Chairman's Letter

My second term of office draws to a close. I am grateful to you all for having given me the opportunity to serve you as Chairman.

I have been very fortunate in my time as Chairman. That is not because I have been served with an efficient and enthusiastic secretariat and had the advantage of working with talented council members. Those things are, as lawyers say, necessary, but not sufficient, reasons for success. My good fortune has lain in the fact that no really serious crises, constitutional or otherwise, have troubled my terms of office. As a consequence I have been able to devote my time to livelihood issues and raising the profile of the Bar in Mainland China and overseas.

The issue that gives me the most satisfaction this year is the imminent prospect of a real increase in fees for barristers doing publicly-funded legal aid criminal work. The Director of Administration has acknowledged the case for substantially revising the Legal Aid in Criminal Cases Rules to allow reasonable payment for work actually done. Those rules were drawn up about forty years ago in a more procedurally relaxed time when judges thought “case management” had something to do with making arrangements for storing fine wines. The revised rules should reflect the fact that courts, particularly appellate courts, have developed a seemingly insatiable appetite for forensic paper and that counsel should be rewarded for time spent bent over a word processor as well as for time spent in court.

As for raising the Bar’s profile overseas, this may not seem high on any list of priorities for your average junior barrister worrying where the next brief might come from. However, it is essential work. Independent bars are something of an anomaly in the world today. There are no more than a dozen or so, most of whom were represented at the World Bar Conference the Hong Kong Bar Association hosted for them at Easter. They may be in the minority of legal service providers but must not become an endangered species.

At a time when legal services are being globalised it is inevitable that large international firms will tend to dominate. It is essential that the Bar makes itself known as a repository of specialist legal skills with members who offer a wide range of specialisations, particularly in the fields of arbitration and mediation. The Bar in Hong Kong labours under an additional handicap not faced by other independent bars. That is the surprisingly widely-held perception, particularly amongst U.S. lawyers, that the law in Hong Kong is really no different to that in Shanghai or Guangzhou except for its recent colonial past. Things are not helped by the fact that Mainland lawyers now routinely attend these conferences and make effective contributions to their proceedings. I do hope that the Bar will continue to send representatives to international conferences and that they play an active part in proceedings so that this identity problem can be redressed.

On a sadder note, one of my duties as Chairman is to admonish or give formal advice to members who have been guilty of minor breaches of our Code of Conduct. On most occasions I have had to deal with junior members of only a few years’ call. What struck me was that almost...
all of the difficulties that these members caused themselves could have been avoided if they had sought advice from someone with more experience. I urge junior members who find themselves in a professional quandary to seek advice from a senior member. The first person to turn to should be a pupil-master. Failing that, they should turn to any senior member in chambers. You should in fact not feel inhibited in approaching any member for advice and help. This is a collegiate profession after all and you can take comfort from the fact that the grizzled senior you turn for words of wisdom to did the same a couple of decades before you and may be passing on to you what he was told by another senior. Thus it always has been, and will continue to be, so long as there is an Independent Bar.

Philip Dykes SC
December 2006

我的第二年任期已近尾聲，感謝你們讓我有機會當香港大律師公會主席為你們服務。

在任期間，我非常幸運。這不單因爲我有一個有效率及熱心的秘書處為我效力，或是有一班才華橫溢的執委會委員與我一起工作，如律師常掛口邊，這些都是必要的，但並不足以導致成功。我的好運氣在於在任期間我沒有遇到真正嚴重的窒塞或其他危機，因此，我們能把時間放在與行業生涯有關的事上，及在內地及海外提升公會的名聲。

今年令我最感滿足的相信是當局將提升大律師從事法律援助工作的酬金。行政署已經承認有需要對現行刑事案件法律援助規則，就實質已有的工作發放合理酬勞。現時的規則是在四十多年前制定的，當其時法院程序比較簡樸，對多數法官而言，「案件管理」這概念簡稱未聞，還以爲猶如安排收藏美酒般。修訂規定應能反映法院，特別是上訴法院對法庭文件有看似無盡的渴求，及確保大律師在電腦前工作的時間計入其出庭的時間應獲得同樣的報酬。

至於在海外提升公會名聲一事，對大多為何時收到下一份聘書而憂心的資歷較淺的大律師來說，或許這並非首要，但這是必要的工作。今時今日，獨立的大律師專業很罕有，現時並不多於十幾個，他們大部份也出席了香港大律師公會於復活節時主辦的世界大律師會議。他們或只屬於法律服務提供者的一小群，但定不能成為瀕臨絕種的一群。

