



THE
LAW SOCIETY
OF HONG KONG
香港律師會

ICT and Legal Ethics

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Panel III – New technologies and human rights



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Human Rights with Professional Ethical Concepts

A business approach, professional approach and human rights approach focuses on aligning core business activities or professional services with human rights standards.

Corporate social responsibility (CSR) typically focuses on enhancing brand value through marketing a broad range of activities such as community development, environmental protection, corporate philanthropy, and perhaps attention to human rights.

Professionals focus on protection of the clients, the profession and the public at large.

CSR is thus broader and less specific than a business and human rights framework.



United Nations: Protect, Respect and Remedy Framework, New York and Geneva, 2011.

- I. The State Duty to Protect Human Rights
- II. Corporate Responsibility to respect Human Rights
- III. Access to Remedy

Foundational Principles

Operational Principles

} As apply to each of the above



Hong Kong Solicitors' Guide to Professional Conduct

1.07 INFORMATION COMMUNICATION TECHNOLOGY

A solicitor using information communication technology should endeavour to ensure within the parameters of technology, information and knowledge available at the time of use, that no Principle in the Guide or a provision in the Practice Directions or applicable law is breached by such use.

Commentary

Solicitors may use the available information and knowledge available at the time to determine whether to adopt a particular approach to the use of information communication technology. For examples of non mandatory guidelines see [Circular 04-604](#), ISO/IEC 17799:2005 and ISO/IEC 27001:2005 (see also [Principle 8.01 Commentary 31](#)).

1.08 PRACTICE OUTSIDE HONG KONG

A solicitor when practising as a Hong Kong solicitor outside Hong Kong remains bound by the general principles of professional conduct which apply to him as a Hong Kong solicitor.

Commentary

1. The Principles and Commentaries in this Guide apply to practice outside Hong Kong with any modification necessitated by local conditions.

2. In addition to the provisions of Commentary 1, the Council has adopted as the basic code for solicitors practising outside Hong Kong the International Bar Association's International Code of Ethics (set out below) whenever the same is not inconsistent with this Principle.

