kong.
7. The ruling of the Court of Appeal was upheld by the Court of Final Appeal (*LKW v DD* (2010) 13 HKCFAR 537). This brought Hong Kong into line with other common-law jurisdictions.
8. This landmark case lays down the principle of equality of division; it continues to have a major impact on divorce cases that centre on asset division. Its impact has been seen in many important subsequent cases,

such as those in respect of third parties, trusts, post separation accruals, and pre-nuptial agreements, where the principles and steps laid down in this case have been applied and followed by courts at different levels over the past 10 odd years.

9. This case is a testament to Justice Yuen's commitment to upholding justice and fairness, and giving the law a modern and updated interpretation that addresses social changes in Hong Kong.

10. Madam Justice Yuen's service extends beyond her role as a Justice of Appeal. She has been an active participant in various committees, contributing her expertise and leadership to enhance the functioning of our legal system.

11. She served as a Member of the Civil Court Users' Committee from October 2003 to October 2012². Her commitment to improving the court system for its users is commendable. Following this, she took on the role of Chairman of the Civil Court Users' Committee from October 2012 to November 2013³, leading the committee in its efforts to make the civil court system more user-friendly and efficient. In addition, Madam Justice Yuen was a Member of the Conditional Fees Sub-committee of the Law Reform Commission in 2003⁴, sharing views and contributing to shaping the legal landscape on various fronts and has set the stage for discussion on alternative funding operations for dispute resolutions.

² <https://www.judiciary.hk/doc/zh/publications/2003/appendices.pdf>;

https://www.judiciary.hk/en/publications/annu_rept_2012/eng/court_users.html

³ https://www.judiciary.hk/en/publications/annu_rept_2013/eng/court_users.html

⁴ https://www.hkreform.gov.hk/en/members/con_fee.htm

12. These roles highlight Madam Justice Yuen's dedication to serving the community and her commitment to improving the legal system. Her contributions in these roles have significant impacts, and her efforts are deeply appreciated.
13. Madam Justice Yuen's career is marked by integrity, diligence, and an unwavering commitment to justice. The wisdom and fairness she has displayed have earned her the respect and admiration of colleagues, peers, and all who appeared before her.
14. Through her dedication and service, Madam Justice Yuen has made lasting contributions to Hong Kong's legal system and the development of jurisprudence in different areas of the law in Hong Kong. Her depth of knowledge and expertise have helped push the boundaries and inspired confidence in the laws of Hong Kong. Her legacy will continue to inspire future generations of judges and legal practitioners. There is no doubt that she will continue to serve the community in various capacities in her retirement.
15. On behalf of the Law Society of Hong Kong, I offer my heartfelt appreciation to Madam Justice Yuen for her dedicated service to the Judiciary. As she starts a new chapter in her life, I wish her a happy, healthy and fulfilling retirement!