

Chief Justice Andrew Li is leaving the judiciary stronger than it was in 1997 when he took over, writes Russell Coleman

Room to breathe

It may be an apocryphal story, but I tell it anyway. At the time of the change of sovereignty in mid-1997, there was some understandable uncertainty at the Bar as to precisely how the legal system would look and feel under the new regime. There came a direction from the new chief justice, Andrew Li Kwok-nang (who before his appointment had an illustrious career as a Queen's counsel at the Bar, and who served the profession well). It directed that whereas in the old system magistrates had been referred to as "Sir" or "Madam", under the new system they would be referred to as "Sir" or "Madam"; District Court judges were "Your Honour" but now they were to be "Your Honour"; and High Court judges had formerly been called "My Lord" or "My Lady", but were now to be "My Lord" or "My Lady".

Each January since, we have still celebrated the spectacle of the ceremonial opening of the legal year, with the judges and senior lawyers dressed in robes, lace and full-bottomed wigs. In many courts every day, the judges and advocates wear

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the less elaborate form of daily court dress, still with wigs and gowns.

Of course, many think the forms of address and the legal costume anachronistic, but others (myself included) consider them to be a very visible sign of the continuity of a system for the administration of justice, which is rooted in a strong and independent judiciary nurturing and upholding the rule of law – a vital element in retaining local and international confidence in Hong Kong as a place to live, work and trade.

There are not many among even the most confident who would have predicted a stronger judiciary now in 2010 than we had in 1997, but that is the position. It is largely due to the efforts of the chief justice. Hong Kong has benefited enormously from the accident of timing that allowed Li to become the first chief justice of Hong Kong following the resumption of Chinese sovereignty.

Part – but only part – of that quality comes from the added dimension brought

to the Court of Final Appeal by the overseas non-permanent judges. One of the chief justice's great successes has been his ability to attract such judicial talent to Hong Kong. But his ability to attract judicial talent also runs to other courts, and one of the most enduring legacies of his tenure will be that he has instilled in practitioners at the Bar the idea that they should genuinely consider a career on the Bench.

The chief justice is one of those who would agree that adventure and happenstance are just the result of bad planning. Of course, plans are merely good intentions unless they are immediately translated into hard work, and strategic planning alone is worthless unless there is first a strategic vision. The chief justice's strategic vision is obvious to anyone who has seen him at work. His vision of a "home-grown" Hong Kong judiciary of high quality, assisted at the highest level by internationally respected jurists, has become a reality.

Also, in the development of law and its practice in Hong Kong – marked, for example, by greater transparency, the push for procedural reform and the increased drive to alternative consensual dispute resolution, such as mediation – the chief justice has combined the need for modernity without losing sight of the significance of historical continuity. That continuity is perhaps of particular importance to Hong Kong.

One former senior Australian judge wrote: "The skills that were required of chief justices in earlier times have radically changed in the last two decades. At least, to some extent, chief justices are now expected to keep abreast of court management, social change, legal trends, judicial philosophy, law reform, macroeconomics, the law reviews, world events, cultural occasions, legal conferences and suitable charities." In Hong Kong, a chief justice would also be expected to keep abreast of horse racing form, share price movement and stock exchange market fluctuations, the price of an ounce of gold, property prices per square foot, and perhaps even some of the intricacies of fung shui.

The chief justice's role is not simply to decide some cases and to act as some figurehead. He must lead by example. He must set the tone for the administration of justice in Hong Kong and those who practise the law. He has done this. He is one of those who believe that to do the right thing is the right thing to do.

As was once said by another chief justice: "Justice is like oxygen: there is no

reason to notice it if you have it in abundance. However, as you constrict the flow, it becomes more and more important until the point is reached where nothing else matters at all."

Under the retiring chief justice's tenure, I think, we have breathed rather easily.

Russell Coleman SC is chairman of the Bar Association



Voices: China

Rise as a great power is a matter of how, not when

Avinash Godbole

The news of China becoming the world's second-largest economy in terms of gross domestic product has caught the imagination of China watchers. And, if the predictions come true, China will become the world's largest economy sometime in the next couple of decades. Regardless, the numbers and statistics that define China have always been awe-inspiring. But what do those numbers mean? While there are many caveats to the theory of China's rise, a fundamental one concerns the translation of economic clout into "great power" status.

Therefore, one must ask: what would China bring to the world order as a great power? There are two dimensions to the status: the ability to demonstrate power, and the willingness to do so. As some powerful countries have proved over the course of history, demonstration may have a longer-lasting impact than ability itself. An observer recently argued, with reference to the supposed race between India and China, that it is not about which achieves great-power status first, but about which one leaves a lasting impact. Similarly, it may not matter when China finally achieves the status, but it matters how it gets there and what tools it has to help it survive in that league.

