

Report of the Special Committee on Mainland Affairs

The Broad Picture

In 2012 China was going through a slower growth with an objective that the GDP be lower than 8 percent.

This was to deal with the problem of the RMB 4 trillion (US\$630 billion) investment package some four years ago resulting in inflation of 6.5% in 2011.

China's 2008 stimulus package was seemingly still a success so far, compared with the stimulus programs in the US and Europe.

It is now well accepted that from a social and economic point of view, over the past twenty years China has arguably moved more people out of poverty in the shortest amount of time in the history of mankind. Skeptics will say this was because China was so poor. Optimists will say this was still an unprecedented achievement.

The year was an election year on a global scale: the President Barack Obama was elected for the second term in early November, and the 18th Plenary Session a few days later. The Chinese Communist Party had its election of the 7 members Politburo Standing Committee with Mr Xi Jinping succeeded as general secretary, and Mr Li Keqiang to be premier in March 2013.

The question of "One Country Two Systems" and its interpretation has always been on the local agenda. It is conceivably not always a legal question. However, the independence of the Bar in this context has not been questioned and indeed many of its view points either in the form of press releases or otherwise on questions of rule of law were well respected by those whom the Committee was in contact.

The National Front

Within the Mainland, in terms of numbers, we have seen the scale of activities different from Hong Kong. In 2011, the Supreme People's Court handled 11,867 cases of various kinds, down by 1.81% and concluded 10,515 cases, down by 1.04% year on year. The local people's courts at all levels dealt with 12,203,703 cases of various kinds, up by 4.3% and judgment was rendered in 1,478,505 cases, up by 4.36%. The value of the object of the cases was some RMB 1.655922 trillion. Among the cases handled and closed in 2011, civil and commercial cases accounted for 62.46%, criminal cases 8.21% and administrative law cases 1.49%. As far as foreign cases are concerned, in 2011, the People's Courts at all levels handled and completed about 36,230 civil, commercial and maritime cases involving foreign countries, Hong Kong, Macau and Taiwan, which was up by 11.81% compared to the previous year. Among them, 27,944 were civil and commercial cases involving foreign countries, Hong Kong, Macau and Taiwan, up by 11.26% when compared to the previous year. Most of the 36,230 civil and commercial cases are related to contractual disputes, letter of credit, foreign related ownership, infringement and other disputes.

On the rule of law front, following the promulgation of a rather substantial amendment to its Civil Procedural Law in June, China published a white paper in October 2012 on legal guarantee for lawyers to practice in courts and reducing barriers in evidence collection in recent years.

According to the white paper, the Criminal Procedure Law amended in 2012 specifies that, except for few cases, a defense attorney who holds a valid license or certificate for practicing law may meet a detained suspect or defendant without being monitored.

Criminal trial of former Chongqing party head, Bo Xilai and his wife had dominated much of the media on China affairs.

Bar's Relationship with Mainland

The working relationship between the Bar in exchanges with its Mainland counterparts over the past 5 years has always been amicable. It may be observed, that the development of the Mainland's legal professions has begun to change shape. Some of the Bar's counterparts in the more developed cities have now perceived the profession as a competitor in addition to the professionalism of the Bar as a role model. This change is only natural given the development of the lawyers profession in China, and indeed the Bar has more opportunities as a result to exchange and perhaps learn and understand more of the changes in the Mainland.

Against this backdrop, the Bar continued with its wide range of activities in the Mainland.

From April to June, and for the second year, the Committee has organized a series of lectures on the rule of law for a LLM program for the Peking University.

In early June the Bar had made an official visit to Beijing and was well received.

In the same month the Bar signed a Framework Agreement for the Cooperation of Guangdong and Hong Kong for training in International Arbitration with the Shenzhen Arbitration Court.

In September, a Legal Services Forum was organized by the Department of Justice in Guangzhou and the Bar was able to promote its skills in advocacy and dispute resolution. Some twenty members had spent a lot of effort and participated to promote our services in Guangzhou, the capital of Guangdong Province.

In October, a small delegation was led by the Chairman to Shanghai. A useful discussion was made with various parties including the Shanghai Higher Peoples' Court, the Shanghai Bar Association and also the East China University of Political Science & Law.

I would like to express my thanks to the Chairman and the two vice-chair persons, and many other members of the Bar Council, the Young Barristers Committee, and members of the Committee for spending so generously their time, effort and energy in taking part or handling the vast amount of activities in the past year. I would like to thank them for otherwise there can be no interest or indeed any success for the work of this Committee. I would also like to thank Ms Ava Wong for her valuable contribution to the support work of the Committee, which has usual continued to be very helpful.

