

Special Committee on Mainland Affairs (“Mainland Affairs Committee”)

2009 began with an international backdrop of the worst global financial crisis in the past 80 years, since 1929. In 2008, China experienced the most difficult year in the new millennium. The Central Government responded with an economic stimulus package of four trillion yuan (which represents about 16% of China’s economic output in 2008). By the end of the third quarter in 2009, against a 20% year on year decline in exports, China had reported that its GDP had grown by 7.7%.

What did all these mean to the Hong Kong Bar which services are in economic terms, a derived demand, resulting often from ups and downs of the economy?

The Hong Kong Bar’s contribution to the society and the economy is its contribution to the rule of law. Hong Kong’s reputation to the rule of law is one of the most important factors of international confidence here. This is a concept which had hitherto not quantified by economists. Hence there is no quantifiable element in the GDP for the rule of law. The contribution of the rule of law to the economy is hence more qualitative.

But there are some quantifiable yardsticks on the Hong Kong Bar against the vast background.

First of all the Bar is a small but highly specialized profession. In 2009, the membership of the Bar had just passed 1,000. The total Hong Kong labour force was 3.7 million¹.

Second, the contribution of the legal profession, including the Bar, even on a GDP component angle, is not significant. In 2008, the Financing, insurance, real estate and business services component, including legal services, contributed to 27% of GDP².

Thirdly, close Relationship with Mainland China was a significant aspect which could not be ignored. A brief indicator is that a mere search of the judicial website shows that there are 7,863 judgments or decisions in both the civil and criminal jurisdiction with the word “China” have been uploaded onto the web.

In line with this, the Mainland Affairs Committee continued with its exchanges with Mainland China counterparts. In 2009, the Committee has met 293 Mainland delegates from 63 institutions and 22 provinces. This may be compared with 135 Mainland delegates from 41 institutions and 10 provinces in 2008.

The Civil Justice Reform was implemented in April 2009 with intending to provide efficiency to the administration of justice and a new concept and approach in dispute resolution. A greater proportion of our effort was put into those activities to introduce those reforms.

¹ http://www.hkeconomy.gov.hk/en/pdf/er_09q3.pdf , page 117

² http://www.hkeconomy.gov.hk/en/pdf/er_09q3.pdf , p.102

There is a deep belief in this Committee that new opportunities and challenges in Mainland China as a developing economy and society, its self-recognized problems in rule of law must have presented themselves to our membership much flavor whether in their practice or daily life. It remains to be seen whether the Bar may eventually capture the fruits of the ever increasing exchange activities with the Mainland in particular those of the judiciary members visiting the Bar. In addressing the challenges whether arising from the global financial turmoil, the Bar has the confidence to co-operate better with our Mainland colleagues.

Only a few developments need to be referred over the year.

PRD Framework

First of all, on 8 January 2009, the "Framework for Development and Reform Planning for Pearl River Delta Region" ("Framework") policy was announced at the same time as the celebration of the 30 Anniversary of National Development and Reform. Under the framework, the Guangdong Province and the Hong Kong SAR discussed and reached consensus that to fully implement the Framework, more cooperation and exchange need to be done. Some of the increase in exchange activities reported during the year had begun to prove.

The trend for closer cooperation among HK and Guangdong in particular its metropolis is obvious. The more interaction within the Pearl Delta Region ("PDR"), the more opportunities will arise, in economic terms the cross boarder legal service market, and in practice terms, greater challenges and needs to understand the legal culture of different localities.

I am glad that during the past few years, the Bar has built up some rapport with certain cities of PDR. The Framework would certainly fill our agenda of activities right into 2010 and beyond.

Taiwan Bar Association's Visit

Secondly, in August, we had the Taiwan Bar Association led by its President Mr. Koo Li-Hsiung visiting the Bar. This was the first time for the Bar to be visited by the Taiwan Bar Association since the improvement of relationship across the straits.

This was a very good opportunity for exchange of views and we see it as a window and look forward to more exchanges and cooperation in the coming years.

YB's Visit to Shanghai

In late October, a joint delegation of the Mainland Affairs Committee and the Young Bar Committee, accompanied by the Liaison Office and staff of the Bar Secretariat, paid an official visit to legal related institutions in Shanghai. These included the Legislative Affairs Working Committee, Standing Committee of Shanghai Municipal People's Congress, the Shanghai Municipal Justice Bureau, the Shanghai People's Court, the China International Economic & Trade Arbitration Commission, Shanghai Commission, the Law Faculty of Fudan University, and the Shanghai Bar Association.

