

### 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首要原則，是三權分立的核心概念，三權分立是指行政、立法、司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。

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，訴訟當事人亦可就其判決提出上訴，但每宗案件法官都有權獨立審判，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 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/her decisions are subject to appeal. But he/she has the independence to decide each case on his/her own without interference.



舉行法律年度開啟典禮的目的是使社會各界明白法治和司法機構獨立的重要

*The Ceremonial Opening of the Legal Year underlines the importance of the rule of law and an independent Judiciary*



終審法院首席法官主持 2005 法律年度開啟典禮（左圖）及檢閱儀仗隊（右圖）  
 The Chief Justice officiates at the Ceremonial Opening of the Legal Year 2005 (left photo) and inspects the Guard of Honour (right photo)

## 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:



### 司法誓言

我謹此宣誓：

本人就任中華人民共和國香港特別行政區法院法官，定當擁護《中華人民共和國香港特別行政區基本法》，效忠中華人民共和國香港特別行政區，盡忠職守，奉公守法，公正廉潔，以無懼、無偏、無私、無欺之精神，維護法制，主持正義，為香港特別行政區服務。

### The Judicial Oath

I swear that, in the Office of a Judge of the Judiciary of the Hong Kong Special Administrative Region of the People's Republic of China, I will uphold the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, 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.

## 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.



終審法院首席法官於 2005 法律年度開啟典禮上致辭  
*The Chief Justice delivers a speech at the Ceremonial Opening of the Legal Year 2005*

## 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。

## 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.



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。一個能真正妥善解決這些問題的制度，才能稱得上是公平有效的制度，而民事司法制度改革（請參閱第一章）是我們在廿一世紀司法工作所面對的其中一項重大挑戰。

### 《法官行為指引》

終審法院首席法官認為，法官及司法人員必須在行為和品德方面時刻嚴守至高的標準，這點極為重要。維持公眾人士對司法機構及法官執行司法工作的信心，正有賴於此。《法官行為指引》於2004年10月發表，目的是向法官提供他們日後處事的實用指引。終審法院首席法官有信心這套指引能夠達到這個目的。《法官行為指引》已登載於司法機構網站（<http://www.judiciary.gov.hk>），可供公眾人士閱覽和下載。

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 reform of the Civil Justice System (see Chapter 1) is part of our overall efforts to face the exciting challenges in the administration of justice in the 21st century.

### GUIDE TO JUDICIAL CONDUCT

The Chief Justice considers that it is of fundamental importance that judges and judicial officers must at all times observe the highest standards of conduct and integrity. This is essential for the maintenance of public confidence in the Judiciary and the administration of justice. Published in October 2004, the purpose of the Guide to Judicial Conduct is to provide practical assistance to judges in dealing with matters relating to judicial conduct. The Chief Justice is confident that it will serve that purpose. The Guide is accessible to the public on the Judiciary's Website (<http://www.judiciary.gov.hk>).



《法官行為指引》  
Guide to Judicial Conduct



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。

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，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、當時的司法人員敍用委員會委員、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)、新南威爾斯大學(2002)及澳洲悉尼科技大學(2005)；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。

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 the 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 then 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 the 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), the University of New South Wales (2002) and the University of Technology, Sydney (2005). He was made an Honorary Bencher of the Middle Temple in 1997 and an Honorary Fellow of Fitzwilliam College, Cambridge in 1999.





高等法院首席法官馬道立  
*The Hon Mr Justice Ma, 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。此外，高等法院首席法官亦擔任推行民事司法制度改革建議的督導委員會主席。該委員會負責推行由終審法院首席法官委任的民事司法制度改革工作小組所提交的《最後報告書》所列的改革建議。

現任的高等法院首席法官是馬道立法官。他是在2003年7月14日獲得委任的。在此之前（從2002年11月起），他出任上訴法庭法官。他在2001年12月加入司法機構，並獲委任為高等法院原訟法庭法官。

## 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 Chief Judge of the High Court chairs the Steering Committee on Civil Justice Reform to oversee the implementation of the recommendations contained in the Final Report of the Chief Justice's Working Party on Civil Justice Reform.

The Hon Mr Justice Ma was appointed Chief Judge of the High Court on 14 July 2003. Before that, he was a Justice of Appeal (since November 2002). He joined the Judiciary in December 2001 when he was appointed a Judge of the Court of First Instance of the High Court.

