

# Speech by SJ at Hong Kong Basic Law Education Association international law conference (English only) (with photo)

Following is the speech by the Secretary for Justice, Mr Paul Lam, SC, at an international law conference on "one country, two systems" and the Belt and Road Initiative organised by the Hong Kong Basic Law Education Association today (December 3):

Distinguished guests, ladies and gentlemen,

Good afternoon. Firstly, I would like to thank Dr Priscilla Leung, Chairman of the Hong Kong Basic Law Education Association for organising this important international law conference. I think it gives all of us an opportunity to discuss building partnerships, as well as the role that Hong Kong can play, in taking forward the Belt and Road Initiative.

Unique strengths under "one country, two systems"

Now seeing that the theme of today's conference is the practice of "one country, two systems", I wish to highlight one major feature of this innovative policy, and that is the common law system of Hong Kong. The importance of Hong Kong's common law was reiterated by President Xi in his address at the meeting celebrating the 25th anniversary of Hong Kong's return to the motherland in July this year, he noted that "[t]he central government fully supports Hong Kong in its effort to maintain its distinctive status and edges, ... and to maintain the common law..."

Unique strengths of Hong Kong's common law system

Indeed, the preservation of the common law in Hong Kong since its return to the motherland is explicitly provided by Article 8 of the Basic Law, which states that the laws previously in force in Hong Kong, including the common law, shall be maintained.

Hong Kong's common law system has its own unique characteristics. At the outset, Hong Kong adopts a bilingual common law system, with Article 9 of the Basic Law providing that both Chinese and English as the official languages that can be used by, inter alia, the judiciary. As common law was developed in the English language to begin with, the courts being able to use it as an official language is conducive to the continuation of the development of the common law in Hong Kong. We may also appreciate that English is the lingua franca of the global business community and its use in Hong Kong as an official language also facilitates business both in and through Hong Kong.

Another notable strength of the common law system lies in judicial

independence. Our courts exercise independent power of adjudication free from any interference, which is guaranteed under the Basic Law in Articles 2, 19 and 85. Article 85 also allows our Court of Final Appeal to invite eminent foreign judges to sit as Non-Permanent Judges, and the Judgements of our Court of Final Appeal have been cited by other common law jurisdictions from time to time. Similarly, Article 84 of the Basic Law allows Hong Kong Courts to refer to judicial precedents of other common law jurisdictions.

These features contribute to imbuing Hong Kong's common law with international characteristics. Our common law also has a very strong heritage and enjoys an excellent reputation in the global community, ranking 22nd out of 140 countries and jurisdictions worldwide in the most recent 2022 World Justice Project Rule of Law Index, which is highly comparable, if not better than, many other common law jurisdictions.

The international nature of Hong Kong's common law is evident from the presence of a very strong pool of local and foreign legal professionals. As of October this year we are home to 81 registered foreign law firms from 22 jurisdictions, and 1 438 registered foreign lawyers from 33 jurisdictions, as well as 934 Hong Kong law firms and 11 375 practising solicitors. Coupled with over 1 600 practising barristers including over 100 Senior Counsels, a great majority of our legal profession are fluent in both Chinese and English, and is conversant in both western and Chinese business practices.

#### The unique role of Hong Kong in the Belt and Road Initiative

Being the only common law jurisdiction in China, Hong Kong has a uniquely important role to play in the Belt and Road Initiative. In this connection, we should also take into account the National 14th Five-Year Plan, which affirmed the maintenance of Hong Kong's distinctive status and advantages, and explicitly supports Hong Kong's development into a centre for international legal and dispute resolution services in the Asia-Pacific region, adding to Hong Kong's strengths as a deal making hub. Notably, Hong Kong has been ranked as the world's top IPO venue in seven of the past 13 years.

Hong Kong's common law system can contribute to the Belt and Road Initiative in the role as a "super connector" or "super facilitator" by linking the Mainland, a civil law jurisdiction, with the global community by various means.

In cross-boundary civil and commercial matters, foreign companies wishing to establish a joint venture with Mainland companies and enterprises may establish their offices in Hong Kong and be governed by Hong Kong's legal and regulatory regime, which is compatible with international standards and practice. Contracting parties may choose Hong Kong law to be the applicable law and the place where disputes are to be resolved. The use of Hong Kong law and its legal and regulatory regime would no doubt increase the attractiveness and acceptability to foreign entities who may be more familiar with the legal principles rooted in the common law.