當法律服務全球化，大規模的國際律師行勢必會趨向壟斷市場。大律師專業為外界知道該專業是一個擅长法律技巧的知識寶庫，其成員能提供多方面的專業服務，特別是仲裁及調解等，極為重要。香港大律師多受到一項其他獨立大律師專業不需面對的障礙所困擾。這障礙是，奇怪地，很多人，特別是美國律師，有一個看法，認為內地法律及香港，除了其最近的殖民地歷史，實際上無異於上海或廣州。由於內地律師現時定期出席國際性的會議，並作出實在的貢獻，對於消除這種誤解更沒有幫助。我希望公會能繼續委派代表出席國際會議，擔任主動角色，減輕這問題。

作爲主席，談到較不愉快的，其中一項職責是向律師違反專業操守的會員作出警告或給予正式建議。很多時，我需要處理涉及只有數年資歷的會員。我深深感覺到，差不多所有這些會員所遇到的難題其實可透過向較有經驗的會員尋求意見便可以避免。我促請遇到專業問題的資歷較淺的會員及較資深的會員求取意見。第一個請教對象應是師傅，如不行，會員可向自己所屬的大律師辦事處的任何資深會員求取意見。事實上，會員不應向其他會員尋求意見及協助而感到不安或不便，說到底，我們是一群互相扶持的法律專業，你可安慰自己，你請教的那位老前輩在二十年前也做同一回事，他或許還在向你傳授另一前輩的教訓呢。只要一個獨立的大律師專業繼續存在，這模式過去如是，並將繼續如是。

戴晉思資深大律師
寫於二零零六年十二月
HAPPY NEW YEAR!

The beginning of a new year is usually a time for reminiscence and planning. So the first issue of the Bar Newsletter in 2007 brings you stories and snapshots from the previous year and also gives you a glimpse of what awaits in terms of what we do in and day out: speaking and eating.

In this issue, we have put Advocacy and how it can be taught by Trainers following 'The Method' to new entrants of the Bar as one of our main features. Not only is advocacy one of the building blocks of a barrister's tool of trade, but it is what makes us a specialist profession. Learning and teaching the art by interaction and role play in a controlled environment is an experience both junior and senior members should not miss. This opportunity will come very soon in May this year and readers are encouraged to look out for circulars from the Director of Advanced Legal Education.

While advocacy sustains our livelihood, food and fine wine bring physical sustenance. An informal survey has shown that many of our readers rate the Food & Wine Review as their favourite column. This has driven us to continue in our search for new eating places to recommend to you. We hope you will not be disappointed with the Press Room.

'Speaking' of 'eating', many have said Club Lustigano in Central is a good choice for curry. The other day the Bar held its Bar Scholarship Presentation Ceremony reception there and found their hors d'oeuvre equally appealing. It may surprise some to know that the Bar has already given out the award for 9 nine years and produced 26 scholars in the proportion of 60% to 40% male and female. It may be even more stunning in the words of the Chief Justice, who addressed the 2006 award recipients in November last year, to find that despite those statistics, there had been a single marriage between Bar scholars in nearly a decade. We interviewed one of the judges, Robert Ribelo PJ, who has served for 9 years on the selection committee, to discover what the qualities in the making of a Bar Scholar are and what it takes to carry on a tradition of dedication and commitment to the Bar.

The discerning reader will notice that apart from the Chairman's Letter and the Report from the Special Committee on Mainland Affairs, the other articles have not been translated. Due credit goes to Ms. Priscilla To at the Secretariat for the translation and any complaint should come to me for doing away with some of the translation in order to rush this to you before the Bar's Annual General Meeting.

In light of the Chief Justice's remarks at the Bar Scholarship Presentation that there are many honoured ideals, like the Rule of Law, which barristers should uphold and promote (and so we have been doing by spreading the message even to secondary school students), and the profession is not only about the pursuit of wealth, it remains for me in closing to wish you all a successful, productive and meaningful Year of the Pig which is just a month away round the corner.

Jennifer Tsang
January 2007

Photo Album

The World Conference of Advocates and Barristers 2006 ("WBC") organized by the International Council of Advocates and Barristers ("ICAB") was held in Hong Kong and Shanghai between 15 to 19 April 2006. The Hong Kong Bar Association hosted the conference in Hong Kong and received some 300 delegates from around the world. The main sessions were conducted at the Island Shangri-La on 16 to 17 April with a break on the penultimate day for delegates to fly to Shanghai for the last day of the conference.

Ph: Mr Roy Martin QC, Co-Chairman of ICBA addressing delegates at the Welcome Reception.

Mr Glenn Martin QC, Co-Chairman of ICBA welcoming guests at the Gala Dinner.

Presentation Ceremony at the World Bar Conference Cup Race at Shatin Racecourse in which 'Strong Cool' won the 1200 metre race.
Bar Scholarship

The Bar Scholarship was set up in 1998 with the avowed purpose of attracting fresh graduates of the highest calibre who are permanent residents of Hong Kong to the Bar. The past nine years saw 26 awards being granted by the Scholarship Committee. Competition was keen, as shown by the quality and quantity of the applicants (a total of 97 applications were received over the nine years). Statistics show that the vast majority of all successful candidates have obtained postgraduate degrees at top universities in the United Kingdom or the United States. The year 2006 saw a record number of six awards being made amongst 15 applications.