馬道立法官於1956年在香港出生，主要在英國接受教育。他肄業於英國伯明翰大學，後於1978年（在格雷律師學院）獲認許為英格蘭和威爾斯大律師，並於2005年成為該學院的名譽委員。在1980年獲認許為香港大律師後，他更分別於1993年及2000年獲委任為御用大律師及高等法院原訟法庭特委法官。他在香港私人執業為大律師，直至2001年獲委任為高等法院法官。於執業期間，他亦曾在新加坡的法院出庭訟辯，並與當地一家法律律師事務所所有聯繫。此外，他更先後於1983年及1990年在維多利亞州及新加坡獲頒授大律師資格。

馬道立法官參與公共事務和社會服務多年。他在2001年12月加入司法機構之前，曾擔任終審法院首席法官轄下民事司法制度改革工作小組的成員，也曾擔任上訴審裁處（建築物）主席、環境影響評估上訴委員會主席、證券及期貨事務上訴委員會副主席，以及證監會收購上訴委員會副主席。此外，他又曾經出任暴力及執法傷亡賠償委員會成員、香港期貨交易所紀律上訴審裁處委員會成員、人事登記審裁處審裁員、消費者訴訟基金管理委員會成員及副主席、以及稅務上訴委員會副主席。他亦曾擔任慈善組織 Hong Kong Society of Endocrinology, Metabolism and Reproduction Ltd. 的義務法律顧問。此外，馬道立法官一直積極參與在香港進行的仲裁事務，並於2003年成為香港國際仲裁中心管理委員會的委員。

Mr Justice Ma was born in 1956 in Hong Kong and received much of his education in England. After attending the University of Birmingham, he read for the Bar and in 1978 was called to the Bar of England and Wales (Gray's Inn where he became an Honorary Bencher in 2005). He was called to the Hong Kong Bar in 1980 becoming a Queen's Counsel in 1993 and a Recorder of the Court of First Instance of the High Court in 2000. He was in private practice at the Hong Kong Bar until his appointment to the High Court in 2001. While in practice, he also appeared in the Singapore courts and was associated with a firm of advocates and solicitors there. He was admitted to the Bar of the State of Victoria in 1983 and to the Singapore Bar in 1990.

Mr Justice Ma has a long record of public and community service. Before joining the Judiciary in December 2001, he was a member of the Chief Justice's Working Party on Civil Justice Reform. He was also a Chairman of the Appeal Tribunal Panel (Buildings), the Chairman of the Environmental Impact Assessment Appeal Board Panel, and the Deputy Chairman of the Securities and Futures Appeals Panel and the Securities and Futures Commission Takeovers Appeal Committee. Mr Justice Ma served as a member of the Criminal and Law Enforcement Injuries Compensation Board, a member of the Hong Kong Futures Exchange Disciplinary Appeals Tribunal, an adjudicator of the Registration of Persons Tribunal, a member and the Vice Chairman of the Management Committee of the Consumer Legal Action Fund, and a Deputy Chairman of the Board of Review (Inland Revenue). He was also the Honorary Legal Advisor to the Hong Kong Society of Endocrinology, Metabolism and Reproduction Ltd., a charitable organisation. He remains closely involved with arbitration in Hong Kong and became a member of the Council of the Hong Kong International Arbitration Centre in 2003.

## 首席區域法院法官

首席區域法院法官是區域法院的領導，負責區域法院的行政管理。除了司法職務之外，首席區域法院法官還負責確保司法資源和法庭時間能夠有效地運用，並就區域法院及土地審裁處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。

現任的首席區域法院

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大利亞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，他亦是澳洲會計師公會的資深註冊會計師和英國的特許仲裁司學會副委員。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年獲委任為首席區域法院法官。

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。



首席區域法院法官馮驊  
HH Judge Fung, the Chief District Judge

## The Chief District Judge

The Chief District Judge is the court leader of the District Court responsible for its administration. Apart from judicial duties, the Chief District Judge 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 and the Lands Tribunal.

His Honour Judge Fung was appointed the Chief District Judge on 16 May 2001. Born in Hong Kong in 1960, Judge Fung 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 a Fellow of the Australian Society of Certified Practising Accountants and an Associate of the Chartered Institute of Arbitrators in the United Kingdom. Judge Fung was in private practice before he joined the Judiciary as a Magistrate in 1993. He was appointed District Judge in 1998 before he became the Chief District Judge in 2001.

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.

## 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。



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

## 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.

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。

Mr Patrick Li was appointed the Chief Magistrate on 3 October 2000. Born in 1955 in Hong Kong, Mr Li holds the Bachelor of Laws degree and Postgraduate Certificate of Laws 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 a Principal Magistrate in 1999 and as Chief Magistrate in 2000.

