What the YBC does

For the YBs

It has been a few months since I took up the baton to chair the YBC. We have often been asked about the objectives and the role of the YBC. One of our key objectives, of course, is to provide assistance to YBs in practice-related areas. The YBC has been organizing practice-oriented talks and seminars, for instance, a talk on "What to expect and what to look out for your first Duty Lawyer and Prosecution assignment" will be held in mid-November. It is hoped that YBs would not only benefit from the insight of the speakers, but could also share individual experiences and gain from collective wisdom through the exchange of views and ideas. Some YBs may not be aware but the YBC has acted as a medium for collective bargaining to take place for the benefit and special interests of YBs. A recent success is the negotiation between the YBC and Justis Publishing Limited in the United Kingdom for a special discount package of internet legal resource services exclusive to YBs.
With the law schools

Through participating in the annual Law Fair and organizing various university visits, the YBC also aims to promote better understanding of the Bar among university students and to provide them with more information and guidance with respect to joining the Bar. In May, we organized a kick-start talk for PCLL students of the University of Hong Kong and the City University of Hong Kong who would be commencing pupillage. In September, the YBC also attended a career talk hosted by the Chinese University of Hong Kong as co-speakers. These talks were very well received by students and academic staff alike.

Reaching out to other sectors of the community

The YBC has always taken a proactive approach in reaching out to other sectors of the community. We launched the unprecedented Hong Kong Bar Association Debating Competition in 2004 with the aim of raising awareness amongst secondary school students regarding socio-legal issues and the rule of law. It has proven to be a huge success and has attracted remarkable publicity and popularity. The event is not only about language and debating skills. It also provides a valuable platform for legal practitioners and students to discuss and share their thoughts on socio-legal issues which affect many aspects of our daily lives.

What can you do as a YB

What distinguishes the Bar from other professions is the fraternity and bondage among its fellow members. The Bar is a close-knit community which has a strong and valuable tradition of mutual assistance. The question is, will these traditional values and virtues fall apart as the size of the Bar keeps growing? Whilst a quantity and quality check of new entrants may become all the more important in the long run, there are things that can be done at the junior end to help uphold the tradition as it has always been:

Be outspoken - Whilst many YBs have asked the question "what has the YBC done to assist our practice", very few are interested in voicing out their opinion when asked for, and even less are prepared to take the initiative in bringing matters up for discussion. Indeed, there are a number of issues which YBs could have spoken through the YBC: paid pupillage and the rule on supplementary occupation are examples. We do encourage YBs to write to us in order to enable us to better represent you on all issues affecting YBs.

Be involved - The YBC will never be able to succeed without a team of dedicated YBs willing to spare time and effort for the benefit of all. In order to encourage wider participation in YBC events, we have since last year established a sub-committee for the Hong Kong Bar Association Debating Competition. This enables junior members and pupils to become involved by assisting the organization of the event.

EDITORIAL TEAM: Jolie Chao (Editor-in-chief), Abigail Wong, Albert Cheung, Alfred Cheng, Rachel Lam
CONTRIBUTORS TO THIS ISSUE: Annie Leung, Gloria Tse, Derek Chan, Elaine Liu, Jenkin Suen, Kevin Li, Wilson Hui

Buzz is committed to bringing you articles of interest both to YBs and pupils. We welcome articles which would be of interest to all our readers. Should you have any events, stories, photos, comments or questions for Buzz or the YBC, please send them to Jolie Chao or Jenkin Suen (contact details in the Bar List) or email us at ybc@hkba.org
Indeed, there are plenty of opportunities throughout the year for all YBs, whether it be joining our dragon boat team and designing the team T-shirts for the annual Dragon Boat Race, or just to turning up at our YBC drinks. You will benefit as much from the experience of being together with other members of the Bar as from the events themselves.

**Broaden your perspective** - Many YBs are too preoccupied with their work to bother much into looking globally. Others believe that exposure to international law conferences is not practical enough for their practice. We do, however, need to think harder. Without a global perspective, the Bar will never benefit from an interflow with other jurisdictions and that will hinder the introduction of changes and reforms necessary for our legal system. The YBC believes, therefore, that it is paramount for YBs to broaden their perspective and to embrace every opportunity to participate in international law conferences. In October, for instance, James Yu of the YBC attended a Malaysian Law Conference where a spectrum of interesting topics such as "Role of the Bar in upholding the Constitution - Experiences from around the South China Sea" and "South East Asian Young Lawyers Convention - The Past, The Present and The Future of Young Lawyers in South East Asia" were discussed. James was also invited by the Malaysian Bar to give a speech on the view of setting up a Southeast Asian Young Bar Alliance as a Hong Kong delegate. We hope all these international law conferences/seminars would open a complete new window for YBs to understand the law from a global perspective.

