



# *Law: Forty Years On*

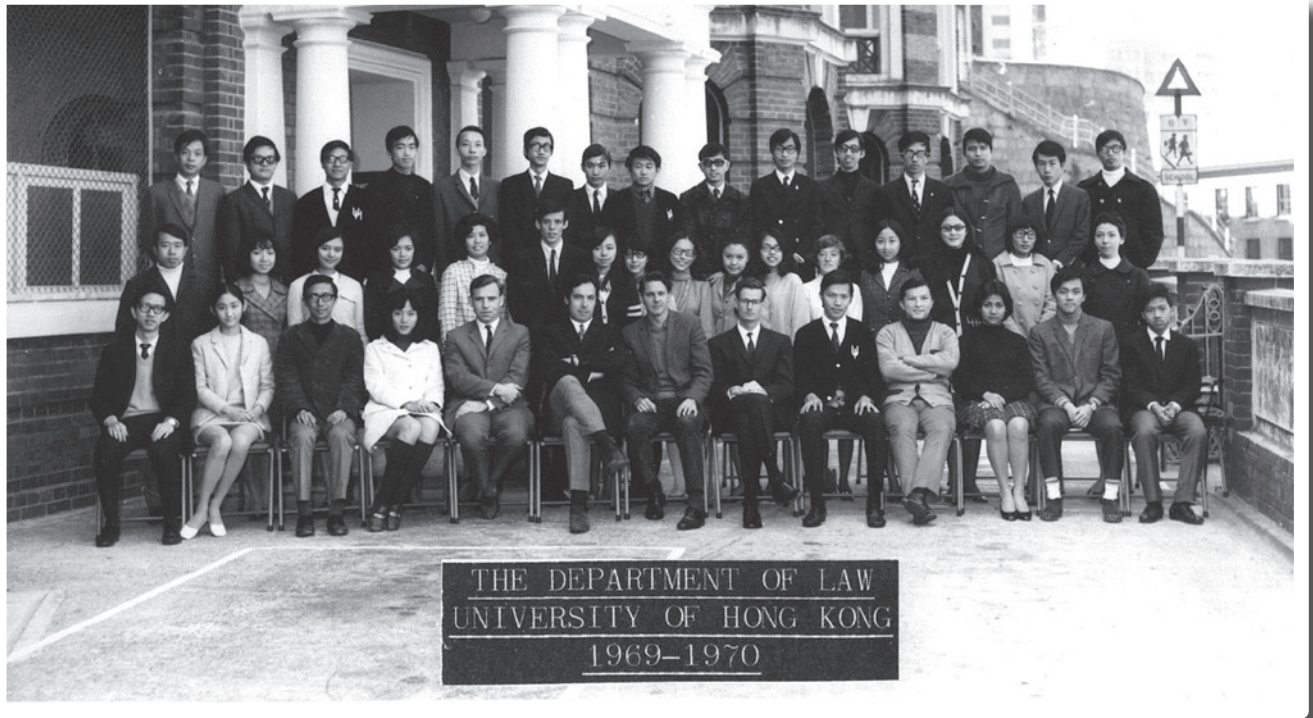


Department of Law at Caine Road, 1969-1973.



*F*orty years are almost half a century. The child who used to play on the streets is by now one of the many established professionals or community leaders of the same piece of land. Forty years can engender enormous transformation, both for the child and our Faculty of Law, which humbly started as a Department of Law in 1969 with only one undergraduate programme of about 40 students per year. It grew into the School of Law in 1978 and attained full Faculty status at The University of Hong Kong in 1984.

*In 2009, the Faculty of Law is happily celebrating its 40<sup>th</sup> anniversary.*



Department of Law in 1969: 3 academic staff members (Mr Bernard Downey, Professor Daffydd Evans, Mr John Rear) and 40 students.