Andrew Mak
Chairman
Special Committee for Mainland Affairs

31 December 2012

Highlights of Events 2012

Visits to Bar by Mainland Parties

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| 13/2 | Visit by participants who attended the Training Scheme in Common Law for Mainland Officials under the Cooperation Agreement organised by DOJ |
| 30/3 | Visit by Lecturer Ms Chen Xiaoyan of Guangdong University of Finance to areas of cooperation with lawyers in China. |
| 24/4 | Visit by Mr Zhou Rongchi, the President of the Lawyers Association of Foshan, and his delegation and signing of the Agreement on Establishing a Platform for Mediation of Civil & Commercial Cases Involving Parties in the Mainland & Hong Kong. |
| 14/5 | Visit by 36 Chinese Senior Judges who came to HK to attend the 5 th Advanced Program for Chinese Senior Judges organized by the City University of Hong Kong. |
| 6/6 | Visit by Mr Guo Xiaowen, Chairman of International Arbitration Court in Shenzhen. |
| 13/6 | Visit by 15 Mainland officers who came to Hong Kong for Training Scheme in Common Law conducted by the University of Hong Kong sponsored by the Department of Justice. |
| 26/6 | Visit by lawyers from Zhejiang Xingtao Law Firm, and met with YBC |
| 4/7 | Visit by a delegation, led by the Dean of Law School of Shantou University, consisted of 16 judges, professors and lawyers who came to Hong Kong to participate HKU-STU program, visited the Bar. |
| 6/7 | Visit by 13 outstanding law students of the Shantou University |
| 9-29/7 | 8 PekingU LLM Students (Scholarship Awardees) came to HK for internship |
| 9/7 | Visit by the Legal Education Trust Fund together with 50 university students of HK and the Mainland |
| 30/7 | Visit by a delegation of 20 officials led by Mr Tang Bingquan, Vice President of CPPCC in Guangdong Province to discuss the cooperation between Guangdong, HK and Macau. |

- 15/8 Visit by a delegation of 14 persons from Taiwan (members included lawyers, media, academia and students) to discuss jury trials in Hong Kong.
- 19/8 Luncheon with Mr. Du Chun, Director of the Department of Guidance of the Work of Lawyers and Public Notaries of the Ministry of Justice PRC, Mr. Wang Junfeng President of All China Lawyers Association & delegation.
- 22/8 Visit by a delegation of 13 law students from the Mainland and HK who participated the 2nd Inter University Basic Law Mooting Competition. The visit was organized by Hong Kong Shue Yan University.
- 10/10 A 19-member delegation of NGO members and law students from the Mainland visited the Bar.
- 17/10 A 35-member delegation of judges attending the Advanced Programme for Chinese Senior Judges at the Law School of the City University of Hong Kong visited the Bar.
- 31/10 Conducted lecture for 22 awardees of Caijing Scholarship for Journalists granted by National School of Development of the Peking University
- 26/11 Visit by a 12-person delegation from Chinese University of Political Science & Law
- 11/12 Visit by a delegation from East China University of Political Science & Law

Visits to the Mainland:

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| 23/3 | To discuss the future development of Qianhai under the “12 th Five Year Plan” together with officials of the Department of Justice and Home Affairs Bureau of HKSAR together with leaders of various professional bodies in HKSAR |
| 7/4-26/5 | Conducted common law lecture for PekingU LLM students |
| 7-8/6 | Official Visit to Beijing: Ministry of Justice, the Supreme People’s Court, the Basic Law Committee and Hong Kong and Macao Affairs Office of the State Council |
| 10/6 | Conducted moot court for PekingU LLM Students, and Attended the Scholarship Award Ceremony of Common Law LLM Course |
| 16/6 | Signing of Framework Agreement for the Cooperation of Guangdong and Hong Kong for Training in International Arbitration |
| 20-21/6 | Participated Roadshow trips to Guangdong organized by DOJ to promote Legal Forum. |
| 25-26/6 | Participated Roadshow trips to Guangdong organized by DOJ to promote Legal Forum. |
| 18/7 | Attended the inaugural ceremony of the second term of Guangdong's Association for Promotion of Cooperation between Guangdong, Hong Kong & Macau and Fifth Pearl River Forum in Guangzhou. |
| 13/9 | Co-organised Legal Forum with DOJ in Guangzhou, Some members were keynote speakers in the Forum. |
| 18-22/10 | Official Visit to Shanghai to meet with Shanghai: Municipal Justice Bureau, the Higher People’s Court, Shanghai Bar Association and East China University of Political Science & Law |