**Concluding note**

Time is indeed ripe for all YBs to reflect and consider whether efforts could be made to venture beyond our own work and contribute to the profession and the legal system as a whole. It is only with your support that the YBC can be maintained as a meaningful creature of its own. Don't forget being a barrister is not a business, it is a practice with a higher aim and a good set of traditions and values which all of us should most vigorously preserve.

*Jenkin Suen*
It seems to be a good opportunity to take stock of the past at the 10th Anniversary of the handover. Over the past 10 years, the requirements for someone aspired to join the Bar have much changed. For example, Barristers (Qualification for Admission and Pupillage) Rules, Cap. 159A were introduced in 2003 so that one can no longer seek admission to the Hong Kong Bar by one’s qualification at the English Bar alone. The PCLL and the qualification examination remain the only 2 means for qualifying for admission. There are also new compulsory requirements in one’s pupillage - the Advanced Legal Education (“ALE”) has become compulsory and much more systematic for barristers serving pupillage. On the other hand, the number of pupils has increased tremendously ever since 1997. It seems that, despite the changes, the Bar remains an attractive profession for budding graduates from law schools.

The Buzz has taken this occasion to compare the experience of a pupil in 1997 and in 2007. We have invited Herbert Au-Yeung (who served pupillage in 1997) and Ann Lui (who served pupillage in 2007) to tell us their experience during their pupillage. Despite the changes within these 10 years, the life of a pupil seems to be no less exciting - albeit in different respects!

H: Herbert Au-Yeung  A: Ann Lui

Q: Let's start by reminiscing the good old past. Could you describe a memorable event during your pupillage?

H: I remember doing a piece of work for my pupilmaster during my limited practice. He basically adopted my draft and rewarded me very well financially - it is memorable because this is the first time I felt I could really assist him!

A: Getting my first brief - a complimentary one for my solicitor friend’s admission. I have known this friend since Form 1 and we have been through thick and thin together.

Q: One thing that has changed the most in respect of pupillage is the ALE requirement. Pupils nowadays need to complete a sufficient number of core and general courses before completion of their pupillage. What do you think about the ALE courses? Do you think they provide adequate training to you as a pupil?

H: ALE was less systematic back then. We had pleading workshops and talks by senior members of the Bar. I don’t think there were compulsory courses that pupils had to attend. I found the talks most helpful - as they introduced practice areas (e.g. matrimonial, bail applications) in detail.

A: ALE is like a booster shot. It fortifies and complements what I learnt in pupillage. I found the 3 core workshops (pleadings, professional conduct and advocacy) especially useful.

Q: And of course, another apparent change since the handover is the use of Chinese in Court. Pupils will need to learn to do it during their pupillage as they are not required to do so in law schools. How much exposure did you have on Chinese advocacy during your pupillage?

H: There were not many hearings in Chinese back then. I remember observing a case at District Court - the judge and counsel still used lots of English phrases in a supposedly Chinese hearing. People are more comfortable with Chinese nowadays.

A: I have been to a number of hearings conducted in Chinese, mostly for criminal matters. I had the opportunity to draft a skeleton submission in Chinese too!

Q: I am sure you will agree that pupils look forward to limited practice the most - as this is the time when they can really apply what they have learnt in their own cases (let alone the remuneration!!) How was your limited practice? Did you have any chance to do your own work?

H: One month into limited practice I got a cold call from solicitors instructing me to apply for leave to appeal at District Court. There was a fair amount of duty lawyer briefs as well. Back then, you could get fairly busy already during limited practice - I guess that’s because there weren’t too many pupils, and solicitors were really comfortable to try out the newbies.

A: Somewhat "sensitive" HAHA... I didn’t have the chance to stand on my feet in Court, but I was fortunate enough to get some devilling work. However, rules have changed recently, such that I can only sign up for duty lawyer or flat work after I commence full practice.

Q: Did you feel that the competition for tenancy was keen?

H: I didn’t think much about competition - but I guess it was keen amongst those hoping to get into a good set of Chambers. I squatted for a few months before securing my tenancy.

