

The Hong Kong Legal System

Second Edition

This book provides an introduction to the legal system in Hong Kong. Understanding Hong Kong's legal system today requires an understanding of the British origins of many of its laws and legal institutions as well as of the uniquely Hong Kong developments in the application of the Basic Law under 'one country, two systems'. These features of the Hong Kong legal system are explored in this book, which takes into account developments in the two decades or so of the new legal framework in Hong Kong since the 1997 handover. In providing an exposition of the legal institutions in Hong Kong and legal method under Hong Kong's legal system (including practical guidance and examples on case law, statutory interpretation and legal research), this book is ideal for first-year law students, students of other disciplines who study law and readers who have an interest in Hong Kong's unique legal system.

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Stefan H. C. Lo , Kevin Kwok-yin Cheng , Wing Hong Chui
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Second Edition

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Preface to the Second Edition

Hong Kong's legal system is unique in that the common law system that operated prior to the return of sovereignty to China in 1997 continues to operate today under a constitutional framework (Hong Kong's Basic Law) created under the civil law system of China. The purpose of this book is to provide readers with an introduction to the basic precepts of the law and legal institutions in Hong Kong, derived as they are from both the British legacy and the new constitutional underpinnings of the legal order under the Basic Law. Although the book is written in a way that is most beneficial for first-year law students, offering practical guidance in legal research and reading statutes and case law, we hope that it will be useful for students from other disciplines who study law as well. We also hope that this book will appeal to general readers, both in Hong Kong and abroad, who are seeking an understanding of Hong Kong's legal system. Developments relating to Hong Kong's legal system are not only relevant to lawyers but should also be of interest to others.

Since the first edition of this book was published in 2012, there have continued to be developments in the operation of Hong Kong's legal system. A prime illustration of this is the recent 'co-location arrangement', which we have included in this new edition (see Chapter 4). The Hong Kong and Mainland customs, immigration and quarantine arrangements of the Hong Kong section of the Guangzhou–Shenzhen–Hong Kong Express Rail Link, referred to as the co-location arrangement, which was opened in September 2018, has sparked controversy in Hong Kong. This rail link forms part of the 20,000-kilometre national high-speed rail network and aims to increase the connectivity between Hong Kong and other Mainland cities. It is argued by Hong Kong officials that to realise its full potential, a quarter of the West Kowloon Station located in Hong Kong (referred to as the Mainland Port Area) needs to be leased to Mainland authorities so that passengers can have their travel documents checked by both Hong Kong and Mainland officers in one terminus instead of separately (once before

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departing Hong Kong and again upon arrival in the Mainland). As the Mainland Port Area is subject to the laws of the Mainland and is regarded as outside the territorial boundary of the Hong Kong Special Administrative Region for the above purposes, the arrangement gives Mainland authorities unprecedented jurisdiction over an area that is geographically within Hong Kong. The co-location arrangement, seemingly concerned with the convenience of travel, goes to the heart of the issues arising from the principles of ‘one country, two systems’ and Hong Kong’s ‘high degree of autonomy’ under the Basic Law.

The interconnectivity between Hong Kong and the rest of China will continue to increase while Hong Kong continues to strive to maintain its status as ‘Asia’s World City’. We have added a new chapter on the interface between Hong Kong and international and Chinese law (Chapter 13). Aside from legal issues concerning the relationship between Hong Kong and Mainland China, there have also been other important developments. The judiciary has drawn greater attention to the need to enhance access to justice for litigants in civil proceedings as well as defendants in criminal proceedings. In response, we have added a new chapter on access to justice (Chapter 11) and have provided an overview of Hong Kong’s criminal and civil justice systems (Chapter 8 and Chapter 9 respectively). A Competition Tribunal was established in August 2013 and we have also included this in our discussion of the court system (see Chapter 5). In this book, the law is generally stated to be that in force as at 31 March 2019.

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Stefan H. C. Lo, Kevin Kwok-yin Cheng
and Wing Hong Chui

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