Dear Members,

It is more than half a year since I wrote my last chairman’s letter. I am glad to say that apart from a short period around April when there was the controversy over the interpretation of the Basic Law, during the first half of 2004, the Bar has not attracted a lot of media attention. However, this does not mean that there is nothing happening in the Bar.

Change of Administrator

Mrs. Margaret Lam resigned as Administrator of the Bar Secretariat on 29 February 2004. Her position was taken over by Miss Jennie Wang. Unfortunately for personal reasons Miss Wang had left us at the end of July 2004. We are now looking for a new administrator through professional head hunters.

During her short term in office, Miss Wang has rendered an extremely valuable service to the Bar. Apart from giving full secretarial support to the Bar Council, Miss Wang has also started to reform the Secretariat. In May, there was a revision of the terms of employment of the secretariat staff. There was also some redistribution of work of the staff to streamline the operation of the Secretariat. Miss Wang has also introduced some new systems of control of the finance and accounting of the Bar. The secretariat reform is still on-going and at the moment the Bar is still awaiting the advice and suggestions from the auditor on the accounting system and financial control of the Bar.

On behalf of the Bar Council members I would like to express our appreciation and thanks to Miss Wang for the excellent service she has rendered to the Bar.

The World Bar Conference

The World Bar Conference 2004 was held in Cape Town between 12 April 2004 to 14 April 2004. This is a conference amongst members of the referral bars. At the moment we can identify only ten jurisdictions where there is a separate referral bar. Apart from Hong Kong, the other nine jurisdictions are England & Wales, Scotland, Northern Ireland, Republic of Ireland, South Africa, Zimbabwe, Namibia, Australia and New Zealand. Although the conference only lasted for two full days, the topics raised and discussed covered a wide range of areas including Terrorism, Human Rights and the Law, Judicial Independence and the Appointment of Judges, The Future of the Referral Bar, Legal Education, Pro Bono Work at the Bar and The Work of the Truth Commission in South Africa etc. It is a pity that only three members from the Hong Kong Bar attended this conference. However, although few in number, members of the Hong Kong Bar participated actively in the conference. Paul Harris was one of the panel speakers on “Pro Bono Work at the Bar”. Jacqueline Leong SC spoke in the panel on “Judicial Independence and the Appointment of Judges”, and the session on “The South African Bar and the Road to the Truth Commission” was chaired by myself.

On the whole the conference at Cape Town was a great success. This conference provided a great opportunity for exchanges of views and experience amongst the members of the referral bars. I am sure
that it was a very good experience to participate in this conference and I would have loved to see more members from Hong Kong attending this conference.

The Conference decided that the next World Bar Conference will be hosted by the Hong Kong Bar in Hong Kong in 2006. The Bar Council decided that the Conference in 2006 would be held during the Easter weekend between 14 April to 16 April 2006. The Administrator has set up a task force in the Secretariat to start planning about the conference, and at the same time, the Bar Council has also set up a task force to liaise with the heads of the various referral bars and the World Bar Conference organiser. Obviously as it is still quite early in the day, the details of the conference topics and focus have yet to be decided. I would welcome suggestions from all members on the topics to be covered by this coming conference. Needless to say, I hope that as many members of the Hong Kong Bar as possible will attend and participate as speakers in this coming conference.

Other coming International Events

There are a number of international events in which the Hong Kong Bar will send delegates to participate. Amongst these events are, the ABA (American Bar Association) conference at Atlanta in August, the POJAL (Presidents of Law Association) conference at Beijing in September, IBA (International Bar Association) conference at Auckland in October and also the World City Bar Leaders Conference at Shanghai in November. I would particularly recommend members to join the IBA conference at Auckland in October. Details concerning this conference can be obtained from the Secretariat.