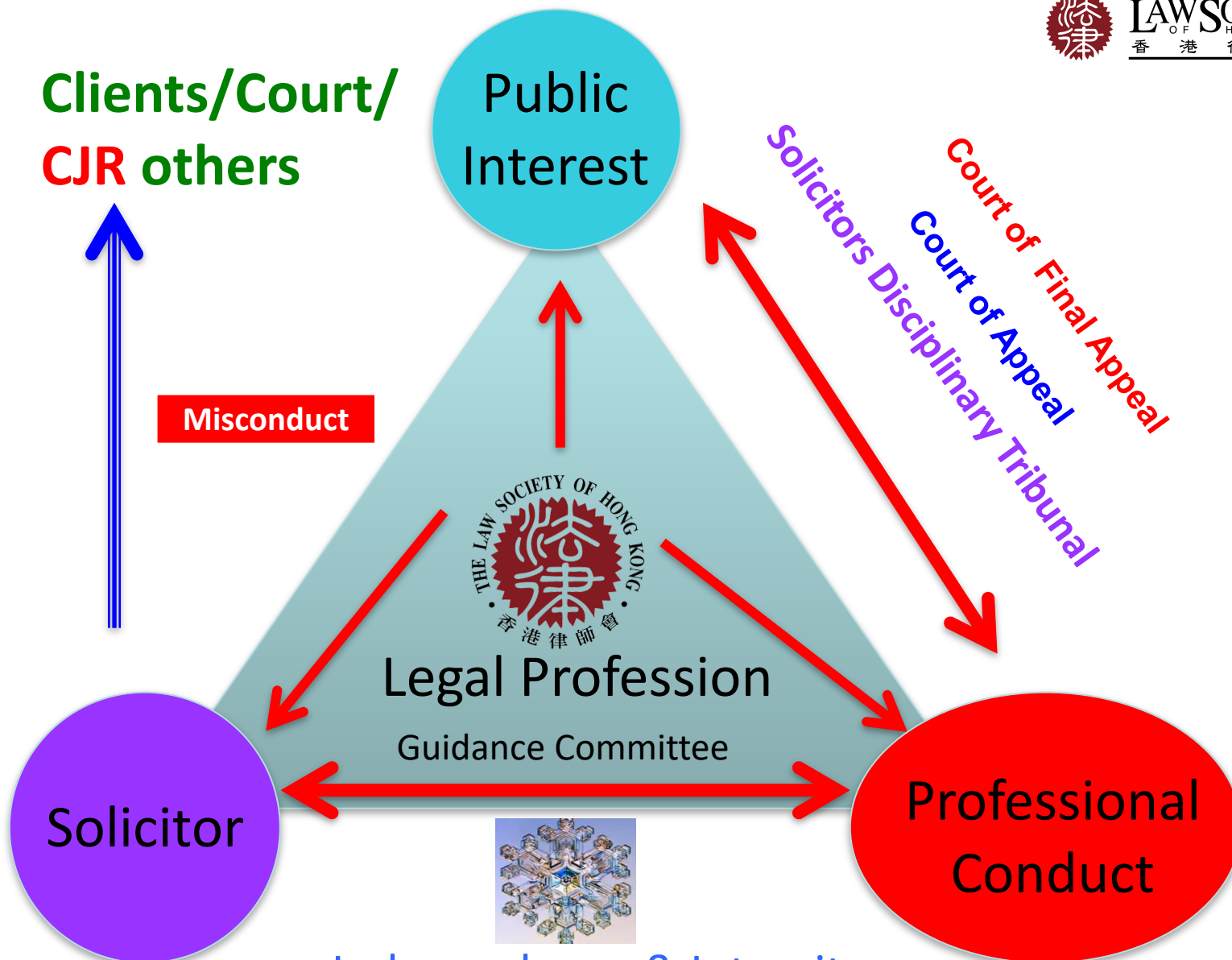
3. In the absence of an express application of local rules to the solicitor as a foreign lawyer, a solicitor should nevertheless respect the rules of conduct applied to local lawyers. Where the structure and sphere of activity of the local legal profession or professions differ substantially from those of Hong Kong solicitors, it may be inappropriate or impossible for a solicitor to comply in every particular with the rules of conduct applicable to the local profession or professions, or it may be doubtful which rules of conduct should be applied. In such circumstances, the solicitor should observe the standards of conduct applicable to the local lawyers to the extent this can be done without infringing the rules applicable to Hong Kong solicitors and without hindering the proper exercise of his profession.

4. When attesting a conveyancing document overseas for use in Hong Kong, a solicitor must ensure that he complies with the appropriate laws and regulations applicable in Hong Kong (see [Circular 00-127](#)).

The Spirit of the Guide

‘... the spirit of the Guide is just as important as its letter. This is recognised by the Guide itself, it makes a significant point that some ethical standards and obligations are higher than even the requirements of the law.’

