

Engineering Management & Society



English Legal System (Rev N)

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What are your Views?

- Read the Scenario and answer the question:
 - Derek, after drinking a soft drink offered by Jane, drove Jane home. During the journey he ran into a queue at the bus station, injuring a man. Jane who sat next to Derek also suffered injury.
 - Police came to the scene, conducting a breath alcohol test on Derek, finding his alcohol level exceeded limit. Jane then told Derek that the drink contained alcohol, but Derek has no knowledge.
 - Now
 - Yes, strict liability (process doesn't matter, result = illegal)
 - the police charged Derek the offence of Drunk Driving, and
 - Jane sued Derek.
- **Question: What are your views?**

What are your Views?

- Read the Scenario and answer the questions:
 - Robert stabbed a Jacolyn, causing her injury and bleeding.
 - The man was arrested and the woman was rushed to the hospital.
 - The doctor attempted to do blood transfusion, which would save the victim, but victim refused blood transfusion due to religious reason although she knew that she would die unless she accept blood transfusion.
 - The victim died, and the man, now the defendant, was charged for murder.
- **Questions:** Should the defendant be charged murder? Who caused the death of the victim?

What are your Views?

- Read the Scenario and answer the questions:
 - Kennedy prepared a solution of heroin, filled a syringe and handed it to Mr. Bosque, a fellow resident at a hostel.
 - Bosque knew very well that it was drug. He injected himself voluntarily and died.
 - The Police arrested Kennedy for supplying a class A drug and constructive manslaughter.
- **Questions:** Should the defendant be charged for manslaughter? Who caused the death of the victim?

Why Engineering Students Need to Study Law?

- What is its relevance to the work of an engineer?
 - As one who draft a contract
 - As an employer of contractors like Housing Authority (i.e. a purchaser of material and service)
 - As a contractor or employee of an contractor
 - As a manager (or as an employer)
 - As a property manager
 - As a consultant
 - As a professional
 - As a citizen (e.g. Tony CHAN case!!!)
 - ...etc. etc....



Course Objectives

- To gain an understanding of the basics of the English Legal System (in the context of Hong Kong)
 - **English Legal System, Common Law**
 - **Classification of Laws (e.g. Criminal vs Civil)**
 - **Contract Law**
 - **Tort Law**
 - **Intellectual Property Law**
- To gain an understanding of how law relates to and affect the work of engineers
- To gain experience on conducting simple legal research, analysis and apply legal reasoning/method in real life situations
- **To arouse your interest and stimulate further pursuit**



Syllabus

- **1. Introduction and English Legal System of Hong Kong**
 - Law and its relevance to an Engineer
 - What is law?
 - English Legal System
 - Common Law
 - Statute
 - Equity
 - Hong Kong Legal System
 - Basic Law

- **2. Legal Reasoning**
 - Legal method as a creative process
 - The form of legal reasoning
 - Propositions and processes: truth and Validity
 - Method of reasoning: Induction, Deduction and Analogy
 - The political and policy element in judicial decision making



Syllabus (...cont...)

- **3. Contract Law**
 - What is a contract?
 - The essential elements of a legally enforceable contract
 - Form of Contract: Simple Contract vs. Deed
 - Remedy: Damages
- **4. Tort**
 - Tort: What is Tort?
 - Negligence: What is Negligence?
 - The essential elements to establish liability under Negligence
- **5. Intellectual Property Law**
 - What is IP?
 - Its value the property owner and how to protect your IP
 - Types of IP



How the Course is Run

- Lecture with Reference Material and Handout Provided through email/website
- Discussion (Interactive Participation in class and among students after classes)
- Assessment - Debate and Quizz



What is Law?

- Longman Dictionary of Contemporary English:
 - The **whole body of rules** (in a country) **supported by** the **power** of **government** and that governs the **behaviour** of members of a society
- Cobuild:
 - The law is a **system of rules** that a society or **government** develops in order to deal with crime, business agreements, and social relationships.
- Law Made Simple:
 - A **rule of human conduct**, **imposed** upon and **enforced** among, the members of a **given state**.



Nature of Law

- A **body of rules**
- For **guidance** of human **conduct**
- Law is **imposed**
- **Enforcement**
- The **State** (Q: Its position? Highest??)
- Content: **frozen** or undergoing constant **change**?
- Law means **justice**?



Classification of Law

- **Criminal** vs **Civil**

- (Beware of the double meaning of the word "**Civil**")

- **Private Law** vs **Public** vs **Constitutional**

- **Substantive** Law vs **Procedural** Law

- **Municipal Law** vs **Public International Law**

Criminal or Civil Case?



Criminal or Civil Case?





Definition of Crime

An **act** (or sometimes a failure to act) that is **deemed** by **statute** or by the **common law** to be a **public wrong** and is therefore **punishable** by the state in **criminal proceedings**.



