

MASTER'S THESIS

Dominance of the Chinese language in the courts of Hong Kong: a hundred-year goal

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Date of Award:
2000

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**DOMINANCE OF THE CHINESE LANGUAGE IN
THE COURTS OF HONG KONG:
A HUNDRED-YEAR GOAL**

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**A Dissertation Submitted In Partial
Fulfillment Of The
MASTER OF ARTS IN LANGUAGE STUDIES**

HONG KONG BAPTIST UNIVERSITY

AUGUST 2000

Abstract

This study looks at the possibility of the dominance of the Chinese language in the local judicial system based on the deciding important views of young practising advocates.

The background of bilingual laws and the translation process are discussed. Also discussed is a Hong Kong case involving slander tried at the Court of Final Appeal, where five top judges upheld the appeal lodged by a television presenter. The defendant, a television presenter, made some comments on the plaintiff during her programme, and was subsequently sued for slander. The court of first instance ruled in favour of the defendant, the plaintiff appealed with success, the defendant then appealed to the Court of Final Appeal. The crux of the matter of the case was on the defence of fair comment on a matter of public interest. It depended on the exact wording which was in colloquial everyday spoken Chinese, thus when translated into English one particular term became the focus. The case illustrates the importance of Chinese trials, especially in defamation cases where what is said is crucial.

The views of a number of practising barristers of 5 years or less experience were collected. Their main concern about Chinese hearings was the difficulties in citing authorities, which were mostly written in English. Some subjects were however enthusiastic about using Chinese in courts and made some recommendations. With reference to the view of a retired Justice of Appeal as given in his book which advises novices on their practice, the difficulties of the citation of authorities may be mitigated. This study concludes that the Chinese language will dominate the court proceedings in Hong Kong in less than 30 years.

Abstract (in Chinese)

這是一項有關法庭用語的研究。基於一些年青訟務律師的意見，這項研究將調查中文會否成為香港法庭的主要語文。

這篇論文會談及雙語法律的背景以及法律翻譯的過程。此外，亦會談及一宗在終審法院審理的誹謗案件。五名終院法官裁定上訴人得直。上訴人是一名電視節目主持，她在其節目中談及申索人而被控誹謗。她在初級法院脫罪，但在上訴時被判有罪，她因此上訴終審法院。案件的關鍵在於她的評論是否公平的意見，由於她是以日常的中文主持節目，其中一個詞的翻譯遂成為案件的焦點。這宗個案顯示中文審訊的重要，尤其當案中人曾說過的話成為關鍵時。

一此具備五年或以下訴訟經驗的大律師就題目發表了他們的意見。他們最關心的，是在引述案例時會有困難，因大部分案例均以英文記錄。然而，其中一些對象對於中文審訊非常熱心，提議了解決辦法，加上一名退休上訴庭法官在其一本給予新入行的律師意見的書內所提出的意見，有關困難是可以減少的。這宗研究的結論是，中文將在三十年內成為香港法庭的主要用語。

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