

# Hong Kong's Legal System: Embracing the future



The Secretary for Justice, Ms Teresa Cheng, SC, speaks at the Ceremonial Opening of the Legal Year 2018.

On her first official visit to the United Kingdom since assuming office as Secretary for Justice of the Hong Kong Special Administrative Region (HKSAR), Ms Teresa Cheng is meeting leading members of the legal community in London.

"As we approach the 21st anniversary of the establishment of the HKSAR on July 1, I am delighted to share the latest developments of Hong Kong's common law system with the legal community here in the UK," Ms Cheng said. She noted that Hong Kong's legal system is deeply rooted in common law heritage, and modeled on English common law. The city maintains close links with other common law jurisdictions around the world.

## One country, two legal systems

Hong Kong is unique in maintaining its own legal system separate to that of Mainland China's, an arrangement made possible by the far-sighted "one country, two systems" principle for its development as an international financial centre. The effectiveness of Hong Kong's legal system is perhaps the best example of "one country, two systems" in action. It is also testament to the rule of law, independence of the Judiciary and the high standard of local and overseas law practitioners in Hong Kong.

## Unique strengths endure

Hong Kong's remarkable economic and social development over the past 20 years is firmly grounded in the city's sound fundamentals, including independent judicial power and continuance of the common law system, which are constitutionally guaranteed under the Basic Law, a national law enacted by the National People's Congress on 4 April 1990, and effective since 1 July 1997 when the HKSAR was established.

No fewer than 18 articles of the Basic Law relate to the legal system, and three articles specifically affirm independent judicial power in Hong Kong. This assurance is central to the coexistence of two

separate legal systems in Hong Kong and Mainland China and offers a "win-win" result by reinforcing Hong Kong's role in our country's global connectivity while also fostering two-way flows of investment.

## A global city for a global era

Hong Kong's close link to and interaction with other common law jurisdictions helps to maintain a high degree of confidence in the legal system among the general public and the local and overseas business communities. It also promotes the healthy development of common law jurisprudence.

Under the Basic Law, esteemed judges from other common law jurisdictions may be appointed to sit as non-permanent judges of the Court of Final Appeal (CFA), which replaced the Judicial Committee of the Privy Council in London as Hong Kong's final appellate court since 1 July 1997. There are currently eight non-permanent judges from the UK and four from Australia. Appointments of two more judges to the CFA, President of the UK Supreme Court the Right Honourable the Baroness Brenda Hale of Richmond and former Chief Justice of Canada the Right Honourable Beverley McLachlin, PC, have been endorsed by the Legislative Council and would begin their three-year terms in July.

Hong Kong's common law heritage is manifested in the day-to-day operations of the legal system. Hong Kong courts may, and frequently do,



Hong Kong's common law system is transparent.

refer to precedents of other common law jurisdictions.

At the same time, judgments of the CFA have been referred to in the court judgments of cases in the UK and Australia.

## Dispute resolution centre

Hong Kong's effectiveness as a premier dispute resolution centre in Asia is underpinned, not just by the quality of its legal system, but also by the deep pool of local and international legal talent in the city.

Hong Kong is home to more than 1,500 registered foreign lawyers from over 30 jurisdictions. They include more than 340 lawyers from the UK alone. In terms of international law related organisations, the International Court of Arbitration of the International Chamber of Commerce, Asia Pacific Regional Office of the Hague Conference on Private International Law, China International Economic and Trade Arbitration Commission, China Maritime Arbitration Commission, Mainland - Hong Kong Joint Mediation Center (jointly set up by the China Council for Promotion of International Trade and the Hong Kong Mediation Centre) and

the Centre for Effective Dispute Resolution (CEDR) Asia Pacific all have offices in Hong Kong.

Hong Kong has a strong and growing arbitration culture, mature arbitration practice and sophisticated arbitration community. Since 2015, Hong Kong has been among the top five preferred seats for arbitration globally according to the International Arbitration Surveys conducted by Queen Mary University of London.

Recent developments include clarification of the arbitrability of intellectual property rights disputes by way of the Arbitration (Amendment) Ordinance 2017 effective as at 1 January 2018, as well as permitting third party funding for arbitration and mediation under the Arbitration and Mediation Legislation (Third Party Funding) (Amendment) Ordinance 2017 which will come into effect after the publication of a Code of Practice.

Moving with the times, Hong Kong is developing an on-line dispute resolution system that will



A participant interacts with a display at Discover the Basic Law exhibition held at PMQ in Hong Kong.

provide an efficient, affordable and accessible platform for arbitration. When up and running, this project will not only complement the far-reaching China-led Belt and Road Initiative but will also be compatible with other international and regional dispute resolution mechanisms, hence taking Hong Kong to a new dimension in the provision of international dispute resolution services, says Ms Cheng.



## Contact Us

### Hong Kong Economic and Trade Office in London

<http://www.hketolondon.gov.hk/contact/index.htm>

Email [general@hketolondon.gov.hk](mailto:general@hketolondon.gov.hk)  
Post 18 Bedford Square, London, WC1B 3JA, United Kingdom

Telephone +44-(0)20-7499 9821  
Fax +44-(0)20-7323 2336

## Hong Kong's Strengths

- Respect for the rule of law
- Independent judiciary
- Common law system
- Court of Final Appeal vested with power of final adjudication
- Aligned with international norms and practice
- Clean government
- High degree of transparency
- Deep and broad pool of local and international legal talent
- Effective dispute resolution environment for arbitration and mediation
- Strong protection of intellectual property rights

