

HONG KONG STANDARD  
16 OCT 1991

# A question of judicial integrity

## We Say

**T**HE current controversy between the legal profession and the Hongkong Government on the composition of the territory's Court of Final Appeal raises some disturbing questions.

It might appear to some that this is a matter of little concern to Hongkong people at large. After all, how many of our six million people are likely to appear in this court.

Even though right now it might seem only a matter of academic interest, it would be idle to think so. Ultimately it concerns everyone who lives

in Hongkong or who has anything to do with it, particularly those in the international business community. It relates to confidence in the judicial system.

Hongkong's Bill of Rights assures equality to everyone before the law. But such assurances would ultimately mean little if the people have no faith in the judicial system, the system that is meant to be the great leveller, the one that makes the concept of equality before the law a living reality. If that system is tampered with or even seen to be tinkered with in a manner that brings it into question, then public confidence in it will quickly fade.

Whatever the British col-

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onial administration has denied Hongkong and its people, the one thing it cannot be accused of withholding is justice.

Admittedly the colonial government introduced laws which have denied Hongkong people certain freedoms that have been available to the British back home. But by and large a benevolent administration ensured that justice would not only be done but be seen to be done.

That is why when Hongkong's capitalist economic system was to be preserved

for 50 years after the change of sovereignty, it was necessary to write into the agreement with China that Hongkong's way of life, including its legal system, would also be preserved.

Hongkong's *laissez faire* economics, its air of freedom and its impartial judicial system are all part of the territory's way of life and have a symbiotic existence. One cannot amputate one limb and expect the rest to survive.

That is why the present controversy assumes such significance. There is a feeling in

some very important quarters that a part of our system is being secretly subjected to surgery, threatening the entire system. We have heard the British, Chinese and Hongkong governments talk with monotonous regularity about the need to preserve the territory's prosperity.

But the recent agreement on the highest court at the Joint Liaison Group seems like an assault on Hongkong's respected judicial system, which in turn will throw grave doubts on the continued prosperity of the territory.

There is a perception that Britain and China have gone back on the terms of the Joint Declaration relating to the Court of Final Appeal. The Basic Law, which repeats the assurances given in the Joint Declaration, left it to the court to decide whether it should invite foreign judges to sit on the highest court.

But it would seem to many that the JLG decision, by restricting the number of foreign judges, has denied to that court the right which had been stated in both those documents.

Now, it is for the Hongkong people to play judge and decide whether there has indeed been a breach, and if so, what they should do about it.

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