

**HKSAR
and
Ma Wai Kwan, David & Others
[1997] HKLRD 761 at 772I**

Facts

The Respondents were charged in 1995 with an offence at common law of conspiracy to pervert the course of public justice. When the trial resumed on 3 July 1997, the Respondents raised the argument that common law did not form part of the Laws of the HKSAR as there was no positive act of adoption of law previously in force in Hong Kong.

Court of Appeal Decision

1. A generous and purposive approach was more appropriate in interpreting the constitutional aspects of the Basic Law.
2. The whole tenor of the Basic Law was to establish continuity save for those changes necessary upon the resumption of exercise of sovereignty by the PRC. The intention of the Basic Law indicated that there should be no change in the laws and legal system in Hong Kong, except those which contravened the Basic Law. No positive act of adoption of the common law was required.

Comments

The Court decision was on the law, legal and judicial systems.