# A Sense of

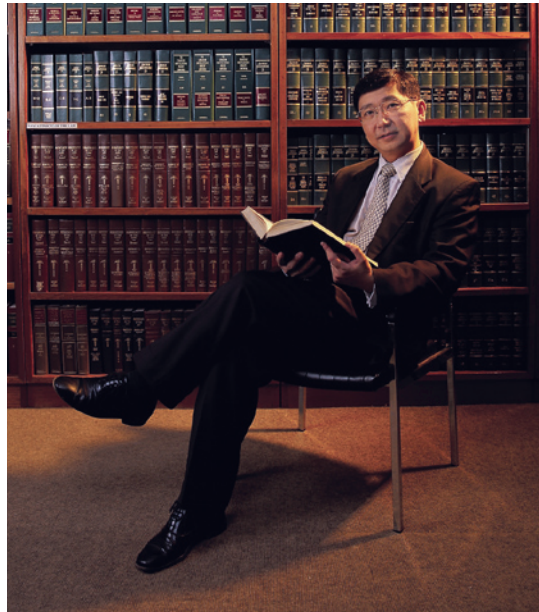
**Forty years ago, we planted the seeds that have proved to be crucial to upholding the rule of law in Hong Kong. Today, we hope to plant another seed that would lead to the blossoming of a service culture among law students and the next generation of lawyers.**

When the law school began its life 40 years ago, it had barely three teaching staff members and about 40 students. Forty years down the road, we have almost 80 teaching staff members and about 1,400 students.

We started off as a local law school with a single mission to nurture local lawyers. Now we can proudly say that we are among the best law schools in the world with a strong global reputation and a mission that transcends the vocational training of legal professionals.

This special occasion of our 40<sup>th</sup> anniversary is not just a time to look back at and celebrate what we have achieved. More importantly, it should be a time for reflection and forward planning – an intermission to ponder where we are going from here.

Forty years ago, China was at the height of the Cultural Revolution. In contrast, Hong Kong's economy was ready to take off, particularly its light industry. In anticipation of a greater demand for legal services, the University took the courageous step to establish the law school. In the following 40 years, we have produced not just eminent lawyers and judges, but also leaders in many different fields.



**Professor Johannes Chan SC(Hon)**  
**陳文敏 (LLB 1981; PCLL 1982)**  
**Dean, Faculty of Law**

# Mission

On the other hand, demand for legal services continues to grow. While there is no shortage of lawyers providing legal services in many specialised fields these days, there are still huge demands for legal services, in areas that are either ignored or just not lucrative enough to attract the attention of busy lawyers. Asylum seekers, scrupulous consumer trade practices, migrant workers, labour disputes, public housing and tenancy disputes, discriminatory practices, just to name a few.

We do have a great legal aid service, but it provides only legal representation. We also have a great Duty Lawyers Scheme which provides an advisory service, but it is a one-off advisory service that does not provide any follow-up action. *Pro bono* legal services are barely available.

In many well-developed common law systems, the university fills in this gap by providing *pro bono* legal services to the community. They may take different forms, but the essence is that the services are provided by law students under the close supervision of staff who are qualified for legal practice. These services provide an invaluable learning experience for students alongside a valuable service to the

community. They are invariably supported by the legal profession. Indeed, they could become a source of referral of works to the legal profession, as it is common experience that the more complex cases that come to such services are always referred to law firms that are willing to take up such cases. In the US and Canada, virtually every reputable law school runs a clinical programme providing such services. Many leading law schools in Australia have introduced such clinical programmes, and an increasing number of law schools in the UK have followed suit in recent years.

At our 40<sup>th</sup> birthday, it is high time for us to consider introducing this valuable service to the community. We have already run a successful pilot scheme at the Small Claims Tribunal. I am glad that the Judiciary, the Department of Justice, and the Bar Association are supportive of this initiative. Forty years ago, we planted the seeds that have proved to be crucial to upholding the rule of law in Hong Kong. Today, we hope to plant another seed that would lead to the blossoming of a service culture among law students and the next generation of lawyers. We have been bestowed with privileges and honour by the community in the past. It is time we give back in a small way to the community.

