慶祝釋憲七十週年

司法院大法官 107 年度國際學術研討會
開幕式 院長致詞

時間：107 年 10 月 1 日（一）

地點：法官學院

各位大法官、各位遠道而來的各國嘉賓、最高法院鄭院長、法官學院周院長、各位法院院長、各位與會的學者、專家、女士、先生及同仁，大家好！

歡迎各位參加司法院大法官 107 年度國際學術研討會。今天，司法院非常的榮幸，邀請到蔡總統蒞臨會場，與我們共同歡慶這個具有紀念意義的慶祝活動；總統國政繁忙，仍在百忙之中撥冗蒞會，使這場國際學術研討會更加生輝，讓我們熱烈歡迎蔡總統！

台灣是個民主政治穩定，具有高度人權意識的國家，大法官釋憲制度與世界各國憲法法院功能相同，大法官透過釋憲，實踐憲法所賦予保障人民基本權利及維護國家憲政秩序的誡命；憲法的意旨透過大法官釋義闡明，使人權保障得以落實，憲政秩序穩固安定，具體彰顯我國憲法維護基本人權的核心價值理念，是台灣做為世界自由民主國家一份子的驕傲。

釋憲制度七十週年有二個重要代表意義：一是釋憲制度階段性成果的回顧，二是我國憲法審查制度重大變革的新局開啟。司法院已經研議完成大法官審理案件法修正草案，更名為「憲法訴訟法」，同時建立「裁判憲法審查制度」，並送請立法院審議。未來修法通過後，希望建構一個效能更高、審理程序更加公開透明，以及提供完足人權保障的全新憲法審查制度。

人權保障是跨國界、跨領域的普世價值，世界各民主法治國家的憲法法院，莫不以維護基本人權為其使命天職，我國大法官亦然。本次國際學術研討會，即以「憲法法院與人權保障」為主題，邀請甫卸任的加拿大最高法院院長 Beverley McLachlin、蒙古國憲法法院大法官 D. Solongo、D. Ganzorig、美國芝加哥大學法學院教授 Tom Ginsburg、美國德州大學 William Stamps Farish Professor of Law 教授 Richard Albert，及史特拉斯堡國際人權研究院教授 Dr. Andrew Drzemczewski 等國際法學人士從比較法觀點研討人權保障在其他國家的趨勢發展；也邀請在憲法及人權保障領域有深入研究的國內學者專家，分別從「修憲界限」、「弱勢權利之

保障」，以及「資訊隱私權之最新發展」等面向，共同探討方興未艾的基本權保障及憲法制度相關問題。而原定與會演講的立陶宛憲法法院 Hon. President Dr. Dainius Žalimas 院長雖因故未克成行，其專題演講內容亦同意由司法院洽請中央研究院法律學研究所陳玉潔博士代為宣讀。各場次的研討內容相當豐富，精彩可期。

最後，非常謝謝總統蒞會祝賀及對於司法院的期許與祝福，並預祝國際學術研討會成果豐碩、圓滿成功，謝謝各位！

In Celebration of the 70th Anniversary of Constitutional Interpretation

2018 International Conference, Taiwan Constitutional Court, Judicial Yuan Opening Remarks by President of the Judicial Yuan, Hsu, Tzong-Li

Honorable Justices, dear guests coming all the way from various countries for this conference, Minister Tsai of the Ministry of Justice, President Cheng of the Supreme Court, President Chou of Judges Academy, Presidents from High Courts and District Courts, distinguished scholars and experts, friends of media, ladies and gentlemen, good morning,

Welcome to ”The 2018 International Conference of Taiwan Constitutional Court“. It is our great honor to invite President Tsai to celebrate this significant event together with us. We appreciate President Tsai for sparing her time to attend and make this academic conference even more meaningful. Let us give a warm welcome to President Tsai!

