

**Address by the Chief Justice of the Court of Final Appeal  
of the Hong Kong Special Administrative Region  
The Honourable Geoffrey Ma at the  
National Judges College in Beijing  
on Wednesday 29 June 2016**

**The Common Law System of Hong Kong:  
A Hong Kong Judge's Personal View<sup>1</sup>**

**A. INTRODUCTION**

1. Every year on the 2<sup>nd</sup> Monday in January, we have in Hong Kong the Opening of the Legal Year. This is a tradition dating back many years well before 1 July 1997.<sup>2</sup> You may have seen the ceremony on television, with judges and lawyers dressed in ceremonial robes and wigs, and then wondered (as many people in Hong Kong do) just why there is a need for this ceremony to be continued and what its significance is in modern day Hong Kong. The answer is a

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<sup>1</sup> I am grateful for the assistance provided to me by the Judicial Assistants of the Court of Final Appeal, Mr Sean Li (Barrister) and Mr Ken Ip (Barrister).

<sup>2</sup> The date of the resumption of the exercise of sovereignty by the People's Republic of China over Hong Kong.

simple one: it is a symbol of the common law system of Hong Kong.

2. The common law, as a matter of legal history, has as its origins the common law in England. How does this tradition – the common law system of law – continue to exist in Hong Kong, a Special Administrative Region of the People's Republic of China comprising some 7.5 million people, most of whom are Chinese? Historically, the arrival of the common law is easy to trace: to 1841 with the arrival of the British in Hong Kong. Then, Hong Kong was populated by about 4,000 people spread over a few villages. The fishing population was about half the land population. These days, Hong Kong is a multi-cultural society, having firm international connections as well as of course being a part of the PRC.

3. The primary reason for the British presence in Hong Kong, indeed the Far East, at that time, was of course trade. But trade is a complex activity which depends on a number of factors combining together: natural resources, geographical advantages, human activity and proper governance. Underlying all these factors which loosely make up the term 'trade' is the existence of a system of regulations and enforcement that is a part of what we call a legal system. And the legal system that was introduced into Hong Kong in 1841 was the common law. True that the trappings and eccentricities of the common law were also introduced into Hong Kong – the somewhat quaint rituals of court address engaged by counsel and the court, the court dress of wigs and gowns, the traditional Opening of the Legal Year ceremony which I have earlier mentioned – all these were introduced and indeed continue to exist in Hong Kong.

4. However, it is the essence of the common law to which this address is directed, and, in this context, the critical question relating to Hong Kong: how is it that the common law is still being applied in Hong Kong?

5. In this address, I hope to provide an introduction to the common law system of Hong Kong, identifying those particular characteristics of the system that stand out to embody the common law. Before doing so, I must begin by examining how the common law fits into the constitutional position of Hong Kong within the People's Republic of China. I am referring here to the Basic Law.<sup>3</sup>

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<sup>3</sup> The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, promulgated on 4 April 1990 by President Yang Shangkun.

**B. THE BASIC LAW AND THE COMMON LAW**

6. Hong Kong was made a Special Administrative Region established under Article 31 of the Constitution of the PRC, under the principle of “one country two systems”. The Preamble to the Basic Law sets out the themes and the basic policies of the PRC regarding Hong Kong. Among these was the maintenance of Hong Kong’s prosperity and stability, taking into account of its history and realities. Apart from this, the Preamble also states that Hong Kong has been a part of China since ancient times and that resuming the exercise of sovereignty over Hong Kong fulfilled the long-cherished common aspiration of the Chinese people.

7. Accordingly, given the desirability of maintaining Hong Kong’s prosperity and stability, it was regarded as important to continue those institutions which had over the

years contributed to Hong Kong enjoying these features. The theme of continuity is one that runs through the whole of the Basic Law. One of these was the continuation of Hong Kong's system of law, the common law. The following articles of the Basic Law should be noted:-

- (1) No fewer than three articles in the Basic Law refer to the independence of the judiciary: Articles 2, 19 and 85.
  
- (2) Article 8 of the Basic Law refers to the continuation of the common law and the rules of equity; there is also a recognition of the language of the common law (here Article 9 states that both Chinese and English may be used as official languages by the executive, the legislature and the judiciary). Article 18 refers to Article 8 by stating that the laws in

force in Hong Kong shall be the Basic Law, the laws previously in force as provided for in Article 8 and statute law.

