

## **Report of the Special Committee on Family Law**

The Special Committee has continued during this year to perform its role of advising the Bar Council on matters concerning family law and promoting the interests of the Bar and its members on matters of family law.

The Special Committee considered and advised the Bar Council on the need for legislative changes to enable Hong Kong courts to deal with financial relief following decrees of divorce pronounced outside the jurisdiction. This will address an important vacuum for Hong Kong whose population is increasingly international in outlook and lifestyle and in particular will facilitate litigation arising out of cross-border marriages. It is hoped that speedy progress can be made in enacting such legislation to meet a growing need for this relief.

The Special Committee advised the Bar Council on the question of making legal aid available for Mediation in matrimonial cases. When mediation was introduced on a 3-year pilot scheme in matrimonial cases from 2000-2003 legal aid was unavailable but it was offered on a trial basis for a year in 2005 and proved to be a success. It was not extended beyond 2006 despite strong lobbying by the professional bodies concerned. Hence the administration's willingness to amend the necessary legislation to extend legal aid for mediation on a permanent basis is a welcome and long overdue measure. Under the proposal, the costs of the mediators will be treated in the same way as expert witnesses. It is hoped that the arrangements can be implemented as soon as possible.

The Special Committee also considered and advised the Bar Council on the draft Family Practice Direction ("FPD") prepared as part of the wider Civil Justice Reform. Many aspects of the CJR have been widely practised in the family jurisdiction for many years and have been proven to be effective. More extensive measures are now proposed to formalise those former arrangements and to bring the requirements under the CJR formally across the board in all family matters under the FPD. Members are advised to familiarize themselves with the new measures which will be strictly applied in the Family Court.

Some members of the Special Committee sit, either in their personal capacities or as nominees of the Bar, on a number of Committees covering various aspects of family law including Family Mediation, Financial Dispute Resolution and the Family Court Users Committee.

It is important that members of the Bar channel to the barristers on these various committees their views on the aspects of family law and procedure concerned. In addition, the Special Committee needs and values barristers' views and recommendations for improvement of the whole system and practise of family law in Hong Kong and welcomes all contributions and feedback.

Jacqueline Leong, SC (Chairman)  
Paul Shieh, SC  
Corinne Remedios  
Lisa Remedios  
Jeremy Chan  
Robin Egerton

10 December 2008