In the Committee’s 2006 report, it is revealed that Bar Scholars, upon completion of pupillage, have been accepted into prominent chambers with substantial practice and have generally been progressing well in their practice. With the exception of one who has joined the academia, 17 of the Bar Scholars have entered into and remained in full practice at the Bar.

Robert Ribeiro PJ who joined the Scholarship Committee when he was a silk, is stepping down after nine years' service on the Committee. His extensive experience on both sides of the Bench has been immeasurably valuable to the work of the Committee. In an interview which the judge kindly gave us he shared some of his thoughts on the past and future of the Bar Scholarship. Here is an excerpt of the interview by Jennifer Tsang and Ling Chun Wal.

You have served on the Bar Scholarship Committee since the inception of the scheme. Can you tell us something about how it was conceived?
The underlying idea came mainly from the Chief Justice and the late Leslie Wright, who was the dean of the Bar and one of its most well-loved members during his lifetime. The idea at that stage was to encourage bright young lawyers in Hong Kong to become barristers and not to be deterred by a year of no financial support whatsoever which put the Bar in a very uncompetitive position vis-à-vis some of the larger, especially international firms. It has been a very interesting experiment.

Have you noticed any changes or trends in the quality of the applicants over the nine years?

The overall quality is quite high throughout. The trend now is that there are more people with higher academic qualifications applying. I don't know the reason for that. It may be that initially people were less ready to apply, but the numbers have grown from single figures to about fifteen applications a year. If there is a very good crop, the position of the Committee is to say: let's spend the money, and if we run out of money, let's make another attempt to raise funds, although it is the Bar Council which is responsible for managing the fund and any fund-raising.

Do you think that higher rights of audience (HRA) for solicitors would have an impact on the Bar Scholarship?

I doubt it. Insofar as HRA are merely an extension of the work that is being done by the other branch of the profession, and as long as that branch remains separate, there is no reason why they would have any effect on the Scholarship. However, it might affect the candidates' choice as to whether they join this branch or that branch. But I suspect it is only theoretical because we do not know yet what the criteria are going to be for the grant of HRA. It will certainly not be automatic, and it will certainly require some degree of experience before a solicitor will be considered eligible for those rights.

What are the general perceptions about the Bar Scholarship and the Bar Scholars?

Obviously, the Scholarship carries a lot of prestige. There is a danger in this kind of scheme, and I have heard about reactions of a negative nature, in other words, the creation of a group of people who regard themselves as an elite and who have sometimes been criticised as being too full of themselves. I expect the Scholarship Committee will be looking to see what sort of motivation there is. There may be individuals who see the scholarship as something which enables them to act in an arrogant way, rather than as an encouragement to even greater commitment and engagement at the Bar.

Is there a means test for the Scholarship? Would the fact that some candidates have worked for a few years before coming to the Bar affect their chances of success?

The decision was taken really to encourage excellent people to come to the Bar, and therefore not to make the scholarship means-tested. But the Committee recently decided to change the rules slightly to make clear its policy regarding candidates who have worked elsewhere. The initial idea was to provide some financial cushion, although the Scholarship couldn't possibly compete with the solicitors in terms of money. But if that's the idea, it makes less sense to give the award to, say, someone who has worked as a solicitor for the last five years. The Committee tends to think that the awards should go to people who are really starting out.

What did you look for in a candidate?

As a starting point, we looked for good academic results, for solidity of foundations. We certainly looked for commitment to Hong Kong and, in particular, the Hong Kong Bar. This has always been a clear policy of the Committee.

As part of the application the candidate has to submit a videotaped recording and a written script of a 3-minute speech. How much importance did you attach to that?

This is one of the major things that takes time. If we had 15 applicants, we had to go through 15 tapes! They make a little presentation and give an idea about their oral skills. It also gives insight into how they decide to present themselves. Some people will go to quite elaborate lengths, going into a moot court all dressed up and making a presentation. Others will be less formal. The idea is to give them a chance to tell the Committee something about themselves and why they think they should be given the scholarship. It is difficult to be original, but sometimes they say some surprising things! Some are eliminated on the basis of their presentation.

What other factors did you take into account?

We looked at all sorts of things. We looked at extra-curricular activities. Many of them will have done a lot of mooting. We also looked at what arrangements they had made by way of pupillage. A great number of them will have done summer pupillages, and this shows that they are committed and interested and that their interest is an informed one.

Why have you decided to step down from the Committee at this time?