Offence vs. Crime

offence (罪、罪行、罪項、犯法行為)
includes any **crime** and any
contravention or other **breach** of, or
failure to **comply** with, any **provision** of
any law, for which a **penalty** is **provided**;
(Added 26 of 1998 s. 4) *[from: Section 3 of Cap.
1 Interpretation and General Clauses Ordinance –
Interpretation of words and expressions]*



Criminal Law vs. Civil Law

Criminal law deals with **behavior** that is or can be **construed** as an **offense** against the public, society, or the state—even if the **immediate victim** is an individual.

Civil law deals with **behavior** that constitutes an **injury** to an individual or other private party, such as a **corporation**.



Criminal Law vs Civil Law

- **Criminal law - Covering Criminal Offences**
 - The law of crime and punishment - i.e. defining criminal offences and punishment
 - Crown prosecutes the accused
- **Civil law - Covering Civil Actions**
 - Provides a party with an enforceable claim with a remedy such as damages or a declaration – i.e. defining rights and obligations among parties arising from civil relationship
 - Civil law is concerned with tort, contract, families, companies, etc.



Criminal Law vs Civil Law

	Civil Law	Criminal Law
Definition	Body of law dealing with the disputes between individuals, organizations, or between the two, in which compensation is awarded to the victim.	Body of law dealing with crime and the legal punishment of criminal offenses.
Purpose	To deal with the disputes between individuals, organizations, or between the two, resulting in awarding compensation to victim(s).	To maintain the stability of the state and society by punishing offenders and deterring them and others from offending.
Case filed by	Private party	Government
Decision	Defendant can be found liable or not liable, the judge decides this.	Defendant is convicted if guilty and acquitted if not guilty, the jury decide this.



Criminal Law vs Civil Law

Standard of proof	"Preponderance of evidence." Claimant must produce evidence beyond the balance of probabilities.	"Beyond a reasonable doubt":
Burden of proof	Claimant must give proof however, the burden may shift to the defendant in situations of Res Ipsa Loquitur (The thing speaks for itself).	"Innocent until proven guilty": The prosecution must prove defendant guilty.
Type of punishment	Compensation (usually financial) for injuries or damages, or an injunction in nuisance.	A guilty defendant is subject to Custodial (imprisonment) or Non-custodial punishment (fines or community service). In exceptional cases, the death penalty.



Criminal Law vs Civil Law

Examples	Landlord/tenant disputes, divorce proceedings, child custody proceedings, property disputes, personal injury, etc.	Theft, assault, robbery, trafficking in controlled substances, murder, etc.
Appeals	Either party (claimant or defendant) can appeal a court's decision.	Only the defendant may appeal a court's verdict. The prosecution is not allowed to appeal.
Commencement of proceedings	State/People/Prosecution by summons or indictment	By way of pleadings, Representatives of the state, Prosecutor, Attorney General.



Exercise for Students:

1. Which of the following statement is correct?
 - A. In criminal cases, the role of prosecution is mostly played by the state (i.e. the government), but civilian can initiate criminal action and assume the role of prosecution.
 - B. Government cannot be sued in civil cases, but can be sued in criminal cases.
 - C. A judge could be sued in civil court if his decision is overruled upon appeal and that the claimant can prove that he suffers loss due to the mistaken decision of the judge.
 - D. None of the above is correct.



Private Prosecution

- The right of private prosecution has been called 'a valuable constitutional safeguard against inertia or partiality on the part of authority' (*Gouriet v Union of Post Office Workers* [1978] AC 435). It provides a remedy to the individual who wishes to see the law enforced. At common law every citizen has exactly the same right to institute proceedings as has the prosecuting authority.



Government can Take Over

Section 14 of the **Magistrates Ordinance** provides that the Secretary 'may at any stage of the proceedings before the magistrate intervene and assume the conduct of the proceedings'

Article 63

The Department of Justice of the Hong Kong Special Administrative Region shall control criminal prosecutions, free from any interference.



Type of Criminal Offences

- **Summary** Offences:
 - Minor offences, such as most of the traffic offences, assault, shoplifting, etc.
 - An offence is a summary offence unless it is expressly stated otherwise: offences with descriptions such as "*indictable offence*"; "*convicted upon indictment*"
 - **Tried summarily**
- **Indictable** Offences:
 - Offences which are triable on indictment, whether it is exclusively so triable or triable either way
 - Serious offences, such as murder, manslaughter, robbery, rape, etc.
 - **Tried on indictment**



Exercise for Students

Please do a searching and find an example of summary offence, and an example of indictable offence in Hong Kong.



Substantive Law vs. Procedural Law

Substantive law:

- Statutory law or **common law** dealing with the **legal relationship between people** or the **people** and the **state**
- **Defines** the **rights** and **duties** of the people **enforceable** through **procedural law** that lays down the **rules of enforcement**



Substantive Law vs. Procedural Law

Procedural law:

- Rules governing the criminal and civil proceedings of the court
- Standards on procedures that must be complied with during the proceedings
- Rules to ensure fair practice and consistency in the "due process".



