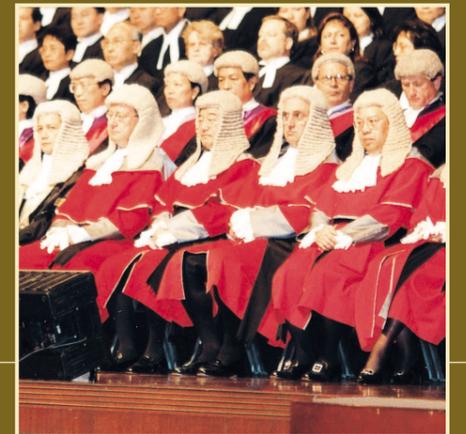


我們的法官 OUR JUDGES



司法獨立

司法獨立的原則體現於《基本法》第八十五條，受到憲法保障。司法獨立是香港法制的的首要原則，是三權分立的核心概念，三權分立是指司法、行政、立法三者分立並互相制衡。法院在法制中扮演的角色是確保行政行為和立法行為都符合《基本法》和法律的規定。



終審法院首席法官於2002法律年度開啟典禮上檢閱儀仗隊
The Chief Justice inspects the Guard of Honour at the Ceremonial Opening of the Legal Year 2002

我們不但要確保司法真正獨立，還要使公眾確信我們的司法是獨立的。在法律前人人是平等的，法官在解決任何市民相互之間或市民與政府之間的糾紛時，都必須不偏不倚。

司法獨立原則亦保證每一位法官都依法斷案，不受干預。儘管法官在法律問題上受上級法院的決定約束，他的判決亦可被上訴，但每宗案件他都有權獨立審判，不受干預。

JUDICIAL INDEPENDENCE

The independence of the Judiciary is constitutionally provided for and enshrined in Article 85 of the Basic Law. Judicial independence is of fundamental importance in the Hong Kong legal system, and forms a core element in the concept of the separation of powers between the Executive, the Legislature and the Judiciary with checks and balances as between them. The courts' role is to ensure that executive and legislative actions fully comply with the Basic Law and the law.

An independent Judiciary must be, and must be perceived by the public to be, independent. Everyone is equal before the law. Judges resolve disputes as between citizens and as between citizen and government in an impartial manner.

The principle of judicial independence also involves the independence of each judge to adjudicate according to law without any interference. A judge is bound on matters of law by decisions of the higher courts and his decisions are subject to appeal. But he has the independence to decide each case on his own without interference.



2002法律年度開啟典禮
Ceremonial Opening of the Legal Year 2002

保障司法獨立

法官的委任

《基本法》第九十二條規定，香港特別行政區的法官應根據其本人的司法和專業才能選用。此外，《基本法》第八十八條規定，香港特別行政區法院的法官，根據獨立委員會推薦，由行政長官任命。根據《司法人員推薦委員會條例》(第92章)，委員會共有九名委員。除了當然委員外，全部委員都由行政長官委任。委員會的委員計有：

- 法官三人(終審法院首席法官為當然主席)；
- 律師三人(律政司司長為當然委員，另加大律師和律師各一人，後者是經過諮詢兩個業界專業團體理事會後委任的)；及
- 三位業外人士。

