



Face to Face with

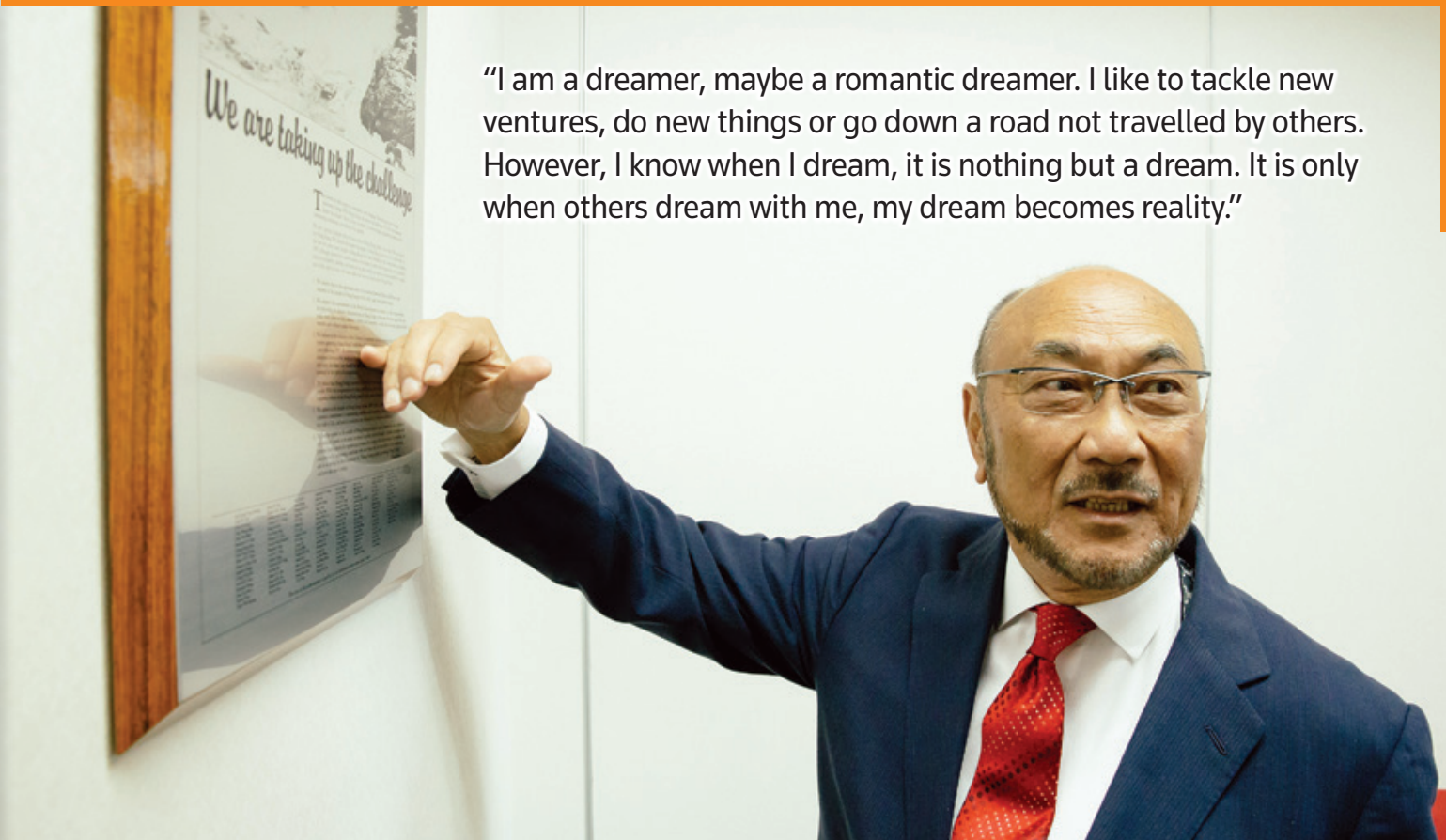
Fred Kan and Herbert Tsoi BBS JP

By Cynthia G. Claytor

The Hong Kong Law Society maintains a Roll of Honour, which consists of the names of solicitors who have distinguished themselves through their service to the Law Society or its Council, by their contributions to the development of the legal profession in Hong Kong or to the practice of law. To be nominated for admission, a three-quarters majority of the Council must agree that the contributions of the solicitor warrant special recognition.

This year's honourees, Fred Kan and Herbert Tsoi BBS JP, speak about their nomination and admission, while reflecting on their legal careers and participation in the work of the Law Society.