A: Yes. Because... um... I have not secured one yet?

Q: I think you must agree that a pupil has to excel in the work assigned by his pupilmaster to enhance his or her chances of securing tenancy. Research is probably the most essential skill that a pupil should possess. How far did you rely on the Internet in your work? In what way?
H: There were Internet resources like Lexis but they were not commonly used. I relied heavily on paper indexes and textbooks - the only computer resources which I used was HKLRC on CD Rom!

A: I am heavily dependent on the Internet for my work. I cannot imagine doing research without Lexis, Westlaw and Google (!). Email is also an essential tool of communication.

Q: Let us talk about the other aspects of being a pupil? As you know, the YBC has been fostering the relationship among all pupils and YBs (Herbert was once the Vice-Chairman of the YBC, and Ann now serves in the Committee). Do you think the YBC helped to build up your social network? What was the relationship between pupils?

H: There weren't too many pupils in 1997 so we knew each other well - we had good fun at the YBC drinks. We chatted freely about matters like our career path and so on.

A: So far, about 50 pupils have been admitted to the Bar this year. Speaking from my own experience, rapport with those I know has developed very quickly. However, I still do not know all of them. I may add that apart from the YBC drinks, the dragonboat outing YBC organized annually has proved to be extremely popular, and is a good way to know more pupils. I look forward to being lifelong friends with those whom I met as fellow pupils!

Q: On a lighter note, most of us will probably agree that acquiring one's own wig and gown is a distinction of joining the Bar. Apart from the apparent prestige it bestows, the wig and gown is also the largest investment for a pupil. Where did you get your wig and gown? Did you spend much?

H: My wig and gown were tailor-made by Ede & Ravenscroft and Ah Yau respectively - compliments of my pupil-master - so I don't know how much!

A: I got them off the shelf from Ede & Ravenscroft for around £800 (with the wig tin). I don't think they make bespoke wigs anymore - but they come in all sizes so there must be one which fits.

Q: Finally, has your impression of the Bar changed after serving pupillage?

H: Yes. Unless you were part of the Bar, there were only a few sources through which one could learn more about it. Prior to pupillage I thought the Bar was quite distant. Upon finishing pupillage, my impression changed and I felt that members of the Bar were much more down to earth and friendly. Fraternity was strong amongst us too!

A: Yes and no. I got some idea of the Bar when I was a summer student, but I thought it was a closed community. However, during pupillage I was provided with the opportunity to work closely with my pupilmasters and to develop a more personal relationship with them. I feel now that truly belong to this profession!

During the interview, Herbert and Ann were eager to recount the ups and downs of their pupillage - there is no doubt that they truly enjoyed each and every moment. Perhaps their experiences show that, despite rapid development in the past 10 years, the Bar remains a rewarding career for those who embrace challenges!

DO YOU KNOW??

One of the most apparent changes that has taken place within the Bar in the past decade is the substantial increase in the size of the Bar. Perhaps you have already noticed that the number of practising barristers has long exceeded the benchmark of a THOUSAND, which is nearly two-fold of the figure back in 1997, but are you also aware that the once male-dominated profession now comprises more female counsel, especially at the junior end. Just see the following:

<table>
<thead>
<tr>
<th>Description</th>
<th>1997</th>
<th>2007*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total number of counsel</td>
<td>660</td>
<td>1036</td>
</tr>
<tr>
<td>Female : Male ratio</td>
<td>1:6</td>
<td>1:3</td>
</tr>
<tr>
<td>Total number of Senior Counsel</td>
<td>50</td>
<td>80</td>
</tr>
<tr>
<td>Female : Male ratio</td>
<td>1:12</td>
<td>1:10</td>
</tr>
<tr>
<td>Total Number of Junior Counsel</td>
<td>610</td>
<td>956</td>
</tr>
<tr>
<td>Female : Male ratio</td>
<td>1:5</td>
<td>1:3</td>
</tr>
<tr>
<td>Senior: Junior Counsel ratio</td>
<td>1:12</td>
<td>1:12</td>
</tr>
<tr>
<td>Total number of pupils</td>
<td>117**</td>
<td>77</td>
</tr>
<tr>
<td>Total sets of chambers</td>
<td>103</td>
<td>121</td>
</tr>
</tbody>
</table>

*updated as at 27 August 2007.
**the total number of barristers who had served pupillage during the year of 1997

Alfred Cheng (with contributions from Annie Leung and Jolie Chao)
An Appraisal of the Hong Kong Bar Association Debating Competition

As a profession, the Bar is often viewed by the general public with both admiration and bewilderment. It comes as no surprise that the nature of our work, and the issues which we deal with daily, are very often misunderstood or misinterpreted. There is ample evidence of this in TV shows and movies that often portray our profession in an exaggerated manner, sometimes bearing little resemblance to the actual nature of our work.

