

**Speech given at the Opening of Legal Year on 19 January 2026 by the
Chairman of the Hong Kong Bar Association, José-Antonio Maurellet S.C.**

Chief Justice, Secretary for Justice, President of the Law Society, Judges, distinguished guests, ladies and gentlemen,

1. On behalf of the Hong Kong Bar Association, I would like to extend a warm welcome to all of you at this ceremonial opening of the legal year.
2. 2025 was another busy year for our Courts and the administration of justice. I will first deal with some developments relating to our top Court.

Court of Final Appeal: Its Composition and Role

3. As our apex Court, the Court of Final Appeal (“CFA”) plays a pivotal role in the administration of justice in Hong Kong. To this end, Hong Kong is fortunate to be able to call upon the best judicial minds locally and from the rest of the common law world.
4. In January last year, the term of office of Lord Hoffmann as an overseas Non-Permanent Judge (“NPJ”) was extended until early 2028. His Lordship has been a strong supporter of the rule of law and judicial independence in Hong Kong since he started sitting in 1998.

5. In the last summer, Sir William Young, an eminent jurist from New Zealand was appointed as an overseas NPJ. Sir William served on the Supreme Court of New Zealand from 2010 to 2022.
6. The Bar strongly believes that Hong Kong and its people greatly benefit from the present arrangement.
7. Article 82 of the Basic Law provides that “the CFA may as required invite judges from other common law jurisdictions to sit on the CFA.”
8. This was and remains an ingenious and very wise design – one which has enabled our final appellate court to benefit from the experience of top jurists in the common law world, and which has helped ensure that the Court’s decisions accord with generally accepted principles of the common law¹. Given the composition of the CFA, the development of the common law in Hong Kong will always be one which is appropriate for this jurisdiction and in line with its actual circumstances.
9. The presence of overseas NPJs has a positive impact on the perception of our Judiciary both within and outside of Hong Kong. I will address this aspect shortly when I deal with the importance of perception and how in the real world, perception affects reality.

¹ Chen Li Hung & Anor v Ting Lei Miao & Ors (2000) 3 HKCFAR 9 at 23B per Lord Cooke of Thorndon NPJ.

10. One notes the proliferation of international commercial courts around the world. Many have spoken of the benefit of such institutions to the economy. This is consistent with the fact that many international financial centers are in common law jurisdictions.
11. What Article 82 envisages and enables is far more remarkable. Rather than confine overseas judges to sit only in commercial cases, as if that were an area of law that stands separate from the rest of the legal system, our Basic Law enables overseas judges to assist in other key areas of our law, including criminal law, constitutional and administrative law. It is to the distinct advantage of the people of Hong Kong that our jurisprudence in all areas integral to our legal system can develop with the input of eminent overseas jurists working together with world-class Hong Kong Permanent Judges (“PJs”) in ensuring that the development of our common law is consistent with Hong Kong’s unique circumstances.
12. In terms of our PJs (four if one includes the Hon. Chief Justice), it was announced in last September that Mr. Justice Ribeiro PJ would be re-appointed for a further term of 3 years from March this year.
13. Mr. Justice Ribeiro’s re-appointment was universally supported by the legal professions including members of the Bar. He has served on our top court since 2000 and his erudite judgments have been cited in many common law jurisdictions. It has been a matter of shared experience between counsel from both Hong Kong and overseas to find their carefully constructed

arguments shown to be unsustainable after just three or four questions from his Lordship.

14. In terms of jurisprudence, the Court has in the past year dealt with a wide range of significant legal matters, including the necessary ingredients to prove a conspiracy to defraud, the jurisdiction of a Hong Kong court to issue letters of request to a court in the mainland, the claim to public interest immunity and its impact on the right to a fair trial which is essential, amongst other important legal issues.

Judicial Independence is Critical to Hong Kong’s Long-term Stability and Prosperity

15. International litigating parties favour jurisdictions like the United Kingdom, Singapore and Hong Kong to resolve their disputes. As Lord Burnett noted in a lecture he delivered in 2022², a study carried out by the English Ministry of Justice a decade ago concluded that one important factor that influenced the use of their courts by international parties was “the reputation and experience” of its Judges. Reputation and experience are both consequences of the “meritocratic basis for appointment from amongst the most experienced practitioners” from the legal profession.

16. Judicial independence is thus critical to protect fundamental rights, and also for commerce. One of the key features which explains Hong Kong’s great

² The Lord Burnett of Maldon, *The Hidden Value of the Rule of Law and English Law*, Blackstone Lecture 2022, delivered at Pembroke College Oxford on 11 February 2022.

success as a seat of arbitration is not just the excellent arbitral institutions we have, the regular updating of the Arbitration Ordinance³, but also the quality and independence of our Courts. Arbitration does not exist in a vacuum. Applications to set aside awards and for leave to enforce awards are dealt with by the Courts of the arbitral seat, and it is fundamental that these Courts are and are seen to be both efficient and independent.