“I am a dreamer, maybe a romantic dreamer. I like to tackle new ventures, do new things or go down a road not travelled by others. However, I know when I dream, it is nothing but a dream. It is only when others dream with me, my dream becomes reality.”



Fred Kan

The last three lines of Robert Frost's famous poem, *The Road Not Taken*, capture Mr. Kan's own thinking and feelings about his near half-century career in law and his accomplishments along the way:

*Two roads diverged in the wood, and I –
I took the one less traveled by,
And that has made all the difference.*

“Perhaps, like the traveller, my thinking and feelings about choosing to pursue a path less travelled are based upon a deception brought on by age and vanity. But I like the poem and its imagery of the yellow wood, of way leading on to way and its depiction of the unpredictability and challenges of life,” Mr. Kan explained.

While reflecting on his appointment by the Council to the Roll of Honour, he said that he was greatly humbled and that it was a great way to cap his career. “My only regret is that it came too late for my parents. How I wish they were alive and here today.”

No More Dancing

Mr. Kan graduated from the University of Toronto in 1964 with a Bachelor of Applied Science in mechanical engineering. His graduation thesis was on solar energy. He also recalls being very active in extracurricular activities during this time and attributes his interest in law to his involvement with the International Student Council, where he acted as the Council's president.

However, after completing his Bachelor's degree, he was torn between pursuing two different graduate level programmes – the first, an LL.B. programme at the University of Toronto and the second, a masters' level engineering programme offered through McGill University at its Barbados campus that focused on solar energy. Unable to decide between the two, he applied to both and then set out on an expedition around the world at the behest of his father, who funded the international jaunt to reward Mr. Kan for excelling academically at a prestigious university. The only condition imposed on Mr. Kan was to return home with a travelogue written in Chinese.

After months of gallivanting, Mr. Kan returned to Hong Kong to find that he had received two letters of acceptance – one to study law at the University of Toronto and the other to study solar energy at McGill's research centre in Barbados. Given the lack of sunlight in Canada during the winter months, McGill's programme was not based in Montreal.

Unbeknownst to Mr. Kan, as soon as his acceptance letters arrived, his father started asking friends and family members questions to determine the relative prestige of each programme. But he was indirect about it, Mr. Kan recalls. “He never asked direct questions, as others would anticipate the answer that he wanted and then give him that answer.”

Never having heard of Barbados or the programme at McGill, Mr. Kan's father went to one of his favourite hangouts in Wan Chai and asked if anyone could tell him more about the eastern Caribbean island under the ruse that he was interested in travelling there. “Of course, none of my father's friends knew anything

about Barbados," Mr. Kan said, "except for one smart aleck who said 'Oh, Mr. Kan. That's where they do the calypso!'"

"So on my first night back in Hong Kong after travelling the world, my father took me to a famous steakhouse. Midway through the meal, he asked me with a serious look on his face, 'Son, do you know how to do the calypso?' At the time, everyone knew how to do the calypso. So I said, 'Father, I have to be honest. I do.' He shook his head and said 'No more dancing, son. Be serious.'"

After that, Mr. Kan said it was clear what path he had to take. He enrolled at the University of Toronto, and in 1967 became the first Chinese student to complete their LL.B. programme.

Always in Flux

At the time Mr. Kan completed his LL.B. programme, the majority of the Chinese population in Canada were working in restaurants or laundries. They were not working in law, he explained.

"I had a tough time getting an articles position because I was Chinese. While all of my friends got three or four job offers, I couldn't even get one," he said. "Finally, I got an offer from a small Jewish firm. I will always remember my first day at work. There were other law firms on the same floor as my firm. I went to the common men's room and someone had written on the wall above the urinal,

"Chink drinks here."

"While you may think that this was terrible," Mr. Kan continued, "this experience taught me an important lesson – never look at anything in life in still frame." Even though the ethos wasn't welcoming then, Mr. Kan explained that articling at this firm enabled him to qualify and be called to the bar in Ontario in two years' time. Just eight years later, he was the first Chinese person to run for political office in Ontario for the provincial parliament. "I was even close to winning," he said with a grin.

"These experiences taught me to look at the direction things are going. If I had become discouraged in 1967, I would have never gone on to qualify nor had a good practice or run for parliament. I also wouldn't currently be the oldest living Chinese Canadian lawyer in Ontario. Nothing is perfect, but you must do your best in your current situation."

Mr. Kan maintained his law practice in Toronto until 1984.

