

## Report of the Standing Committee on Greater China Affairs 2016

### Overview

Many things had happened this year, globally and within China, that are significant.

The first is the outcome of the US presidential election, apart from its many overtones in Sino-China relations, is expected to set in train a reversal of the goal of the many U.S. trade agreements to eliminate barriers to international trade to the greatest extent possible in order to promote economic efficiency and consumer benefit.

Then we have the Brexit that presents a testing time on the principle of parliamentary sovereignty in **R (Miller & Dos Santos) v Secretary of State for Exiting the European Union** in the Supreme Court of the UK. That presented an example of the rule of law as practised in the common law system.

Thirdly we are reminded of the Belt and Road Initiative, continued with China's Foreign Direct Investment in an increasing and unprecedented pace, marked in tandem with the G20 meeting at Hangzhou. This brings China much higher legal risks in its foreign investment with questionable backup in dispute resolution.

Last but not least, a former police chief, who was involved in a high-profile case in which a teenager was wrongfully convicted and executed for alleged murder and rape in 1996, was sentenced on 19 October 2016 to 18 years in prison on four criminal charges, by the Hulunbuir Intermediate People's Court in the Inner Mongolia autonomous region.

Some more statistics: up to mid-2016, the number of lawyers in China has reached 303,000, with 25,000 law firms. There are 36 Hong Kong barristers being engaged as legal consultants for Mainland Law Firms. This may compare with 64 Hong Kong solicitor firms who had representative office in the mainland, with 9 having association with Mainland Law Firms. This may compare with 323 overseas law firms from 22 countries having representative office in China.

The common law system and its many core concepts, are to many of our Mainland counterparts, alien. Against the above background, the role for Hong Kong barristers to introduce, and if appropriate, to participate in the development of concepts of the rule of law of the common law system looks encouraging<sup>1</sup>. In this respect the Bar's effort may be illustrated by the following :

- (a) the running for the 6th Year the common law program in the Peking University, in both its LLM and LLB program ;
- (b) the publication of articles in selected topics in Hong Kong law, for the third year, in

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<sup>1</sup> Of some 65 countries under the Belt and Road Initiative, 17 are common law countries.

- various legal publications including the Shanghai Lawyer ;
- (c) the encouragement of our members to act in PRC related arbitrations and be appointed legal consultants to mainland law firms.

In the year, the Committee also worked hand in hand with the Standing Committee on China Practice Development to organize talks in its program in the appointment of legal consultants.

A chronological list of events is attached.

I would like to thank everyone in the Committee, in particular both senior and our younger members. Their support without considering how much income opportunities they have missed is comforting in my belief that barristers do have a role to play in the development of the Rule of Law, not only in Hong Kong. This is respectable, and in the good tradition of the Bar. I am very grateful to the support of the Bar Council. Under the chairmanship of Ms Winnie Tam SC, and William Wong SC in the Standing Committee on China Practice Development, the Bar's presence in the Mainland has become highly conspicuous. I believe the impact of their good efforts will be felt for many years to come.

Last but not least I would like to thank Ms Ava Wong for her professional input to make everything running so smoothly.

Membership:

Andrew Mak (Chairman)

Winnie Tam SC (Vice Chairman)

William Wong SC

Hectar Pun SC

Richard Khaw SC

Kenneth Chow

Kenny Lin

Edward Chow

Frederick Chan

Cheung Yiu Leung

Barbara Wong

Julia Lau

Gary Soo

Elaine Liu

Tim Wong

Yvonne Fong

Jane Curzon Lo

Derek C.L. Chan

Jolie Chao

Karen Ma

Ann Lui

Eunice Yung

Kay Seto  
Sabrina Ho  
Selina Kung  
Jeffrey Sham  
Deanna Law  
Adrian Wong  
Devin Sio  
Byron Tsang  
Justin Tong  
Carol Wong  
Prisca Cheung  
Jeremy Yau  
Brian Chok  
Justin Ismail