Substantive Law vs Procedural Law

- **Substantive law**
 - It deals with the **substance** of the matter
 - Whether **facts** in the case **constitute a crime**
 - What and whether the **crime** is to be **charged**
- **Procedural law**
 - provides the **process** that a case will go through (whether it goes to trial or not)
 - determines how a **proceeding concerning** the **enforcement** of substantive law will occur
- Each serves a **different function** in the criminal justice system

Substantive Law vs. Procedural Law

	Procedural Law	Substantive Law
Definition	Deals with and lays down the ways and means by which substantive law can be enforced	Deals with those areas of law which establish the rights and obligations of individuals , what individuals may or may not do
Powers	No independent existence; only to control the process	The basis to decide the decision on a case
Application	Can be applied in non legal contexts	Cannot be applied in non legal contexts
Regulation	By statutory law	By Act of Parliament or government implementation



Exercise for Students

Do a search to find examples of
procedural law and substantive law



Civil Law System vs Common Law System

- **Civil law** is
 - the system of codified law that is prevalent in Europe
 - Civil law is founded on the ideas of Roman Law
 - Example: Napoleonic Code in France
- **English law** is the **common law** jurisdiction built upon case law



Definitions of Civil Law System

This term have a number of meanings:

1. The law of any particular state, now usually called **municipal law**
2. **Roman law**
3. A legal system **based on Roman law**, as distinct from the English system of common law
4. **Private law**, as opposed to public law, military law, and ecclesiastical law



Exercise for Students

Do a search, finding out a list of countries adopting Common Law System and a list adopting Civil Law System



Characteristics of English Law

- Law of a **unitary state**, not a federation of states (i.e. unlike USA)
- Separate systems for:
 - **England and Wales** (the laws imported and incorporated into HK in 1843)
 - Northern Ireland
 - Scotland (which is influenced by Roman law)
- **Centralized:**
 - through a court structure common to the whole country
 - **Linked by Parliament at Westminster** – the supreme authority throughout UK



Characteristics of English Law

(...cont...)

■ Judicial Character:

- Absence of **Comprehensive Codification** (i.e. some laws are codified (e.g. most of the criminal law), but some are not
 - cf. with Codified law made by Parliament/Congress
- A system of “**Judge-made**” laws which has continuously developed over the years through the decisions of judges in the cases brought before them
- Adopt the **Doctrine of Precedent**
- **Independence** of **Judiciary** (Can judge be fired?)
- Independence of **Lawyers** (officers of court)
- Influence of **Procedures** (vs. substantive laws)
- No Reception of Roman Law



Characteristics of English Law

(...cont...) - **Codification**

- A legal **code** is:
 - **systematic collection** of laws so arranged as to avoid inconsistency and overlapping.
 - **Codification** was a feature of Roman law
 - Adopted by nearly all Continental countries, notably:
 - France, Germany, Austria, and Switzerland.
- English **common law**
 - Formed from the customs of the people, but were then
 - Under the **Norman kings** these **unwritten laws** achieved a fairly **uniform** legal system
 - Today, some English laws have been **codified** through consolidation and codification processes: e.g. Sale of Goods Act, 1979, most of the criminal law (*Murder, however, remains a common law offence*)



Characteristics of English Law

(...cont...) - **Codification**

- There is a **misconception** that English laws are characterized as “absence of legal codification”, and this has been taken as the defining characteristic of English laws.
- But in fact many English common laws have been codified through the process of ‘**statute consolidation**’ which is a distinctive approach to systematic legislative reform of the law actually begun as early as 17th century.
- “Statute Consolidation” was conceptualized in opposition to the alternative model of “**codification**” due to political reasons as much as for reasons of **jurisprudence**.
- The ideal of “**statute consolidation**” remained an organizing element of English law reform through the 19th century.



Exercise for Students

Do a search, finding the characteristics of Civil Law System use by, for example, France or China or else; and compare these characteristics in comparison with Common Law System

English Legal System:

Sources of English Law

- 1) **Constitution?**
- 2) **Legislation: Statutes**
- 3) **Common Law** (Quest: What does it means?)
 - **Doctrine of Stare Decisis:** Precedent
- 4) **Equity**
 - **Rules and Principles** of **Equity**
- 5) ~~**European Law**~~
 - ~~**Human Rights: HRA1998**~~

Sources of Laws:

English Constitution

- *What is "Constitution" and its functions?*
 - The *fundamental law*, *written* or *unwritten*, that establishes the *character* of a *government* by *defining* the basic *principles* to which a society must conform; by *describing* the *organization* of the *government* and *regulation*, distribution, and *limitations* on the *functions* of different government departments; and by prescribing the *extent* and *manner* of the exercise of its *sovereign powers*.
 - A legislative charter by which a government or group derives its authority to act.



