

CHAIRMAN'S REPORT 2022

Introduction

2022 has been an eventful year for the Bar.

General Numbers

From January 2021 to December 2022, the total number of members grew from 1,578 to 1,612.

In the past year, 11 members left the Bar for the bench, 83 pupils were called to the Bar and 5 members were called to the Inner Bar. On the whole and notwithstanding some retirements and relocation for some of our friends, the Bar is still growing.

The Fifth Wave of Covid-19

The year began with the 5th wave of the pandemic resulting in temporary closure of our courts. This has caused further delays and backlogs especially in criminal cases. This had both impacted on the rights of defendants to have a trial as soon as possible in criminal cases and also of course our members' livelihood. We kept close contact with the Judicial Administrator, offering our views on the various social distancing measures imposed and pushing for a more widespread use of remote hearings and improvement of courtroom acoustics upon resumption of court hearings. We appreciate the assistance provided by the Judicial Administrator and her team.

To mitigate the hardship on our junior members, the Bar Council rolled out a Revised GAP Loan Scheme for Young Barristers in March offering financial assistance to our young members affected by the closure of courts. Assistance was provided to 14 members and a total of HK\$545,500 was advanced to them.

We also wrote to the Commissioner of Correctional Services offering our suggestions on the challenges to prison visits touching upon the rights of those detained. The feedback from the Commissioner was constructive and helpful.

Meetings with Overseas Judges

The resignations of Lord Reed and Lord Hodge as Non-Permanent Judges from our Court of Final Appeal were of concern to all members of legal profession and indeed the public at large. We have since been able to meet a number of overseas NPJs who very kindly made time to understand the perspective of the Bar. The decision of the other overseas NPJs to remain is welcomed by the legal professions. We will continue to engage our judges to discuss their concerns.

Disciplinary Matters

When one looks around the world, the existence of a self-regulated and independent Bar is an exception rather than the norm. There are around 30,000 barristers around the world and there is no lack of skeptics who would argue that lawyers should be regulated by independent statutory bodies or that the public would be better served by a fused profession.

I am of the firm view that a strong, self-regulated and independent Bar is important for Hong Kong, being the only bilingual common law jurisdiction in the People's Republic of China. The continuation of the common law system in Hong Kong after 2047 has now been put beyond doubt by President XI Jinping in his speech made on 1 July 2022. I am optimistic that the Bar will continue to have a role to play in defending the rule of law, fundamental rights and the independent judiciary in Hong Kong in the years to come. I am also confident that the Bar will be able to use our skills and expertise in contributing to the development of the rule of law and legal services in Mainland China and in particular the Greater Bay Area.

In order to achieve the aforesaid objectives, the Bar cannot be complacent and much of our work over the past year were to ensure that our regulatory functions are discharged efficiently and properly. An additional qualified lawyer joined the staff members of the Bar Secretariat to assist in dealing with complaints and disciplinary matters. In our best traditions, a number of senior members also volunteered to assist in ensuring that complaints are handled thoroughly and efficiently. I am grateful to everyone who assisted, in particular Stewart Wong SC, who heads our Standing Committee on Discipline, for his tremendous work for the Bar.

Amendments to the Bar Code

There were 2 substantive amendments to our Code of Conduct in 2022.

In August, the Bar Code was amended to facilitate members' pursuit of their non-Hong Kong practice including their practice in the Greater Bay Area. Efforts were made to ensure that our independence in respect of our Hong Kong practice is not affected by these changes.

In December, the Bar Code was amended in light of the passage of the Arbitration and Legal Practitioners Legislation (Outcome Related Fee Structures for Arbitration) (Amendment) Ordinance 2022 on 22 June 2022, Divisions 3, 4 and 7 of Part 10B of the Arbitration Ordinance (Cap. 609), together with the Arbitration (Outcome Related Fee Structures for Arbitration) Rules. The Bar will be organizing workshops on ORFS reforms so as to assist members to take advantage of the new scheme.

I thank the Standing Committee on Code of Conduct led by Anson Wong SC for their work on the 2 important projects.

International Engagement

Because of our travel restrictions, the Bar had pretty much disappeared from the international map over the past 2 years. Members did their best in attending conferences and events remotely. The Arbitration Committee led by Kim Rooney had huge success in connecting us with the Shenzhen Court of International Arbitration and various training sessions for Mainland lawyers were organized. One of the highlights was a session featuring Anthony Neoh SC, Horace Wong SC and Kim on Investment Treaty Arbitration, which attracted more than 12,000 participants from the Mainland. I want to thank Kim and her committee for their good work.

The gradual lifting of the restrictions had enabled members of the Bar to attend some of these overseas conferences in the last quarter of 2022.

I attended the POLA conference in Singapore in September and the Opening of Legal Year in London in October together with José Maurellet SC. José together with Derek Chan SC and a number of other members also attended and spoke at the LawAsia Conference in Sydney in November. I would like to thank Mr Justice Hartmann in particular, for joining us as a speaker in Sydney.

Hong Kong is at the centre of attention in many of these international conferences. There has been a great deal of interest amongst overseas participants on Hong Kong and the state of the rule of law here. Many have been supportive, but it was noted that on occasions some views have been mistaken. We believe we can make meaningful contribution by participating and restoring Hong Kong's rightful place on the international map and we will continue to do so in the coming year.

Visit to Mainland China

A visit to the Greater Bay Area was originally planned for this month but this was eventually abandoned because of the uncertainties brought about by the pandemic. With the relaxation of travel restrictions in the Mainland, I am confident that we should be able to resurrect our annual visit to Beijing in the year ahead.

Legal Aid

I have had regular dialogues with the Director of Legal Aid on a number of issues raised by our members. I want to thank the Director and his team for the assistance they rendered. In particular, the collaboration between us on the mechanics of the Patrick Yu Memorial Scholarship has enabled our young members to benefit from this very meaningful scheme to groom young talents for the criminal bar.

Special Thanks

In addition to the members that I have already thanked, we should not forget the dedicated staff of our secretariat led by Dora. The pandemic has created many logistical challenges for them throughout the year and they have worked extremely hard to deal with them.

I also want to thank members of the Bar Council for their dedication and support throughout the past year. I am grateful for their frank and candid opinion on many of the tricky issues that we had to deal with. In particular, I would like to thank them for trusting the judgments of José, Derek and myself when we found ourselves in unchartered territories.

Special thanks must also go to Johnny Ma SC and Eugene Yim for discharging the very heavy duties of Honorary Secretary and Deputy Honorary Secretary. Those of us who were involved in work of the Bar Council will no doubt appreciate their impossible workload.

I also want to thank members who reached out and connected with me personally in the past year offering their views and volunteering to assist in our work.

Being able to serve the Bar has been my great honour and I look forward to continuing our work in the coming year.

On behalf of the Bar Council, I wish you a fulfilling 2023 and a peaceful and healthy Year of Rabbit.

Victor Dawes, SC
Chairman of the Hong Kong Bar Association

Dated: 11 January 2023