慶祝釋憲七十週年

司法院大法官 107 年度國際學術研討會
閉幕式 院長致詞

時間：107 年 10 月 2 日（二）

地點：法官學院

各位大法官、各位貴賓、各位與會的學者、專家、女士、先生及同仁，大家好！

一連 2 天為了慶祝釋憲七十週年所舉辦的司法院大法官 107 年度國際學術研討會，很順利圓滿的在今天下午告一段落。本次研討會，本院邀請到來自外國憲法法院院長層級的貴賓，與來自美國及歐洲等國多位重量級憲法及人權學者，暨國內相關領域的學者專家，以「憲法法院與人權保障」為主題，就人權保障及憲法制度等議題發表專題演講或提出論文進行研討，為了增進研討會進行的順暢，本次研討會也首度全程以英語進行，是場隆重盛大的學術宴饗。

人民憲法上權利的保障，是我國大法官及各國憲法法院做為國家基本法守護者所關注與極力護衛的核心，伴隨著對於人權保障要求完整而細緻的趨勢氛圍，各國憲法法院所扮演的角色，可以說是任重道遠。

本次研討會，我們有機會分別聆聽：

前加拿大最高法院院長 Chief Justice Beverley McLachlin 以「Four Eras of Aboriginal Law in Canada」為題，立陶宛憲法法院院長 President Dr. Dainius Žalimas 以「The Development of Constitutional Review and Human Rights Protection by the Constitutional Court of Lithuania」為題；Dainius Žalimas 院長因故未能與會，由陳玉潔博士代為宣讀，蒙古國憲法法院大法官 Dondov Ganzorig 以「The Role of the Constitutional Court in the Process of Democratic Development in Mongolia」為題，美國芝加哥大學法學院教授 Professor Tom Ginsburg 以「The Trump Administration, Democracy, and American Constitutional Law」為題，及史特拉斯堡國際人權研究院 / 英國倫敦米得賽克斯大學教授 Dr. Andrew Drzemczewski 以「The Role and Authority of the European Court of Human Rights」為題，所發表精彩的專題演講，提供我們有關憲法在人權保障及權力分立制度發展上的省思，這些比較法上的經驗分享，相當寶貴。

另外，鑒於弱勢權利的保障，在每個時代的維權倡議聲浪中，不曾缺席；而資訊隱私權的崛起，在 e 化世代，是基本權保障領域的明日之星；有關修憲界限的議題，更涉及憲法審查極高度的專業，我國大法官就各該議題，亦曾作出不少具代表性的解釋，例如：釋字第 719 號【政府採購得標廠商應進用一定比例原住民案】、釋字第 748 號 【同性二人婚姻自由案】、釋字第 603 號【捺指紋始核發身分證案】及釋字第 499 號【88 年 9 月 15 日修正公布之憲法增修條文違憲案】等。本次研討會，大法官亦就此等與憲法法院職權及人權保障有關的議題，邀請國內外學者專家共同研討，我們分別從：

張文貞教授提出之「Constitutional Protection of Sex/Gender Equality: With the Focus on Taiwan Constitutional Court's Leading Cases」，蔡志偉副教授提出之「Conflict and Reconciliation of State's Civil Law and Indigenous Legal Traditions: Case of Land Governance」，美國德州大學教授 William Stamps Farish Professor of Law Richard Albert 提出之「The Judicial Role in Constitutional Amendment and Dismemberment」，劉定基副教授提出之「The Past, Present, and Future of the Right to Information Privacy: A Comparative Law Perspective)」及翁逸泓助理教授提出之「The Right to be Forgotten: Forget about It?」等研究心得中，探討憲法上基本權保障的未來發展空間，及憲法法院在修憲過程的定位，提供我們很多啟發思考。

本次研討會亦蒙林超駿教授、廖福特研究員、蘇彥圖副研究員、劉靜怡教授及邱文聰副研究員等與談人，就各研討議題提出精闢的觀點及深入的評析，提供我們多元的思辨空間；同時也謝謝擔任研討會 Q&A 翻譯的陳玉潔博士，使本次國際學術研討會互動流暢。研討會所獲致的豐碩成果，將提供大法官釋憲業務的參考。

最後，再次謝謝主持各場研討會及與會的大法官、遠道專程而來的外國貴賓朋友，報告人、與談人，以及所有參加研討會的來賓、同仁，祝福各位身體健康、萬事如意！

In Celebration of the 70th Anniversary of Constitutional Interpretation

2018 International Conference, Taiwan Constitutional Court, Judicial Yuan

Closing Remarks by President of the Judicial Yuan, Hsu, Tzong-Li

Grand Justices, Distinguished Guests, Scholars, Experts, Ladies, Gentlemen, and Colleagues, good afternoon!

