



**SPEECH OF MR C M CHAN  
PRESIDENT OF THE LAW SOCIETY OF HONG KONG  
AT THE OPENING OF THE LEGAL YEAR 2023  
16 JANUARY 2023**

Good afternoon, Chief Justice, Secretary for Justice, Chairman of the Hong Kong Bar Association, Members of the Judiciary, Members of the Legal Profession, Distinguished Guests, Ladies and Gentlemen,

1. 2022 has been an eventful year filled with celebrations in various forms marking the 115<sup>th</sup> anniversary of the establishment of the Law Society of Hong Kong, and the 25<sup>th</sup> anniversary of the establishment of the Hong Kong Special Administrative Region.
2. I am honoured to be speaking at this important occasion on behalf of the Law Society, an organisation that has stood the test of time for 115 years witnessing the development of the profession for over a century. I would like to start by sharing a brief overview of the profile of the profession.
3. In Hong Kong, the legal profession is self-regulatory, an important characteristic that reinforces the independence of the profession.
4. The Law Society is the professional and regulatory body of solicitors in Hong Kong. Our membership maintains a steady annual growth of 4 to 5%. At the end of 2022, there were over 13,100 Hong Kong solicitors, 931 Hong Kong law firms, 1,442 foreign lawyers from 34 jurisdictions and 77 foreign law firms from 20 jurisdictions registered with the Law Society.

**One Country, Two Systems**

5. 2022 also marks the 25<sup>th</sup> anniversary of the implementation of “One Country, Two Systems”. Principles underlying this unique system are enshrined in our Basic Law.
6. In his address at the meeting celebrating the 25<sup>th</sup> Anniversary of Hong Kong’s return to the Motherland on 1 July 2022, President Xi Jinping reiterated that “Hong Kong’s distinctive status and advantages” and “the common law” shall be maintained.

7. The commitment to preserve the characteristics of each of the two co-existing and distinct systems while maintaining the Central Government's sovereignty and allowing Hong Kong a high degree of autonomy is evident in the provisions of the Basic Law. Here are two prominent examples.
8. First, notwithstanding its status as a local administrative region of the People's Republic of China, Hong Kong is authorised under Article 8 of the Basic Law to maintain the common law system. Further, with English and Chinese both being official languages under our Basic Law, Hong Kong is the only city in the world that has a truly bilingual common law system.
9. Second, while the Basic Law provides that the power of its interpretation vests in the Standing Committee of the National People's Congress ("NPCSC"), the Hong Kong courts not only enjoy independent judicial power including that of final adjudication under Article 19 (which before the Reunification on 1 July 1997 lay with the Privy Council in London), but have also been authorised by NPCSC to interpret on their own, in adjudicating cases, the provisions of the Basic Law which are within the limits of Hong Kong's autonomy under Article 158.

### **Legislative interpretation**

10. The commitment to faithfully implementing "One Country, Two Systems" in accordance with the Basic Law is also evident through the tremendous effort placed in according proper respect for the core values and legal principles in each of the two distinct systems while resolving the differences arising from their co-existence. The manner in which the power of legislative interpretation has been invoked is a good example of this commitment.
11. The Basic Law is enacted by the National People's Congress in accordance with the People's Republic of China Constitution and Article 67(4) of the Constitution states that the NPCSC has power to interpret laws. Further, under Article 67(1), the NPCSC is charged with the duty and function to interpret the Constitution and oversee its enforcement.
12. Legislative interpretation is an interpretation of the law by the law maker. In China, it is a constitutionally entrenched concept which, however, is novel to the common law system being practised in Hong Kong. For those who are not familiar with the concept, any misunderstanding of how it fits in the judicial process in a common law system may cause confusions.
13. Over a span of 25 years since 1997, the power of legislative interpretation, though constitutional and legal, has been invoked sparingly with caution and with public explanation on, firstly, the reasons why the power has to be invoked (for example, the need to clarify the legislative intent on matters of principles from the maker of the law); secondly, the legal basis on which the power is exercised (for example, the relevant sections in the Constitution and

the Basic Law); and thirdly, the impact, if any, on the specific judicial process out of which the legislative interpretation arises.

14. So far, there have been five instances where the NPCSC has interpreted the Basic Law pursuant to Article 158.
15. The sixth legislative interpretation related to the National Security Law (“NSL”) made by the NPCSC recently on 30 December 2022 upon the request of the Chief Executive on issues arising out of an application for admission of an overseas counsel for a case involving the NSL.
16. Article 65 of the NSL provides that the power of interpretation of the NSL vests in the NPCSC. This sixth interpretation provided procedural guidance on existing provisions in the NSL. The adjudication of the relevant case itself based on the facts and evidence adduced before the court has been left entirely in the remit of the judiciary.

### **Judicial officers as staunch defenders of judicial independence**

17. In recent years, attempts to politicise some of the court’s work have presented challenges to the perception of judicial independence, a core value of the rule of law. We are grateful to all judicial officers for maintaining a strong, independent and internationally respected judiciary, particularly during these difficult times, and to all overseas non-permanent judges serving on the Court of Final Appeal who bring with them a diversity of international judicial experience. Their support speaks louder than words about the respect they have for the commitment of Hong Kong’s judiciary to the rule of law and judicial independence.

### **Looking Ahead**

#### Huge opportunities

18. Looking ahead, huge post-pandemic opportunities await us.
19. The 14<sup>th</sup> Five-Year Plan is the blueprint guiding the future national development of China to 2035. It continues to support Hong Kong to enhance its status as an international financial, transportation and trade centre, a global offshore Renminbi business hub, an international asset management centre and a risk management centre; establish itself as a centre for international legal and dispute resolution services in the Asia-Pacific region; and promote service industries for high-end and high value-added development.
20. The 14<sup>th</sup> Five-Year Plan also raises for the first time the support for Hong Kong to enhance its status as an international aviation hub, to develop into an international innovation and technology hub, a regional intellectual property

trading centre and a hub for international cultural exchange between the East and the West.

21. With all these initiatives, coupled with the opportunities brought by the Belt & Road Initiative and the Greater Bay Area development, a steady supply of quality legal services will be in great demand. As always, we welcome legal talent from around the world to enrich our legal service supply to tap into the huge potential of these future developments.

### Modern infrastructure

22. It is pleasing to note that much progress has been made in the use of electronic technology in the courts. Since April 2020, the judiciary has been conducting remote hearings in civil proceedings where appropriate through using video conferencing facilities or phones. From January 2021, all levels of civil courts may make use of remote hearings where necessary and appropriate.
23. The integrated Court Case Management System offers electronic services including sending and receiving case-specific court documents to and from the e-Courts, inspecting or searching filed documents and other case-related information held by the e-Courts, searching cause books, and making electronic payments.
24. The integrated Court Case Management System has already been implemented in personal injuries action, tax claim proceedings, civil action proceedings and employees' compensation cases in the District Court as well as summons cases of the Magistrates' Courts.
25. At present, remote hearings cannot be used for criminal matters because of legal impediments. A consultation by the judiciary on the drafts of the Courts (Remote Hearing) Bill, Practice Directions and Operational Guidelines aiming to provide a general framework to enable the use of remote hearings for all types of court proceedings was launched in June and completed in September 2022. The Law Society has provided its views on the draft Bill.
26. Application of electronic technology will be the future norm. We look forward to embracing a court management system that improves the access to justice by taking advantage of the advancement in technology to enhance its efficiency and its ability to continue operation despite physical disruptions like the COVID pandemic, which I hope is now a thing of the past.
27. On this note, may I wish you all a fulfilling 2023!
28. Thank you.