在委員會會議中，若有超過兩票否決，決議就不能生效。

SAFEGUARDS FOR JUDICIAL INDEPENDENCE

Appointment of Judges

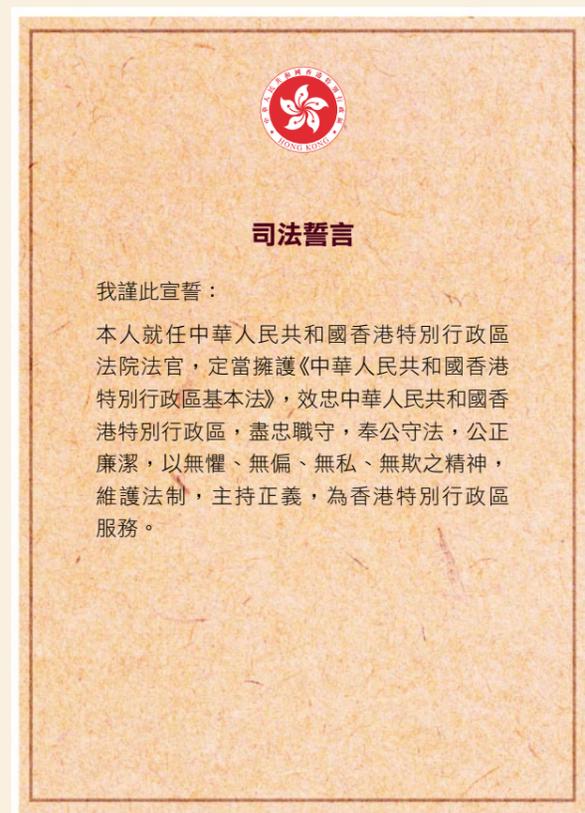
Article 92 of the Basic Law provides that judges of the courts of the Hong Kong Special Administrative Region shall be chosen on the basis of their judicial and professional qualities. Article 88 provides that judges shall be appointed by the Chief Executive on the recommendation of an independent commission. The commission, as prescribed by the Judicial Officers Recommendation Commission Ordinance (Cap. 92), consists of nine members who, apart from the ex-officio members, are appointed by the Chief Executive. The commission consists of:

- three judges (including the Chief Justice as the ex-officio chairman);
- three lawyers (including the Secretary for Justice as the ex-officio member, a barrister and a solicitor who are appointed in consultation with the governing councils of the professional bodies); and
- three lay persons not connected with the practice of law.

A resolution of the Commission is not effective if there are more than two votes not in favour.

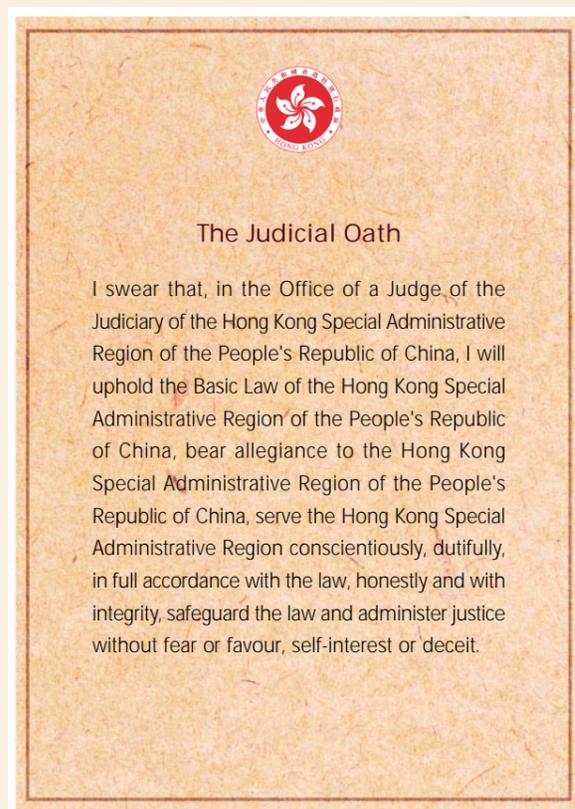
司法誓言

法律規定法官和司法人員就任時必須宣誓，以下是司法誓言：



The Judicial Oath

Judges and judicial officers are required under the law to take the following judicial oath on their appointment:



法官任期的保障和承諾

法官的任期受《基本法》和法例保障。獲委任後，區域法院或更高審級的法官必須向行政長官承諾，任期完結後不會在香港執業為大律師或律師。就終審法院法官而言，禁止在香港執業更是法例明文規定的。法官不再與私人執業的法律界有任何關聯，這樣既可防止利益衝突，亦可免卻公眾疑慮，更可鞏固法官的中立地位，使法官的中立性更加明確和清晰。

法官的免職

《基本法》第八十九條規定，只有在法官無力履行職責或行為不檢的情況下，行政長官才可根據終審法院首席法官任命的不少於三名本地法官組成的審議庭的建議，予以免職。《基本法》亦規定，只有在終審法院首席法官無力履行職責或行為不檢的情況下，行政長官才可任命不少於五名本地法官組成的審議庭進行審議，並可根據其建議予以免職。

不受法律追究

《基本法》第八十五條規定，司法人員履行審判職責的行為不受法律追究。

Security of tenure and undertaking

The tenure of office of judges is protected both by the Basic Law and by legislation. Upon their appointment, District Court Judges and above have to give an undertaking to the Chief Executive that after they have completed their service, they will not practise as a barrister or solicitor in Hong Kong. In the case of Judges of the Court of Final Appeal, such prohibition is statutory. Such severance of any possible ties with private practice prevents any real or perceived conflict of interests and enhances the independence of judges and the perception of such independence.

