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# The fit and proper person test: The theory

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## Abstract

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## Abstract

In 2020, the Securities and Futures Commission of Hong Kong banned a former China Bank relationship manager for life from coming back into the banking industry. The ban was announced 1 year after his fraud conviction by a Hong Kong magistrate. The regulator determined he was "not a fit and proper person to be licensed or registered to carry on regulated activities as a result of his criminal conviction." Therefore, pursuant to the significance of this event, and its severe consequences, the objective of this chapter is to examine critically the concept of being "fit and proper," to discover the term's use and meaning. In the 2016 case of Re "A," in the High Court of Hong Kong, "A" applied under s. 27 of the Legal Practitioners Ordinance, Cap 159 (Ordinance), for admission as a barrister of the High Court of Hong Kong. The question for the court was if the Applicant was a "fit and proper person" for admission as a barrister, a requirement under s. 27(1) of the Ordinance, and were not about the private rights of any parties. Australian, New Zealand and Hong Kong cases, and English rules, apply in Hong Kong. The principle of "fit and proper person" is Imperial legislation. The question is what meaning the term "fit and proper" imports into the general law of Hong Kong. The meaning of the term "fit and proper," in contrast to a well structured good character test, is insufficiently specific to be used as a set of criteria for admission to a profession. The research methodology of this critical literature review will be a legal narrative analysis. The parties to a "fit and proper" assessment are

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the court and members of the public, without the public ever participating in the assessment. A " fit and proper " assessment suggests a systemic inquiry against the applicant, inferring both bias and public denunciation. © 2023 by Nova Science Publishers, Inc. All rights reserved.

## Author keywords

Bias; Denunciation; Fit and proper ; Good character test ; Imperial legislation

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