(3) Courts in Hong Kong are required to adjudicate cases according to the applicable law as stated in Article 18 and may refer to precedents of other common law jurisdictions (Article 84). I shall later deal in greater detail with the common law doctrine of precedent.

(4) Article 81 of the Basic Law states that the judicial system previously practised in Hong Kong (that is, prior to 1 July 1997) will be maintained, except for changes consequent upon the setting up of the Court of Final Appeal, now the highest court in Hong Kong. Previously, the highest appellate tribunal for

Hong Kong was the Judicial Committee of the Privy Council in London. Apart from the Court of Final Appeal, the court system remained the same post 1 July 1997 as before: the Magistrates' courts, the District Court and the High Court (this comprising the Court of First Instance and the Court of Appeal). As before, there are two appellate levels: to the Court of Appeal and then to the Court of Final Appeal or, in the case of appeals from the Magistrates' Court, to the Court of First Instance and then possibly to the Court of Final Appeal. The jury system is also expressly preserved under Article 86 of the Basic Law.

- (5) Apart from two exceptions, there are no nationality requirements for judges in Hong Kong. Article 92 of the Basic Law states that judges are to be chosen



on the basis of their judicial and professional qualities alone, and may be recruited from other common law jurisdictions.<sup>4</sup> The Court of Final Appeal goes one step further enabling judges from other common law jurisdictions actually to sit on the court on a temporary basis (Article 82).<sup>5</sup> The two exceptions to nationality are the Chief Justice and the Chief Judge of the High Court,<sup>6</sup> who, by Article 90, are required to be Chinese citizens who are permanent residents of the HKSAR with no right of abode in any foreign country. Both Chief Judge Cheung of the High Court and I are in this position.

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<sup>4</sup> Apart from judges from Hong Kong, there also are judges from Australia, New Zealand and the United Kingdom.

<sup>5</sup> These common law jurisdictions include Australia, New Zealand and the United Kingdom.

<sup>6</sup> The present Chief Judge of the High Court is Mr Justice Andrew Cheung CJHC.

(6) Lawyers who are able to practise in Hong Kong may include not only local lawyers but also lawyers from outside Hong Kong: Article 94.

8. From these matters, it can be seen that the preservation of the common law in Hong Kong assumes a practical significance. Although, as I have earlier mentioned, the common law historically derives from England, its importance in Hong Kong is seen to be essential to Hong Kong's prosperity and stability. It is in this very real context that we come to examine more closely the common law system in Hong Kong.

9. I start with identifying its essential characteristics and objectives of the common law:-

(1) Fairness. In the handling of legal disputes, judges must give fair consideration to the viewpoints of all parties. Fairness requires that everybody who comes to court will have their arguments fully and properly considered. It is sometimes said that all litigants should have “their day in court”, but it is more accurate to say that each party has a right to be heard. This is the essence of a fair hearing. The disputes before the courts are often complex, requiring different viewpoints to be carefully analysed before a just outcome can be reached. Sometimes, hearings can be lengthy and this is reflected in the written judgments of the court, but the reason for this is almost always indicative of the complex nature of the dispute and, more importantly, the need to deal carefully and fairly with the arguments before the court. This is an indication to

the public that the court has come to a properly considered view and has acted fairly. A losing party is entitled to know the reasons for an adverse decision. The public is entitled to be assured that a fair hearing is always guaranteed by the courts.

- (2) Consistency. In discharging the work of the courts, judges must of course deal fairly and properly with cases on an individual basis. However, it is also important to recognise their responsibilities on a wider scale as well. In order for the law to be effective, and this is perhaps an aspect of fairness itself, it must be applied in a consistent way. This point goes even further than courts just being consistent in the way that cases are decided. It also means this: in order for people to know how to act according to law, they must be aware of how the law is to be and should be applied, and has been

applied in the past. Only a consistency of approach will ensure this. This can be called predictability as well. If not, then the law becomes at best unpredictable and at worst, arbitrary. Not only business people or investors are affected, everyone is.

- (3) Transparency. The effectiveness of a legal system is sometimes tested by the confidence in the legal system among those persons or institutions which have to rely on it. In other words, the work of the courts and judges should be visible to those who have any connection or interest in their work. This can range from the Government to the ordinary person. In Hong Kong, there is a concept of open justice and I shall develop this theme later in this talk.