I have served on the Committee for nine years. The first Bar Scholars have been in practice for eight years and some of them are already taking pupils. I thought it was a good time to have some fresh blood on the Committee. The Scholarship is very much a Bar thing. When I was first asked to join in 1996, I had not joined the Bench. After I joined the Bench, they decided to ask me to stay on, so I did. But it is really up to the Bar to run and support the scheme.
Bar Scholarship

What was the deepest impression you had over the nine years?

It was always interesting to me to see some of the new faces coming to the Bar and some of the new talents. When one goes on the Bench one tends to lose contact with the Bar. On the whole the candidates were very impressive. You always say to yourself, “Gosh, these people are far more able than I ever was!”

If you were to say a few words to the Bar Scholars, what would they be?

In general I think the awardees have lived up to their promise. They have become committed barristers with flourishing practices. They should bear in mind that they must not behave in a way that would bring negative connotations to the Bar Scholarship. It is really something that they should be humble about. It has always been in the best traditions of the Hong Kong Bar for senior members to help junior members and this is much more so here than, I have to say, in other jurisdictions. This is one of the things that I hope the Scholars will bear in mind. They should not think of themselves as somehow superior but as somebody who has been given a hand, and they should do the same for others when they have established themselves in their practice. These are the people who should carry on the tradition.

Exchange with the Mainland

In the second half of 2006, we have seen encouraging and significant developments.

In June there was the announcement of the Third Supplement to the Mainland and Hong Kong Closer Economic Partnership Arrangement ("Third Supplement to CEPA"). That was followed in July by the signing of the Arrangement on Reciprocal Recognition and Enforcement of Judgments in Civil and Commercial Matters by the Courts of the Mainland and of the Hong Kong Special Administrative Region Pursuant to Choice of Court Agreements between Parties Concerned ("Arrangement"), between the Secretary for Justice Mr Wong Yan Lung SC and Mr Huang Songyou, Vice-President of the Supreme People’s Court.

These two events marked further liberalization of the Mainland legal service markets and further co-operation on mutual legal assistance between the Mainland and Hong Kong.

Under the Third Supplement to CEPA, Hong Kong permanent citizens including those who are barristers are allowed to provide matrimonial and succession litigation services relating to Hong Kong in their capacity as Mainland lawyers, once they have acquired Mainland lawyer qualifications or legal professional qualifications and hold a Mainland lawyer’s practice certificate. In addition, Hong Kong barristers are specifically allowed to act as agents in civil litigation cases on the Mainland in the capacity of citizens. This development is the right step in the break through for Hong Kong barristers to access the Mainland legal services market. We have been asking for a right to provide litigation services on the Mainland since an early stage in the negotiation of CEPA. Through the Department of Justice, the Bar has been submitting its views on details of the new commitments to the Ministry of Justice. It is expected that detailed regulations will be announced for the implementation of the new package in early 2007.

Under the Arrangement, the objective was to put in place a new and convenient mechanism for the reciprocal recognition and enforcement of monetary judgments given by designated courts of either the Mainland or Hong Kong. This is a limited form but the first reciprocal arrangement of this nature and another major development in the co-operation between the Mainland and Hong Kong under Article 95 of the Basic Law. The Arrangement will be implemented upon the enactment of the requisite legislation in Hong Kong and the issuance of judicial interpretations on the Special Retrial Procedures together with an explanatory document on the new procedures by the Supreme People’s Court. The Bar should have an interest to be consulted on the draft legislation. We share the belief that this will add to Hong Kong’s attractiveness as an international dispute resolution centre.

Having established contact at the 5th China Lawyers Forum held in Tianjin in November 2005, a delegation of Tianjin lawyers led by the Vice-Director of the Tianjin Justice Bureau and the President of the Tianjin Bar Association visited the Bar in July 2006. A co-operative agreement was entered with the Tianjin Bar Association, bringing a total of 14 co-operative agreements the Bar has entered into with Mainland lawyers associations. A seminar on Legal Markets in Tianjin, China and Hong Kong was jointly held by the Bar and the Tianjin Bar Association, during which the Tianjin lawyers delivered a comprehensive and informative speech on the latest development of the legal services market of Tianjin. Members who attended the seminar were impressed by the growing potential of Tianjin legal services market with its rapid economic development and the enthusiasm of our Tianjin counterparts in mutual co-operation with Hong Kong barristers.
In September 2006, a delegation led by the Hong Kong Bar Association Vice-Chairman, Mr Rimsy Yuen SC, attended the 6th China Lawyers Forum held in Taiyuan of the Shanxi Province. The Forum was hosted by the All China Lawyers Association and the People's Government of the Shanxi Province on 22 to 24 September 2006.

The Hong Kong Bar Association delegation attended the 6th China Lawyers Forum held at the Jinch Hotel in Taiyuan, Shanxi Province on 22 to 24 September 2006.