English **Constitution** and its **Characteristics**

- **Uncoded**
- **Sovereignty** of Parliament
- **Separation of Powers:**
 - No “Clean” Separation among:
 - *Legislature*
 - *Executive*
 - *Judiciary*
- Uphold the Principle of “The **Rule of Law**”



Question to Students

Is UK or US has a “clean separation of power”?

Is UK or US cleaner?



What is **Rule of Law**?

- The **rule of law** is the principle that:
 - **law** should **govern** a **nation**,
 - as opposed to being governed by decisions of **individual** government **officials**.
- It primarily refers to:
 - the influence and **authority** of law within society,
 - **particularly** as a **constraint upon** behaviour, including behaviour of **government** officials



What is “Rule of Law” ?

World Justice Project’s **definition**:

- a system following **four universal principles**:
- **All people** or **entities**, whether **govt** or individual are **accountable under the law**.
- The laws are **clear**, **publicized**, **stable**, and **just**; are applied **evenly**; **protect fundamental rights**, including the **security of persons and property** and certain core **human right**



What is the Rule of Law?

- The **process** by which the laws are **enacted**, **administered**, and **enforced** is **accessible**, **fair**, and **efficient**.
- Justice is delivered **timely** by **competent**, **ethical**, and **independent** representatives and **neutrals** who are of **sufficient** number, have **adequate resources**, and reflect the **makeup** of the **communities** they serve.



Exercise for Students:

UK has no written constitution. What are your views as regards whether UK should make a written constitution like other common law jurisdictions, such as Canada, US and Australia?



Sources of Laws:

Statutes

■ What is a Statute:

- (Taken from: <https://legal-dictionary.thefreedictionary.com/statute>)
- An **act** of a **legislature** that **declares, proscribes, or commands** something; a specific law, expressed in **writing**.
- A statute is a **written law** passed by a **legislature** on the **state** or **federal level**.
- Statutes set forth **general propositions** of law that **courts apply** to specific **situations**. A statute may **forbid** a certain **act**, **direct** a certain **act**, make a **declaration**, or set forth governmental mechanisms **to aid society**.



Sources of Laws:

Statutes: Classification

- **Primary legislation**
- **Secondary legislation**
 - **Regulations, e.g. Cap 123A**
 - **Statutory Instrument**
 - **Order in Council**

Sources of Laws:

Common Law

■ What is **Common Law**:

- The ancient law of England based upon **societal customs** and recognized and enforced by the judgments and decrees of the courts. The general body of **statutes** and **case law** (i.e. **authorities**) that governed England and the American colonies prior to the American Revolution.
- The **principles** and **rules** of action, **embodied in case law** rather than legislative enactments, applicable to the government and protection of persons and property that derive their authority from the **community customs** and **traditions** that **evolved over** the **centuries** as **interpreted** by **judicial tribunals**.
- A designation used to denote the opposite of **statutory**, **equitable**, or **civil**, for example, a common-law **action**.



Sources of Laws:

Characteristics of Common Law

- **Judge-made**

- *(Question: Do judges make laws nowadays?)*

- **Doctrine of Precedent**

- Findings of **FACTS**

- *Statements* of *PRINCIPLES* of law
(i.e. **RATIO DECIDENDI**):

- applicable to the FACTS:
- The **decision** of the **case** under trial

Sources of Laws:

Characteristics of Common Law

(...cont...)

■ **Binding:**

- A ratio decidendi of a superior court
- Not binding:
 - **Persuasive** precedents
 - Precedent **overruled**
 - **Precedents** distinguished on **FACTS**
 - Per **incuriam**: conflict authorities

■ **Remedy: Damages= \$**

- Question: What is "**Damages**"?



Common Law vs. Statutory Law

	Common Law	Statutory Law
Creation of new laws	Judge-made, i.e. evolving from decisions of judges	Made by legislature and promulgated by authorized agencies, such as govt.
Creation Process	Inductive	Purposive/Goal Driven
Also called	Authority/Case law	Written law
Nature	Instructive/Interpretive	Prescriptive
Origin	Precedent or judiciary	Government or legislature



Exercise for Students:

1. Which of the following statement is correct?
 - A. English common law is judge-made law and it is developed from local customs which judges would make reference to. For this reason, there could be differences between decisions made by judges in different counties or boroughs. On the other hand, statutes made by the Parliament are consistently applied in all the English courts.
 - B. English common law is judge-made, and the judges in different counties or boroughs could make different judgment. However, upon appeal, the case is heard and decided in the Court of Appeal, through which, authorities are established and applicable to all English courts and then become “common” throughout England. This is the reason why such judge-made law is call common law.
 - C. English laws are primarily made by the Parliament, although the courts are vested with the power to interpret the laws. As the laws, i.e. statutes, made by the Parliament are “commonly” applicable throughout the entire United Kingdom.
 - D. None of the above is correct.

