

CHAIRMAN'S REPORT FOR 2011

1. It is often said that 24 hours is a long time in politics. If that is so, then having the honour and privilege of being elected your Chairman for the past year seems an eternity. However it has been an incredibly challenging, uniquely interesting and personally rewarding year for me.
2. It has been an extremely busy year for the Bar Council. We have had to speak out on a number of issues which we believed affected the rights and interests of the community at large. These were important issues that the Council felt that it had a duty and obligation to address and provide the Bar's views for the public's consideration. This was to enable the community to be provided with a different perspective on these important issues so that they could make their own assessment of the fundamental issues that they were being consulted on.
3. At the risk of stating the obvious, I would like to make it clear that the Bar is not a political body but a professional legal organisation that seeks to principally help and promote the interests of its members. At the same time we have traditionally addressed matters of general public interest. This latter role is part and parcel of our duty as an essential pillar helping to uphold the rule of law in Hong Kong.
4. In order to help the junior Bar, two new initiatives were introduced with the financial and logistical support of the Department of Justice. The first was an intensive one day course in February 2011 conducted by a senior member of the Bar as well as representatives from the Department of Justice. They provided a training session for junior members (who are not yet entitled to

be on the panel of prosecutors) to learn how to conduct prosecutions in the Magistracies.

5. Following that one day session, they were then provided fiat prosecution work for a two week period and paid a lump sum of \$40,000. This training session was repeated in July again. The feedback is that this has been of considerable benefit for junior members who have been able to gain valuable experience in undertaking prosecution work and at the same time to be reasonably remunerated for the same.
6. The second initiative was introduced in about October/November. This was an arrangement whereby senior members who are instructed to prosecute a long or difficult case, can simply contact the DPP and ask for a junior member of the Bar to be assigned to help them. This would provide the junior members an opportunity of gaining experience in how such cases are prosecuted/defended, an opportunity that they otherwise would not have. They would also be paid when assigned as a junior. It is a little early to evaluate the success or otherwise of this initiative.
7. I am hopeful that the report to implement changes to the Bar's Code of Conduct in order to bring it in line with the 21st century should be completed soon. Members will be consulted and informed of the changes. I am confident that these changes will demonstrate that although we all share a historical tradition, we are not shackled by it. We have the ability to adapt and the responsibility to change to meet the demands and challenges that we are facing in this technologically driven world.
8. The need to provide pupils with strong, proper and continuous training during their period of pupillage is a matter that is of considerable importance.

The importance lies both from the public's perspective and expectation that young barristers are properly trained and equipped to provide legal services to the community; at the same time, as a self-regulating professional body, we have an obligation to ensure that the new entrants to the profession have received the appropriate training and will be able to reasonably competently discharge their professional duties to their clients.

9. The maintenance and preservation of the public's respect, confidence and recognition of a strong and independent Bar is of paramount importance. In combination with an independent judiciary, we provide the underpinning and reflect the successful implementation of the One Country Two Systems concept.
10. I believe it is important to get the message across internationally that 14 years after the handover, there is still a vibrant, independent and thriving Bar in Hong Kong which is still practising the common law but within the new constitutional order under the Basic Law. In order to leave this footprint and strongly convey this message with lawyers and legal bodies all over the world, I have travelled considerably this year attending various conferences and legal ceremonies.
11. I attended the Commonwealth Law Conference in Hyderabad, India in February. In June I went to Taipei in June for POLA, where I spoke on the need for an expanded legal aid system in Hong Kong. In October, I flew to London for the opening of the legal year of England and Wales, followed three days later by attending the LawAsia Conference in Seoul and almost immediately thereafter attending the IBA Conference in Dubai. This was attended by over 5,000 lawyers from across the world, probably the largest

legal conference ever hosted. I had to stand in and present a paper on the do's and don't's of appellate advocacy, which my immediate predecessor was supposed to deliver!

12. I found there was genuine interest by overseas lawyers and legal bodies in the Hong Kong legal system. These overseas trips provided an unique opportunity to speak to lawyers from all over the world and to build professional relationships which will hopefully help better understanding and facilitate cooperation with our overseas counterparts in the years to come.
13. Apart from these trips, I also had the honour of leading a Bar delegation of over 25 members to Beijing in June. We met senior officials from the Ministry of Justice, judges from the People's Supreme Court as well as senior officials of the Hong Kong and Macau Liaison Office. Coincidentally, the morning we flew to Beijing was the same day that the Court of Final Appeal handed down their judgment in the *Congo case*.
14. Interestingly, the Bar's press statement on the question of the Court of Final Appeal's reference on the issue of sovereign immunity to the NPC was prepared partly whilst we were on the flight, with other Council members working on it in Hong Kong and eventually finalised that evening at the hotel in Beijing - a reflection of the hardworking and dedicated Bar Council that I have had the pleasure of working with.
15. For the first time the Bar in conjunction with the Peking University commenced a unique programme whereby a number of our members flew to Beijing over several weekends and taught common law concepts to students of the University undertaking a Masters degree in Law and Sociology. One

of the highlights of the trip to Beijing was meeting up with the Dean and other Professors from Peking University as well as with the students who participated in this course.