Province and organised by the Justice Bureau of the Shanxi Province and the Lawyers Association of the Shanxi Province. This forum attracted hundreds of participants from different parts of the Mainland, Hong Kong, Macao, Taiwan and overseas, who were brought together for the common purpose to enhance mutual co-operation and relationships. At the Forum, speakers from Mainland and overseas covered various topics including administrative and criminal law, environmental and public interest litigation, participation of lawyers in politics and WTO related matters. Both Mainland and international contexts were touched upon. The event also provided a good opportunity for the Bar representatives to meet again with their Mainland counterparts and observed the rapid development in the rule of law at both the conceptual and practical levels. The 7th China Lawyers Forum is expected to be held in Yinchuan, capital of the Ningxia Hui Autonomous Region in 2007 and members will be notified of the coming event.

In summary the Bar had seen much further and indeed significantly positive developments on the Mainland which members of the Bar may also contribute to and benefit from. With the implementation of China's 11th Five-Year Plan, it is believed that the contact and exchange with the Mainland will be more frequent in the months, if not years to come. We hope that our contribution will continue to be useful and vital to the furtherance of the Bar's interests, as well as the legal development of the country.

Andrew Mak
Chairman of Special Committee on Mainland Affairs

二零零六年下半年有令人鼓舞及重要的發展。

在六月，《內地與香港關於建立更緊密經貿關係的安排》補充三（「CEPA補充三」）獲公布。

隨後，在七月政司司長黃仁龍及最高人民法院副院長黃松有簽署了關於內地與香港特別行政區法院相互認可和執行當事人協議管轄的民事案件判決的安排（「安排」）。

以上兩項發展象徵著內地法律服務市場的進一步開放及內地與香港在相互法律協作上的進一步合作。

在「CEPA補充三」下，香港永久居民包括大律師，在取得內地律師資格或法律專業資格並獲得內地律師執業證書後，可以內地律師身份從事涉港婚姻、繼承案件的代理活動。

此外，香港大律師特別獲准以公民身份擔任內地民事訴訟的代理人。這發展是為香港大律師進入內地法律服務市場帶來突破的正確方向。

公會自CEPA的討論初期已與香港大律師會從事內地訴訟業務，並一直透過法律司就新承諾向司法部提交意見。現期內地將公布細則規則以在二零零七年初實施新措施。

「安排」旨在建立一個便利的新機制，讓內地及香港相互認可和執行由當事人预先指定的內地或香港法庭所頒布的金錢上的判決。雖然有所限制，但此為第一個是積極性的相互安排，是《基本法》第九十八條下內地與香港合作的另一重要發展。「安排」將在香港制定所需法律條例及最高人民法院就特別再審程序發佈司法解釋及有關新程序的解釋文件後才可予以執行。公會願與法律司及律政司就新細則的爭議致函諮詢。我們相信「安排」能加強香港作為國際爭議解決中心的吸引力。

繼二零零五年十一月公會及天津市同業在天津舉行的第五屆中國律師論壇建立聯繫後，天津市司法局局長及天津市律師協會會長在二零零六年七月率領代表團訪問本港。

公會與天津市律師協會簽署了合作協議書，令公會與內地律師協會簽署的合作協議書增至十四份。兩會還會辦了「中國、天津市及香港法律市場研討會」。在研討會上，天津市同業就天津市法律服務市場的最新發展發表了全面且詳盡的講稿。出席研討會的會員都深深體會隨著天津市經濟迅速發展，天津市法律服務市場潛力大增，天津市律師也熱心於與香港律師合作。

在九月，香港律師公會副主席袁國強資深大律師率領代表團參與了在山西省太原市舉行的第六屆中國律師論壇。論壇由中華全國律師協會及山西省人民政府主辦。由山西省司法廳及山西省律師協會舉辦，吸引了數百名來自中國不同省市、香港、澳門、台灣及海外人士參加。與會者都着重於共同的目的。促進合作及關係而聚會一堂。在論壇上，內地及海外請客用從內地和國際層面上就不同題目進行探討，包括行政及刑事法、環境及公共利益訴訟、律師參政，以及與世貿組織有關的事宜。論壇更提供了一個良機，讓公會代表再次與內地同業會面，觀察法治在概念和實際兩層面的迅速發展。於二零零七年，第七屆中國律師論壇預期會在寧夏回族自治區的省會銀川舉行，屆時會員將收到有關消息。

總括而言，公會看到內地進一步及樓為重要的正面發展，就該些發展，公會會員能作出貢獻並能受惠。中國第十一個五年計劃將予實施，相信在未來數個月，如非數年，公會與內地的聯繫及交流將更見頻繁，故我們的貢獻能繼續對促進大律師專業的利益，及對國家的法律發展起重要作用。

內地事務委員會主席
麥業成大律師
Advocacy Training - so what it's all about?

