



Blackstone
CHAMBERS

Practice in Hong Kong

10 years on: a personal view of the administration of justice in the former Crown Colony

By David Pannick QC

In her wonderful book *Hong Kong*, Jan Morris wrote about finding there “judges of a truly awful Englishness, the very embodiment of the common law...fluent in the circumlocutions of their trade”. By 1997, when Hong Kong became the Special Administrative Region of the People’s Republic of China, those judges (well, most of them) had gone. But practice in the Hong Kong courts retains its colonial flavour: wigs and gowns, bowing to the judge, and “may it please your Lordship” remain customary.

As you would expect from a thriving Hong Kong commercial community, whose intelligence, industry, concern to serve the consumer and sheer guile are unsurpassed anywhere in the world, it has bred a legal profession and judiciary (at least in the High Court, Court of Appeal and Court of Final Appeal) which maintain very high standards, easily comparable with those in London. Despite (or because of) the political pressures, the judiciary in Hong Kong has been scrupulous in ensuring independence from government.

In the last 10 years it has become increasingly difficult for foreign counsel to gain admission to the Hong Kong Bar to argue cases. You need to show that the specific case is of such importance that it requires foreign counsel, and that you possess such expertise. But the Bar Council and Chief Judge Ma are prepared to grant such permission where appropriate. I have, in the past five years, appeared in about 20 cases, mostly judicial reviews or claims involving constitutional law points under the Basic Law, in the High Court, Court of Appeal and Court of Final Appeal. They have raised

issues of importance in administrative law and human rights law concerning asylum, the right to property, telecommunications law, and freedom of expression. The Hong Kong principles of judicial review are very similar to those applied in this country, and the Basic Law and the Hong Kong Bill of Rights protect freedoms in a very similar manner to the European Convention on Human Rights.

It is a demanding but stimulating challenge to argue public law points in another jurisdiction. Especially one in which clients justifiably expect high standards of advocacy while, in many cases, also being aware of the wisdom of the Chinese proverb that “it is a step towards chaos when argument begins”.