## 我們的法官

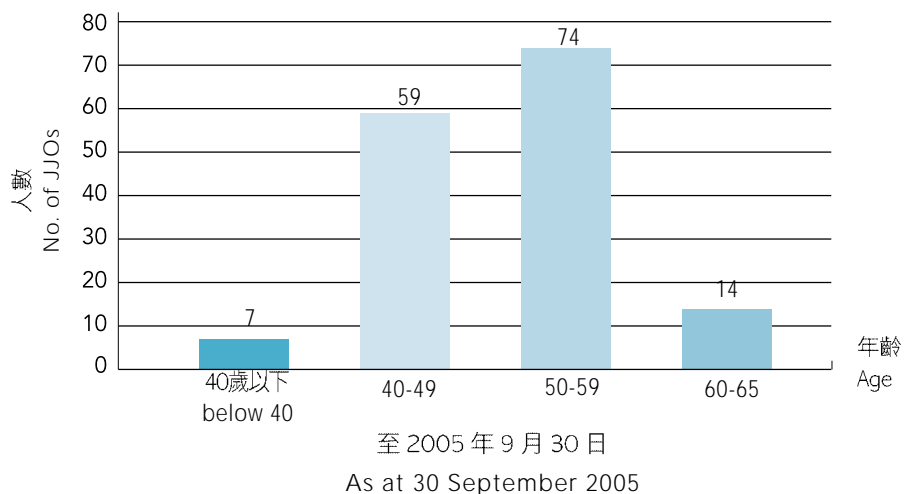
司法機構的法官和司法人員能幹出色、經驗豐富而且克盡厥職。至2005年9月30日，我們共有154位法官和司法人員，大部分年齡介乎40至59，其中約79%是男性。

## OUR JUDGES

The Judiciary has a team of competent, experienced and committed Judges and Judicial Officers. As at 30 September 2005, there are 154 Judges and Judicial Officers. The majority is in the age range of 40-59. About 79% are male.

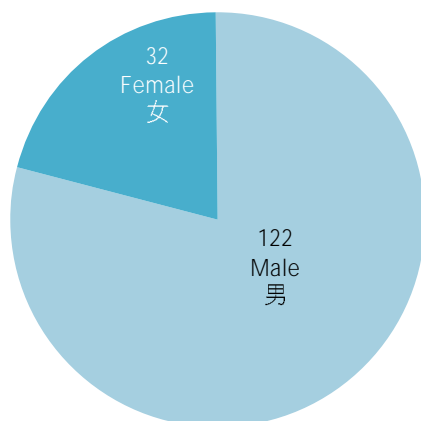
### 法官和司法人員年齡概覽表

#### Profile of Judges and Judicial Officers by Age



### 法官和司法人員性別概覽圖

#### Profile of Judges and Judicial Officers by Sex



至2005年9月30日  
As at 30 September 2005



**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：

**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:

法院 Court Levels	雙語法官 # 的數目 No. of Bilingual Judges	佔總數 (%) Percentage of Total
終審法院 Court of Final Appeal	2 名法官 2 Judges	50%
高等法院上訴法庭 Court of Appeal of the High Court	5 名法官 5 Judges	50%
高等法院原訟法庭 Court of First Instance of the High Court	13 名法官及司法人員 13 Judges and Judicial Officers	48%
區域法院、家事法庭和 土地審裁處 District Court, Family Court and Lands Tribunal	18 名法官及司法人員 18 Judges and Judicial Officers	56%
裁判法院和審裁處 Magistrates' Courts and Tribunals	61 名裁判官和其他司法人員 61 Magistrates and other Judicial Officers	75%

# 截至2005年9月30日為止。雙語法官是指那些能夠說、閱讀及書寫中文（包括能夠以中文進行審訊和撰寫總結詞及判決書）的法官和司法人員。

Bilingual Judges are Judges and Judicial Officers who are able to speak, read and write Chinese, including conducting trials and preparing summing-ups and judgments in Chinese. Position as at 30 September 2005.

對合適的案件以中文進行聆訊是一項司法決定。《法定語文條例》(第5章)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。」

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。

Hearing of suitable cases in Chinese is a judicial decision and is provided for under section 5 of the Official Languages Ordinance (Cap. 5) :

“ (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.”

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.



法官及司法人員和法律界人士出席 2005 法律年度開啟典禮

Judges, Judicial Officers and legal professionals attend the Ceremonial Opening of the Legal Year 2005

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，司法機構亦持續為法官和司法人員提供培訓以提高他們的中文語文能力。

### 2005 年委任和退休的法官 (高等法院及以上審級)

2005 年，行政長官根據司法人員推薦委員會就填補高等法院及以上審級的司法職位空缺而作出的推薦，委任鄧國楨法官為高等法院上訴法庭法官。

高等法院原訟法庭法官馬永新多年來克盡厥職，對司法界作出重大貢獻，他於 2005 年 8 月退休。

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 continuous training to enhance the Chinese language ability of Judges and Judicial Officers.

### APPOINTMENT AND RETIREMENT OF JUDGES (AT HIGH COURT LEVEL AND ABOVE) IN 2005

In 2005, on the recommendation of the Judicial Officers Recommendation Commission on the filling of judicial offices at High Court level and above, the Chief Executive appointed the Hon Mr Justice Tang as a Justice of Appeal of the Court of Appeal of the High Court.

After many years of dedicated and distinguished service, the Hon Mr Justice Lugar-Mawson, Judge of the Court of First Instance of the High Court, retired from the judicial service in August 2005.