In 2000, the Hong Kong Bar first introduced advocacy training for its pupils. Since the implementation of the Compulsory Pupils Advanced Legal Education ("ALE") Programme in 2003, advocacy training became a compulsory part of the pupil's practical education. In this issue, Wong Ka-chun, the Bar's Director of ALE, shares with us the history of and his personal experience in organising advocacy training for pupils, while Robin Egerton, one of the Bar's seasoned trainers, gives us an insider's view of what it is all about.

Advocacy training for pupils at the Hong Kong Bar

Background

In 2000, the Special Committee on Legal Education ("the Committee"), then chaired by Clive Grossman SC, proposed for the Bar to run a regular intensive advocacy course for pupils, to be modelled upon the Middle Temple Advocacy Course. From 2000 to 2004, Michael Sherrard QC, Director of Middle Temple Advocacy (as he was then) was invited to come and run an Advocacy Training Programme for pupils.

The programme consisted of a series of introductory lectures followed by workshops in which participants performed and were critiqued on their performance, adopting a simple but effective six-step method known as the "Hampel Method", or simply, "the Method".

The range of skills taught covered the essential skills of court craft such as case analysis, opening and closing speeches, examination-in-chief, cross-examination, pleas in mitigation and interlocutory applications. Pupils were taken through each of the areas of skill pedagogically.

In addition to training pupils, a "training the trainers" session was held to teach experienced members of the Bar how to teach pupils using the "Hampel Method". This is one of the foremost objectives of the Bar's advocacy programme, namely, to establish its own advocacy training programme for pupils and its own faculty of ably-trained teachers.

In the following few years, the Bar invited Michael Sherrard to come again to teach pupils and train trainers. Ad hoc workshops were also held throughout the year, taught by local trainers.

Role of the Advocacy Training Council

In 2005, upon the recommendation of the Committee, the Bar Council decided that the time had come to move on and build upon Michael Sherrard's good work. The Advocacy Training Council ("ATC") was invited to come and conduct a Teacher Training and Pupils Advocacy Programme.

The ATC is a regulatory body set up by the Bar Council of England & Wales to oversee the advocacy training provided by the four Inns of Court, the five Circuits and the seven Bar Vocational Course providers. Its members have been invited to assist in conducting Teacher Training in a number of common law jurisdictions including Scotland, South Africa, Pakistan, India, Singapore, Jamaica, and more recently Australia.

When teaching overseas, the ATC's philosophy is that their role is to 'Teacher Train' only - all training of pupils should be conducted by local teachers/trainers as they are the ones who know the local environment best.

The ATC follows the Hampel method of teaching too. However, they have done away with large group lectures. The focus and primary make-up of all advocacy training programmes are small group workshops in which pupils practise their skills in a controlled environment.

In addition to advocacy training conducted by Michael Sherrard and the ATC, pupils were taught on the advocacy training stream of the World Bar Conference 2006 held in Hong Kong, by an international team of advocacy trainers from England & Wales, South Africa, Scotland and Australia.

Following the World Bar Conference, the ATC team conducted a further Teacher Training and Pupils Advocacy Programme. We were most honoured to have two distinguished judges join as part of the team to teach for us: Lord Justice Mummery of the English Court of Appeal and Justice Johann Kriegler, former Senior Judge, Constitutional Court of South Africa. We were also very fortunate to have two senior Hong Kong judges participate as Trainee Teachers on the Programme: Mr Justice Robert Ribeiro P.J. and Mr Justice Ma C.J.H., both of whom excelled at the teaching method and were very supportive of the course.

In November 2006, a further Teaching Training and Pupils Advocacy Programme was held. On this occasion, unlike the previous ones, new 'trainee teachers' were taught by experienced local trainers under the guidance of the ATC team.

Looking Ahead

The next and probably most distinguished Teacher Training and Pupils Advocacy Programme will be held between 3 and 5 May 2007. We are both delighted and honoured to have been able to invite a very eminent team of Teacher Trainers from the ATC:

- Lord Walker of Gestingthorpe, House of Lords
- Lord Justice Mummery, Court of Appeal
- Edwin Glasgow CBE, QC - Chairman of the ATC
- Peter Birkett QC - Vice Chairman of the ATC, Leader of the Northern Circuit
- Joanna Komer CMG QC - Chairman of the Inner Temple Advocacy Training Committee
- Charles Haddon-Cave QC

I would like to appeal to all practising members of the Bar with at least five years' call and practice, in particular Senior Counsel and other senior members, to participate in the programme. This is the only time in which such an eminent and distinguished line-up of Trainers from the UK will teach overseas.

It has been my privilege and honour to have worked with many distinguished, professional, experienced advocacy training, in particular, Michael Sherrard and Edwin Glasgow. It is always a pleasure to work with them, not only because of their professionalism and friendliness but also because of their dedication, enthusiasm and belief in the work they do.

