



**IN STYLE •
HONG KONG
SYMPOSIUM**
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Session 1: International Dispute Resolution Mechanism



Why seat the reference in Hong Kong?

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HKG's effective arbitration law

- Sophisticated statutory framework adopting the UNCITRAL Model Law
- Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958
- Robust common law supporting and promoting arbitration



Support from the courts

- An established specialist arbitration court
- Construction and Arbitration List
- Established 1st February 1999



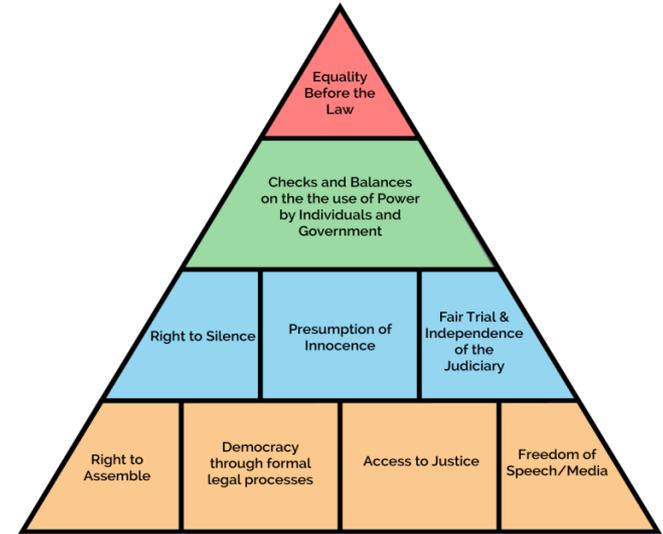
Independence of the courts

- *“The courts of the Hong Kong ... shall exercise judicial power independently, free from any interference. Members of the judiciary shall be immune from legal action in the performance of their judicial functions.” Art 85*
- This is not aspirational: it works in practice
- No judges from the mainland
- No interface with the mainland judicial system
- The Global Competitiveness Report 2017–2018; for judicial independence the report ranks Hong Kong first (1st) in Asia and 13th globally – ahead of Japan, Singapore, Germany and the United States.



Rule of law

- The law of Hong Kong is based on the rule of law and the independence of the judiciary
- Article 8 stipulates that all laws in force before 1997, including *"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."*
- Article 18 states that national laws, from the People's Republic of China do not apply, except for a specific list in Annex III to the Basic Law. However, this may only be in the fields of *"defence and foreign affairs as well as other matters outside the limits of the autonomy of the Region as specified by this Law."*



Court of Final Appeal's unique position

- A unique institution
- Judges from other common law jurisdictions are recruited and serve on the CFA: Art 92
- Judges appointed pursuant to Article 92 have served in the judiciaries of England and Wales, Australia or New Zealand
- Not seen anywhere else in the world's judicial systems



Strength of the HKIAC, and other institutions in HKG

- Hong Kong International Arbitration Centre (HKIAC) established 1985.
- HKIAC is totally independent and free from governmental interference.
- Among the leading institutions globally, and in the top two in Asia; perhaps to paraphrase Brian Clough *"I wouldn't say HKIAC is the best centre in Asia. But it is in the top one"*!
- HKG hosts CIETAC, Hong Kong; the Permanent Court of Arbitration ("PCA") conducts of references in Hong Kong, including state-investor arbitration; the International Court of Arbitration of the International Chamber of Commerce ("ICC") opened a branch of its Secretariat in Hong Kong in November 2008 to serve ICC arbitration in the Asia-Pacific Region.



HKG's “open skies” policy to arbitrators and counsel

- Arbitrators and counsel can serve on references with little formality
- Work permits are readily available
- Foreign counsel do not require local co-counsel or to register with the legal profession's regulators



Wealth of experts in HKG, both forensic and specialty



- Concentration of forensic experts to help manage documents and “number crunching”
- Experts on virtually every specialty area can be found: construction, engineering, etc.

HKG's logistics advantage

- Proximity to the Chinese mainland
- Regional hub for legal services and dispute resolution underpinned by a trusted common law system and an independent judiciary
- Within a five-hour flight from half the world's population
- Hong Kong is home to more than 850 local law firms and more than 70 global law firms. Legal advisors based in Hong Kong are familiar with the legal and regulatory landscape of different countries around the world and can play a pivotal role in Belt and Road development
- Excellent hotels, restaurants and



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CHILDREN



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