Sources of Laws:

Equity

- What is **Equity**?
 - (Taken from: <https://legal-dictionary.thefreedictionary.com/equity>)
 - In its broadest sense, **equity** is **fairness**.
 - As a legal system, it is a body of law that **addresses concerns** that **fall outside** the jurisdiction of **Common Law**.

Sources of Laws:

Characteristics of Equity

- “**Flexible**” than Common Law
- **Discretionary**: not a matter of right
- **Relief/Remedy**:
 - **Specific Performance**
 - **Injunction**
 - **Damages**
- Take **precedence** over Common Law

Summary on:

Differences between Common Law and Equity

1. **Common Law** is a body of law based on **precedent** or court **decisions**. **Equity** constitutes **general principles** and serves as a supplement to **Common Law**.
2. **Equity**, simply put, is a form of **legal relief** in the event such relief cannot be found in the rules of **common law**.
3. **Equity** is based on a **judicial evaluation** of **fairness, reason, good faith** and **justice**. Common Law entails applying the rules of common law to the issue before the court.
4. **Remedy** of common law is a matter of legal rights, while that of Equity is a matter of discretion of the court.
5. The remedy of common law is **damages**, while that of Equity could be **specific performance, injunction, or damages**.



HK Legal System

- **Development** of the HK Legal System:
 - **1843 to 1997**
 - **Legislature Council** formed on **5 April 1843**
 - **Section 5** *Supreme Court Ordinance* 1843 & 73
 - **Section 3(1)** *Application of the English Law Ordinance* 1966
- **Sources** of Hong Kong Law
 - **PRC Legal System** [Question: What is applicable in HK?]
 - The **Common Law** System and
 - Doctrine of *Stare Decisis* (i.e. *precedent*)
- Hong Kong **Court System**



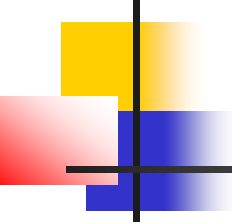
Development of the HK Legal System

- **Captain Elliot's Proclamation** in **January 1841**
 - *Suen Toi Lee v Yau Yee Ping* [2002]
- **Supreme Court Ordinance 1843**
 - Application of English Law – Statutory basis
 - **Treaty of Nanking**
 - **Royal Charter** (later became **Letters Patent**) on **5 April, 1843**: HK became a British colony

Supreme Court Ordinance

1843

- *"the Law of **England** shall be in **full force** in the said Colony of Hong Kong, **except** where the same shall be inapplicable to the **local circumstances** of the said Colony, or of its inhabitants."*



Application of English Law Ordinance (1966)

- **Extension** of **English common law**, rules of equity and **statutory** law to Hong Kong
 - *"so far as they are applicable to the circumstances of HK or its inhabitants"*
- **Interpretation** follow English Law
- Could be **repealed** by HK Ordinance
 - Many of the UK Acts of Parliament originally applied to HK were **repealed** or ceased to have practical effect
 - Ceased on **mid-night of 30 June 1997**

HK Legal System on and after 1st July 1997



The **law of Hong Kong** is based on the rule of law and the independence of the judiciary.

The constitutional framework is provided by the Hong Kong **Basic Law**, which is a **national law** of the People's Republic of China (PRC).

Under the principle of 'one country, two systems', Hong Kong has its own legal system, distinct from the Law of the PRC, and based on the **combination** of **English Common Law** (developed in local cases) and **local legislation codified** in the Laws of Hong Kong. Hong Kong has a **common law system**, whereas the PRC has a **Civil Law system** with socialist roots. Only a small number of PRC laws apply in Hong Kong by virtue of stipulations in **Article 18** and **Annex III** of the Basic Law.

HK Legal System on and after 1st July 1997



The separation of the Hong Kong legal system from the PRC is guaranteed **constitutionally** until at least **2047**.

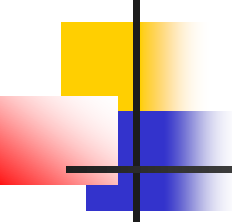
The Hong Kong **judiciary** has had a long-standing reputation for fairness and was rated as the **best judicial system in Asia by one survey in 2008**.