Legal Education

Members would have learnt from the media that the Chinese University has decided to set up a Law Faculty offering a law degree programme. It is anticipated that the Chinese University will in due course also offer the PCLL programme. The Bar’s position is that provided that the quality of the teaching and the courses are up to the required standard, the added competition in providing law courses is to be welcomed. The Chinese University has set up a Planning Committee for Law to take charge of the establishment of their Law Faculty and the Bar has nominated Wong Yan Lung SC to sit on that Committee. Meanwhile the Legal Education Sub-Committee of the Bar continues to have active discussion and dialogue with the other two universities on the reform of the PCLL programmes.

Solicitors’ Higher Rights of Audience

The Chief Justice has decided to set up a working party to consider the question of the grant of right of audience to solicitors in open court hearings in the High Court and in the CFA. The Working Party will be chaired by Mr. Justice Bokhary PJ. There will be nine other members consisting of four High Court Judges, two barristers and two solicitors and one lay member of the public. The two barristers appointed by the Chief Justice to sit in this working group are Benjamin Yu SC and Joseph Tse. They are appointed in their personal capacity and not as representatives of the Bar. Hence, members who have views on this issue may like to consider lobbying Benjamin and Joe on their views.

The Bar Membership Card

Thanks to the efforts of Donald Leo, the Chairman of the Recreation Sub-Committee of the Bar, the Bar has reached an arrangement with the Island Shangri-La Hotel that members of the Hong Kong Bar would get a 15% discount in all restaurants in that Hotel on all food and beverages upon presentation of the Bar Membership Card. Donald Leo is still working on achieving similar arrangements with other hotels and restaurants. Thus, apart from prison visits there is another good reason to possess a Bar Membership Card. I hope that this could be an inducement for the civil practitioners to apply for a Bar Membership Card.

Basic Law Articles 45 & 68

The interpretation of articles 45 & 68 of the Basic Law by the Standing Committee of the National People’s Congress in April this year has created a lot of controversy in Hong Kong. On my part I havegrave reservations on the correctness of some of the interpretations given and also on whether there were truly interpretations and not legislative decrees in disguise. At any rate, the position of the Bar is that such interpretations are really unnecessary and Hong Kong would be better off without them. Further, it is regrettable that there is no tribunal in Hong Kong or elsewhere to adjudicate on the “interpretations”.

The Bar however, takes the view that it is a political rather than legal issue as to whether Hong Kong should have direct elections for the CE and for all the Legislative Council members in 2007 and 2008. Furthermore, what should be the shape and form of the elections of the CE and Legco in 2007 and 2008 and beyond are likewise political rather than legal issues. For these reasons, the Bar will not be making any submissions to the Task Force set up by the Government on these issues.

Remember to Vote

I will end this letter by urging members of the Bar to vote in the coming September Legco election. The Bar Council will not be making any recommendations on how to vote, but I am sure that all members of the Bar will participate in the election process and vote in accordance with their own conscience.

Edward Chan SC.
主席的信

各位会员：

上次我向大家报告公会的事務已有半年前了。我很高兴在這半年間，除了四個重要事件外，法律公會並沒有吸引眾多的關注。然而，這並非代表法律公會沒有重要事情發生。

更換大律師公會幹事

林法官是女士於今年二月二十九日辭去法律公會幹事一職，其職位由王禮儀女士接任。然而，她還是會在法律公會內的幹事會上發言。

王女士在任時間雖然較短，但她對法律公會作出極具價值的貢獻。她將會為法律公會的發展帶來更多的推動力。

法律教育

相信法律公會已就過去幾年準備了數個法律課程。我在此特別提到，法律公會將在未來舉辦數個法律課程。這些課程包括：

- 法律公會的舉辦課程
- 法律教育委員會
- 法律課程

同時，法律公會的「法學教育委員會」仍將繼續與其他大學的法律學院進行合作，以推廣法律教育。

律師示例更高等法院的出庭發言

在高等法院出庭發言時，應當尊重法院規則。法院規則規定，法官在出庭時應當尊重法院規則。

大律師公會會員

大律師公會的「康樂活動委員會」主席劉桂華小姐建議，律師應在出庭時遵守法院規則。

本法第三十四條及第六十八條

中華人民共和國在四月二十八日公布了一項法律即《中華人民共和國香港特別行政區基本法》。法律的第三十四條及第六十八條作出規定，此舉在香港引起多方議論。

綜上所述，此議題非常重要。它提供了會員之間相互交流意見和分享經驗的寶貴機會。參與此次會議是一個非常好的機會，我們將分享更多的香港大律師公會會員參與此次會議的機會。