(4) Access to justice. Under Article 35 of the Basic Law, it is stated that all persons shall have access to the courts. This is an obvious right. The effectiveness of a system of law can be said to consist of a sound set of laws, a good structure of courts and competent judges; in other words, a sound legal infrastructure. However, there must also be effective access to the courts for those who require to use the services of the courts. One aspect of this is an efficient system of court procedures. In Hong Kong, and this is the same experience of the courts of the Mainland, we have a large volume of cases to deal with but a limited number of judges to handle them. An efficient set of court procedures is therefore crucial. For civil cases, in 2009, the Civil Justice Reform (CJR) was initiated. There were two basic themes of the CJR. First, case management.

Prior to the CJR, the court system was inefficient due to the lack of active management of cases by the judges; the timetable and activity within a case was largely dictated by the parties to the litigation and their lawyers. This caused delays and use was made of court procedures to delay hearings where this was to the tactical advantage of one or more of the parties. The objective of better case management was to combat these features of the old system to enable judges to be more pro-active in dealing with cases and also to dispense with certain court procedures where these were unnecessary. The second main theme of the CJR was the promotion of mediation. If parties to a case could at any early stage of proceedings try to discuss and reach settlement of their differences, this would without doubt be of considerable benefit to litigants

who could then avoid the wastage of time, expense and even emotional energy involved in a case while at the same time achieve a satisfactory outcome to their legal differences.

- (5) Fidelity to the law. The role of judges is to determine legal disputes. This is an obvious statement and I hesitate to say it for this reason before this audience. However, in Hong Kong there is sometimes a misunderstanding by some people as to the role of judges. There is sometimes a belief that courts and judges should be able to solve economic, social or even political controversies even where there are no legal issues to be determined. Of course, where legal issues are involved, the courts will of course be under a duty to deal with such legal issues even if the origins of



such cases are political, economic or social. Where, however, such cases do not involve any legal questions, the courts are then under a corresponding duty not to deal with them. What I have just said is a good illustration of fidelity to the law. Judges deal only with the law, without any outside considerations unless these are relevant to how the law operates. This is what is meant by deciding cases according to law. A judge's duty is only to decide cases according to law. This approach is fundamental in the equal application of the law, for, as we all know, equality before the law is a critical aspect of the rule of law itself.

(6) Adaptability and flexibility. There are many common law jurisdictions in the world. As I have said earlier, the common law derives historically

from England but this is not to say that Hong Kong merely automatically follows what happens in England. The common law is about basic principles of law (this could be, for example, principles governing the law of contract or principles of the law of torts or principles of criminal law) being adapted to suit different circumstances. The circumstances can be geographical and of course, circumstances can also change. The common law's ability to adapt to circumstances and be flexible is an important feature of its operation. Thus, in Hong Kong over the years, the common law has had, for example, to adapt to blend in with Chinese customary law, with the rights of the indigenous people in the New Territories.<sup>7</sup> And of course, the

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<sup>7</sup> This is now reflected in Article 40 of the Basic Law which states:-

“The lawful traditional rights and interests of the indigenous inhabitants of the ‘New Territories’ shall be protected by the Hong Kong Special Administrative Region.”

common law has adapted to the fact that Hong Kong is a part of the People's Republic of China.<sup>8</sup>

10. These characteristics of fairness, consistency, transparency, access to justice, fidelity to the law, and adaptability and flexibility can be illustrated by a number of features of Hong Kong's common law system. In this talk I would just like to highlight the following topics:-

- (1) The doctrine of precedent.
- (2) Open justice in Hong Kong.
- (3) Judges and the Judicial Oath.

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See also Article 8 of the Basic Law and the reference there to "customary law".

<sup>8</sup> Article 1 of the Basic Law states that Hong Kong is "an inalienable part of the People's Republic of China".

## C. **THE DOCTRINE OF PRECEDENT**

### C.1 What is the doctrine?

11. I have earlier mentioned Article 84 of the Basic Law.<sup>9</sup> This Article immediately begs the question: what is the significance of the doctrine of precedent? After all, many established legal jurisdictions (most notably the civil law jurisdictions) do not have this as an essential feature of their legal system. But first we need to define it.