Now, may I briefly introduce the distinguished guests coming all the way from various countries:

Order of Introductions	Country Abbreviations	Foreign Guests
1	C	Beverley McLachlin Honorable Chief Justice of Supreme Court of Canada
2	M	Dondov Ganzorig and Damdinsuren Solongo Justices of Constitutional Court of Mongolia
3	A	Tom Ginsburg Professor of University of Chicago
4	A	Richard Albert William Stamps Farish Professor of Law of the University of Texas at Austin
5	F	Professor Dr. Andrew Drzemczewski Professor of Middlesex University London

Taiwan is a state with stable democracy and devoting to human rights protection. The Grand Justices of the Judicial Yuan stand for the Constitutional Court of Taiwan, with the same functions as those of other Constitutional Courts in the world. Judicial review of constitutionality is the most important power exerted by our Grand Justices. Our Grand Justices, through interpreting the Constitution, realize the tasks endowed by the Constitution to protect the fundamental rights of individuals and maintain the constitutional order of the nation. The meaning of the Constitution, through various circumstances and generations, guides and adequately regulates the exertion of the state power, thereby realizing the protection of human rights and the stability of constitutional order. The Honorable Justices embody and highlight the core values of protecting human rights, demonstrating Taiwan's achievement as one of the free and democratic states in the world.

This year, two thousand eighteen, is the seventieth anniversary of our Constitutional Court. In order to celebrate the milestone of this important judicial institution, the Judicial Yuan and the Judges Academy host this international academic conference. I am pleased to invite you, distinguished guests, to share our happiness.

Some constitutional court may have histories longer than seventy years. However, the seventieth anniversary of the Constitutional Court has two important meanings for us, constantly pursuing better institutions to protect the rights of the people. First, the seventieth anniversary is an occasion to review the achievements so far, including the trajectory through which the Grand Justices have devoted themselves to the development of this important institution. Second, the seventieth anniversary is an occasion to initiate a significant transformation of our Constitutional Interpretation. The Judicial Yuan has, with a broad overview, built a brand-new institution to protect the rights of the people. The Judicial Yuan has proposed a revision of the Constitutional Interpretation Procedure Act, changing its title to Constitutional Litigation Law, and sent such a proposal to the Legislative Yuan for its review and legislation. The proposed Constitutional Litigation Law seeks to build a more efficient institution for constitutional review adopting an open and transparent trial procedure, and provide more comprehensive protection of human rights. After the Constitutional Litigation Law is approved by the Legislative Yuan and enacted by our President, the constitutional interpretation will no longer be proceeded through the current mode of deliberative meetings; instead, it will become completely judicialized. Grand Justices

will form a Constitutional Court to adjudicate cases and render judgments, as the same as the procedure in many other countries that establish Constitutional Courts. The Constitutional Litigation Law will in the meantime establish the institution for the constitutional review on court judgments, including such exertion of the judicial power in the scope of the judicial review conducted by the Grand Justices. This change will further improve and make comprehensive our protection of human rights and the institution of Constitutional Interpretation.

The protection of human rights is an universal value that crosses national and disciplinary borders. The Constitutional Court of every democratic state that respects the rule of law and takes the protection of human rights as its duty. The Grand Justices of our country are no exception. This International Academic Conference chooses "Constitutional Courts and the Protection of Human Rights" as its theme. We invited the former Honorable Chief Justice Beverley McLachlin from Canada; Justices D. Solongo and D. Ganzorig from Mongolia; Professor Tom Ginsburg and Professor Richard Albert from the United States; and Dr. Andrew Drzemczewski from France. These distinguished justices and scholars will deliver their speeches on the topics that relate to Constitutional Courts, laws, and the protection of human rights. Their speeches will enable us to understand the trends of protecting human rights in other jurisdictions from the perspective of comparative law. We also invited distinguished jurists including Grand Justices, international and domestic legal professionals to share with us their research on the emerging and important topics such as "the boundaries of constitutional amendment", "the protection of the rights of the disadvantaged individuals", and "the latest developments of the right to informational privacy". As these distinguished speakers have considerable experiences and valuable insights, this Conference will surely enrich our understanding of the protection of fundamental rights and constitutional law. We also have invited the President and Secretary-General of the Constitutional Court of Lithuania, Dr. Zalimas and Dr. Daneliene. Unfortunately, they cancel their visiting at the last minute due to some unexpected and irresistible reasons.

Last but not least, I thank President Tsai for coming to this Conference and for her expectations and wishes for the Judicial Yuan. I also wish this international academic conference a successful conference. Thank you everyone!