Since 2004, through the platform of the Hong Kong Bar Association Debating Competition ("the Competition"), successive committees of the YBC have made much effort in reaching out to secondary students. Whilst one of the major goals of the Competition is to arouse students' awareness of some socio-legal issues, there is also a hope to dispel some of the myths surrounding the profession in the process.

The Competition is held in two different sections - Chinese and English - and is participated by school teams of impressively high caliber every year. The Competition initially had 3 rounds (preliminary, semi-final and final) involving 8 teams for each section in 2004-2005. After the successful pilot competition, the operation of the Competition expanded and in the successive two years, there were 4 rounds of debates (preliminary, quarter-final, semi-final and final) and thereby allowing 16 teams to participate in each section. Many secondary schools eagerly enrolled, leading to the most spirited and enthusiastically prepared for debates. This year, for the Competition in 2006-2007, Diocesan Girls' School and Heep Yunn School were the champion in the English and Chinese section respectively.

In organizing the event, the YBC has had the good fortune of being supported by pupils and members of the Bar. Numerous of them have graciously given their time in acting as adjudicators, chairmen and even time-keepers for the various rounds of the yearly Competition. The Competition has further benefited from the generous support of members of the bench, who have adjudicated in the final rounds every year. Furthermore, the Competition was also supported by the Faculty of Law of the University of Hong Kong by kindly lending us the venue for the Competition.

The Competition offers a unique forum for secondary school students to meet members of the profession, and to see first-hand the wider issues which the profession is concerned about. Motions of both sections that have been debated include, "whether criminal sanctions should be imposed against users of BitTorrent", or "whether all defendants in criminal cases should be afforded the right to trial by jury", or "本港有關離婚後財產分配及賠償費的法例應適用於長期同居的伴侶", and "本港應容許同性戀者合併結婚" etc. These topics are distinctive to the Competition, and we hope, are appreciated by the participants for their interest-value and complexity. Feedback received from both students and teachers is most positive. Not only do they find the topics challenging and interesting, but they also find the Competition a good complement to the more general secondary school debates organized by other institutions.

The YBC has aspired to outreach to the community in whatever modest way available. The participation and encouragement of the judiciary, members of the Bar and pupils as well as law schools thus far is greatly appreciated.

Rachel Lam and Jolie Chao

In this issue of Buzz, we enclose views from both adjudicators and participants on the Competition. The Buzz would like to take this opportunity to thank the Hon. Mr. Justice Reyes, Mr. Erik Shum, Mr. Bernard Man, Miss Emily Zhang and Miss Megan Chan for their insights.

"I joined the debating society at secondary school. That was reluctantly, after arm-twisting by an older friend. Now, looking back, I am glad that I did. But why is that?"

I think that is because debating introduced me to the power of words and the art of advocacy.

The debater is faced with the daunting and lonely reality of convincing a sceptical audience. The debater is in a perpetual dilemma. Should one resort to humour and persuade by wry ridicule at the expense of meaningful content? Or should the debater patiently explain each premise of a difficult syllogism at the risk of putting listeners to sleep. The answer usually lies somewhere in between, but precisely where is never an easy call.

By engaging in debate, the student is in turn forced to examine the ways in which one is persuaded by the world at large. Are we convinced by appeals to logic or do emotional and psychological factors affect our daily decisions? If the former, to what extent should logic regulate our conduct? If the latter, are we guilty of muddled and sloppy thinking?
In light of my experience, I think that the Competition is an excellent way of encouraging HK secondary school students to think about how society persuades and is persuaded. A decision to change or stay the same inevitably hinges on a range of factors. How we assess those factors, how we persuade others that we are right, how we are persuaded by others that we may be wrong, all these are important matters to reflect upon as citizens, whatever we choose to become in life." — The Hon. Mr. Justice Reyes