12. In my room in the Court of Final Appeal in Hong Kong (called Chambers No. 1), the shelves are lined with law reports of Hong Kong judgments and English judgments, all dating back to the 19<sup>th</sup> Century. The most recent reports here

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<sup>9</sup> Article 84 of the Basic Law states:-

“The courts of the Hong Kong Special Administrative Region shall adjudicate cases in accordance with the laws applicable in the Region as prescribed in Article 18 of this Law and may refer to precedents of other common law jurisdictions.”

are the Authorised Hong Kong Court of Final Appeal Reports (so far in 17 volumes), which began in 1997. In the Library of the Court of Final Appeal, the cases date back to the 12<sup>th</sup> Century. As law students we had to study these law reports, as judges now we have to consult them in deciding cases.

13. At its simplest, the doctrine of precedent can be put in this way: a precedent is a reasoned judgment of the court, usually that of a superior court,<sup>10</sup> to which judgment other courts dealing with the same or similar legal issues must have regard. There are exceptions to the rule such as where the legal reasoning of a judgment is said to be *obiter*<sup>11</sup> and the doctrine only applies to lower courts having to follow the judgments of higher or superior courts, not the other way round. For the Court of Appeal, this court must follow its

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<sup>10</sup> In Hong Kong, superior courts are the Court of Final Appeal, the Court of Appeal and the Court of First Instance.

<sup>11</sup> Meaning that the reasoning was not essential to the determination of the issues in the case.

previous decisions, save in one situation which I shall discuss further below. I emphasize the word “must” because the doctrine of precedent is of compulsory or coercive application: whether or not judges agree with the legal reasoning of a legal precedent, they have to follow it. In many other legal systems, judges in a subsequent case may have regard to the legal principles established by previous cases. In a common law system, by contrast, judges must have regard to previous cases. This even applies to appellate courts of the same level, save in two respects in Hong Kong:-

- (1) The Court of Final Appeal does as a matter of practice follow its own previous decisions but it will depart from such decisions where it is appropriate to do so.

(2) For the Court of Appeal of the High Court, the position is more strict. The Court of Appeal must follow its own previous decisions unless the previous decision was shown to be “plainly wrong”.<sup>12</sup> This involves a high threshold<sup>13</sup>:-

*“Where the arguments whether the previous decision is wrong are finely balanced, the Court of Appeal’s mere preference for the view that it is wrong would plainly be insufficient to justify departure from it. Even where the Court of Appeal is satisfied that the arguments against its previous decision are more substantial and cogent than the contrary arguments in its favour, this would still be insufficient. It is only where the Court of Appeal is*

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<sup>12</sup> This principle was established by the Court of Final Appeal case of *Solicitor v Law Society of Hong Kong* (2008) 11 HKCFAR 117.

<sup>13</sup> *Law Society* at pages 141-2 (paras 46-47): Chief Justice Li.

*convinced that the contentions against its previous decision are so compelling that it can be demonstrated to be plainly wrong that the test is satisfied.*

*Obviously, previous decisions reached in ignorance of an inconsistent statutory provision or a binding authority satisfy the plainly wrong test. Further, decisions which satisfy the manifest slip or error yardstick, which the Court of Appeal has applied in the past also satisfy the plainly wrong test. But the category of decisions which are plainly wrong is not limited to these instances. The reasoning of a decision may be so seriously flawed that it should be regarded as plainly wrong.”*



## C.2 Its Rationale

14. The starting point is fairness, the first of the characteristics of the common law referred to earlier. It is fair and consistent with justice that the law should not be arbitrary nor should it be arbitrarily applied. The law should be applied consistently. Similar factual and legal situations should end up with similar legal results. There may, however, at times be differences in identifying the similarity in legal or factual situations. For example, principles of negligence, a foundation principle in the law of torts, may be differently applied between traffic accidents and the activity of professionals such as lawyers or accountants. How such principles are to be applied will depend on the skill and wisdom of judges.

15. An important facet of fairness and justice is the second of the characteristics of the common law mentioned earlier, consistency. I can put it no better than Chief Justice Li again in the *Law Society* case,<sup>14</sup> explaining not only the rationale of the doctrine of precedent but also the need for flexibility:-

*“The doctrine of precedent is a fundamental feature of our legal system based on the common law. It gives the necessary degree of certainty to the law and provides reasonable predictability and consistency to its application. Such certainty, predictability and consistency provide the foundation for the conduct of activities and the conclusion of business and commercial transactions. But at the same time, a rigid and inflexible*

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<sup>14</sup> At page 134 (paras 19-20).