Removal of Judges

Article 89 of the Basic Law provides that a judge may only be removed from office for inability to discharge his or her duties, or for misbehaviour, by the Chief Executive on the recommendation of a tribunal appointed by the Chief Justice and consisting of not fewer than three local judges. As for the removal of the Chief Justice, the Basic Law provides that this can only be done on account of inability to discharge his or her duties, or for misbehaviour, by a tribunal appointed by the Chief Executive and consisting of not fewer than five local judges.

Immunity from Legal Action

Article 85 of the Basic Law provides that members of the Judiciary shall be immune from legal action in the performance of their judicial functions.



法官及司法人員列席盛典
Judges and Judicial Officers at the ceremony

司法職能

維護法治必須有獨立的司法機構，這是毋庸置疑的。司法機構面臨的挑戰就在於如何履行職責，從而贏得本地和國際社會的尊重和信心。

我們能否確保行政行為和立法行為都符合《基本法》和法律，能否杜絕濫用權力，保障市民的基本權利和自由，完全取決於司法機構是否能發揮其憲制職能。這些價值，在許多國際公約裡已獲得承認，而且受到《基本法》保障。為了完成重任，無論受到廣泛稱許，或是猛烈抨擊，我們的法官都依法斷案，從不畏懼。

司法機構必須因應社會越來越高的期望，繼續維持和不斷完善法庭制度。法庭時間畢竟是有限的社會資源，法官有責任確保

這項資源用得其所，而且分配得公平有效。

我們藉以排解糾紛的制度必須公平有效。訟費過高和訴訟遲延是兩個互相交纏，並不容易解決的問題，真正著手解決這些難題而且能解決得好的制度才能稱得上是公平有效的制度。終審法院首席法官已成立工作小組，檢討民事司法制度並進行改革

(請參閱第一章)，這是我們在廿一世紀司法工作所面對的其中一項重大挑戰。

ADMINISTRATION OF JUSTICE

The fundamental importance of an independent Judiciary for the maintenance of the rule of law is beyond question. The challenge for the Judiciary is to perform its role with competence so that it commands the respect and confidence of both the domestic and the international community.

The Judiciary has a vital constitutional role to ensure that the Executive and the Legislature act within the Basic Law and the law, that there is no abuse of power and that the fundamental rights and freedoms of citizens are safeguarded. These values are recognised in various international covenants and are enshrined in the Basic Law. Our judges act fearlessly, irrespective of popular acclaim or criticism.

The Judiciary has to maintain and continue to improve the court system so that it meets the rising expectations of society. Court time is a public resource and is inevitably limited. Judges must ensure that this public resource is fairly and efficiently allocated and used.

There must be a fair and efficient system for the resolution of disputes. Such a system would have to tackle and tackle successfully the inter-related problems of cost and delay. The Chief Justice established a Working Party to review and reform the Civil Justice System (see Chapter 1), as part of our overall efforts to face the exciting challenges in the administration of justice in the 21st century.



法官進入禮堂出席2002法律年度開啟典禮
Judges proceed into the hall for the Ceremonial Opening of the Legal Year 2002



終審法院首席法官李國能
The Hon Chief Justice Andrew Kwok-nang Li

各級法院的領導

《基本法》第九十條規定，香港特別行政區終審法院和高等法院的首席法官，須由在外國無居留權的香港特別行政區永久性居民中的中國公民擔任。

終審法院首席法官

《香港終審法院條例》規定，終審法院首席法官是司法機構之首，負責司法機構的行政管理及執行其他合法委予他的職能。終審法院首席法官在終審法院的聆訊中擔任庭長。

THE COURT LEADERS

Under Article 90 of the Basic Law, the Chief Justice of the Court of Final Appeal and the Chief Judge of the High Court of the Hong Kong Special Administrative Region shall be Chinese citizens who are permanent residents of the Region with no right of abode in any foreign country.

The Chief Justice

The Hong Kong Court of Final Appeal Ordinance provides that the Chief Justice shall be the head of the Judiciary and shall be charged with the administration of the Judiciary and such other functions as may be lawfully conferred to him. The Chief Justice presides at hearings in the Court of Final Appeal.