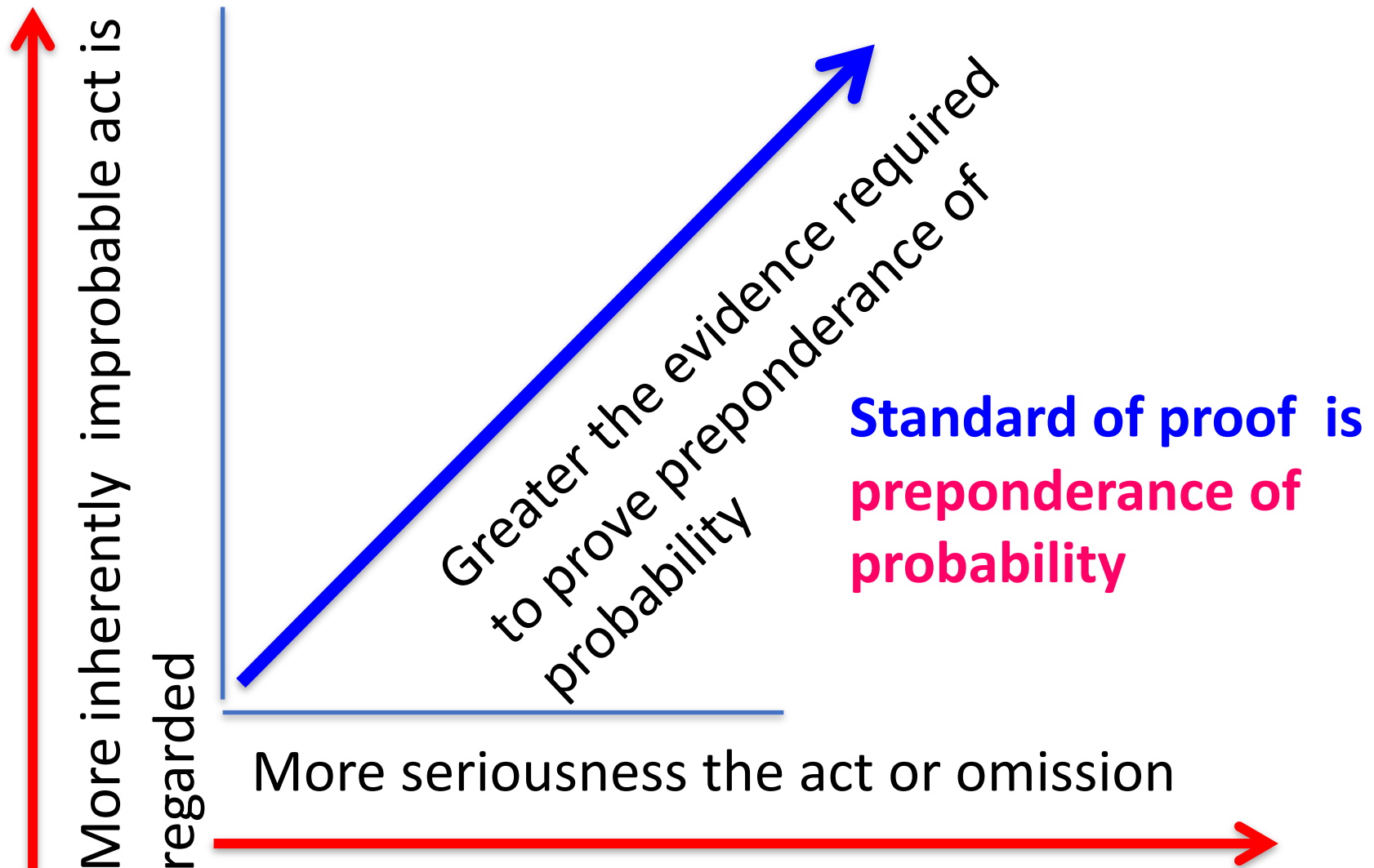
Hon. Geoffrey Ma, Chief Justice of Hong Kong SAR



Independence & Integrity
Reputation of Solicitor and Profession

A Solicitor v. The Law Society of Hong Kong

Kong FACV No. 24 of 2007



ICT-1

- ICT ahead of Laws
- Rate of change of ICT is between 3 months to 2 years maximum, this will change
- Laws cannot keep up with this rate of change

ICT-2

- Era of Innovation
- Legal industry is all about legacy
- Legacy is a a bad word when considering innovation
- What happens when law? cannot keep up?
WhatsApp, WeChat etc

ICT-3

The sources of professional ethics:

- **Statute** (Civil Law and Common Law)
- **Cases** (Civil Law and Common Law)
- **Professional Conduct Rules passed by Regulators**
(Civil Law and Common Law)
- **Others**

ICT-4

- Depending on the sources of Ethical Rules ethics can actually solve the issue of legacy if regulators are prepared to be innovative

Thank You
Have a Great Day