"It is high time the Bar broke the mysterious and unjustified veil between itself and the public. The debates serve as an effective way to let students and teachers of secondary schools know more about us on a level of personal contact. The project certainly enhances mutual understanding and respect between the two sectors." — Erik Shum

"Being a keen debater in my younger days, it was a great pleasure to be asked to adjudicate in the Competition. It is evident that the junior practitioners have all devoted a good deal of time from their busy practice to the Competition. In particular, much thought has obviously gone into drafting the motions: all the motions are reasonably arguable on both sides. They are all highly topical. It is clear that the Competition does move with the times - and that can only be possible with organizers constantly applying their minds to drafting and revising the motions. Although some of the motions may be too technical or abstruse for secondary school students with only a few minutes on their feet, generally the debates are inspiring and entertaining. All in all, I am in no doubt that these debates do effectively serve their intended function: they afford a precious opportunity to secondary students to partake in legal discourse, and introduce them to the oratorical wonders which can only be enjoyed, as a profession, at the Bar." — Bernard Man

"I would like to express my gratitude to the Hong Kong Bar Association for the opportunity you have given us, not only speak out, but also learn about various pertinent social and legal affairs that plague our society today. Through delving deeper and deeper into issues such as jury composition, we gained a deeper appreciation towards the rule of law and its role in moulding Hong Kong into what she has become today. I would wholeheartedly recommend this competition to all schools that desire to increase English usage and heighten social awareness." — Emily Zhang, a participant from Diocesan Girls' School in Year 2006-2007
As usual, we would have been happier if our opponents were represented, i.e. by people of similar intellect and more importantly, physical fitness. Instead, they appeared in person...

The Prelude

Preparations for this year’s annual dragonboat competition began very early. By the end of March, our pleasure boat for race day was booked and a series of 5 gruelling training sessions had been planned to enable us to "peak" when it mattered.

Preparation, Preparation & More Preparation

Serious preparation commenced in the beginning of May. It was hoped that a series of 2 hour Sunday afternoon training sessions would whip the crew into tip-top shape and gel us into a team.

Training was well supported with a large number of pupils, YBs, not-so YBs and pupils-to-be attending the various sessions. Our coach ensured that 110% effort went into every stroke. We practised our starts, built up our stamina for the longer runs and challenged other boats to gain a feel for what it would be like on the big day.

19th June 2007

The atmosphere on the big day was simply awesome. Stanley Beach was completely packed. The noise was beyond anything we imagined at training.

Our first race was scheduled for 10.45 am. As prepared as we thought we were, nothing compared with the white heat of competition. Two of our crew were asked to jump off the boat seconds prior to the start (a maximum of 18 crew members were allowed on board and we had 20 - whoops). Notwithstanding, we achieved a fine result - 5th.

Barely rested, we tackled our second race. In order to accommodate as many learned paddlers as possible, many members of the first crew kindly stepped aside and allowed some fresh arms on board.

The hard work completed, we raided our pleasure boat and spent a very relaxing afternoon on the water.

Special Thanks

Special thanks must go to the following people:

- Mr. Carl Yuen, our most experienced rower and Mr. Felix Li our de-facto coach and manager.

- Ms. Helen Au, Ms. Jolie Chao, Mr. Derek Chan and Mr. Jenkin Suen, who planned the entire event, booked the pleasure boat, organized the training sessions and sent out endless much-needed emails to remind us to turn up to trainings.

- Mr. Justin Lim who designed our ever so attractive, but fully skimpy, t-shirt.

- Mr. Rimsky Yuen, S.C. and Ms. Lisa Wong, S.C. for sponsoring lunch as well as other refreshments ("wink" "wink") on the day of our competition.

Albert Cheung
Dear Mister Senior,

I am in need of some urgent advice. I am currently involved in a multi-defendant criminal trial and my client, one of the co-defendants, has absconded before the close of the prosecution case. My instructing solicitor has suggested that we should immediately withdraw ourselves from the case. The trial would then proceed in the absence of my client and his legal representatives.

In fact, can I continue to defend his case - especially if I see a flaw in the prosecution case that may result in an acquittal for my absconded client?

Yours in puzzlement,

Mister Junior

Dear Mister Junior,

This is most interesting. In essence, what you do is dependent on the stance of those instructing you and the Court.