香港特別行政區的首任終審法院首席法官是李國能法官，他是在1997年7月1日獲得委任的。在出任此職之前，李國能法官一直在香港執業為大律師。

李國能法官1948年在香港出生，持有劍橋大學文學碩士及法學碩士學位。他在1970年獲得英國大律師執業資格，1973年獲得香港大律師執業資格，1988年獲委任為御用大律師。

The Hon Mr Justice Andrew Li was appointed as the first Chief Justice of the Hong Kong Special Administrative Region on 1 July 1997. Before his appointment, Chief Justice Li practised at the Hong Kong Bar.

Chief Justice Li was born in Hong Kong in 1948. He holds the degrees of Master of Arts and Master of Laws from Cambridge University. He was called to the English Bar in 1970 and the Hong Kong Bar in 1973. He was appointed Queen's Counsel in 1988.

Chief Justice Li has a long record of public service. He was a member of the Executive Council and has served on many boards and committees, including as Chairman of the then University and Polytechnic Grants Committee and the Land Development Corporation, as Vice-chairman of the Council of the Hong Kong University of Science and Technology, and as member of the Judicial Service Commission, the Law Reform Commission and the Securities Commission. He is a trustee of the Friends of Tsinghua University Law School Charitable Trust and a Guest Professor of Tsinghua University.

Chief Justice Li's awards include Honorary Degrees awarded by the Hong Kong University of Science and Technology (1993), the Hong Kong Baptist University (1994), the Open University of Hong Kong (1997), the University of Hong Kong (2001), the Griffith University (2001) and the University of New South Wales (2002). He was made an Honorary Bencher of the Middle Temple in 1997 and an Honorary Fellow of Fitzwilliam College, Cambridge in 1999.

李國能法官參與公職多年，曾經出任行政局議員，並且曾在多個委員會任職，這包括出任當時的大學及理工教育資助委員會主席、土地發展公司主席、香港科技大學校董會副主席、司法人員敘用委員會委員、法律改革委員會委員

和證券事務監察委員會委員。他現時仍為清華大學法律系之友慈善信託基金受託人和清華大學客座教授。

李國能法官曾獲以下院校頒授名譽學位：香港科技大學(1993)、香港浸會大學(1994)、香港公開大學(1997)、香港大學(2001)、Griffith大學(2001)及新南威爾斯大學(2002)；他又於1997年獲選為中殿律師學院名譽委員，並於1999年獲劍橋大學菲茨威廉學院頒授名譽院士名銜。



終審法院首席法官於2002法律年度開幕典禮上致辭
The Chief Justice addresses the Ceremonial Opening of the Legal Year 2002



高等法院首席法官梁紹中
The Hon Mr Justice Leong, the Chief Judge of the High Court

高等法院首席法官

《高等法院條例》(第4章)規定，高等法院首席法官是上訴法庭庭長。作為高等法院的領導，高等法院首席法官負責高等法院的行政管理，確保司法資源和法庭時間能夠有效地運用，並負責就高等法院的運作和發展方面的政策事宜向終審法院首席法官提供意見。

現任的高等法院首席法官是梁紹中法官。他是在2001年1月1日獲得委任的。梁紹中法官於1936年在香港出生，1965年於中殿律師學院獲得大律師執業資格。他在1973年加入香港司法機構並出任裁判司，之前曾在當時的香港政府律政署服務。他在1982年獲委任為地方法院法官，1991年獲委任為高等法院(現為原訟法庭)大法官，1997年獲委任為高等法院上訴法庭法官，並於2001年獲委任為高等法院首席法官。

梁紹中法官參與公職和社會服務多年，曾經出任行政上訴委員會主席和文康市政上訴委員會主席。他現時仍為長期監禁刑罰覆核委員會主席、退休公務員就業申請諮詢委員會主席、香港善導會主席和香港中華基督教會公理堂主席。

The Chief Judge of the High Court

The Chief Judge of the High Court is the President of the Court of Appeal as provided for in the High Court Ordinance (Cap. 4). He is the court leader of the High Court responsible for its administration. He is responsible for ensuring the efficient utilisation of judicial resources and court time, and for advising the Chief Justice on matters of policy concerning the operation and development of the High Court.