Another example appears when disputes arise. Apart from litigation in

our efficient Hong Kong Courts, we also have other diversified dispute resolution options, such as our well-established and internationally-known dispute resolution institutions, including our home-grown Hong Kong International Arbitration Centre. According to the Queen Mary University of London 2021 International Arbitration Survey, Hong Kong is the third most preferred seat for arbitration in the world. Our legislative framework for arbitration is also comprehensive and stays abreast of international developments. We have recently introduced legislative amendments allowing parties to arbitration to adopt outcome related fee structures for arbitration and allowing for third party funding for arbitration which were previously prohibited under the common law doctrines such as maintenance and champerty.

Our strength also lies in the breadth and depth of the mutual legal assistance framework established between the Mainland and Hong Kong, which is made possible by Article 95 of the Basic Law. This includes the bundle of arrangements with the Mainland regarding reciprocal enforcement and recognition of judgments over a wide range of civil and commercial matters, including intellectual property rights. The features of the most current arrangement which has been recently enacted into legislation includes removing the requirement of exclusive jurisdiction as a precondition for recognition and enforcement, enhancing certainty and predictability and at the same time reducing risks, legal costs, and time associated with cross-boundary enforcement of judgments. Another arrangement entered with the Mainland allows parties to arbitral proceedings seated in Hong Kong and administered by designated arbitral institutions to apply to the Mainland courts for interim measures, including property preservation, evidence preservation and conduct preservation.

The recent 20th National Congress of the Communist Party of China expressly mentioned "one country, two systems" is to be fully, faithfully and resolutely implemented, it also reiterated that it will "give full play to the strengths and distinctive features of [Hong Kong] to see [it] consolidate and elevate their international position in finance, trade, shipping, aviation, innovation and technology, culture and tourism, and other fields." This is a major confidence booster to both the fact that Hong Kong's common law system will long continue, and to the support and confidence of the Central People's Government to Hong Kong. Indeed, the recent announcement to establish in Hong Kong the Preparatory Office of the International Organization for Mediation, an international organisation which aims to provide friendly, flexible, economical and efficient mediation services for international disputes, is the best evidence of the confidence and support given by the central authority. I am very confident that Hong Kong, with its unique common law system, will play a vital role in our country's national development initiatives, in particular in the Belt and Road Initiative.

On this note, I hope you enjoy the rest of the conference with its most insightful discussions. Thank you very much.



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## [HKETO, Brussels promotes message of "Hong Kong is open" to French entrepreneurs \(with photo\)](#)

The Hong Kong Economic and Trade Office in Brussels (HKETO, Brussels) organised a seminar in Paris on November 30 (Paris time) to promote the message of "Hong Kong is open" to French entrepreneurs.

In her speech delivered at the seminar, the Acting Special Representative for Hong Kong Economic and Trade Affairs to the European Union, Miss Grace Li, said the success of a series of major events held in Hong Kong with international participants since the lifting of the mandatory quarantine requirement in September had signalled to the world that Hong Kong is back.

"We are happy to once again be welcoming business people and professionals, investors and entrepreneurs and sportspeople and artists, and to be doing what Hong Kong does best – being an expert facilitator for overseas enterprises to explore the Mainland and regional markets via Hong Kong, providing the professional services they need to support their development in the region," Miss Li said. She also highlighted new initiatives of the Hong Kong Special Administrative Government in the Policy Address, as well as latest steps to ease quarantine requirements for inbound persons arriving from overseas places.

In addition to Miss Li, speakers included representatives of the Hong Kong Trade Development Council (HKTDC), the France Hong Kong Business Association (FHKBA), the Hong Kong Tourism Board and Cathay Pacific. They spoke about the latest developments and opportunities in Hong Kong in their respective sectors, from aviation and travel to business and trade, and opportunities in Hong Kong for French talents, students and interns.

The seminar was organised by HKETO, Brussels in co-operation with the

HKTDC and the FHKBA, with a view to reaching out to the French business community and highlighting Hong Kong's resumption of its activities across all areas.



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## [Scientific Committees under CHP update consensus interim recommendations on use of COVID-19 vaccines](#)

The Scientific Committee on Vaccine Preventable Diseases and the Scientific Committee on Emerging and Zoonotic Diseases (JSC) under the Centre for Health Protection (CHP) of the Department of Health, joined by the Chief Executive's expert advisory panel (EAP), convened a meeting today (December 1) to discuss and issue the consensus interim recommendations on the use of COVID-19 vaccines in Hong Kong.