[Extracted from:
https://en.wikipedia.org/wiki/Law_of_Hong_Kong]



Basic Law

- **Article 31** of the 1982 **PRC Constitution**
 - One country, two systems
 - “*The state **may** establish **special administrative regions** when **necessary**. The systems to be instituted in SAR shall be prescribed by law enacted by the **National People’s Congress** in the light of specific conditions.*”



Article 62(13) of the Constitution

- National People's Congress has the authority "*to **decided** on the **establishment** of **SAR's** and the **systems** to be **instituted** there.*"



Sources of Law of HKSAR

- **As provided in Article 18(1)**

- **This Law = Basic Law**
- **The laws previously in force in Hong Kong as provided for in Article 8 of this Law**
- Laws enacted by the **legislature** of the Region
- National laws shall not be applied in HKSAR except for those listed in **Annex III** of this Law
- The **National People's Congress Standing Committee** may add or delete from the list of laws in **Annex III** after consulting its Committee for the Basic Law
- **What is Annex III?**



Article 8 of Basic Law

- *"The laws **previously in force** in Hong Kong, that is, the **common law, rules of equity, ordinances, subordinate legislation** and **customary law** shall be maintained, **except** for any that **contravene this Law**, and subject to any **amendment** by the **legislature** of the **HKSAR**"*



Article 160 of Basic Law

- *"laws previously in force in HK shall be adopted as laws of the Region **except** for those which the National People's Congress Standing Committee **declares** to be in **contravention** of this Law."*
- *"If any laws are **later discovered** to be in **contravention** of this Law, they shall be **amended** or **cease** to have force in accordance with procedures as prescribed by this Law."*



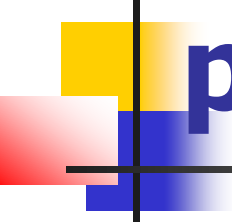
What is Annex III?

- Shall be confined to those relating to **defence** and **foreign affairs** as well as
- Other matters **outside** the limits of the **autonomy** of the Region as specified by this Law
- **National Security**



National People's Congress' functions

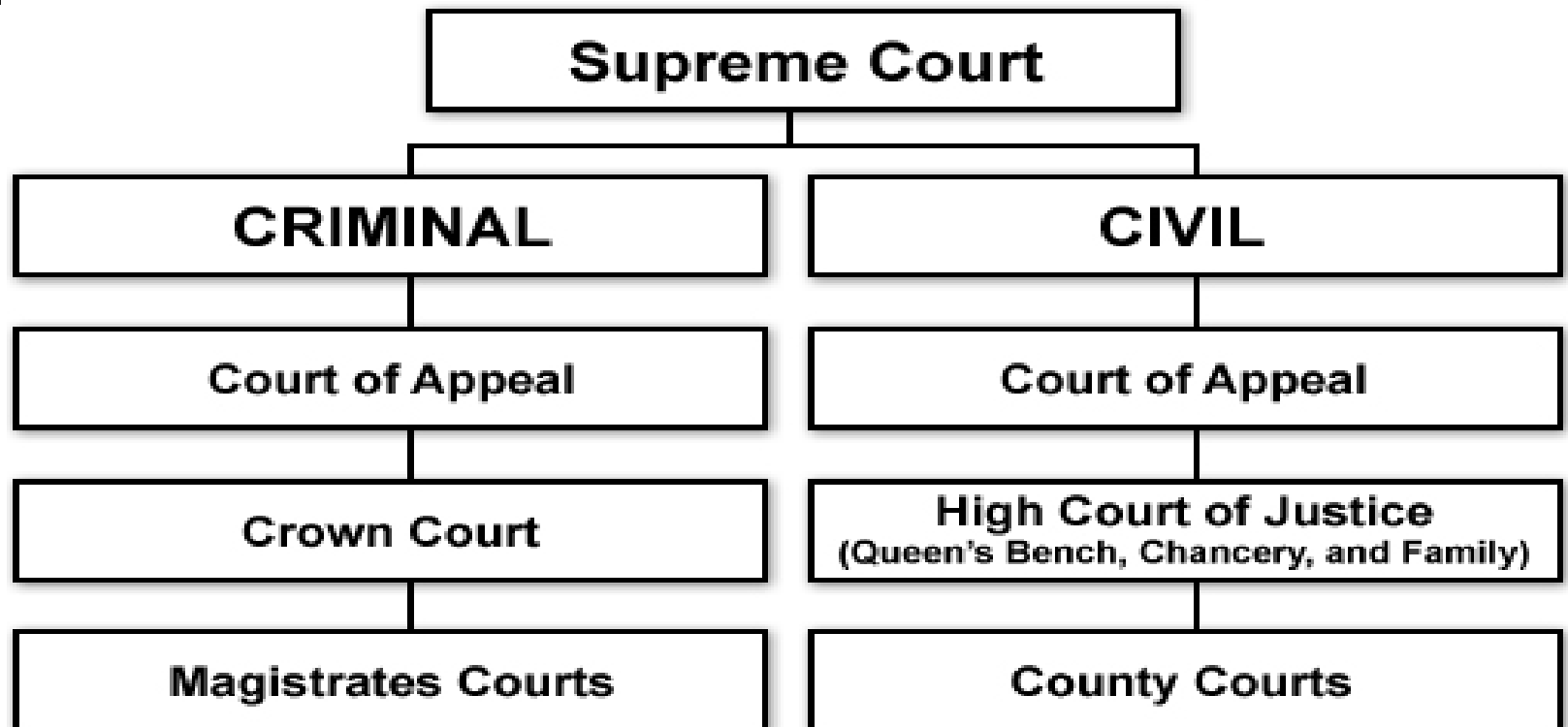
- **Article 67** of the 1982 **PRC Constitution**
 - *"The **Standing Committee** of the **National People's Congress** exercise the following functions:*
 - *(4) to **interpret** laws"*
- Basic Law: **Article 158**:
 - *"The power of **interpretation** of this Law shall be vested in the National People's Congress Standing Committee."*