The Hon Mr Justice Leong was appointed as the Chief Judge of the High Court on 1 January 2001. Mr Justice Leong was born in Hong Kong in 1936. He was called to the Bar, Middle Temple in 1965. Before he joined the Hong Kong Judiciary as a Magistrate in 1973, he served in the then Legal Department of the Hong Kong Government. Mr Justice Leong was appointed as District Judge in 1982, as Judge of the High Court (now the Court of First Instance) in 1991 and as Justice of Appeal of the High Court in 1997 before he became the Chief Judge of the High Court in 2001.

Mr Justice Leong has a long record of public and community service. He served as the Chairman of the Administrative Appeals Board and the Municipal Services Appeal Board. At present, he is the Chairman of the Long-Term Prison Sentences Review Board, the Chairman of the Advisory Committee on Post-Retirement Employment, the Chairman of the Society of Rehabilitation And Crime Prevention, Hong Kong and the Chairman of the China Congregational Church, Hong Kong.

區域法院首席法官

區域法院首席法官是區域法院的領導，負責區域法院的行政管理，確保司法資源和法庭時間能夠有效地運用，並負責就區域法院的運作和發展方面的政策事宜向終審法院首席法官提供意見。

The Chief District Judge

The Chief District Judge is the court leader of the District Court responsible for its administration. He is responsible for ensuring the efficient utilisation of judicial resources and court time, and for advising the Chief Justice on matters of policy concerning the operation and development of the District Court.

現任的區域法院首席法官是馮驊法官。他是在2001年5月16日獲得委任的。馮驊法官於1960年在香港出生，曾在香港華仁書院和澳洲Barker College就讀，並持有新南威爾斯大學商業學士學位和法學學士學位，以及香港大學法學專業證書。他在1985年獲得新南威爾斯大律師執業資格，1986年獲得香港大律師執業資格。此外，他亦是澳

His Honour Judge Fung was appointed as the Chief District Judge on 16 May 2001. Judge Fung was born in Hong Kong in 1960. He was educated in Wah Yan College, Hong Kong and Barker College, Australia. He holds the Bachelor of Commerce and Bachelor of Laws degrees from the University of New South Wales and the Postgraduate Certificate of Laws from the University of Hong Kong. He was admitted as Barrister, New South Wales in 1985, and called to the Hong Kong Bar in 1986. He is also an Associate of the Australian Society of Practising Accountants and the Chartered Institute of Arbitrators, UK. Judge Fung was in private practice before he joined the Hong Kong Judiciary as a Magistrate in 1993. He was appointed District Judge in 1998 before he became the Chief District Judge in 2001.

洲執業會計師公會副會員和英國特許仲裁師學會副委員。他在1993年加入司法機構並出任裁判官，之前一直從事私人執業。他在1998年獲委任為區域法院法官，並於2001年獲委任為區域法院首席法官。

馮驊法官是香港兒童合唱團董事、香港辯訟學會委員和新南威爾斯大學的Visiting International Alumni Fellow。

Judge Fung is a director of the Hong Kong Children's Choir, Member of the Board of the Advocacy Institute of Hong Kong and a Visiting International Alumni Fellow of the University of New South Wales.



區域法院首席法官馮驊
H H Judge Fung, the Chief District Judge

總裁判官

總裁判官是各裁判法院、小額錢債審裁處、勞資審裁處、淫褻物品審裁處及死因裁判法庭的領導，負責這些法院和審裁處的行政管理，確保司法資源和法庭時間能夠有效地運用，並負責就由其管轄的法院和審裁處在運作和發展方面的政策事宜向終審法院首席法官提供意見。

現任的總裁判官是李瀚良先生。他是在2000年10月3日獲得委任的。李瀚良先生於1955年在香港出生，持有香港大學法學學士學位和法學專業證書，1987年獲得香港大律師執業資格。

李瀚良先生在1993年加入司法機構，之前曾在當時的香港政府律政署工作，他在1999年獲委任為主任裁判官，2000年獲委任為總裁判官。

The Chief Magistrate

The Chief Magistrate is the court leader of the Magistrates' Courts, the Small Claims Tribunal, the Labour Tribunal, the Obscene Articles Tribunal and the Coroner's Court. He is responsible for the administration of the Magistrates' Courts and these Tribunals, ensuring the efficient utilisation of judicial resources and court time, and advising the Chief Justice on matters of policy concerning the operation and development of the Courts and Tribunals within his purview.

