

Joint Statement of The Hong Kong Bar Association and The Law Society of Hong Kong
in Response to Criticisms of Judicial Independence in Hong Kong

1. The Hong Kong Bar Association and the Law Society of Hong Kong note with great concern editorial comments and other opinions reported in some international and local media in respect of the Hong Kong Court of Appeal's recent decisions in relation to applications for reviews of sentences in cases of unlawful assembly.
2. It is not the practice of the Hong Kong Bar Association or the Law Society of Hong Kong to comment on the merits of individual cases, which may be the subject of appeal, nor is it appropriate to do so.
3. We would, however, point out that the decisions by the Hong Kong Courts are made solely according to law upon applications by one party or the other. We see no indication otherwise in respect of the recent cases which have generated widespread comment. Whatever opinion one may hold about the appropriateness or otherwise of the sentences imposed, the individuals concerned were convicted and sentenced for crimes committed after having been accorded due process through the courts with proper access to legal representation.
4. Open and rational debate on the issues raised in individual cases is to be encouraged in a civil society.
5. However, unfounded comments that judicial decisions were made or influenced by political considerations originating outside Hong Kong are unjustified and damaging to our legal system, and to Hong Kong as a whole.
6. We repeat what the Hong Kong Bar Association and the Law Society of Hong Kong said on previous occasions :

“one must be careful and cautious when commenting on a court judgment and has to take into account the impact of such comment on the integrity and independence of the Judiciary. The bedrock to the rule of law in Hong Kong is the trust and confidence of the public and the international community towards our judges and the judicial system. Any inappropriate comment could fuel baseless and unnecessary suspicion on judicial independence, and may undermine the confidence of the public and the international community in the rule of law in Hong Kong....”

We are fully confident that all judges in Hong Kong are capable of and will continue to abide by their judicial oath to uphold the Basic Law, bear allegiance to the Hong Kong

Special Administrative Region of the People’s Republic of China, serve the Hong Kong Special Administrative Region conscientiously, dutifully, in full accordance with the law, honestly and with integrity, safeguard the law and administer justice without fear or favour, self-interest or deceit. We will do our utmost to safeguard judicial independence in Hong Kong.”(extracted from a statement issued by the Hong Kong Bar Association in February 2016 in response to statements that our courts passed unduly lenient sentences in public order cases)

“The Rule of Law, as well as an independence and professional Judiciary, are widely respected by the Hong Kong community. These are also regarded highly by the international community to be the cornerstone for economic success of Hong Kong. This high level of respect and the confidence in the Hong Kong judicial system are instilled through long judicial history, hard earned tradition and constitutional entrenchment, as well as the continual efforts of the distinguished and professional judges. This should not and can never be undermined or compromised or be dragged into the political arena.”(extracted from a statement issued by the Law Society of Hong Kong in September 2015)

The sentiments expressed in the above comments then apply equally now.

Dated: 18 August 2017.

HONG KONG BAR ASSOCIATION

THE LAW SOCIETY OF HONG KONG