

Statement of the Hong Kong Bar Association on the Resignation of UK Supreme Court Judges as Non-Permanent Judges of the Hong Kong Court of Final Appeal

This statement is issued by the Hong Kong Bar Association (“HKBA”) in response to media enquires.

It is a matter of deep regret that the UK Supreme Court has brought to an end the practice since 1997 for two of its Judges to sit as Non-Permanent Judges (“NPJs”) in the Court of Final Appeal.

The HKBA notes that Lord Reed recognised that “the courts in Hong Kong continue to be internationally respected for their commitment to the rule of law” and we respectfully agree.

The decision was said to be motivated by a concern that for those serving Judges to continue to sit in the Court of Final Appeal would risk “appearing to endorse” the Hong Kong government which is said to have departed from values which the UK Supreme Court is committed to, and nothing else.

The experience of lawyers or Judges who have practised or sat in Hong Kong is consistent with a strong and independent judiciary and the rule of law being well.

This move of the UK Supreme Court thus disappointingly falls short of the general support among the legal community in Hong Kong (and indeed the wider community) for the participation of overseas judges in the work of the Court of Final Appeal.

The contribution of NPJs to Hong Kong and the administration of justice has always been deservedly recognised. The Bar expresses its gratitude to all current and former NPJs as well as to all the permanent members of our Judiciary for their service to Hong Kong and its administration of justice.

Collectively, they have faithfully and fearlessly discharged an important constitutional role in resolving disputes in accordance with the law and nothing but the law.

We appeal to all NPJs who are committed to Hong Kong, the rule of law and the administration of justice to remain and serve the people of Hong Kong side by side with the local members of our judiciary to collectively defend the rule of law and uphold judicial independence. It is in times of geopolitical turmoil and international political tensions that judicial independence is most seriously tested but it is also at that time that it is most needed.

Dated 30 March 2022.

Hong Kong Bar Association