Mr Patrick Li was appointed as the Chief Magistrate on 3 October 2000. Mr Patrick Li was born in 1955 in Hong Kong. He holds both the Bachelor of Laws and Postgraduate Certificate of Laws degrees from the University of Hong Kong. He was called to the Hong Kong Bar in 1987.

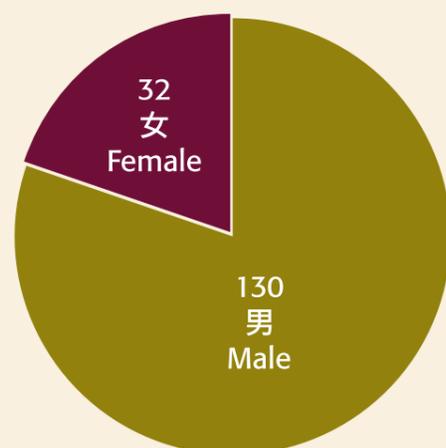
Mr Li worked in the then Legal Department of the Hong Kong Government before he joined the Judiciary in 1993. He was appointed as Principal Magistrate in 1999 and as Chief Magistrate in 2000.



總裁判官李瀚良先生
Mr Patrick Li, the Chief Magistrate

法官和司法人員性別概覽表

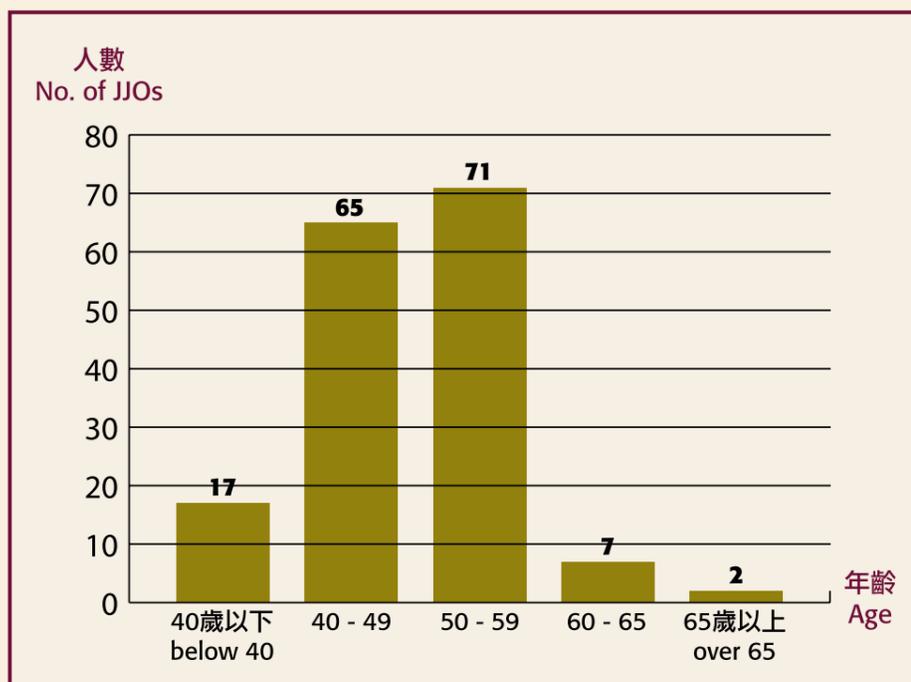
Profile of Judges and Judicial Officers by Sex



至2002年9月30日
As at 30 September 2002

法官和司法人員年齡概覽表

Profile of Judges and Judicial Officers by Age



至2002年9月30日
As at 30 September 2002

我們的法官

司法機構的法官和司法人員能幹出色、經驗豐富而且克盡厥職。至2002年9月30日，我們共有162位法官和司法人員，大部分年齡介乎40至59，其中約80%是男性。

OUR JUDGES

The Judiciary has a team of competent, experienced and committed judges and judicial officers. As at 30 September 2002, there are 162 judges and judicial officers. The majority is in the age range of 40-59. About 80% are male.