The 40<sup>th</sup> anniversary celebration of the Faculty of Law at HKU is also the celebration of the 40<sup>th</sup> year of introducing the best legal education in Hong Kong. The Faculty was established with categorically clear goals to offer legal education comparable to the best in the world, to develop the laws of Hong Kong, to strengthen the Hong Kong legal system, and to uphold the rule of law as one of the cornerstones for the success of our economy. Since the resumption of sovereignty of Hong Kong by China, the law school has also played a significant role in the modernisation of the legal system and culture in China through the teaching of common law. It was best encapsulated by Professor Johannes Chan, Dean of the Faculty of Law, at one of his recent interviews with the *South China Morning Post* :

***“There is always a sense of mission... We have the duty to contribute to the upholding of the rule of law in Hong Kong and contribute to the development of the rule of law in China. We are more than just a teaching institution. We have a peculiar role to play and we would be failing our duty not to meet those challenges.”***

The rule of law is essentially a concept germinated and firmly entrenched in the Western political and social value systems. When it comes to the transplantation of the concept and practice of rule of law onto Asian soil, there are indeed not many success stories to tell. Hong Kong is one of the very few successful stories, and the rule of law has proved to be one of the pillars of the territory’s success and one of the most prized values of the Hong Kong community. Without overstating the case, the Faculty of Law has produced graduates who have flourished as prominent members of the legal profession and the judiciary, in serving the community and disseminating legal knowledge to the public, and in its participation in and contribution to important political and social developments in Hong Kong. In the last ten years, the Faculty has also been training promising young Mainland scholars and judges in common law.

# Passing the Torch:

## Nurturing Generations of Lawyers in Hong Kong and the Mainland

Most people may think that the law is about a set of rules. In fact, it is no less about people than any other profession. And it is also about the quality of the people in the profession. It is the quality of the people working in the system which matters most at the end of the day.

The rule of law and the independence of the legal system rely significantly on the quality of the lawyers and judges in making sure that the system is truly independent, and that the rule of law is at the heart of the actions they take and the decisions they make everyday. More than half of the current legal practitioners in Hong Kong are graduates of our Faculty of Law. Graduates of our Faculty have flourished and made immense contributions to the three major arms of the legal community in Hong Kong – the solicitors’ profession and the barristers’ profession in practice, lawyers in the Government, and the Judiciary. The last two past Presidents of the Law Society of Hong Kong and the past three Chairpersons of the Hong Kong Bar Association are all our graduates. A total of 32 of the 92 Senior Counsel in Hong Kong are our alumni. In the Judiciary, 16 judges in the Court of Final Appeal and the High Court and above also graduated from this University. The accomplishments of these graduates are probably the best testimony of the quality of the graduates we have produced.

Today, our students and graduates have continued with this fine tradition. Many of our graduates have secured employment with major law firms and chambers in Hong Kong. A good number of them have proceeded to master’s level studies at prestigious universities including Harvard, Cambridge and Oxford. Our students have been extremely active in international moot competitions and have secured awards and high rankings every year. At the end of the day, the legal profession, and legal education, is about standards and quality that can stand the test of time.

**...they are now writing longer judgments because they see the importance of judicial reasoning in deciding cases, and the reasoning has to be open to scrutiny and debates.**

Being the only common law jurisdiction in China's civil law system, the Faculty believes it has a critical and indispensable role to play in developing common law on the Mainland and contributing to the modernisation of the Mainland's legal system. The Master of Common Law (MCL) programme was introduced in 1997 to train promising law scholars, judges and government officials in common law and to encourage the comparative study of the common law and the civil law systems in China. These students will spend one year in the Faculty, supported by scholarships, to familiarise themselves with the common law system, how decisions are made by judges and how judgments and legal principles evolve and develop. At the end of the academic year, some of these students will join the summer internship organised by the Judiciary to put into practice what they have learned.

