The 22nd Goff Arbitration Lecture: Making the Best of Arbitration

Esther Wong
28 February 2018

The 22nd Goff Arbitration Lecture was held on 12 February 2018 at the Connie Fan Multi-media Conference Room, City University of Hong Kong. This year, we were much honoured to have the Rt Hon. The Lord Hope of Craighead KT, as the speaker to give a lecture titled “Making the Best of Arbitration”.

In the beginning of the lecture, Lord Hope paid respect to the founder of the lecture, Lord Goff of Chieveley and praised his supreme legal mind and his contribution to arbitration. Then he moved on to introduce arbitration and define it as a means to resolve disputes outside the court system. He emphasized the privacy and confidentiality of arbitration since it is opted-out the court system which highly depends on the contracts of agreement.

Then, he shared various aspects of the arbitration process based on his experience. Being a counsel before becoming a judge, he reminded the audience to be careful on drafting the arbitration clause and choose the appropriate law to govern the procedure. As a judge sitting as a Law Lord in the House of Lords, he highlighted the importance of judge in supporting the arbitration process in a fast growing global market. He adopted the Fiona Trust case as one of the best known decisions in English arbitration case law, setting out a “fresh start” in English jurisprudence with the strong presumption that commercial parties intend all disputes to be determined in a single forum.
As an alternative means of dispute resolution involving foreign trade activities, international arbitration institution has started to play a notable role. For example, as a home grown institution, the Hong Kong International Arbitration Centre sets up rules to supplement the local law system; while the International Chamber of Commerce (ICC) as a world business organization based in Paris, helps businesses of all sizes and in all countries to operate internationally and responsibly. Lord Hope provided a critical analysis of the ICC and reminded the audience to evaluate the value of the choice of institution.

On the other hand, third party funding becomes a growing phenomenon. Lord Hope believed that it enhances the access to justice and is a good thing for the equality of arms and for the overreaching principles of procedural fairness and justice. However, he stated the risks of aggravating an already exploding caseload and the arrival of third-party funders may alter the entire landscape by significantly increasing the number of claims.

In conclusion, Lord Hope asserted that arbitration, as a means to resolve disputes, is an inexpensive and impartial alternative to the public courts. He encouraged arbitrator, as peace maker, to be open and frank at discussion in striking the balance of interests. Lord Hope illustrated many of the points made in the lecture with practical examples drawn from his extensive experience as an advocate, arbitrator and judge.
After the lecture, the participants raised interesting points for discussion with Lord Hope in a question and answer session led by Mr David Holloway from the School of Law, who proposed a formal vote of thanks to Lord Hope. Finally Dean Professor Geraint Howells presented a gift to Lord Hope and brought an end to the lecture.

About the Goff Lecture

The Goff Lecture was instituted in 1990 by the City University of Hong Kong to celebrate the commencement of our Master of Arts in Arbitration and Dispute Resolution. The first lecture was delivered by Lord Goff of Chieveley, Lord of Appeal, who then consented to the series bearing his name. The Goff Lecture provides an excellent opportunity for discussion and exchange of views among practitioners and academics in the field. Over the years, the Goff Arbitration Lecture has gathered 20 eminent scholars to share their views on arbitration.

About the Speaker

Rt Hon. The Lord Hope of Craighead KT (David Hope) is an arbitrator at Brick Court Chambers in London and sat as an appellate judge for 24 years. He was appointed to sit as a judge in the House of Lords as a Lord of Appeal in Ordinary in 1996 and retired from the Supreme Court of the United Kingdom in June 2013. He was one of the two judges representing Scotland in the Supreme Court.