Chinese historians have concluded that in the Tang Dynasty Shanghai was literally on the sea. Therefore we have two Chinese characters in the name "Shanghai", (上, shàng; and 海, hǎi) literally mean "up, on, or above" and "sea". Today Shanghai is the largest city in Mainland China, with over 20 million people. The delegation was impressed by the fast expanding volume of legal services presented by those institutions. Frank exchanges on problems in legal administration and rule of law were made. The young barristers were given the opportunities and indeed raised many questions of concern if they were to practice in the Mainland. At the same time, we took the opportunity of presenting our younger sector as a highly professional group for our hosts. More visits to the Bar in future from Shanghai are expected.

It may be worthwhile to mention that while visiting the new premises of the Law Faculty of the Fudan University, our young members were impressed by the training for the Joint Judicial Examination. Would this result in future cooperation for the training of Hong Kong barristers for the Joint Judicial Examination remains to be explored.

2010

On 27 July 2009, the US President Barack Obama said the US and China will "shape the course of the 21st century". History will tell whether and if so how the Hong Kong Bar will humbly play a part in China's 21 Century. But in the shorter term in 2010 we would be at the Shanghai Expo 2010. We would be developing our PRD and Shanghai network and we would continue to promote the Hong Kong Bar in the legal services market in the Mainland.

Last but not least, I would like to extend my thanks to all my members, their time and effort and support in the background had continued to make our activities successful. I would like to thank the Chairman Russell Coleman SC and the Vice Chairman Mr Paul Shieh SC for their spending so much time in our activities. Last but not least I would like to thank for the support of the Bar Secretariat, without which we might not have achieved so much over the year.

Membership:

Andrew Mak (Chairman)
Teresa Cheng, SC
Rimsky Yuen, SC
Kenneth Chow
Kenny Lin
Richard Khaw
Frederick Chan
Cheung Yiu Leung
Barbara Wong
Julia Lau
Hectar Pun
Gary Soo
William Wong
Colana Yeung

David Chan
Benjamin Ng
F.Y. Kan
Elaine Liu
Tim Wong
Yvonne Fong

Andrew Mak
Chairman
Special Committee on Mainland Affairs

December 2009

HKBA exchange activities with Mainland in 2009

2009

- 24 February Mr. Zhao Dacheng, Vice Minister of the Ministry of Justice, representatives of the Ministry of Justice and the President of the All China Lawyers Association visited the Bar
- 18 March Delegation of the Foshan Justice Bureau and the Foshan Lawyers Association visited the Bar
- 30 March Two Beijing lawyers and two Taiwan lawyers met the Chairman of the Mainland Affairs Committee
- 14 May Participation in the training course held by the Director of Shenzhen Justice Department
- 2 June Mainland legal professionals of the Department of Justice Common Law Training Scheme of 2008 – 2009 visited the Bar
- 16 June Delegation of the “China Senior Judges’ Research and Study Class” visited the Bar
- 22 June –
3 July Mainland and Hong Kong Civil Servants Exchange Scheme visited the Bar
- 16 July The delegation headed by Mr. Han Dayuen, the Dean of the Law Faculty of the China University of Political Science and Law visited the Bar
- 24 July The delegation of Law Faculty of Shantou University visited the Bar

- 7 August Foshan Lawyers Association visited the Bar
- 13 August Taiwan Bar Association visited the Bar
- 26 August Signing Ceremony of Foshan Lawyers Association – Hong Kong Bar Association Cooperation Agreement
- 8 September Mainland officials of the various legal institutions visited the Bar
- 17 September Foshan Lawyers Association visited the Bar
- 17 September Delegation of the Guangdong – Hong Kong Legal Service Exchange visited the Bar
- 30 September China Human Right Lawyers Concern Group visited the Bar
- 19 October Visit of the Deputy President of the China Supreme People’s Court –Mr. Zhang Jun
- 25 October Shandong Lawyers Association visited the Bar
- 5 November Officials of China Ministry of Justice visited the Bar
- 6 November Delegation of students of China University of Political Science and Law visited the Bar
- 24 November Delegation of the Guangdong Higher People’s Court visited the Bar
- 8 December Mainland scholars and lawyers visited the Bar