A Life in Service

When asked what prompted him to pursue public service work in 1975, Mr. Kan said the reason was very simple. "I was pushed into a position that I could not extricate myself from."

In September 1974, Dr. Bette Stephenson, the then President of the Canadian Medical Association, made a public

statement that there were too many Chinese in Canadian medical schools. This statement disregarded the fact that almost all of them were landed immigrants or Canadian citizens, Mr. Kan explained.

These statements were made during a period of rapidly increasing immigration – with the number of migrants climbing from around 122,000 in 1972 to over 218,000 in 1974 – while the Canadian economy struggled. At the time, Canada sorely needed to overhaul its immigration policy, as its modern-day realities had long overtaken the legislation then in force. Issues came to a head when the Canadian government tabled a green paper in February 1975 in the House of Commons, which sparked an unprecedented nation-wide debate on immigration policy.

"Of course, the Chinese Canadian medical community was up in arms about Dr. Stephenson's statement," Mr. Kan said. "They wanted to form an organisation, but were not sure how to run a meeting. They thought a lawyer should know how to do it. I was the only visible Chinese Canadian lawyer in Toronto in those days, so they asked me to chair the meetings." Seeing similarities between the issues faced by the Chinese Canadian medical community and other Chinese Canadian professionals, Mr. Kan suggested a cross-professional organisation be formed.

His suggestion was embraced, and in 1975, the Federation of Chinese Canadian Professionals (Ontario) was established; the first section formed was the Medical Section. The Federation's membership now includes accountants, architects, biomedical professionals, chiropractors, dentists, engineers, information technology professionals, lawyers, medical doctors, pharmacists and physiotherapists.

His work with the Federation, which also led him to run for political office in 1975 in Ontario, was the first among many public service roles Mr. Kan has held throughout his distinguished career.



Practice in Hong Kong

After gaining admission as a Hong Kong solicitor in 1978, Mr. Kan returned to Hong Kong in 1984 to practise. He is the founder and currently a Senior Partner at Fred Kan & Co., a commercial law firm based in Central Plaza off Harbour Road in Wan Chai.

Mr. Kan's principal areas of practice include dispute resolution, real estate and urban planning and environmental protection. He is an accredited arbitrator and mediator, as well as a Council Member of the Hong Kong International Arbitration Centre ("HKIAC") and a Member of the Board of Directors of the Financial Dispute Resolution Centre ("FDRC"). Mr. Kan explained that the FDRC was established by the Government to manage an independent and impartial dispute resolution scheme by way of "mediation first, arbitration next." He also serves as the Chairman of the FDRC's Appointment Committee.

In 2008, Mr. Kan served as the Chairman of the Public Education and Publicity Sub-Group under the Secretary for Justice's Working Group on Mediation. The work of the Mediation Working Group and its three Sub-Groups prepared for the eventual passing of the Mediation Ordinance in 2013 and the establishment of the current mediator-accreditation regime.

He was also for six years a Member of the Macau Law Reform Advisory Committee and a co-author of its position paper on establishing an arbitration and mediation regime in Macau.

Contributions to the Law Society

Mr. Kan has also contributed to the Law Society's work in a variety of capacities throughout his career. He was a Council Member of the Law Society from 1997 to 2002. He is the past Chairman of its External Affairs Standing Committee, Annual Convention Committee, Law Week Committee, Member Benefits Committee and *Teen Talk* Committee. He is currently the Chairman of the Belt and

Road Committee.

Under his chairmanship, the Member Benefits Committee brought about free disability insurance coverage for all Law Society members.

In 2010, Mr. Kan initiated *Teen Talk* (青Teen講場), an annual Law Society event that brings together at its peak around 2,000 senior secondary school students to discuss and express their views on various communal and legal topics. Mr. Kan recalls everyone having to pull themselves up with their bootstraps for the first *Teen Talk*.

"No one had ever done something like this before. There was so much to plan, and so much that could have gone wrong," Mr. Kan said. "I even appointed my friend who was a former military officer to be the Event Crisis Manager in case of any disaster. When it came to the end with all participants joining hands and singing 我的驕傲 – *We Can Fly*, I had tears in my eyes, quietly thanking God everything went smoothly," he said. Mr. Kan is hopeful that *Teen Talk* will continue to evolve and will become a training ground for future leaders of Hong Kong.