17. In a recent report by the International Bar Association on the “Social and Economic Impact of the Legal Profession”, the authors concluded that “the strong relationship between the Rule of Law and economic growth is also backed by empirical evidence...the Rule of Law is strongly linked with GDP/capita across the globe. A one-point increase in the Rule of Law Index brings a 0.82% increase in GDP. By building and maintaining the Rule of Law, legal professionals help create the foundations for economic growth”.
18. The rule of law serves the economy, which in turn reinforces the rule of law. In the United Nations General Assembly’s Declaration of the High-level Meeting on the Rule of Law, it was noted that “the rule of law and development are strongly interrelated and mutually reinforcing, that the advancement of the rule of law at the national and international levels is essential for sustained and inclusive economic growth, sustainable development, the eradication of poverty and hunger and the full realization of all human rights and fundamental freedoms, including the right to development, all of which in turn reinforce the rule of law”.

³ Which is currently under a further review.

19. In summary, the stronger our rule of law, the more prosperous and the more resilient and stable our society will be.

Perception and Reality – Important and Connected

20. Lord Chief Justice Hewart in his judgment in **R v Sussex Justices Ex parte McCarthy** famously held: “It is not merely of some importance but is of fundamental importance, that justice should not only be done, but should manifestly and undoubtedly be seen to be done”.

21. This dictum is generally well known if not amongst members of the public, certainly among lawyers and law students.

22. Why does perception matter?

23. It is obvious that if parties are reasonably left with a doubt about the impartiality of a Court or Tribunal, this will have an impact on confidence in its decision.

24. The link between perceptions and reality is borne out by studies on sociology and human behaviour. Mr. W.I. Thomas, an American sociologist set forth a theorem in the field of social science to the effect that “if men define situations as real, they are real in their consequences”. This is, in a very broad sense, akin to what is sometimes called a ‘self-fulfilling prophecy’.

25. Other academics have looked at bank runs through the prism of the Thomas theorem, where a rumour of insolvency, once believed by enough depositors, might result in the insolvency of the bank. But for the rumour the bank would have operated just normally⁴.
26. In short, unlike the hard sciences, the perception of the public on certain economic and societal matters affects their reality.
27. Last year, my predecessor, Mr. Victor Dawes S.C. rightly highlighted the importance of how individuals and businesses perceive the exercise of rights by individuals and the state. It is important for all actors in Hong Kong to take into account the impact of their decision making on such perceptions, which may unwittingly and unintentionally impact on the reality.

Role of the Bar to Speak Up

28. For its part, the Hong Kong Bar will continue to speak up on matters which relate to the rule of law, judicial independence and the independence of the legal professions. This is in the Bar's objects and in our DNA. The Bar is an independent legal profession made up of practitioners who operate independently. This, together with the cab-rank rule which exists only for barristers explains why, despite our size, we have been able to 'punch above our weight'.

⁴ Michael Biggs, "Self-Fulfilling Prophecies" in Peter Bearman and Peter Hedström (eds.), *The Oxford Handbook of Analytical Sociology* (Oxford University Press, 2011), pp. 294-314.

29. One example is our position on matters which relate to the constitutional right to legal representation under Article 35 of the Basic Law. Last year, we expressed our views concerning the amendment to the Prison Rules.

30. We will also speak out here and abroad when our Judiciary is unfairly criticised. This is the right thing to do. Mistaken perceptions regarding our Judiciary are detrimental to Hong Kong's legal system and its people. As Mr. Kumar Ramanathan S.C. said at the opening of the legal year in 2013, "The Bar will actively participate in defending judges and the Courts from unwarranted attacks.... The reality today is that the Judiciary is being targeted increasingly for specific case rulings".

31. We have seen from recent events that this is relevant more than ever. The Bar is confident that our Judges are apolitical and will consider nothing except the law and the evidence. To criticise a ruling on the simple basis that one doesn't like the outcome is both unfair and does nothing to promote the rule of law.

Thanks

32. I would like to take this opportunity to thank two individuals who have served the Bar Council with dedication and will be taking what I hope is only a temporary but well-deserved break. Mr. Derek Chan S.C. has not only been a highflyer in his criminal practice from day one but also someone who has always served the Bar and our legal system, both as a council member and as a vice chairman for 3 terms. I would also like to thank Mr.

Eugene Yim who has conscientiously served as our deputy and later Hon. Secretary and Treasurer for a combined 6-year term with dedication and fervent ardour for our values. But for the selfless dedication of many of our members, our mission would not be possible.

33. It remains for me to wish everyone a healthy and happy Year of the Horse.

José-Antonio Maurellet S.C.

Chairman of the Hong Kong Bar Association