Countries have in the past relied on innovation to power their leap to a great power. Most of these innovations have been game changers, not only in terms of changing the equations between countries but also the rules of the

game. By doing this, the rising powers were able to maintain not just their power; they were also able to appropriate the system to suit the nature of their power. The simplest example of this would be the rise of the United States and the subsequent creation of the Bretton Woods system, which sustained the supremacy of the capitalist system and, until recently, positioned the US dollar as the world's prime trading currency.

Therefore, at the simplest level, it can be argued that great-power status can be achieved only if a country has superior qualities that

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give it a distinct advantage. So, what does China have to offer that is unique and that it has already mastered? As of now, there are no definitive answers. More pertinently, Chinese commentators have been cautious about praising their country's new economic status. They want to avoid any delusion of China "having arrived". They know China has a long way to go before it can be called a true great power. However, the demonstrative impact of great-power status is not confined to the external world; its domestic value is also significant. Expressions of

Chinese nationalism through hostile protests in the 1990s against the US and Japan have had a serious impact on China. This continues today through the jingoistic public opinions expressed on the internet. In a de-ideologised society, nationalism is likely to become the tool of choice again. Therefore, it could be argued that the spat over "core interests" is one in which the world offered China a ready opportunity to test the waters for the demonstrative aspect of its great-power status.

It is likely that tussles over the Yellow Sea, in addition to other areas of strategic interest to China, will continue until the Chinese find their trump card. On the other hand, the world will continue to criticise China and its belligerence because its ambitions cannot be accommodated in the existing order. So the US and China will continue to play a game of one-upmanship. As long as there is no threat escalation, the world will manage the status quo, with the Chinese making strategic plans for a long-term game.

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Voices: Hong Kong

An eco-haven to bring the message home

Ciara Shannon

I love the idea that the MTR Corporation plans to build a three-hectare rooftop park at the West Kowloon terminus of the express rail link to Shenzhen and Guangzhou.

If we also consider the three designs for the West Kowloon Cultural District – starting with Rocco Yim's multi-level greenery, Rem Koolhaas' communal herb farms, and in particular Norman Foster's 19-hectare park with over 5,000 trees – West Kowloon could possibly become the much-needed inner eden of our city.

All good, but would we know how to enjoy such a great, green space? We have become so trained by ropes and signs not to walk on the grass, never mind sit or lie on it, that we're used to leaving our small areas of city green for the birds to enjoy, instead.

Any successful park space – according to the New York-based nonprofit group Project for Public Spaces – has to be a lively area and a place where people want to be, are allowed to enjoy it and can easily get to; with at least 10 distinct destinations within the park that will complement one another and create vibrancy. It calls this idea the "power of 10".

Another thing that makes a successful park is how it is managed. Central Park in New York, for example, is managed by the Central Park Conservancy. It is responsible for day-to-day maintenance; establishes a wide range of activities, events and educational programmes throughout the park; and has an extensive volunteer programme.

In my mind, what's missing from all the West Kowloon proposals, or

indeed anywhere in Hong Kong, is a building or an eco-destination that is dedicated to celebrating the rich cultural and artistic value that the environment brings to our lives.

If we look to the Eden Project in Cornwall, England, it is far more than its iconic greenhouse biomes and its planted landscapes.

It is a place that successfully encourages people to think differently about the environment and it is a hot bed of new ideas. It is also a place that works with artists and musicians to keep people entertained and enthused about the environment.

The Eden Project understands that "saving the planet" must come from collective action rather than a series of individual actions, and one brilliant way to "rally the collective" is to inspire people through creativity and performance.

These days, as the angry red clock of climate change and other environmental problems loom over us, just thinking about the environment can be depressing, and all of us have much to learn and do. Hong Kong really needs an environmental haven to educate, entertain and immerse us in the realities of today's environmental problems and solutions, as well as providing fun and excitement for the entire family.

It makes sense – especially if it turns out that we can't sit on the grass after all.

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Market research

Hong Kong's heart and soul lies in its markets. I'm not referring to those multi-storey ones that the government has put up in its quest for orderliness, cleanliness and control. This isn't about those trinket-filled ones teeming with tourists in Mong Kok or Stanley. The ones I'm referring to are those that everyday people shop at on the streets, the ones filling laneways, snaking down hills and spilling from footpaths across roads.

They're what we're all about. Lively and vibrant, they're a constant even amid uncertainty. The colours, smells, sights and sounds are to be found nowhere else in our city. They're a way of life, the past meeting the present, the produce of the world together in one place and all in the open air with chatter, a chance to pass the time of day and perhaps even go home with a bargain.

It's something the government doesn't understand. For decades, it's been doing its best to shut down wet markets on streets and move them indoors. Hawkers are being squeezed out; new licences haven't been issued since the 1980s and there are strict rules on their transfer and use. Never mind that history, tradition and a way of life are involved.