Our two-day International Academic Conference celebrating the seventieth anniversary of Taiwan's Constitutional Court successfully comes to its conclusion this afternoon. In this Conference focusing on Constitutional Courts and the Protection of Human Rights, the Judicial Yuan invited distinguished scholars and experts in Taiwan and from abroad to deliver speeches or present academic articles. In order to facilitate the discussion during the Conference, this Conference was held in English and English only, the first time in the seventy years of history. In a sense, it is an unprecedented academic banquet.

Protecting individuals'rights enshrined by the Constitution is the focus that has been emphasized and guarded emphatically by our Grand Justices and the Constitutional Court of every state, as they are the guardians for the fundamental law of each state. As the worldwide trend tends to demand more comprehensive and better protection of human rights, the role played by the Constitutional Court of every state should be more emphasized.

During this Conference, we had the opportunities to listen to the following excellent speeches:

Chief Justice Beverley McLachlin delivered a speech titled as "Four Eras of Aboriginal Law in Canada."

President of the Constitutional Court of Lithuania, Dr. Dainius Žalimas delivered an article titled as "The Development of Constitutional Review and Human Rights Protection by the Constitutional Court of Lithuania." As President Dr. Dainius Žalimas was unable to join the conference, Dr. Yu-Jie Chen was speaking in Dr. Zalimas'stead.

Justice Dondov Ganzorig of the Constitutional Court of Mongolia delivered a speech titled as "The

Role of the Constitutional Court in the Process of Democratic Development in Mongolia."

Professor Tom Ginsburg of University of Chicago Law School delivered a speech titled as "The Trump Administration, Democracy, and American Constitutional Law."

Dr. Andrew Drzemczewski of International Institute of Human Rights in Strasbourg and Middlesex University in London delivered a speech titled as "The Role and Authority of the European Court of Human Rights."

These excellent speeches enable us to reflect on the role of Constitution in the development of human rights protection and the separation of powers. These lessons of comparative law are highly valuable.

In addition, this Conference touched upon three topics. First, protecting the rights of the disadvantaged people has never been absent in every generation's quest for the protection of human rights. Second, the right to information privacy is an emerging issue in the field of protecting fundamental rights in this era of information technology. Third, the issues regarding the constitutionality of constitutional amendments, the boundaries for permissible constitutional amendment and involving special expertise in the judicial review. For these three topics, our Grand Justices made some landmark Interpretations. Some examples are: Interpretation No. 719 reviewed the constitutionality of the law requiring the winning tenderer in government procurement to employ a minimum percentage of indigenous people; Interpretation No. 748 touched upon the question of the constitutionality of same sex marriage; Interpretation No. 603 reviewed the constitutionality of the law requiring fingerprints for the issuance of personal identification cards; Interpretation No. 499 declared that the fifth Constitutional Amendments was unconstitutional on September 15, 1999. These three topics were explored in depth by the following five academic articles presented at this conference.

Professor Wen-Chen Chang presented her article with the title as "Constitutional Protection of Sex/Gender Equality: With the Focus on Taiwan Constitutional Court's Leading Cases."

Associate Professor Awi Mona presented his article with the title as "Conflict and Reconciliation of State's Civil Law and Indigenous Legal Traditions: Case of Land Governance."

William Stamps Farish Professor of Law of the University of Texas at Austin, Richard Albert, presented his article with the title as "The Judicial Role in Constitutional Amendment and Dismemberment."

Associate Professor Ting-Chi Liu presented his article with the title as “The Past, Present, and Future of the Right to Information Privacy: A Comparative Law Perspective.”

Assistant Professor Wesley Yi-Hung Weng presented his paper titled as “The Right to be Forgotten: Forget about It?”

These academic speeches and articles discussed the prospects of constitutional protection of fundamental rights and the role played by Constitutional Court in the process of Constitutional Amendment providing us with many important insights.

This Conference was further enriched by the participation by distinguished discussants, including Dr. Chao-Chun Lin, Dr. Fort Fu-Te Liao, Dr. Yen-Tu Su, Dr. Ching-Yi Liu and Dr. Wen-Tsong Chiou. The discussants provide us with excellent viewpoints, insightful comments, and many opportunities for thinking and deliberation. Thanks also go to Dr. Yu-Jie Chen, who served as the interpreter for the Q&A session of this Conference and made possible the successful interaction at this international academic conference. The valuable results of this Conference will be carefully considered by our Grand Justices in Constitutional Interpretation.

Last but not least, I thank all the Grand Justices chairing or participating in the sessions, all the distinguished guests who come from abroad, all the distinguished presenters, discussants, and all participants and colleagues. I wish you all good health and a safe journey home!