

## Report of the Special Committee on Mainland Affairs

### The Year

2013 was a busy year for the Committee. The objective through exchanges has always been to deepen the mutual knowledge and understanding of our respective professions and to work together to help develop friendship and co-operation. This will have a further benefit of promotion of common law and its use.

### Profile of Chinese Lawyers

Some ideas may be gained from the following information to understand the practice environment of lawyers in China and its various parts.

In October 2011<sup>1</sup>, the number of China's licensed lawyers has reached 200,000, a massive increase from several hundred in 1979 when the legal profession was re-established. The figure reached 232,384 by the end of 2012<sup>2</sup>, representing about 1.6 lawyers per 10,000 population. There were some 19,361 law firms, mainly on partnership (13,835), sole proprietor (3,993) and state funded (1,504). Partnership firms were mainly<sup>3</sup> that of 3 to 10 partners. Chinese lawyers were mainly working in Beijing (11.7 per 10,000 people), followed by Shanghai (6.7 per 10,000 people). This figure is much higher than some of the less developed provinces.

In politics, some 5.8% (1,343) of Chinese Lawyers were elected at various levels of the National Peoples' Congress, the body with the highest authority at the constitutional level.

By the time of writing this report, Beijing had held the Third Plenary Session of the 18<sup>th</sup> Communist Party of China Central Committee. The document adopted by the plenum says, "*Lawyers will play an important role in protecting the legal rights and interests of citizens and corporations in line with the law, and that their rights to practice will be protected while they will be punished for malpractice under improved systems*". Shortly after the third plenum the All China Lawyers Association established a 13-member committee to draft policies and measures regarding improvement of lawyers' practice, advise the ACLA on improving lawyers' work style, reflect the public's suggestions on lawyers' management, and supervise lawyers' practice. The 13 members include three working in the judicial sector, three grassroots members, two scholars and two lawyers.

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<sup>1</sup> according to the latest figures disclosed at the ongoing 9<sup>th</sup> China Lawyer Forum

<sup>2</sup> From All China Lawyers Association's report on social responsibility of China lawyers (2013).

<sup>3</sup> 92.9% of all the partnership firms.

## **Exchanges with Mainland<sup>4</sup>**

### **Beijing**

Official visit to Beijing in November led by our Chairman Paul Shieh SC was a highlight of the year attracting much media attention. This year we visited for the first time the Ministry of Foreign Affairs, in addition to the Basic Law Committee of the NPC, the Hong Kong & Macao Office, the Supreme Peoples' Court, the Ministry of Justice and the All China Lawyers Association. We had concluded a cooperative agreement with the ACLA to deepen our mutual cooperation.

During the year, the Bar had sent lecturers to conduct a common law course for the LLM (Public Policy and Law) students at the Peking University. This was a programme that had continued for the third year. Proposals are being discussed so that the programme will be expanded to the LLB in 2014.

### **Shanghai**

Shanghai is the international commercial centre in Mainland and probably the most cosmopolitan city in China. To this end a cooperative agreement has been signed with the Shanghai Bar Association. A series of activities had been held. The highlight has been that the Bar has a column on the monthly Shanghai Lawyer to write on Hong Kong law. Two joint seminars, one in Shanghai and one in Hong Kong have been held.

In Shanghai we had Miss Winnie Tam SC to give a lecture on intellectual property. In Hong Kong we had Mr Edward Chan SC on the topic of penalty in contractual dispute concerning the enforceability of the relevant section of the Civil Procedural Code on double interest penalty in default or delay in payment of judgment debts.

In November the co-operative agreement was renewed for another year. Together with the Shanghai Pilot Free Trade Zone with its negative list policy, it may be expected that some serious steps may be taken by the Shanghai government so as to deepen the mutual relationship with and to open up further opportunities in provision of legal services by members of the Bar.

### **Xiamen, Fujian**

With the support of the Department of Justice, in April we participated the "Xiamen-Hong Kong Week 2013 – Seminar on Hong Kong Legal and Arbitration Services" as speakers organized by the Department of Justice. The Secretary for Justice, Mr Rimsky Yuen SC had given tremendous support to this Seminar.

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<sup>4</sup> A chronological list of events is attached.

## **Guangdong**

**Arbitration** work is an important area of practice for members in Mainland.

During the year we had actively participated in the activities the Shenzhen International Arbitration Court and the Nansha International Arbitration Centre. Because of the proximity to the Guangdong Province, it can be expected that activities of many members will also focus in this area.

The **Foshan Lawyers Association** had always been a best friend to the work of the Committee. During the year we arranged Edward Chan SC to conduct a seminar on Hong Kong Law.

## **Acknowledgement**

I have to thank all those in the Committee who took an active part, at their own precious time and sacrifice valuable briefs on the work of the Committee. I would also like to thank the Bar Council, in particular the Chairman and the Vice-Chair persons for the unfailing support to the Committee. Last but not least I would like to thank Ava Wong of the Bar Secretariat for her hard work.