*adherence by this Court to the previous precedents of Privy Council decisions on appeal from Hong Kong and its own decisions may unduly inhibit the proper development of the law and may cause injustice in individual cases. The great strength of the common law lies in its capacity to develop to meet the changing needs and circumstances of the society in which it functions.*

*Recognising the importance of these considerations, this Court will approach the exercise of its power to depart from any previous decision of the Privy Council on appeal from Hong Kong or any previous decision of the Court with great circumspection. In this connection, the risks of disturbing existing rights would have to be borne in mind. It is a power which will be exercised most sparingly.”*

Some may argue that the doctrine of precedent is too rigid, but this is counterbalanced by the certainty and predictability of law. Put simply, it enables all persons to conduct their affairs confident in the knowledge that this will be in accordance with the law. In my view, the doctrine also reduces the scope for judicial error.

16. There is another facet of the doctrine of precedent which can be noted. Throughout history, there are in all jurisdictions judges who have been great judges. It is right that the wisdom and legal knowledge of these judges should be recorded to guide future generations. This then leads me to the need for a sound system of law reporting.

17. In order for the doctrine of precedent to be effective, the judgments of the courts must be easily accessible and this means in practice a proper system of law reporting. I

mentioned the many volumes of law reports in my room in the Court of Final Appeal; the ready availability of reports of cases is now multiplied countless times over by the existence of law reports on legal websites<sup>15</sup> covering many different jurisdictions.

18. Apart from making effective and real the doctrine of precedent, the ready accessibility of law reports also supports the concept of open justice. In Hong Kong, where the law is mostly contained not only in the Basic Law and statutes, but also in case law,<sup>16</sup> the availability of court judgments to the public is an important aspect of open justice.

19. I now turn to the topic of open justice.

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<sup>15</sup> Such as Westlaw (<http://login.westlaw.com.hk/maf/wlhk/app/authentication/formLogin>), Lexis Nexis (<http://www.lexisnexis.com/en-us/gateway.page>), World LII (<http://www.worldlii.org/>) and the Hong Kong Judiciary's own website ([http://www.judiciary.gov.hk/tc/legal\\_ref/judgments.htm](http://www.judiciary.gov.hk/tc/legal_ref/judgments.htm)).

<sup>16</sup> Article 8 of the Basic Law states:-

“The laws previously in force in Hong Kong, that is, the common law, rules of equity, ordinances, subordinate legislation and customary law shall be maintained, except for any that contravene this Law, and subject to any amendment by the legislature of the Hong Kong Special Administrative Region.”

The reference to the “common law” includes case law.

#### D. **OPEN JUSTICE IN HONG KONG**

20. One of the objective indicators of the efficacy of a legal system – even the rule of law – in a jurisdiction is the confidence which the community has in that system. It is in this context that I discuss the concept of open justice. I focus on two aspects:-

- (1) First, transparency of the legal system. In Hong Kong, most court proceedings are open to the public to observe.<sup>17</sup> This is an obvious example of open justice. The fact that any member of the public is able to observe court proceedings provides an effective supervision of the whole of the judicial

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<sup>17</sup> Save for the most sensitive cases, such as certain matrimonial proceedings (especially where children are concerned) or *Mareva* injunctions (where a party's assets are frozen before trial) or *Anton Piller* orders (where important documents are seized at an early stage of the proceedings).

process. Closely connected to this is the ability, save in exceptional and recognized circumstances, of the press to report. This is embodied in Article 14.1 of the ICCPR (Article 10 of the Hong Kong Bill of Rights).<sup>18</sup>

(2) Secondly, the existence of fully reasoned judgments.

This for me is a crucial characteristic of the common law. Reasoned decisions demonstrate not only to the parties to the particular case but also to the world at large, the precise thought process of the court in arriving at any decision. It exposes for detailed analysis and scrutiny the reasons for a decision and, where these reasons are not convincing, the judgment will enable the losing

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<sup>18</sup> Public hearings and the requirement that judgments be made public. The International Covenant on Civil and Political Rights (the ICCPR) applies in Hong Kong under Article 39 of the Basic Law.

party to consider an appeal. In jury trials, there is of course no requirement on a jury to provide reasons but a jury's verdict is always preceded by a detailed summing-up by the trial judge, from which one can often work out the reasons to justify or explain a jury's verdict. A reasoned judgment will demonstrate that a court has discharged its responsibility of determining the outcome of cases strictly according to law and legal principles, and has acted independently. A reasoned judgment will also clearly indicate a court's approach to the law, from which the relevant legal principles and approach can be seen and tested. In Hong Kong, the Court of Final Appeal has gone one step further to make available to the public the contents of the legal



arguments prepared by the lawyers for the parties in any case.<sup>19</sup>

21. The Hong Kong Court of Appeal has recently discussed the concept of open justice and it is worthwhile here noting the words of Cheung CJHC<sup>20</sup>:-