As the Chairman of the Belt and Road Committee, Mr. Kan believes Hong Kong lawyers are well positioned to assist the central government in pursuing the Belt and Road initiative and has been promoting Hong Kong's legal services industry. "We are a centre for finance and centre for connection to the rest of the world, among many other things. Hong Kong should not be complacent, but should capitalise on our advantages. We have a dispute resolution system and centre – the HKIAC – that is rated third best in the world. I am also pushing for all contracts signed in Belt and Road countries and all AIIB (Asian Infrastructure Investment Bank) contracts to have a clause designating Hong Kong as its venue or alternative venue for resolving any contract-related disputes." However, to seize the opportunities, Hong Kong solicitors have to prepare themselves.

Mr. Kan has been advocating that a compulsory CPD course on cross-border legal matters be put in place so that Hong Kong solicitors may be branded as the only legal community in the world to have been trained as cross-border legal practitioners. "Success in business depends on proper branding," explained Mr. Kan.

A Sporting Fellow

Mr. Kan has leveraged his interest in sports to bring members of the profession together and promote awareness of the rule of law. He initiated the *Guangdong, Hong Kong and Macau Lawyers' Sports Meet* and was the Chairman of the Organising Committee twice (2009 and 2015), when Hong Kong was the host. It was at the 2009 sports meet that the Guinness World Record for "Largest three-legged race – most pairs" was broken. He was also the Chairman of the Organising Committee of the sports meet celebrating the centenary of the Law Society. He also initiated the *Rule of Law Marathon* to promote public awareness of the rule of law which saw lawyer-athletes running with the Rule of Law Flag from Macau to Zhuhai, to Shenzhen and finally to Hong Kong to start the opening ceremony of the 6th *Guangdong, Hong Kong and Macau Lawyers' Sports Meet* in November 2015.

And with his true passion being golf, it should come as no surprise that Mr. Kan is also the current Captain of the Law Society Golf Team. In 2005, he initiated the *Cross Strait Lawyers' Golf Tournament* (兩岸三地律師高球友誼賽). This was during Chen Shui-bian's presidency, when cross-strait relations were at a low. It was a good example of Hong Kong playing its traditional role of an honest middle-man. The tournament is now an annual event drawing over 150 lawyers from the Mainland, Taiwan and Hong Kong.

His dream now is to host the *Lawyers' World Cup of Golf and Forum on Tomorrow's World*, which he hopes to bring about in April 2017 in Mission Hills, Haikou.

專訪

簡家驄 與 蔡克剛 BBS JP



香港律師會設有榮譽名冊，褒揚積極參與律師會或律師會理事會工作，表現卓越，對香港法律界或法律執業的發展亦饒有建樹的律師。獲推薦的律師人選，必須得到理事會以四分之三大比數通過贊同其貢獻良多，才能登上榮譽名冊之列，故獲授殊榮乃實至名歸。

今年獲列入榮譽名冊的是簡家驄律師及蔡克剛律師BBS JP。他們接受本刊專訪，回顧他們的法律事業生涯和在律師會的工作點滴，也分享獲列入榮譽名冊，成為榮譽會員的感受。

作者 Cynthia G. Claytor

簡家驄

詩 人羅伯·福洛斯特(Robert Frost)著名作品《無人走過的路》的最後三句，刻畫了簡律師在法律界工作接近半個世紀的想法、感受和成就：

在金黃落葉滿鋪的樹林中，
眼前兩條小徑蜿蜒，
而我踏上乏人問津的那條，
也展開了截然不同的人生。

簡律師解釋：「像詩中那個旅行者，我對選擇乏人問津的那條小徑的想法和感受，或許是受年紀和虛榮蒙蔽。但我喜歡這首詩和其中金黃落葉滿鋪樹林、一條小徑通往另一條小徑的情景，還有它對人生的變幻莫測和挑戰重重的描寫。」

對於獲列入榮譽名冊，簡律師形容他受寵若驚，但這是對他事業生涯一個很好的總結。「唯一的遺憾是，這對我父母來說來

得太晚。我多麼希望他們仍健在，見證今天。」

曲終舞散

簡律師於1964年畢業於多倫多大學，獲機械工程應用科學學士學位，其畢業論文以太陽能為題。他回憶，自己當年十分活躍於課外活動，曾擔任國際學生會會長，對法律的興趣也由此而來。

然而，簡律師取得學士學位後，曾在兩個不同的研究生課程之間左右為難。一個是多倫多大學的法律學士課程，另一個是麥吉爾大學的工程學碩士課程，集中研究太陽能。難以抉擇之下，他同時報讀了兩個課程。然後聽從父親的意見，周遊列國，作為獎勵他在知名大學學業表現優異，旅行的費用由父親資助，而唯一的條件是旅行完結時他必須撰寫一份中文遊記。