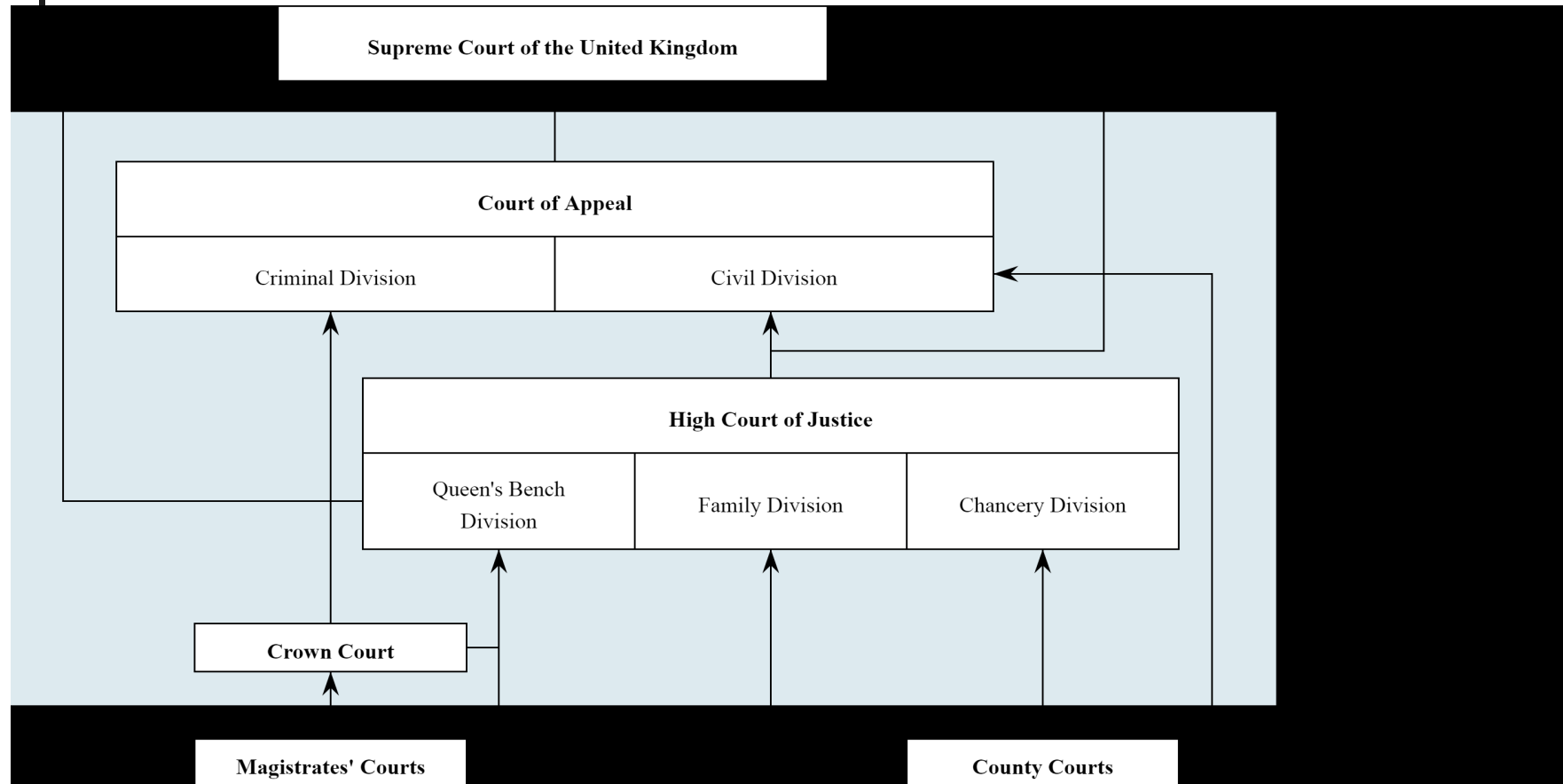
What about the English **precedence** (i.e. authorities)?