*“However, it is useful to remind ourselves of the basic principles. First and foremost, ‘justice should not only be done, but should manifestly and undoubtedly be seen to be done’... Open administration of justice is a fundamental principle of common law... It is of great importance, from the perspective of administration of justice, for a number of reasons. The public nature of proceedings deters inappropriate behaviour on the*

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<sup>19</sup> These are made available on the website of the CFA ([www.hkcfa.hk](http://www.hkcfa.hk)).

<sup>20</sup> In *Asia Television Ltd. v Communications Authority* (2013) 2 HKLRD 354, at para 19.

*part of the court. It also maintains the public's confidence in the administration of justice. It can result in evidence becoming available which would not become available if the proceedings were conducted behind closed doors or with one or more of the parties' or witnesses' identity concealed. It makes uninformed and inaccurate comment about the proceedings less likely...”*

22. Lastly on open justice, I would like to mention arbitration. In all common law jurisdictions (and of course also civil law jurisdictions and under the legal system of the PRC), arbitration is an important part of the administration of justice. One of the major features of the arbitral process is the privacy and confidentiality of proceedings. This goes against the concept of open justice in that arbitral proceedings are conducted in private and arbitral awards are not publicly

available either.<sup>21</sup> However, the high degree of integrity with which arbitration is associated, firmly establishes this form of dispute resolution as a very real and acceptable alternative or addition to the work of the courts. Notwithstanding the relative lack of open justice, it is perhaps better looked at as an example of the flexibility and adaptability of a common law system.

#### **E. JUDGES AND THE JUDICIAL OATH**

23. Article 85 of the Basic Law mandates that Hong Kong courts shall exercise judicial power independently, free from any interference. This means the constitutional responsibility on the courts and judges to determine legal disputes. Judges in Hong Kong are appointed “on the basis of

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<sup>21</sup> In Hong Kong, under Section 18 of the Arbitration Ordinance (Chapter 609 of the Laws of Hong Kong), no party to an arbitration can disclose or communicate any information relating to arbitral proceedings or an award, unless the other parties agree.

their judicial and professional qualities”.<sup>22</sup> This strongly supports the notion that in exercising “judicial power”, judges must apply the law and legal principles, and not be influenced by any other extraneous factors. This can also be said to be the essence of the concept of the independence of the judiciary. It is certainly the essence of the common law characteristic of fidelity to the law.

24. The judicial oath which I took when I became Chief Justice was in the following terms<sup>23</sup>:-

“I swear that, in the Office of the Chief Justice of the Court of Final Appeal of the Hong Kong Special Administrative Region of the People’s Republic of China, I will uphold the Basic Law of the Hong

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<sup>22</sup> Article 92 of the Basic Law. Article 2 of the Judges Law of the People’s Republic of China of 1995 (as amended in 2001) refers to judges as “judicial persons who exercise the judicial authority of the State according to law”.

<sup>23</sup> This is in the same terms as the Judicial Oath that is taken by all judges, as required by the Oaths and Declarations Ordinance, Chapter 11 of the Laws of Hong Kong.

Kong Special Administrative Region of the People's Republic of China, bear allegiance to the Hong Kong Special Administrative Region of the People's Republic of China, serve the Hong Kong Special Administrative Region conscientiously, dutifully, in full accordance with the law, honestly and with integrity, safeguard the law and administer justice without fear or favour, self-interest or deceit.”

## F. CONCLUSION

25. There are other aspects of the common law system in Hong Kong that can further illustrate those six characteristics I have identified as constituting the essence of the common law, but the three topics of the doctrine of precedent, open justice, and judges and the Judicial Oath provide perhaps the most ready examples.

26. The common law has served Hong Kong and its people well in providing for its prosperity and stability over the years. I believe it will continue to do so in the years to come. If this is a system that has provided these things to Hong Kong – prosperity and stability – as well as implemented a respected system of justice according to the law, it is a system that, in my view, is worth preserving.

27. Lastly, I would like to thank the National Judges College again for this kind invitation to speak today. It is a great honour for my colleagues and me. I am truly honoured and privileged.