遊歷數月後，他回到香港，發現收到兩封取錄信，一封在多倫多大學讀法律，另一封在麥吉爾大學巴巴多斯研究中心研究太陽能。加拿大的冬天缺乏陽光，麥吉爾大學的課程當然非以蒙特利爾為基地。

在簡律師不知情下，簡父收到取錄信後已開始向親朋好友打聽這兩個課程的聲望，但問起來間接委婉。他回憶道：「他從不直接地問，因為其他人會料到他想要甚麼答案，然後就給他那個答案。」

簡律師的父親從未聽聞過麥吉爾大學在巴巴多斯的課程，於是去了灣仔一處他最喜歡的聚會場所，佯說有興趣到該國旅行，從而打聽這個東加勒比島嶼的情況。簡律師說：「當然，我父親的朋友對巴巴多斯一無所知，除了一個自作聰明的人說：『噢，簡先生，那裏就是跳卡力騷舞的地方。』」

「就這樣，我周遊列國後回到香港的第一個晚上，我父親帶了我去一間著名的扒房。吃飯途中，他一臉認真地問：『兒子，你懂跳卡力騷舞嗎？』那個年代，人人都懂跳卡力騷舞。所以我說：『爸爸，老實說，我懂。』他搖搖頭說：『兒子，不要再跳舞了，要認真了。』」

簡先生說，之後走哪條路就很清楚了。他入讀了多倫多大學，於1967年成為了第一位修畢該校法律學士的華人學生。

變化不斷

簡律師解釋，當他修畢法律學位時，加拿大華人口大部份都經營餐館或洗衣店，少有從事法律行業。

「礙於華人的身份，當年我找見習律師職位很困難。我所有朋友都獲三至四間公司聘用，而我卻一份工作也找不到。最後，我獲一間猶太人開的小型律師行聘用。我永遠記得在這家律師行上班的第一天。我的律師行同層有其他律師行，我走進共用的男洗手間，看見尿槽上的牆壁寫着『供中國鬼飲用』。」

簡律師繼續說：「你可能會覺得這很糟糕，但這個經驗讓我上了重要一課——不要在靜止的框框中看生命的一切。」簡律師解釋，儘管那裏的人不太友善，但在這間律師行當見習律師，令他於兩年內在安大略省獲得律師資格。八年後，他參選安大略省議會，成為首位參選該議會的華人。簡律師笑說：「我甚至差點當選。」

「這些經歷讓我學懂放眼未來。如果我在1967年就灰心沮喪，我就不會取得律師資格，不會擁有成功的事業，也不會參選議會。我現在也不會是安大略省最年長的華人文師。人無完美，但你必須在現況中做到最好。」

簡律師在多倫多執業直至1984年。

終身服務

被問及甚麼驅使他在1975年投身公共服務，簡律師說原因很簡單：「我被推到一個無法置身事外的位置。」

1974年9月，加拿大醫學會時任會長



「我是個夢想家，也許是個浪漫的夢想家。我喜歡面對新挑戰、涉足新事物或走無人走過的路。但我知道，當我做夢時，它只不過是個不切實際的夢。只有當別人與我一起做夢時，夢想才變成現實。」

Bette Stephenson醫生公開地表示，加拿大醫學院有太多華人學生。這完全漠視大部份是已落地生根的移民或加拿大公民。

此時正值移民迅速增加之際，移民人數由1972年的122,000人攀升至1974年的超過218,000人，而加拿大經濟又處於掙扎期。當時，加拿大急需徹底改革其移民政策，因為當時的法律已跟不上時代的步伐。終於，加拿大政府於1975年2月向下議院提交了一份綠皮書，引發了對移民政策前所未有的全國辯論。

簡律師說：「當然，加拿大的華人醫學社群激烈抗議Stephenson醫生的言論。他們想成立一個組織，但不清楚如何舉行會議。他們覺得律師應該知道怎樣做。當時我是多倫多唯一可覓的華人文師，所以他們便叫我主持會議。」眼見華人醫學社群面對的問題，亦出現於其他加拿大華裔專業人士之間，簡律師便提議成立一個跨專業的組織。

他的建議獲得接納，加拿大華人專業人員聯會(安大略省)於1975年成立，首先成立醫學分會。聯會成員現包括會計師、建築師、生物醫藥專業人士、脊醫、牙醫、工程師、資訊科技專業人士、律師、醫生、藥劑師和物理治療師。