- **Before 1st July 1997**
 - **Privy Council** decision on Hong Kong cases before 1st July 1997 are still **binding** on HK courts unless having been **overruled**, or found in **contravention** to the Basic Law
- **Post 1st July 1997**
 - **Not** binding

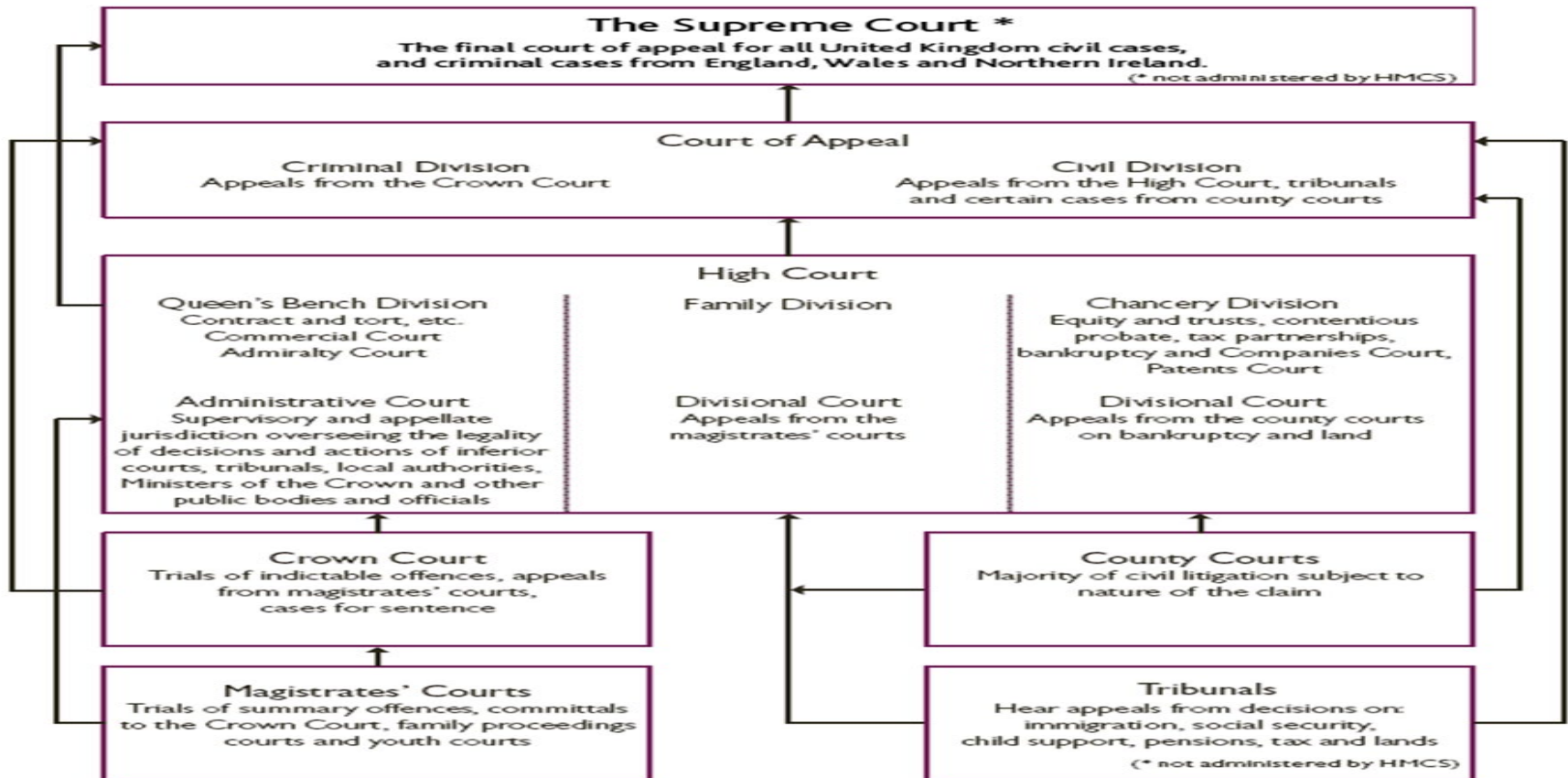
The Hierarchy of English Courts



Appeal Channels



Appeal Channels of English Courts



The Hierarchy of Hong Kong Courts



Note: All the criminal trials must be commenced at the Magistrates' Court





Exercise for Students

1. In Hong Kong, if a defendant is convicted in a magistrates' Court:
 - A. He can file his appeal to the Court of First Instance. If his appeal is dismissed by the Court of First Instance, he can appeal to the Court of Final Appeal.
 - B. He can file his appeal to the Court of First Instance. If his appeal is dismissed, he can appeal to the Court of Appeal.
 - C. He can file his appeal to the Court of Appeal. If his appeal is dismissed, by the Court of Appeal, he can appeal to the Court of Final Appeal.
 - D. He can file his appeal to the District Court. If his appeal is dismissed, he can appeal to the Court of First Instance.