Under paragraph 152 of our Code of Conduct, if those instructing you withdraw from the case, then you must withdraw as well. However, the trial judge or magistrate may well ask you to stay behind to assist the court; in those circumstances, you have an absolute discretion in deciding whether to accede to the Court’s request. If you decide to stay, you can make submissions based on your perceived flaw in the prosecution case - but you must be very careful not to use whatever instructions you have been given previously (e.g. calling defence witnesses or putting a positive case in cross-examination, since those instructions are now withdrawn following the withdrawal of those instructing you), save the part that has already been established in prosecution evidence.

If, after discussion, your instructing solicitors choose not to withdraw from the case, you still have an absolute discretion in deciding whether you want to continue to act. If you do decide to continue, then you can conduct the case as if your client is present, but decided not to give evidence - you will have to conduct the case according to your previous instructions by putting positive suggestions or calling defence witnesses where appropriate.

In either case, I trust justice will be done.

Yours,

Mister Senior

Derek Chan
I could barely stifle a groan when I received my opponent's skeleton. Like last time, it was handwritten in virtually illegible Chinese on single-lined paper. A mere two pages, it contained allegations that have been dismissed at all previous hearings. The fact that it contained certain enigmatically-worded, outlandish-sounding-but-apparently-legal arguments was sufficient to justify extra research on my part, although I knew that this was likely to be a fruitless attempt to discern just what my opponent-in-person ("OIP") had in mind for his appeal.

To be fair to my opponent, he's only what I would call "Type Ila: The Devious". This Type has done some self-study of the law and confidently believes that he/she has a trick or two up his sleeve that is best revealed only in Court. Pretty ironic, when you consider that Bar etiquette suggests ultra-fairness on our part to OIPs. So much so that counsel is obliged either to word his/her legal arguments in language as layman-friendly as humanly possible, or by taking the initiative to explain any cases cited to the OIP before Court commences.

Moreover, Type Ila OIPs are also known to possess the highest propensity for turning into full blown vexatious litigants if given any shred of hope or encouragement. Often, those in the making find themselves matched against junior barristers whom they despise, although they are often ignorant of the fact that junior counsel have been ever-so-politely requested to take up the case.

In my little black book, the other types of OIPs are categorized as follows:

**Type I: The Clueless** - This Type is generally characterized by their most non-existent knowledge of the law and procedure and has to be assisted by the Bench at every turn. Perpetually frightened and confused. Most prevalent at the magistrates’ courts on charges for summary offences. A type particularly hard not to feel sorry for when the suggestion of a fine leaves them crestfallen, and when he/she asks you ever so quietly just

where the Accounts Office is after the hearing.

**Type Ilb: The Assisted** - Like Type Ila, this category of OIP have done their research. However, they most probably had that and everything else prepared by solicitors who were fired about a week before the hearing. Alternatively, they have been (ill-) advised to represent themselves a) when short on cash; b) as a strategic measure to gain sympathy; alternatively c) an adjournment; and/or d) to pave the way for alleging fault against former legal advisers as an appeal tactic. This breed lurks in the civil courts.

**Type III: The Dangerous** - The desperate type who has everything to lose and is on the verge of losing just that at the hearing. Capable of threatened or actual physical and/or verbal abuse against members of the Bar and Bench. A typical example is the aggrieved OIP who, a few years ago, was rumored to have smashed a water carafe over his (not the judge’s) head and sent glass, not merely tantrums, flying. Off-spotted at the matrimonial courts but any OIP (however placid-looking), has the potential to turn into one without warning.

As expected, Mr. Type Ila appeared extremely smug in his best suit on the day of the appeal in which I appeared against him. His composure erupted into belligerence however, when the Court of Appeal rejected his key submission (turned out to be based on Mainland Chinese law books on loan from the public library), which was that the Lands Tribunal judge should have recused himself. There was thankfully little to do on my part save to update the Court on matters since the last hearing and sit down.

I knew not to wince at the inevitable outcome, but could not repress a little shudder at my OIP’s ominous whisper to me, whilst on his way out of the courtroom ...

"See you at the CFA."