The experience of teaching students from a completely different jurisdiction can be quite rewarding. Some MCL graduates told our teachers that, back in their courts, they are now writing longer judgments because they see the importance of judicial reasoning in deciding cases, and the reasoning has to be open to scrutiny and debate. Some of them said that they are now sitting through longer trials as they believe both sides of a case have the right to be heard (even if the prosecution is the government authorities) whereas in the past the prosecution, usually the government authorities, would be assumed to be correct. Some other graduates have followed the common law tradition to collate the decisions of administrative/regulatory bodies and publish them as official records so that they can be used as guidance for future references. Graduates who are academics have written more on the comparative study between common law and civil law, and some of them have published on common law. They may well be individual instances, but they represent the seeds that we have planted in the Mainland legal system, and we trust that in time the seeds will grow to their full bloom.



**By 2009, the Faculty has trained over 500 judges, government officials, and scholars/graduates from the Mainland through our MCL programmes. Many others came as short-term visitors, and the Faculty admits about 10 undergraduate Mainland students each year through the Mainland matriculation system from a pool of about 12,000 applicants.**

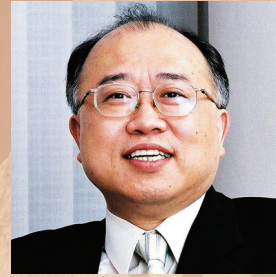
# Some Familiar Faces in the Community



The Hon Mr Justice Patrick Chan 陳兆愷 (LLB 1974, PCLL 1975), Permanent Judge of the Court of Final Appeal



The Hon Ms Elsie Leung 梁愛詩 (LLM 1988), Secretary for Justice 1997 - 2005



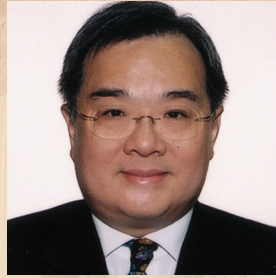
Mr Andrew Liao SC 廖長城 (LLB 1972), Executive Council member 2002 - 2009



Mr Robert Allcock 歐義國, Head of Department of Law 1984 - 1986; Solicitor-General of the Department of Justice



Mr Edward Chan SC 陳景生 (LLB 1972), Chairman of the Hong Kong Bar Association 2003 - 2005



Dr Moses Cheng 鄭慕智 (LLB 1972, PCLL 1973), Council Chairman of the Hong Kong Baptist University 1997 - 2006



Mr Simon Ip 葉成慶 (LLB 1978, PCLL 1979), President of the Law Society of Hong Kong 2002 - 2004



The Hon Ms Audrey Eu SC 余若薇 (LLB 1975), Chairman of the Hong Kong Bar Association 1997 - 1999, Leader of Civic Party



The Hon Ronny Tong SC 湯家驊 (LLB 1972), Chairman of the Hong Kong Bar Association 1999 - 2001



Ms Anna Wu 胡紅玉 (LLB 1974, PCLL 1975), Executive Council member 2009 - , Chairperson of Equal Opportunities Commission 1999 - 2003



The Hon Mr Justice Robert Ribeiro 李義, Lecturer 1972 - 1980, Permanent Judge of the Court of Final Appeal



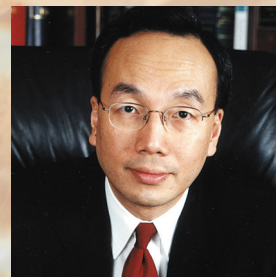
Ms Alice Tai 戴婉瑩 (LLB 1974), Judiciary Administrator 1994 - 1999, The Ombudsman 1999 - 2009



Professor Michael Wilkinson, Chairman of the Faculty Board



Emeritus Professor Yash Ghai, HKU Distinguished Researcher in 2001 and Chair of Kenyan Constitutional Review 2000 - 2002



The Hon Alan Leong SC 梁家傑 (LLB 1982, PCLL 1983), Chairman of the Hong Kong Bar Association 2001 - 2003, Vice-chairman of Civic Party



Mr Lester Huang 黃嘉純 (LLB 1982, PCLL 1983), President of the Law Society of Hong Kong 2007 - 2009