本屆會議已決定於下個二零零六年法律大師公會會議將在香港舉行，會議將由香港大律師公會負責籌辦。大律師公會將於今年四月十四日至四月十六日期間舉辦此次會議，這位大律師公會幹事已就此活動成立了籌備委員會。同時，大律師公會恭喜亦作出了工作委員會，負責籌備有關組織及法律大師公會的主題組織。由於舉辦此活動時間長短，詳情有待進一步確定。

其他即將召開的國際性活動

大律師公會將派出代表出席多個國際性會議，包括今年八月在亞的爾公會年會、九月在北京舉行的法律大師公會年會。法律大師公會年會和十一月在上海舉行的百特國際法律大師公會年會。

陳樂生資深大律師

【完】
Message From The Chief Editor

I suggest we give a moment of reflection to the Chairman's message that we should vote in accordance with our consciences. To maintain the honour and independence of the Bar, to reaffirm faith in fundamental human rights, in the equal rights of men and women and of segments of societies large and small, and to be concerned with conditions under which justice and the rule of law can be maintained are the chief objectives of the Bar Association. Readers will read in this issue that it is our routine in the Bar Council meetings to promote these objectives. More will be had to the furtherance of our relationship with the various cities and places in China. Last but not least, do not let us speak of difficult days - appointments to the Judiciary and of new arts are certainly important days - these are the great days which we all would like to offer our congratulations. The Editorial Board would like to offer its sincere hope for a prosperous year - now that inflation has now come back after 68 months.

Andrew Mak

News From The Bar Council

For the Rule of Law and Administration of Justice
1) The Bar Association prepared its position paper on Articles 45, 68 and Annexes I and II of the Basic Law.
2) The Bar Association re-nominated one of its existing members to serve a further term on the Legal Aid Services Council (LASC) and nominated a new representative for the Chief Executive's consideration as LASC member for the new term commencing 1st September 2004.
3) The Bar Association prepared a paper concerning the HKSAR under the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.
4) The Bar Association put forward the names of members expressing an interest in being considered for nomination as a new member of the Board of Review (Inland Revenue Ordinance).

Mainland Practice and Relations
5) The Bar Association sent a representative to Beijing to attend the 17th ICCA Conference.

Hong Kong Community Service
6) The Bar Association provided the Central Policy Unit with a list of names of persons, recommended by the Nominations Committee, to serve on governmental boards and committees, and any advisory or statutory bodies.
7) The Bar Association, on the recommendation of the Nominations Committee, provided the Home Affairs Department with the names of nine nominees for their consideration for appointment as the Chairman and members of the Appeals Board.
8) The Bar Association nominated a representative to sit on the Planning Committee of the Chinese University Law School.
9) Members of the Bar Council attended the 2004 Gala Dinner of the HKJA.

10) The Bar Council approved the grant of financial sponsorship to the HKU Advocacy and moot society.
11) The Bar Association granted sponsorship to the First Asian Law Students' Association Conference to be held in Beijing and Hong Kong.
12) The Bar Association granted sponsorship of the 9th volume of the Hong Kong Student Review.

Members' Practice
13) The Bar Council approved the Bar Association's participation in the forthcoming World SME Expo to be held at the Hong Kong Convention and Exhibition Centre in November 2004.