It only remains for me to make three final points:

1. The hard work is done by the ATC Team (Trainees), teachers and pupils, not me.
2. Pupils - you will only get out from the programme what you put in.
3. Members of the Bar - If you try it you will find it most enjoyable and fulfilling!

Wong Ka-chun, Director of ALE
Advocacy Training - So What It's All About?

A Brief Introduction to "The Method"

The Teaching of Advocacy

It used to be considered that an advocate was born and could not be taught; that the art of advocacy was part of the genetic makeup rather than a skill that could be acquired. No doubt there are "born advocates" and some who would never wish to be an advocate, but there are many who are advocates waiting to metamorphose from caterpillar to butterfly.

The experience of last five to ten years is that the skills of an advocate can be taught and that an appreciation and reorganization of such skills can enhance the performance of advocates at all levels. The basic ingredients are (a) honesty, integrity, courtesy; and (b) a duty to the Court, the lay client and the opponent.

The actual skills of an advocate can be summarized as:

Preparation
Performance
Communication
Persuasion

To achieve this, it is essential for the advocate to recognize what is being communicated and why it is being communicated. To persuade the advocate must know where the communication is to lead (the journey) and how to communicate so that the audience (judge, jury, witness) wants to go on the journey with the advocate. That is to say, WHAT, WHY, WHERE and HOW.

One can not learn to ride a bicycle from the manual, one has to ride the bicycle and most probably fall off on a number of occasions - that is to say experience. But experience without reflection is like eating without digestion, there is no benefit; this leads to how advocacy is and can be taught.

The Method of Instruction

The Hampel Method which is embraced and advocated by the ATC in England and other common law jurisdictions consists of a precise and highly disciplined six-stage interactive exercise. It is assumed that the pupil will have studied his brief and prepared for his part ready to give a live performance in court or court-like setting.

The six stages may be summarised as follows:

1. HEADNOTE - The trainer identifies in a memorable phrase one (and only one) feature of the pupil's performance to be improved, e.g. eye contact.
2. PLAYBACK - The trainer demonstrates how the trainee performed by repeating her words verbatim.
3. REASON - The trainer explains why "eye contact" is important.
4. REMEDY - The trainer suggests a way of improving "eye contact", e.g. by a sparing use of notes.
5. DEMONSTRATION - The trainer shows how it is done.
6. REPLAY - The trainee tries again.

The principal participants are the trainer and trainee but the whole exercise is performed in front of an audience as in a masterclass so as to maximise the reach of the lesson. For some exercises, such as interlocutory applications and closing speeches, it is useful to have someone play the judge in order to test the pupil's ability to deal with questions from the Bench.

The Method is not as straightforward as it sounds. It involves a tremendous amount of discipline, attentiveness and communication skill on the trainer's part. Any deviation from the six steps may seriously hamper the effectiveness of the lesson.

Rome was not built in a day nor can the advocate acquire the skills immediately. The object of the instruction is to learn one skill on each occasion by experience and watching others. The learning curve is as steep for the pupil as it is for the novice trainer who is learning to teach!

The business of the orator is not to convince, but to persuade, not to inform, but to rouse the mind; to build upon the habitual prejudices of mankind (for reason of its self will do nothing) and to add the feeling to prejudice and action to feeling. – William Hazlitt

Robin Egerton

Philip Dykes SC, Chairman of the Hong Kong Bar Association, presenting souvenirs to the ATC Trainers (from top to bottom):

PT Hon Lord Justice Mummery, Court of Appeal, England & Wales.

Justice Johann Kriegler, Former Senior Judge of the Constitutional Court of South Africa.

Edwin Glasgow CBE QC, Chairman of the ATC, England & Wales.
In 2006, the Special Committee on Secondary Schools Education Project visited 21 schools in its 6th year running the "Rule of Law" Project and reached an audience of over 11,000 secondary school students. Here are highlights from a handful of the visits:

- Richard Wong accompanied by Catharine Yung at St Mary's Church College (11 Jan 2006)
- Choon Cheung SC accompanied by Teresa Yu at Baptist Leung Che Tsui College (19 Jan 2006)
- Jennifer Tsang accompanied by Herbert Yeung at St Stephen's Girls College (23 Feb 2006)
- Frederick Chan accompanied by Tim Wong at St Anthonius Girls College (24 Feb 2006)
The YBC Talk Series were launched last year. The idea is to provide assistance to young barristers (YBs) in practice related areas. It is different from ALE courses in that the Talks are mainly targeted to facilitate sharing and exchange of views among YBs on a selected topic that most YBs will face in their early years. We found the Bar Conference Room a good venue for the Talks not only for costs reason, but also that, as opposed to a large room, the set up there is more suitable for sharing and discussion. The only drawback, perhaps, is the limited space, and therefore seats have to be allocated on a first-come-first-served basis, with YBs having priority. We regrettably had to turn away a number of applicants on some occasions.