The Hon Albert Ho 何俊仁 (LLB 1974, PCLL 1975), Chairman of The Democratic Party



Mr Eric Cheung 張達明 (LLB 1986; PCLL 1987), Associate Professor, Chairman of Buildings Appeal Tribunal 2000 - 2006



Mr Kenneth Kwok SC 郭慶偉 (LLB 1972; PCLL 1973), Standing Committee Member on Legal Education and Training 2005 - , Chairman of the Board of Review, Inland Revenue Ordinance



Mr Benny Tai 戴耀廷 (LLB 1986; PCLL 1987), Associate Professor, Consultative Committee member for the Basic Law 1988 - 1990, Bilingual Laws Advisory Committee member 1991 - 1997



# Making “Access to the Law” a Reality

**The rule of law can only be upheld if it is something that everyone in the community subscribes to, and indeed, internalises as our core values.**

Law is about the people it serves. How firmly the rule of law can take root in a community can sometimes be measured by the accessibility of the law to the public and how much the public understands about the law. Legal education is therefore not just about our own students and graduates, or even about the professionals. An independent legal system can only be strengthened if everyone plays a part. The rule of law can only be upheld if it is something that everyone in the community subscribes to, and indeed, internalises as our core values. As Mr Justice Learned Hand so nicely put it, *“It lies in the hearts of men and women, when it dies there, no constitution, no law, no court can save it. While it lies there, it needs no constitution, no law, no court to save it.”*

Since 2001, the Faculty’s Law and Technology Centre has run the Hong Kong Legal Information Institute (HKLII) database which offers free access to updated Hong Kong legislation, cases and other important legal information, such as Law Reform Commission’s Reports, for anyone who needs to consult such information. The number of hits on the Hong Kong Legal Information Institute (HKLII) database has increased from 15,170,951 in 2006 to 27,680,465 in 2007, and to 48,308,266 in 2008.

As a further step to disseminate legal knowledge to the general public, the Centre, together with the Department of Justice of the HKSAR, established the Community Legal Information Centre (CLIC), which provides to the general public basic information of the law in selected areas in layman language. The CLIC focuses on areas close to the daily life of the ordinary public, like conveyancing, landlord and tenants, consumer complaints, employment and labour issues, family disputes, anti-discrimination and immigration.

The Faculty plans to establish a legal clinic, and a pilot scheme was introduced in early 2009 where a group of our students work in the Small Claims Tribunal, under the supervision of academics and teachers qualified to practise, to offer assistance to claimants. The idea is, on one hand, to allow students to apply what they have learned in classrooms to real cases and, on the other hand, to provide free legal services to members of the public. Experience in the legal clinic very often can help cultivate a sense of duty and service among law students and graduates, which is extremely important to their future career and professional development.

At the same time, our students regularly organised law exhibitions and talks in the community. As a further step to make the law and legal education accessible, the Faculty is making many of its public lectures by distinguished legal scholars and judges available to the world through its webpage.



Legal Exhibition organised by the Law Association, HKUSU at Citywalk on Nov 8, 2009.

# A Global Law School

In an increasingly globalised world, the Faculty must reach out in order to maintain its competitiveness internationally. In terms of research collaboration, we have partnered with Stanford University, MIT and other international partners in the Creative Commons Corporation. Other international projects have been carried out with the Australian Institute of Criminology, the Asia-Pacific Business Regulation Group at Monash University, Amsterdam Centre for International Law and the Oxford University Press, as well as the OpenNet Initiative including Harvard, Cambridge, Oxford and Toronto.

In terms of teaching and learning, partnering up with the best universities in the world will surely further enhance our standards and quality. The Faculty has been active in collaborating with prominent overseas universities to develop joint academic programmes. A five-year double degree programme of JD and LLB was recently established with the University of British Columbia. Zurich University collaborates with us at the level of the master's programme, which allows students to gain both the LLM from HKU and the MLaw from Zurich within two years. The double LLB programme with King's College London (KCL) allows students to spend two years at KCL and the remaining three years at HKU to obtain the LLB from HKU and the LLB from KCL in five years.