16. I was honoured to present on behalf of the Bar four scholarships to students who attained the best results in the course. This enabled these students to visit Hong Kong, be attached with various Chambers and see for themselves how the common law was practised in Hong Kong courts. It is envisaged that we will continue this unique programme in the coming year as well as it provides an opportunity to promote and explain the common law and the Hong Kong legal system to the next generation of lawyers in China.
17. I have over the year met up with numerous delegations of officials, practitioners and judges from China. We have had full and frank discussions as to how members of the Bar can help and benefit from the opening up of legal services in the Mainland. We signed an agreement with the Foshan Lawyers Association in November, which hopefully will facilitate members who are accredited mediators to undertake mediation work both in Hong Kong and in Foshan involving parties coming from that area.
18. I led a small delegation in mid-December to visit Foshan in furtherance of the agreement signed. We were warmly welcomed and entertained by our gracious hosts. I am hopeful that the close relationship and understanding that has been fostered with our counterparts from Foshan can be translated into tangible benefits for members in the near future.
19. I would like to thank members of the Special Committee for Mainland Affairs for their tremendous efforts put into both the Beijing and Foshan trips. In particular, I would like to extend on behalf of the Bar my special

appreciation of all the members who volunteered their time and efforts in helping with the programme with Peking University – and all this at their own expense!

20. In keeping with its traditional role, the Bar has in the course of the year provided responses to various draft legislative proposals, commented on consultation papers and been engaged in discussion with Administration officials over a variety of issues. I cannot say with any degree of certainty as to whether we are the first “port of call” by the Administration in respect of their policies or proposals. I however firmly believe that we are, should be and must remain an important and relevant point of reference, discussion and consultation by the Administration on matters that affect the public interest.
21. I have felt it important as Chairman that I should personally attend LegCo to speak on various issues which are important from the Bar’s perspective, as well as on matters that impact on the administration of justice and involve the interests of the community. These have ranged from legal aid both in terms of the eligibility limits as well as the scope of cases that should be covered by it, the need or otherwise for an “independent”, DPP and the problems and issues associated with the CAT Scheme. {Convention Against Torture}
22. I turn to address a perennial chestnut – Legal Aid. Despite the promise of \$100 million to be provided as seed money for an expanded Supplementary Legal Aid Scheme in respect of civil cases, and despite valiant efforts of the Special Committee on Legal Aid, we are yet to have the legislative proposals

to expand the scope of cases. This is despite the fact that the Bar has actually even drafted the necessary draft legislative provisions to effect such changes.

23. An associated problem is in criminal legal aid, where fees have remained stagnant for far too long. This needs to be addressed by the Administration, and the time is now. The danger of allowing things to simply pass is that the community will not have the best and the brightest undertaking such cases. This will in turn undermine the rule of law and damage the reputation of Hong Kong immeasurably.
24. The Bar will persevere with its efforts to try and persuade the Administration that unless fees in respect of criminal legal aid work is pegged at a reasonable level commensurate with the work involved, the danger of accused persons being represented by persons who lack sufficient experience and/or ability looms extremely large. This in turn would impose a severe strain on the administration of justice and consequently undermine the rule of law in Hong Kong.
25. On the social front, we had a Bar Mess in January to honour the former Chief Justice Andrew Li and confer upon him an honorary life membership of the Bar. This was in recognition of his contribution to the Hong Kong legal system over the years. In November we had a Bar Mess to honour the appointment of Geoffrey Ma as the Chief Justice of the HKSAR. Both these occasions were well attended and enjoyed by all.
26. In between the two Messes, we decided to introduce for the first time a cocktail in July before everyone went away for the summer break. I felt that this was an opportunity to be seized to enable junior members to meet up with the senior members and get to know them in an informal setting. This

would help them exchange views and discuss any problems or issues they may have. This was very successful and well received. I hope that we can arrange for more of such functions in the future to help foster and reinforce the collegiate and fraternal atmosphere of the Bar.

27. The YBs had their Christmas drinks recently which was also well attended. I also organised a Chairman's drinks for the YBs and invited the DPP to attend and talk to them. The DPP was sporting enough to accept the invitation and had a frank and forthright discussion with the YBs and understand their concerns.
28. I would like to thank the Administrator and the staff of the Bar Secretariat for the dedication, hardwork and perseverance they have shown working under tremendous space and time constraints. Their gentle but timely reminders have made it easier for me to discharge my duties as Chairman, and their efficiency and determination have galvanised me into dealing with issues as they arise rather than putting them on the back burner!
29. The various Special Committees and individual members have contributed enormously in alleviating the burden and time imposed on Council members to deal with the various issues that confronted us over the year. Their prompt response to request for assistance on various matters despite the constraints of time and the pressures of their own busy practice is a salutary reminder to all that the members of the Bar are very generous and kind in helping the Bar when called upon to do so. I thank each and everyone one of you on a personal level for making my life easier by being so generous with your time and help.

30. Last, but not least, I would like to thank all the Council members who helped steer a novice Chairman during this difficult and eventful year. Your support, wise counsel and your dedication to help and further the interests of the Bar as a whole have made my job as Chairman a pleasant, enjoyable and intellectually stimulating and satisfying experience.
31. Finally, I would like to extend to all of you a healthy, happy, productive and rewarding New Year.

Kumar Ramanathan SC

Chairman

29th December 2011