簡律師參與聯會的工作，因而及後於1975年在安大略省參選，開展了他傑出的事業生涯中眾多公職服務。

香港執業

1978年獲香港律師資格後，簡律師於1984年返回香港執業。他成立簡家聰律師行，現時為該行的高級合夥人。該行為一家商業律師行，辦事處設於灣仔中環廣場。

他的主要執業範疇包括糾紛解決、房地產和城市規劃和環保。他是認可仲裁員和調解員，並擔任香港國際仲裁中心理事及和金融糾紛調解中心董事成員。簡律師解釋，金融糾紛調解中心由政府成立，管理一套獨立公正的糾紛調解計劃，提供「先調解，後仲裁」的解決程序。他亦擔任金融糾紛調解中心遴選委員會主席。

2008年，簡律師出任由律政司成立的調解工作小組轄下的公眾教育及宣傳專責小組主席。調解工作小組和轄下三個專責小組為2013年通過的《調解條例》和現行的調解員認可制度作準備。

他曾擔任澳門法律改革諮詢委員會成員達六年之久，參與撰寫在澳門建立仲裁和調解制度的立場文件。

貢獻律師會

簡律師在事業生涯中，為律師會的工作作出各種各樣的重大貢獻。他於1997年至2002年擔任律師會理事會成員，曾任對外事務常務委員會、年度大會委員會、法律周委員會、會員福利委員會和青Teen

講場委員會主席，現任一帶一路委員會主席。

在他擔任會員福利委員會主席期間，該委員會為律師會所有會員實現免費殘疾保險保障。

他於2010年發起律師會年度活動「青Teen講場」，每年舉行一次，高峰時匯聚約二千名高中學生，討論和表達他們對不同社會和法律議題的看法。

他回憶起，舉辦第一屆「青Teen講場」時，大家都是摸著石頭過河。他說：「沒有人做過這樣的活動。很多事要計劃，很多地方可能出錯。我甚至請我一位以前當軍人的朋友充當活動應變經理，處理萬一出現的任何災難。最後，在所有參加者手牽手唱著《我的驕傲》的一刻，我熱淚盈眶，為一切順利進行默默感謝上帝。」他希望「青Teen講場」會繼續演進，訓練出香港的未來領袖。

作為一帶一路委員會主席，簡律師一直致力推廣香港法律服務業，因為他相信香港律師處於有利位置，能協助中央政府推動一帶一路建設。「香港是金融中心，亦是連繫世界各地的樞紐。然而，我們不應自滿，而應盡量利用我們的優勢。我們擁有一個糾紛解決制度和中心——香港國際仲裁中心，在全球仲裁機構中排名第三。我亦推動所有在一帶一路國家簽署的合約及亞投行(亞洲基礎設施投資銀行)簽署的合約加入條款，指定香港為解決任何合約相關糾紛的地方或其中一個地方。」當然，香港律師本身也要積極裝備自己，才可把握機會。簡律師正倡議開辦一項強制的專業進修課程(CPD)，教授處理跨境法律事宜，務求令香港律師成為一個品牌，作為全世界唯一擁有跨境法律從業員的法律團隊。簡律師解釋：「營商之道在於豎立良好的品牌。」

體育同好

簡律師利用自己對體育的興趣，集合業內同仁，推廣法治意識。他發起舉辦粵港澳律師運動會，兩度擔任籌備委員會主席(2009年及2015年，香港作為主辦城市)。2009年一屆運動會更打破「最大規模的二人三足賽跑—最多對」健力士世界紀錄。他亦擔任香港律師會百周年運動會籌備委員會主席。此外，他亦創辦了法治馬拉松，向公眾推廣法治意識，在2015年11月的粵港澳律師運動會上，律師運動員手持法治之旗，從澳門跑到珠海，再到深圳，最後到達香港的開幕典禮。

簡律師對高爾夫球充滿熱情，理所當然擔任律師會高爾夫球隊隊長。2005年，他創辦兩岸三地律師高球友誼賽。當時陳水扁總統在任，兩岸關係處於低潮。這又是香港發揮傳統中間人作用的一個好例子。兩岸三地律師高球友誼賽現已成為年度活動，吸引超過150位來自內地、台灣和香港的律師參加。

他現在的夢想是主辦律師高球世界盃暨明日世界論壇，希望於2017年在海口觀瀾湖成事。