Andrew Mak  
Chairman of Standing Committee on Greater China Affairs

5 December 2016

## 香港大律師公會

### 2016 年大中華地區專業人士與公會交流一覽

#### Highlights of Events 2016

- 18/1 與深圳律師協會及香港前海商會會面交流  
The Bar met with Shenzhen Lawyers Association and Hong Kong Shenzhen Chamber of Commerce in Shenzhen.
- 19/1 廣東省司法廳廳長楊江華帶領 10 人代表團到港交流  
A delegation of 10 Mainland officers led by Mr Yang Jianghua, Director of Justice Department of Guangdong Province visited the Bar.
- 20/1 最高人民法院執行局局長趙晉山先生帶領 7 人考察團到訪公會  
A delegation of 7 Mainland officers led by Mr Zhao Jinshan of Supreme People's Court of PRC, visited the Bar.
- 27/1 最高人民檢察院法律政策研究室主任萬春先生及最高人民檢察院法律政策研究室處長宋丹女士到訪公會  
Mr Wan Chun and Ms Song Dan of the Law and Policy Research Office, Supreme People's Procuratorate, visited the Bar.
- 27/1 中華人民共和國駐馬來西亞特命全權大使黃惠康先生及中華人民共和國駐馬來西亞大使館首席秘書郭曉峰先生到訪公會  
Mr Huang Huikang, Ambassador Extraordinary and Plenipotentiary of PRC to Malaysia and Mr Guo Xiaofeng, First Secretary, Embassy of the People's Republic of China in Malaysia, visited the Bar.
- 22/2 與外交部條約法律司徐宏司長會面交流  
The Bar met with Mr Xu Hong, Director-General of the Department of Treaty and Law, Ministry of Foreign Affairs of PRC
- 23-26/2 公會主席以講者身份出席香港律政司在貴陽及西安舉辦之法律服務論壇, 推廣香港大律師能為內地企業提供之法律服務  
The Bar Chairman delivered a speech at Belt and Road Seminar held in Guiyang. The Seminar was organized by the Department of Justice of HKSAR to provide the legal services provided by Hong Kong legal practitioners..
- 23/3 最高人民法院常務副院長沈德詠先生率領 5 人代表團到訪公會  
Mr Shen Deyong, Executive Vice-President of the Supreme People's Court and his 5-person delegation visited the Bar.

- 25/3 出席由中國法學會、香港法律論壇、澳門法務局共同主辦於寧波舉行的第八屆“兩岸四地法律研討會”；並擔任講者  
Participated the 8th Legal Cooperation Forum with Lawyers Association of Guangdong Province in Guangzhou, some members participated as keynote speakers in the Forum.
- 7/4 俄羅斯 - 中國法學會代表團到訪公會  
Russian Chinese Law Society of the Law Faculty of the Moscow State University visited the Bar.
- 28/4 與深圳律師協會簽定合作協議，6 位大律師獲委內地律師事務所委任為法律顧問  
Signing of Memorandum of Understanding with Shenzhen Lawyers Association, 7 members were appointed legal consultants to mainland law firms.
- 28/4 公會主席率領代表團參觀深圳前海合作區人民法院  
Visit to Shenzhen Qianhai Cooperation Zone People's Court
- 13-15/5 與杭州市律師協會簽定合作協議，7 位大律師獲委內地律師事務所委任為法律顧問  
Signing of Memorandum of Understanding with Hangzhou Lawyers Association
- 10/5 江蘇省高級人民法院副院長熊毅率領 7 人代表團到訪公會  
Mr Xiong Yi, Vice President of Jiangsu High People's Court and his 7-person delegation visited the Bar.
- 28/3-16/5 為北京大學普通法公法碩士及學士課程學生授課  
Organized common law courses for the undergraduate and post-graduate law students of the Peking University
- 13/6 16 位到香港大學及香港中文大學修讀普通法碩士學位的內地官員到訪公會  
16 Mainland officials sponsored by the Department of Justice to undertake the LLM programme at the HKU & CUHK visited the Bar
- 16/6 公會執委會探訪中央人民政府外交部駐香港特別行政區特派員公署辦事處宋特派員  
Members of the Bar Council visited Mr Song Zhe, Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in HKSAR