*Abigail Wong*
二零零七年十月某日  隱

不知為何，近日總被一股悶氣縈繞，揮之不去。所碰到的皆是難纏的人和事，並非難纏，只是總要特別費勁處理，這更使那股悶氣久久不散。

踏進法庭，傳來一把嘶啞但又似帶幾分無助的聲音道：「我今天早上才收到這疊文件。」她手上拿著的正是我剛就本次聆訊提交的書面陳詞和案例。

我轉頭望向身後的律師，他邊遞來一封書函副本，邊說：「三天前已送到她那處。」

開庭。

法官給與這位選擇自辯的女士額外的時間立即閱讀我的陳詞。法官還請翻譯小姐從旁提供所需的協助。幸而我有見於對方選擇自辯，特別使用中文撰寫陳詞，否則這位女士可能要求翻譯小姐為她即場翻譯全文。

那位看似戰戰兢兢的女士在陳詞時卻琅琅上口，說到「傷心」處，更淒然嘆咽含淚。

仁慈的法官見那位女士情緒激動，便建議暫時休庭，好讓那位女士平復心情。那位女士謝過法官後，又立即痛哭流涕地訴說她如何「慘受迫害」。

未幾，那位女士援引案例，以支持她所指其與原告所訂立的口頭合約是有效的。在力爭她的論據時，又不忘指出她如何「誤信」原告。……這原來是一件簡單的事情，卻被她說成有千絲萬縷，剪不斷、理還亂之意。

半天過去了。

處理那位女士陳詞中的每個論點確是需要很大的耐性，並且必須逐一向法庭指出其所持的論點或所提出的事實與是次聆訊所需考慮的問題無關或與事實偏離。另外，又要細心而精要地指出被那位女士所「剪裁」掉的重要事實。

這更加強心中那股悶氣。

一天過去了。心存悶氣之餘，滿身是累。回心一想，今天的經歷只是勞累，這總比在散庭後仍被對方餵而不捨的尾隨少了一份心驚膽顫。

廖玉玲
小品一則

新晉大律師(筆者們正是其中兩員)初出茅廬時最大的壓力，莫過於要時刻面對他人以其人之長「問難」，人之之短的情況，……說的不是法官們尖銳的「質問」，寒砧語幾年都是希望練出傳説中那三寸不爛之舌，或應付那些日益有學問的客戶，而我親朋好友們會著「關心問候」的口吻逼迫我們公務上的「事由」，彷彿我們就是那些所謂的「律政新人王」。

筆者們為了協助諸位新晉大律師化解親友們送來的考問，歸納下列最常見的問題，及附上參考答案，好讓各位可以以最輕鬆大方而又乾淨俐落的手法，把他們「每事問」的雅興一掃而空……

問：你是大律師，那豈不是很淡定，曳曳有問無答嗎？
答：一貫來說，橫空出世是事務律師的事，我是訴訟律師。分別在於……(下述三千字的詳盡解釋)，……我猜你還是應對三思是不是真的很想找我了，因為要與我接洽的話題多半是民事。親友們怕被你逼「不講人」不知怎地弄得買豪宅變為惡案非，逃之夭夭了。

問：你去法庭時，是不是要經常起身然後大聲講objection的？
答：濫用objection的確是被短/拖延聆訊時間的一大絕招，因為法官認為你的客戶跟你也很objectionable時，就是當時聆訊(以及你的專業生涯)畫上句號之時。親友們不敢斷定是你說的還是說他，投降不回答。

筆者們和眾同行一致認為，以下這條問題最常見，也是最 küng的：

問：你明知你的殺人犯(或其它親朋認定的滔天大罪)客戶有罪，你還替他辯護？
答：如果現實中有人能像電視裏演繹六壬的大好角律師，能夠為明知有罪的客戶辯護成無罪，他應該很快會接受這類聆訊，哪有空理現在殺親戚朋友開馬高談論論呢？(親友們：「……」)

黃曉怡
鄭麗萍

YBC KICK-START TALK AND YBC DRINKS

The YBC "Kick-start Talk for PCLL Students" was held on 25th May 2007. The talk was conducted in the form of a sharing session by our committee members with the aim of providing some practical information to PCLL graduates from the University of Hong Kong and the City University of Hong Kong who would soon commence their pupillage. The response was overwhelming and a number of academic staff who were also keen to know more about us attended the event.

The talk covered specific topics such as the application procedures and conventions for commencing pupillage, admission to the Bar, limited practice, full practice, tenancy as well as a brief introduction of the scholarships and funds available to new entrants. We also explained how newcomers can proceed if they wish to be eligible for the duty lawyer service and to do prosecution on flat. The talk ended with a question and answer session in which our committee members were able to share our personal experiences during pupillage.

The talk was followed by an informal drinks gathering at BEX organized by the YBC. The get-together allowed members and pupils to have a relaxing Friday evening after work.

Wilson Hui

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