14) The Bar Council approved the addition of the Office of the Ombudsman to the list of organisations permitted to have direct access to barristers.
15) The Bar Association, at this year's World Bar Conference in South Africa, put forward a successful bid to host the 2006 World Bar conference.

Legislation
16) The Bar Association submitted its paper to the Land Registrar on the subject of the Land's Title Bill and the issues relating to quasi-easements and the doctrine of prescription.
17) The Bar Association submitted its paper to the Law Reform Commission concerning the "Rules for Determining Domicile".
18) The Bar Association submitted a paper to Legco concerning "Alternative Measures to Prosecution for Handling Unlawful Children and Young Persons".
19) The Bar Association submitted its written comments to the Financial Services and Treasury regarding the proposals to enhance the Regulation of Listing.
21) The Bar Association prepared a paper concerning the Lands Title III - Revisions to Conversion Mechanism and Rectification Provisions.


大律師公會執委會消息

有關法例及司法行政

1) 大律師公會就《基本法》第四十五、四十六條及附件一、二提出意見。

2) 大律師公會重新提名一位現任法律援助服務局成員續任，並向行政長官提名一位新代表參與二零零四年九月一日委員的新任期。

3) 大律師公會向特區政府就《禁止殺刑和其他殘忍、不人道或有辱人格的待遇或處罰公約》提出意見。

4) 大律師公會提供一份有意申訴提名職級委員會（律師條例）新任成員的會員名單。

內地執業及關係

5) 大律師公會派出一名代表到北京出席「第十七屆國際商事仲裁委員會」。

香港社會服務

6) 大律師公會向中央政府提交一份由提交委員會建議的名單，以便提名會員加入各政府小組、委員會，及任何諮詢或法定團體。

7) 大律師公會應提名委員會要求，向民政事務總署提供四位住戶的名單，供其考慮委任爲各上訴案件委員會的主席及成員。

8) 大律師公會提名了一位代表加入「香港中文大學法學院計劃委員會」(Planning Committee of the CU Law School)。

9) 大律師公會執委會成員出席了「香港記者協會2004年度晩宴」。

10) 大律師公會執委會通過向「香港大學法律學會」(HKU Advocacy & Mooting Society) 提供資助。

11) 大律師公會贊助在北京及香港舉辦的「第三屆亞洲法律學系學生會會議」(Asian Law Students' Association Conference)。

12) 大律師公會贊助「第九屆香港學生評論」(9th volume of the Hong Kong Student Review)。

會員執業

13) 大律師公會執委會批准於二零零四年十二月在香港發行的「〈中小企圖書市場報告書〉」。

14) 大律師公會執委會批准通過申訴專員公署爲可直接與大律師聯絡的團體。

15) 大律師公會於今年在南非舉行的世界大律師會議（World Bar Conference）上，成功取得二零零六年世界大律師會議的主辦權。

立法

16) 大律師公會就《土地業權條例草案》及有關類似地役權和時效歸還權益原則的事宜上，向出席香港土地註冊處處長提交意見書。

17) 大律師公會就有關《規定期貨的規則》向法律改革委員會提交意見書。

18) 大律師公會就有關《水頭劣等級和幼少年人推行檢控以外措施》向立法會提交意見書。

19) 大律師公會就《改善規管上市事宜》的建議向財經事務科提交書面意見。

20) 大律師公會就有關《2003年聯合國制裁（利比亞）規例》向立法會提交意見書。

21) 大律師公會就《香港侶業承載業規則（適用於承載業）》向立法會提交意見書。

22) 大律師公會就《關於選擇審判法院協助的海事公約》初稿的諮詢文件提交報告。

Appointment Of Senior Counsel

The Bar has been graced by the latest appointments of five silks this May. Mr. Horace Wong Yuk Lun, Mr. Eric Kwok Tung Ming, Mr. Peter Ng Kar Fai, Mr. Anderson Chow Ka Ming and Mr. Peter Norman Duncan were formally admitted as Senior Counsel at a ceremony at the High Court on 18 May 2004.