In terms of Greater China networks, the Faculty, together with prominent universities in the Mainland, Taiwan and Macau have been taking turn to organise annual conferences in respective venues to compare the different legal jurisdictions and the latest legal developments among the four places.

The Faculty also holds annual or biannual symposiums with the National University of Singapore, the University of New South Wales and Peking University. It also has student exchange relationships with about 180 universities in the world. Every year, the Faculty sends about 25 per

cent of its students overseas and, in return, hosts about 100 incoming exchange students from all over the world.

The HKU Faculty of Law is one of the 13 founding members of the Asian Legal Institute (ASLI) which has over 40 members including prominent universities in Singapore, Australia, Japan and some US universities. The 6<sup>th</sup> ASLI conference, which was hosted by HKU in May 2009, was regarded by all ASLI participants as setting a new high threshold for the quality of the papers presented.



In 2004, the Faculty was designated by the WTO as its first official partner in Asia to run a WTO Regional Trade Policy Course (RTPC) for government officials of 31 countries in the Asia Pacific region.

As the second phase of the RTPC programme, trade law experts in our Faculty have been offering training programmes in various countries in Southeast Asia, including Vietnam, Cambodia and Thailand, and advising their governments on trade law and policy issues.

At home, the 80 academic staff of the Faculty come from 17 jurisdictions, bringing with them diverse experience and human network, and creating a truly global environment at the Faculty.

# Beyond Academia

Many members of the Faculty have served on the Law Reform Commission in their respective areas of expertise, including privacy, securities reform, civil justice reform and others. Many others serve on various public bodies or voluntary organisations. Our Centre for Comparative and Public Law has been intensely engaged in issues of anti-discrimination and equality in terms of submissions to the Government and discussion and consultation with the Legco Panel.

The Faculty has been vocal in commenting on controversial legal and political issues in the territory, notably on issues like Article 23 legislation and national security,

immigration and right of abode in Hong Kong, as well as constitutional and political reforms in the territory. These are issues of great concern among the general public and the Faculty has not failed to live up to its role of offering independent and considered views and comments both to the Government and the community at large.



# Our New Habitat

HKU and the Faculty have benefited greatly from a very generous HK\$400 million donation from Dr Cheng Yu-tung. The new law building on the Centennial Campus will be named after Dr Cheng Yu-tung in recognition of his generosity in supporting the development of the Faculty of Law and the University's campus development. It is anticipated that the new law building will be ready by 2012, and students will benefit from the integrated design and modern facilities, including venues for mooting competitions and training, advocacy laboratories, well-supported research workstations and facilities for our research students, and general state-of-the-art teaching and learning facilities. We are looking forward to moving to our new home!



# Rising to the Challenges

## **Academic excellence in a globalised environment**

As the world has become increasingly globalised and competition among law schools increasingly keen, we must be the zealous guardians of the quality of our graduates, our research and its relevance to the community, so as to be truly answerable to the expectations of the legal profession and the community. Our educational programmes have to be able to meet if not also to anticipate changing demands of the local, regional and the international communities.

## **Training of leaders of tomorrow**

Our vision is not just to train competent lawyers but also leaders with vision and commitment. In this regard, it is our duty to offer the best education experience to our students and provide solid legal and liberal training in a broad social, economic and political context.

## **Promulgating and strengthening the rule of law in Hong Kong, the Mainland and the Region**

As a Special Administrative Region of China with a distinct legal system and culture, we have a unique role to play in strengthening and promulgating the rule of law in Hong Kong, advocating its development in the Mainland; and as a leading education hub in Asia, we are in a strong position to contribute to the strengthening of the rule of law in the Region, through our teaching, research, community service and other academic and professional pursuits. These are the things we can do, and we know that we can do no less.

***In short, we aspire to be a leading global law school with a global vision.***



The late Professor Dafydd M E Evans, Head, Department of Law 1969–1983 and the Founding Dean of Law 1984 -1987.