I would have thought that the Urban Renewal Authority had a better grasp. As a statutory body, it's got the ability to be more in touch with community needs. When chairman Barry Cheung Chun-yuen and a gaggle of his staff took me and a colleague for a tour of the vacant Central market building and the nearby Graham, Peel and Gage streets area last Thursday, I thought they were going to unveil a new approach to previously issued controversial plans. They only partially convinced me.

What's in store for the Central market sounds just right. Surrounded by tall buildings, the low-rise structure is literally an oasis – and that's what the authority is using as the basis for its redevelopment. The government handed it over to Cheung last year following an outcry over plans to sell it off for yet another skyscraping tower. What will emerge, if what was presented comes to fruition, will be a rooftop garden, spaces for arts and cultural displays, and shops and eateries that everyone can afford to patronise.

Then came the hard sell. Up the escalator to Graham Street, Hong Kong's oldest market: it's a bustling, teeming anomaly, where hawkers do business beneath blazing skies as they've done for the past 150 years, now just a stone's throw from the glitz and glamour of the two IFC buildings and The Landmark. As Cheung pointed out, despite being so close to Central, the buildings in the area are less than salubrious. A slum is how I'd put it. They're up to eight storeys high

and are generally decrepit, with crumbling steps, broken floorboards and sagging roofs. The hawkers outside, many of them residents, don't have running water or electricity for their stalls.

Rightly, the authority has been called in. Generous terms are being offered so that 67 buildings can be acquired. Cheung said hawkers were part of the plans; efforts would be made to help them stay and even attract more. He said the low-rise nature of the area would remain, although some high-rises would be built to recoup costs. A community hall would be built and a park in an area associated with nationalist leader Sun Yat-sen beautified.

That sounds fine until the details are scrutinised. The authority wants to bulldoze the area, preserving only three pre-war buildings on Graham Street. On the rest of the site will rise four buildings of between 26 and 33 storeys atop a four-storey podium – two residential blocks, one of offices and a hotel. A corridor will cut its way to the escalator. The convenors of the Central and Western Concern Group, Katty Law Ngar-ling and John Batten, told me they are certain this will destroy, not retain, the district's character.

Urban renewal isn't always about pulling down; it's also about revitalisation. The residents and hawkers of the Graham Street area want to keep their market just as it is. That can be done with scale in mind, by gradually replacing buildings with similar-sized ones. Podiums and high-rent properties abound; they have no place in a district that is so significant to our past and present.

Peter Kammerer is a senior writer at the Post

Voices: Health

Focus on 'me' medicine has global side effects

Donna Dickenson

The seismic shift towards genetic personalised medicine promises to give each of us insight into our deepest personal identity – our genetic selves – and let us sip the elixir of life in the form of individually tailored testing and drugs. But can we really believe these promises?

Commercial ventures like private blood banks play up the uniqueness of your baby's umbilical-cord blood. Enhancement technologies like deep-brain stimulation – "Botox for the brain" – promote the idea that you have a duty to be the best "me" possible. In fact, modern biotechnology is increasingly about "me" medicine, the "brand" being individual patients' supposed distinctiveness.

But all these technologies remain more hype than reality – and sometimes dangerous hype. Personalised genetic testing is now under investigation by the US Congress and the US Food and Drug Administration for misleading customers into thinking we know much more than we actually do about the link between particular genes and the probability of developing particular illnesses.

Likewise, privately banked cord blood has been shown to be clinically less effective than publicly banked and pooled blood. And enhancement technologies have attracted much publicity but remain largely speculative.

Credit for the greatest advances in human health and longevity over the past two centuries should go to "we" medicine, not "me" medicine. Public-health and sanitation programmes, polio and smallpox vaccinations, and tuberculosis

screening in schools and workplaces have contributed the most to improved health in the Western world and beyond.

But when parents buy into scares linking childhood vaccines to autism, when media pundits scoff at public-health measures to prevent swine flu from spreading, or when a British researcher claims that "the scourge of ageing is worse than smallpox", vaccination, epidemic prevention and screening fall by the wayside. Conversely, there is an unchallenged preference for "me" medicine, partly because it pushes all the right buttons in our psyches, the ones marked "choice", "individuality" and "special".

The new biomedicine was originally funded and promoted as a public-health initiative that would benefit all of us. Hopes for widespread cures were high when the Human Genome Project was completed 10 years ago. Instead, one-fifth of the human genome is now subject to private patents, meaning that patients can't afford tests for genes that cause cancer and researchers can't make progress if another team owns the patents on the genes that they want to study.

The genetic mystique – the notion of the uniqueness of a person's genes – plays on the individualism of Western culture. There are also powerful commercial interests at stake.

Biomedicine is in danger of concentrating only where the glare is brightest – not on the most effective health interventions, but on the personalised and profitable.

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