In 2005/2006, we organized two YBC Talks. The first one was on “Tips on Hong Kong Tax Filings”. We invited Ms. Theresa Chan, Partner, and Mr. Bruce Lee, Manager, from Pricewaterhouse Coopers to speak to us on 4 May 2005. The talk was very informative. The two tax experts provided helpful tips that we, as barristers, should be aware of in our tax filings. On 28 June 2005, shortly before the then PCLL students got their examination results and were about to join the profession, we organized a Talk on “The Must-Dos to Kick-Start Your Practice” in order to provide some guidance to new entrants in joining the Bar. The areas covered were wide-ranging including the procedures for applying for pupillage and limited practice certificate; duties and ethical issues as a pupil; ALE requirements; funds available to pupils and YBs; where to get the wig and gown, and so on.

In year 2006/2007 came the second phase of the YBC Talk Series. The first session this year - “On Accepting Instructions & Getting Paid: What YBs should look out for” was held on 12 May 2006. It was hoped that through this talk, YBs would have more awareness on how to best manage their practice in the early days without losing sight of professional conduct issues. As the title of the talk suggested, it centred on tips on accepting instructions and getting paid - undoubtedly two very important areas in our practice. The next two sessions were on two major areas of practice for most YBs. On 21 July 2006, a talk on “Common Criminal Briefs for YBs - What to expect and what to look out for” was held. The talk covered issues such as what YBs should be aware of when they receive mid-night call of instruction to conduct an urgent legal visit, or briefs to appear on criminal matters in the Magistrates and District Court etc. Another type of brief that many YBs would receive is to appear at call-over hearings before the Companies Court. Hence, on 20 October 2006, we held a talk on “Monday Mornings - Practical Tips on Companies Call-over Hearings”. This was another very informative and useful talk which gave practical tips on different types of applications that might arise at the Companies call-over hearings which usually take place every Monday mornings.

It is encouraging to note that responses on the YBC Talk Series are very positive. Feedback from participants indicated that they found the Talks helpful and the topics practical and of interest. It is recognized that the increasing growth in the number of YBs inevitably enhances keen competition among YBs. Nevertheless, it is believed that the Bar will grow as a whole if there is mutual assistance among YBs. I am very grateful to those who selflessly contributed to the success of the YBC Talks by sharing their knowledge and experience at the Talks.

Elaine Liu
Chairman of Young Barristers Committee
"Wow!" was all my learned friends and I could say even before we entered this awe-inspiring, glass-windowed, cavernous New York style brasserie in the hip and trendy area known to many simply as Soho.

Opening less than two months ago, this well-turned out gem of Hollywood Road exudes an informal, vibrant atmosphere which is matched by friendly and prompt service. The brightly lit kitchen presented an interesting contrast with the dim, buzzing dining area below, separated by a large staircase. Here, a well-stocked oyster bar and two blackboard menus commanded our immediate attention.

The bill of fare is a mix of continental dishes with an emphasis on seafood. For starters we savoured the profuse ocean flavours brought out by the well-made, if a tad soggy, Lobster Risotto ($118). The Dungeness Crab Beignets ($88) was a light version of crab cakes filled with fluffy crab meat. The Fondue Traditionale for 2-3 persons ($150), a mouth-watering blend of molten emmental and gruyere (and a few "secret ingredients" so we were told), is highly recommended for cheese aficionados who would no doubt also delight in the dedicated cheese and wine bar next door, the first of its kind in Asia.

Of the entrées we preferred the Char-grilled Venison Loin ($185) to the Chicken Breast Coq Au Vin ($140). The venison was lean and sweet, cooked medium rare and rested on a bed of fine potato mash. We rather suspected that the chicken was the frozen variety which may account for its blandness. If we could choose again we would probably try one of the delicious-looking Plateaux de Fruits de Mer ($340, $580) which we saw being served at the next table.

Whatever you do, don’t miss the desserts. The yummy Expresso and Chocolate Mousse ($55) was a godsend, satisfying our weary palates by storm with its opulent, dense, coffee-flavoured creamy troth. The Profiteroles ($65) is also worth a try for its velvety vanilla ice-cream filled core.

The wine list here is one of the best we have seen in any restaurant in Hong Kong in terms of selection and value. You can get top-flight Burgundies by the glass or choose from nearly a hundred regular bottle offerings. This is no doubt made possible by the fact that the owner of the restaurant also runs Altaia Wines, a local fine wine distributor. But given the quality and selection of wines, we were rather disappointed by the absence of matching glasses which are so essential to a perfect wine experience.

We were also liked by the fact that our wine of first choice, Vincent Girardin Corton, Grand Cru Renades 2002 ($980), was out of stock. Instead we went for the Altesino Rosso di Altesino 2001 ($570), a basic sangiovese from Tuscany.