Mr Peter Rhodes, Dean, Faculty of Law (1987-1993) at the Ceremony of the Faculty's move to the K K Leung Building in 1988.



Deans, Faculty of Law: (from left) Professor Johannes Chan SC (Hon) 陳文敏 (2002- ) (LLB 1981; PCLL 1982), Professor Peter Wesley-Smith (1993-1996) (PhD 1976) and Professor Albert Chen Hung-ye 陳弘毅 (1996-2002) (LLB 1980; PCLL 1981), Chan Professor in Constitutional Law, Committee Member for the Basic Law of the HKSAR.

## Law Anthem

*Here tall it stands in proud tradition,  
adherence to values true.*

*Here nurtures hopes and aspirations,  
for fairness and law to rule.*

*With unity, diversity,  
fraternal care within us,  
we look to far horizons,  
and challenges we pursue.*

*And ever proud are we, Law Faculty,  
Your spirit is ours to prove,  
and as custodians of Justice,  
bring honour and glory to you.*

Lyrics by Julianne Pearl Doe 杜珠聯 (LLB 1984; PCLL 1985)  
Music by Winnie Tam Wan-chi 譚允芝 (LLB 1983; PCLL 1984)



Law graduates singing the Law Anthem at the Grand Reunion to celebrate HKU's 90<sup>th</sup> Anniversary, 2001.



The first batch of LLB graduates and members of the Department of Law in 1972.

# 春風化雨

陳文敏  
法律學院院長



不經不覺在大學已工作了近二十五個年頭，在學院工作，特別感到時光消逝，尤其是近年當上院長，每年暑假剛送別一批同學，幾星期後又會迎接新一屆入學的同學，春秋往復，就這樣看着一代一代年輕人的成長。

偶爾會收到一兩位剛畢業的同學的謝卡(近年則以電郵代替)，當中有感懷在大學的數年韶光，有談到在學習時所得到的啟發。曾經有一位同學，一年級時在我的導修小組，當時充滿年輕人的理想，但也有一點心散，成績她不算是最突出，但總散發一份熱誠。畢業後往美國深造，然後回港工作，她一直和我保持聯繫，每隔一陣子總會收到她寄來的明信片，訴說她的近況。畢業多年，每年聖誕還會收到她的賀卡。也有一位來自內地的學生，第一年在港大遇上很多適應上的問題，和她傾談了多次，鼓勵她努力面對逆境，畢業後她拿了獎學金往英國深造，現在的工作穿梭於中港兩地之間，每隔一段日子還會收到她的來信訴說近況，秀麗的鋼筆字，親切的文詞，這已遠勝於任何教育評核，也是當老師最大的回報。

不少早年畢業的同學，今天已成為好朋友。當年是師生，現在是閒話家常，談談兒女學業的朋友，當中也有一些成為自己的同事。前一陣子在一宗官司中與一位以前教過的學生合作，看到他事業有成，那份能幹穩重與隨日子而來的成熟，實在感到欣慰，也得同時告誡自己，學問或專業，均是學無止境，長江後浪推前浪，不進則退。

曾經有個學生告訴我，上課教他的東西他已大部分忘得一乾二淨，但倒是我課堂外的言論和公共服務給他帶來更多的啟發。他記得我曾說過，人生中除金錢與名利外，總還會有一些值得我們追尋的東西，於是，他毅然放棄加入律師行列，而去追尋自己的理想。也有一位跟我做論文來自尼泊爾的學生，每天總想著如何改變他國家的命運，每次會面我們均談到不少關於憲法人權的理念，回國後他出任調查失踪人士專案小組的召集人，為不少因維護法治人權而失踪的人士平反，每次的電郵總洋溢著他對明天的希望。

廿五年來，在大學偶爾也會感到沮喪與失望，然而，往往就是學生的點點滴滴，令我重燃對教育的執著與希冀。耕耘總會有成果，就如首席法官李國能所說：「老師的影響是一生一世，無遠弗屆。」