- 18-19/6 為北京大學舉辦模擬法庭，并擔任法官及出席普通法公法碩士課程獎學金頒獎典禮  
Organized moot court for PekingU LLM Students, and Attended the Scholarship Award Ceremony of Common Law LLM Course
- 22/6 司法部趙大程副部長率領五人代表團到訪公會  
A 5-person delegation led by Mr Zhao Dacheng, Vice Minister of Justice of PR China visited the Bar
- 13/7-24/7 北京大學普通法公法碩士及學士課程獲獎學金學生到大律師辦事處觀察大律師日常工作  
Scholarship awardees of common law course organized by the Bar for the LLB and LLB students of the Peking University came to Hong Kong for mini-pupillage
- 11/7 13 位成績優異的汕頭大學法律學生，訪問公會  
Visit by 13 outstanding law students of the Shantou University
- 25/7 法律教育基金帶領 50 多位來自國內和香港的法律系學生到公會交流  
Visit by 50 university students of HK and the Mainland attending training program organized by Legal Education Trust Fund.
- 27/7 最高人民法院政治部主任、二級大法官徐家新先生率領 7 人代表團到訪公會  
Mr Xu Jiabin and his 7-person delegation from the Supreme People's Court of PRC visited the Bar.
- 19/8 香港樹仁大學、北京清華大學法學院、中國政法大學國際法學院學生代表到訪公會  
Visit of Students of the Hong Kong Shue Yan University, the School of Law of the Tsinghua University and the School of International Law of the China University of Political Science and Law
- 9/9 15 位內地律師到訪公會作學術交流  
A-15 member delegation of Mainland public interest lawyers visited the Bar for academic exchanges
- 19/9 上海市長寧區律師代表到訪公會  
Lawyers from Changning District of Shanghai, PR China visited the Bar.
- 19/9 上海司法局及上海市律師協會到訪公會  
Representatives from Shanghai Justice Bureau and the Shanghai Bar Association visited the Bar.

- 27/9 與廣東省律師協會簽定合作協議 6 位大律師獲委廣東省的律師事務所委任為法律顧問  
Signing of the Memorandum of Understanding with Lawyers Association of Guangdong Province; 6 members were appointed legal consultants to law firms in Guangdong.
- 27/9 公會協辦廣東省律師協會廣州舉行的以「推動“一帶一路”“自貿區”建設, 加強粵港澳法律服務業合作」為題的論壇, 派出 10 人代表團出席, 並擔任講者  
Co-organised Legal Cooperation Forum with Lawyers Association of Guangdong Province in Guangzhou, some members participated as keynote speakers in the Forum.
- 13/10 與台灣律師全聯會簽定合作協議  
Signing of the Memorandum of Understanding with Taiwan Bar Association.
- 18/10 32 位來自內地和省市的高級法官 ( 前往香港參加香港城市大學舉辦的第 9 屆中國高級法官修研班 ) 到訪公會  
Visit by 32 Chinese Senior Judges attending the 9th Advanced Program for Chinese Senior Judges organized by the City University of Hong Kong.
- 19-21/10 公會主席率領 22 人代表團到北京作官式訪問, 到訪司法部、國務院國有資產監督管理委員會、最高人民法院、全國人大基本法委員會、國務院港澳辦  
The Bar Chairman led a 22-person delegation to pay visits to the Ministry of Justice, State-owned Assets Supervision and Administration Commission of the State Council, the Supreme People's Court, the Basic Law Committee and Hong Kong and Macao Affairs Office of the State Council
- 26/10 與中華人民共和國外交部條法司、亞洲司的兩位法律專家交流南海仲裁案  
Meeting with legal experts from the Department of Treaty and Law, and the Department of Asian Affairs of the Ministry of Foreign Affairs of the PR China to exchange views on South China Dispute & its Ruling
- 2/11 12 位來港參加由香港律政司舉辦之「交流計畫」的來自內地不同省市的司法局官員, 到訪公會  
Visit by 12 Mainland officers from various Justice Bureaus coming to Hong Kong for an Attachment Scheme sponsored by the Department of Justice.
- 15/11 公會協辦香港律政司在南京舉行的以「蘇港攜手合作, 開拓全球商機」為題的香港法律服務論壇, 派出 28 人代表團出席, 並擔任講者  
Co-organised Legal Forum with the Department of Justice of Hong Kong SAR in Qingdao, some members participated as keynote speakers in the Forum.

- 16/11 與南京律師協會簽定合作協議，10 位大律師獲委內地律師事務所委任為法律顧問  
Signing of Memorandum of Understanding with Nanjing Lawyers Association; 7 members were appointed as legal consultants to law firms in Nanjing.
- 25/11 與安徽省律師協會簽定合作協議  
Signing of the Memorandum of Understanding with Lawyers Association of Anhui Province.
- 7/12 列席全球華語律師聯籌備會議和出席第一屆全球華語律師聯盟論壇  
Sat in the Global Chinese Lawyers Union preparation meeting, and attended the first Global Chinese lawyers Union Forum in Qianhai
- 21/12 山東省仲裁發展促進會代表團到訪公會  
Mr Meng Fuqiang, Chairman of Shandong Provincial Council of Promotion of Arbitration and his 4-person delegation visited the Bar.