在法庭程序中更廣泛地使用中文

能夠以流利中、英文進行聆訊的各級法官和司法人員的分布概況如下：

法院	具雙語能力的法官或司法人員	佔總數(%)
終審法院	2名法官	50%
上訴法庭	3名法官	33%
原訟法庭	16名法官	53%
區域法院、家事法庭和土地審裁處	19名法官	56%
裁判法院和審裁處	60名裁判官和其他司法人員	75%

聆訊是否適合以中文進行是一項司法決定。《法定語文條例》第5條規定：

- 「(1) 法官、裁判官或其他司法人員可在於他席前進行的程序中或於他席前進行的程序的任何部分中兼用兩種法定語文或採用其中一種，視乎他認為何者適當而定。
- (2) 法官、裁判官或其他司法人員根據第(1)款作出的決定是最終決定。」

Greater Use of Chinese in Court Process
Judges and judicial officers who are proficient in conducting hearings in both English and Chinese at different levels of courts are as follows:

Court	With Bilingual Ability	Percentage of Total
Court of Final Appeal	2 judges	50%
Court of Appeal	3 judges	33%
Court of First Instance	16 judges	53%
District Court, Family Court and Lands Tribunal	19 judges	56%
Magistrates' Courts and Tribunals	60 magistrates and other judicial officers	75%

Whether a hearing is suitable to be conducted in Chinese is a judicial decision. Section 5 of the Official Languages Ordinance stipulates that :

- “(1) A judge, magistrate or other judicial officer may use either or both of the official languages in any proceedings or a part of any proceedings before him as he thinks fit.
- (2) The decision of a judge, magistrate or other judicial officer under subsection (1) is final.”

聆訊採用那一種語文由主理有關案件的法官或司法人員自行決定。法官或司法人員首要考慮的是，根據案件的情況採用那一種語文才可公正和迅速地處理其席前的訟案或事宜。被告人或訴訟人的語文能力和意願、代表律師的語文能力、證人的語文能力、爭議涉及的事實和法律問題、需要翻譯成另一種法定語文的文件數量，以及法官或司法人員本身的語文能力等都是需要考慮的因素。

現時，以中文進行法庭程序的需求越來越大。司法機構的政策是，在不損害司法質素和專業質素的大前提下，以切實可行的速度致力增加雙語法官和司法人員的數目去配合法庭在運作上的需要。與此同時，司法機構亦為雙語法官和司法人員提供適當的培訓以提高他們的中文語文能力。

The decision as to which language to use is a matter for the judge or judicial officer hearing the case. The paramount consideration is the just and expeditious disposal of the cause or matter before the court, having regard to the circumstances of the case. The factors to be taken into account include the language ability and wishes of the defendants or the litigants; the language ability of the legal representatives; the language ability of the witnesses; the factual and legal issues in dispute; the volume of documents to be translated into the other official language; and the language ability of the judge or judicial officer.

There is an increasing need for proceedings in Chinese. To meet the operational requirements of the courts, the Judiciary's policy is to strive to increase with such speed as is practicable the bilingual capacity of judges and judicial officers without detriment to judicial and professional quality. At the same time, the Judiciary provides appropriate training so as to enhance the Chinese language ability of the bilingual judges and judicial officers.

2002 年委任和退休的法官 (高等法院及以上審級)

2002年行政長官根據司法人員推薦委員會的推薦，作出了三項高等法院及以上審級的司法任命。

2002年5月6日楊振權法官和袁家寧法官獲委任為高等法院上訴法庭法官。2002年11月15日馬道立法官獲委任為高等法院上訴法庭法官。

高等法院上訴法庭副庭長梅賢玉在2002年退休。他多年來在司法機構服務，不遺餘力，表現卓越。

終審法院非常任法官沈穆善爵士在2002年6月逝世，我們深感惋惜。

APPOINTMENT AND RETIREMENT OF JUDGES (AT HIGH COURT LEVEL AND ABOVE) IN 2002

In 2002, three judicial appointments at High Court level and above were made by the Chief Executive in accordance with the recommendation of the Judicial Officers Recommendation Commission.

On 6 May 2002, the Hon Mr Justice Yeung and the Hon Madam Justice Yuen were appointed Justices of Appeal of the High Court. On 15 November 2002, the Hon Mr Justice Ma was appointed Justice of Appeal of the High Court.

After many years of dedicated and distinguished service, the Hon Mr Justice Mayo, Vice-President of the Court of Appeal of the High Court, retired from the Judiciary in 2002.

Sadly, The Rt Hon Sir Edward Somers, a Non-Permanent Judge, passed away in June 2002.