In view of the arrival of the Comirnaty bivalent vaccine to Hong Kong, recent increasing activities of COVID-19 in the community and residential care homes, as well as the anticipating winter surge, the JSC-EAP has specifically discussed the use of the bivalent vaccine to supplement previous recommendations made on [October 13](#).

Experts urged to arrange vaccination comprising a total of four doses for eligible residents of residential care homes for elderly persons (RCHEs) and residential care homes for persons with disabilities (RCHDs) as soon as feasible, so as to reduce the risk of death and severe disease. Taking into account overseas practice and Comirnaty bivalent vaccine matched with the circulating Omicron strain in Hong Kong, experts considered RCHE and RCHD residents who have completed four doses (or three doses with previous COVID-19 infection) may choose to receive an additional dose of bivalent vaccine for better personal protection, while residents may also choose ancestral strain vaccine under informed consent. In addition, bivalent vaccine can be used as another choice for the third and the fourth dose .

Noting some adults have received four doses of vaccines (or three doses with prior infection) with more than half a year passed, experts considered

that they may choose to receive an additional dose of vaccine six months after their last dose or recovery for personal protection under informed consent. Similar approach also applies to immunocompromised persons aged 18 or above, with a shortened time interval of three months.

Details of the interim recommendations are available at the CHP's website at [www.chp.gov.hk/en/static/24008.html](http://www.chp.gov.hk/en/static/24008.html).

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## **Murder, arson and suicide in Wan Chai**

Police are investigating a murder, arson and suicide case in Wan Chai today (December 1) in which an 89-year-old man and a 53-year-old man died.

At about 3.50 am, Police received multiple reports that a fire broke out in a unit on 275-277 Lockhart Road.

Police officers sped to the scene and located the 89-year-old man and the 53-year-old man inside the unit. The 89-year-old man was found lying on the ground, sustaining a cut wound to his chest and was certified dead at scene. The 53-year-old man was also found sustaining a cut wound to his chest, he was rushed to Ruttonjee Hospital in unconscious state and later certified dead at 5.48am.

After initial investigation, it is believed that the two men had a dispute. The 53-year-old man later assaulted the 89-year-old man with a knife and suspected to set fire inside the unit.

Two knives and suspected fire accelerants in liquid form in suspected connection with the case were seized in the unit.

Post-mortem examinations will be conducted later to ascertain the causes of their deaths.

Active investigation by the District Crime Squad 1 of Wan Chai District is underway. Anyone who witnessed the case or has any information to offer is urged to contact the investigating officers on 3660 7544.

Around 39 residents were evacuated to places of safety in the incident.

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# Clubhouse fined for violations of anti-epidemic regulation

The Office of the Licensing Authority (OLA) of the Home Affairs Department (HAD) earlier prosecuted a licensee and two managers of a clubhouse in Mong Kok, Kowloon, according to the Prevention and Control of Disease (Requirements and Directions) (Business and Premises) Regulation (Cap. 599F). The licensee was fined \$22,000 at the Kowloon City Magistrates' Courts yesterday (November 30), while the two managers of the clubhouse were each fined \$5,000.

The courts heard that the OLA conducted a blitz enforcement operation against the clubhouse on June 10 and found the responsible persons violating the anti-epidemic regulation prevailing at the time of the case, including having arranged live performances at the premises, allowing dancing activities at the clubhouse, not properly switching on the air purifiers when the premises were opened for business, not keeping records of rapid antigen test results of employees, and not ensuring scanning of the "LeaveHomeSafe" venue QR code by customers before entering the clubhouse and not complying with the requirements applicable to clubhouses under the Vaccine Pass arrangement.

A spokesman for the HAD stressed that clubhouses with a Certificate of Compliance issued by the HAD are one of the scheduled premises under Cap. 599F requiring compliance with the relevant requirements and directions issued by the Government. Persons responsible for scheduled premises that contravene the statutory requirements under Cap. 599F would have committed a criminal offence. Offenders are subject to a maximum fine of \$50,000 and imprisonment for six months.

The HAD will continue to proactively take stringent enforcement action and step up inspections at clubhouses in various districts across the territory to ensure that the responsible persons of the premises and the patrons strictly comply with relevant provisions in the regulations for the prevention and control of disease. The Government again appeals to members of the public for their full compliance with various anti-epidemic requirements so as to minimise the risk of transmission of COVID-19 in the community.