

Report of the Special Committee on Constitutional Affairs and Human Rights

The Special Committee on Constitutional Affairs and Human Rights provides advice and assistance to the Bar Council on matters touching upon the Basic Law of the HKSAR and the protection of human rights in Hong Kong.

In 2013, the Special Committee assisted the Bar Council in the drafting of public statements on the important judgments of the Court of Final Appeal in *Ubamaka* (on obligation to protect claimants of cruel, inhuman, degrading treatment or punishment from return) and in *Vallejos & Domingo* (on exclusion of foreign domestic helpers from having "ordinarily resided" in Hong Kong for the purpose of verifying eligibility to be HKSAR permanent resident and Government's request to Court of Final Appeal for reference of Article 158 of the Basic Law to Standing Committee of the National People's Congress for interpretation).

In addition, in May 2013, the Chairman of the Special Committee attended before the Administration of Justice and Legal Services Panel of the Legislative Council when the panel discussed the Government's approach in dealing with the "problem" of "doubly non-permanent children". In October 2013, the Chairman participated in the first Joint Universities Law Conference as a panel speaker on judicial review.

Further, members of the Special Committee attended various forums representing the Bar Association in 2013. These forums include the Human Rights Forum organized by the HKSAR Government and seminars organized by different consulates.

Furthermore, members of the Special Committee rendered help in receiving visitors to the Bar Association in exchanging with them information and opinions about the Basic Law and public law litigation in Hong Kong. These visitors include a United Nations Development Programme sponsored study group from the Government of Uzbekistan, a delegation from the Treaties and Laws Department of the Ministry of Foreign Affairs of the People's Republic of China, and several delegations of lawyers and judges from Mainland China.

Another main area of activity of the Special Committee has been human rights reporting concerning the situation of Hong Kong to different treaty bodies of the United Nations system. In 2013, three submissions were sent, including one to the Human Rights Committee in relation to the HKSAR Government's Third Periodic Report in the light of the International Covenant on Civil and Political Rights, one to

the Human Rights Council concerning China's second Universal Periodic Review and one to the Committee on the Rights of the Child in relation to the Second Periodic Report under the Convention on the Rights of the Child. Members of the Special Committee also met with the Chairperson and Country Rapporteur of the Committee on the Rights of the Child when they visited Hong Kong in August 2013.

The "kitchen" is expected to be incandescent in 2014. The consultation process for political development in the HKSAR has commenced in December 2013. Depending on developments, civil society may react in a variety of ways which in themselves may give rise to other public law issues. The Government is also consulting on other issues, including mandatory drug addiction testing. There will also be three submissions to United Nations treaty bodies. While the Special Committee stands ready to assist the Bar Council in relation to all these matters, it cannot do so without the unfailing support and enthusiasm of its members. As Chairman, I would like to end the 2013 report to give my thanks to the Members of the Special Committee, who very often had to be asked to handle with heavy-going issues at short notice and under a tight deadline.

Membership:

PY Lo (Chairman)

Lin Feng

Newman Lam

Jocelyn Leung

Earl Deng

Timothy Parker

Jeffrey Tam

Bonnie Cheng

Ken Lee

PY Lo

Chairman

Special Committee on Constitutional Affairs and
Human Rights

3 December 2013