Called to the Hong Kong Bar in 1984, Mr. Wong practises mainly in the areas of commercial law, property (land) law, probate and general civil matters. He has been a member of the Disciplinary Panel of the Hong Kong Society of Accountants since 2002.

Called to the Hong Kong Bar in 1984, Mr. Kwok practises mainly in the areas of commercial law, property (land) law, probate and general civil matters. He has been a member of the Disciplinary Panel of the Hong Kong Society of Accountants since 2002.

Mr. Ng was called to the Hong Kong Bar in 1986 and specialises in company law, commercial law and general civil matters. He is currently a member of the Incorporated Duty Lawyer Services.

Mr. Duncan, who commenced his career in New Zealand in 1970 was called to the Hong Kong Bar in 1992. He has served in the then Attorney General's Chambers in Hong Kong and as in-house counsel for two major corporatons. He specialises mainly in the areas of insider dealing, commercial law construction and arbitration and is a Fellow of the Chartered Institute of Arbitrators.
Conference of World City Bar Leaders

The Conference of World City Bar Leaders will be held on 4th and 5th November this year in Shanghai. World City Bar Leaders was founded jointly by the Presidents of the New York City Bar Association, the Law Society of the City of London, the International Committee of the Tokyo City Bar Association and the Paris Bar. This year is the third session of the Conference of World City Bar Leaders following the 2001 Conference in New York and the 2003 Conference in Paris. Representatives from 14 Bar Associations attended the 2001 New York Conference, and exchanged their views, culture and practice on building professional qualities and the support for an independent and canonical judiciary. In 2003, 17 Bar Associations participated in the Paris Conference and shared their knowledge and experiences on the new challenges and problems facing the profession, such as the opening of market for legal services, the monopolization and independence of legal professional, and the rights of lawyers.

The Shanghai Conference is now open for registration. Mr. Edward Chan SC, Mr. Philip Dykes SC and Mr. Andrew Mak will attend the Conference on behalf of the Hong Kong Bar Association. Members who are interested are invited to join the Conference. This will be a good opportunity for us to meet our friends in Shanghai Bar Association after the successful joint seminar on Insider Dealing held in October this year in Hong Kong. Details of the Conference can be found at www.barasummit.com.
Event Photos 活動照片

1. Ambassador Ho SC, Andrew Ma, visited Wah Yan College, Kowloon.
2. Anna Lee SC, SC, of St. Francis Xavier's College.
3. The newly appointed Senior Counsel of 2004.
4. Visited the Law School of City University.
The Young Barristers Committee (YBC) has been serving as the link between the junior bar and other members of the Bar. In 2004, the YBC has recruited many new members, including Elsie Yiu, Rosa Lo, Tim Wong, Abigail Wong, and Jenkin Suen. With the new recruits, the YBC will continue to organise activities allowing the junior members to meet each other and the seniors.

In June, the YBC organised an informal discussion session for the pupils. It was intended to be an orientation session for the next generation of barristers. This event was well-attended, with more than 15 pupils participating. The feedback from the pupils have indicated a strong demand for this type of orientation session. Therefore, YBC will definitely continue to hold such meetings in the future on a regular basis.

Apart from the usual Annual Dragon Boats Competition, University Visits, and Christmas Drinks, the YBC has extended the scope of its activities to try and reach both university and secondary school students. In March, the YBC visited law students at both Hong Kong University and City University. The purpose of these two informal visits was to give some practical tips to students concerning applications for summer clerkships at the Bar. Both visits were well-attended and the feedback of the two visits was positive.

In October, the YBC will organise the first debate tournament for secondary school students. The topics of the debates will be geared towards legal issues, thereby promoting awareness of such issues amongst the participants. It is hoped that this will attract potential candidates to join our profession in the future. 2004 is going to be a busy year for the YBC.

For Address Label