### Members of the Committee:

Andrew Mak (Chairman)

William Wong SC

Kenneth Chow

Kenny Lin

Edward Chow

Richard Khaw

Frederick Chan

YL Cheung

Barbara Wong

Julia Lau

Hectar Pun

Gary Soo

David Chan

Jane Curzon Lo

FY Kan

Elaine Liu

Tim Wong

Yvonne Fong

Derek Chan

Jolie Chao

Karen Ma

Ann Lui

Eunice Yung  
Kay Seto  
Selina Kung  
Jeffrey Sham  
Deanna Law  
Adrian Wong  
Devin Sio  
Byron Tsang

Andrew Mak  
Chairman of Special Committee on Mainland Affairs

5 December 2013

### **Highlights of MAC Events 2013**

- 14/1 Ceremony on Signing the Memorandum of Understanding with the Shanghai Lawyers Association, officiated by Mr Rimsky Yuen, SC Secretary for Justice of HKSAR, and Mr Liu Zhongding, Deputy Director of Shanghai Municipal Justice Bureau
- 11/3 Visit by Mr Lin Kairong, Secretary of Shenzhen Municipal Justice Bureau, and Mr Zhang Yong, President of Shenzhen Lawyers Association to discuss the supervisory approach on lawyers and the legal profession.
- 19/3 Meeting with Secretary for Justice to discuss the future development of Qianhai.
- 30/3-25/5 Conducted common law lectures for PekingU LLM students
- 12/4 The Bar Chairman met with journalists from the Mainland to promote “Xiamen-Hong Kong Week”
- 24/4 A delegation led by Mr Wang Hengqin, Principal of National Lawyers visited the Bar
- 25/4 The Bar Chairman and Bar Council members visited the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the HKSAR.
- 27/4 Participated as speakers in “Xiamen-Hong Kong Week 2013 – Seminar on Hong Kong Legal and Arbitration Services” jointly organized by Department of Justice and Hong Kong Economic and Trade Office in Guangdong held in Xiamen.
- 14/5 Visit by a delegation of 36 Chinese Senior Judges attending the 7<sup>th</sup> Advanced Program for Chinese Senior Judges organized by the City University of Hong Kong.
- 14/5 Visit by Mr Guo Xiaowen, Chairman of International Arbitration Court in Shenzhen.
- 15/5 The new Chairman of China Legal Services (H.K.) Ltd., Mr Guo Qingliang visited the Bar.
- 21/5 The Supreme People's court's judicial reform leading group visited the Bar.

- 28/5 Meeting with Shanghai Lawyers Association in Shenzhen to discuss the implementation of the Memorandum of Understanding which was signed in January 2013.
- 8/6 Conducted moot arbitration for PekingU LLM Students, and presented the scholarship awards to 10 outstanding students in the Ceremony.
- 10/6 A delegation of 15 Mainland officers attending the Training Scheme in Common Law conducted by the University of Hong Kong sponsored by the Department of Justice visited the Bar.
- 20/6 The Bar Chairman and Bar Council members officially visited Mr Zhang Xiaoming, Director of Liaison Office of the Central People's Government in the HKSAR.
- 9/7 15 outstanding law students of the Shantou University visited the Bar.
- 12/7 Mr Li Lizhi, Vice Director of Guangzhou Arbitration Commission, and Ms Jiang Lan, Vice Minister of Nansha International Arbitration Centre visited the Bar.
- 8-19/7 10 PekingU LLM Students (Scholarship Awardees) came to HK to experience the implementation of Common Law: The students visited major organizations and institutions in Hong Kong in the first week, and were given placement opportunities in barristers' chambers for internship in the second week.
- 19/7 The establishment of the Peking University Common Law Course Alumni Association.
- 29-30/7 Flew to Shanghai to give talks on Intellectual Properties and International Arbitration to members of the Shanghai Bar Association. During the stay, YBs visited the Young Lawyers Group of the Shanghai Bar, Shanghai International Economic and Trade Arbitration Centre (SHIAC), Shanghai Municipal Commission of Commerce, and Shanghai Municipal Youth Federation.
- 31/7 Visit by the Legal Education Trust Fund together with 50 university students of HK and the Mainland

- 2/9 A 5-member delegation from Mainland Justice Departments / Bureaux of the People's Republic of China who came to Hong Kong under an attachment scheme organized by the Department of Justice visited the Bar.
- 25/9 Mr Huang Huikang, Director General of Foreign Ministry's Department of Law, led a 5-member delegation from the Office of the Commissioner of the Ministry of Foreign Affairs of the People's Republic of China in the HKSAR visited the Bar.
- 23/10 Conducted lecture for 22 awardees of Caijing Scholarship for Journalists granted by National School of Development of the Peking University, visited the Bar and the Committee arranged them to visit Legco.
- 30/10-3/11 Official Visit to Beijing: visited the Ministry of Foreign Affairs, the Ministry of Justice, the Supreme People's Court, the Basic Law Committee; and Hong Kong and Macao Affairs Office of the State Council
- 13/11 A 12-member delegation from the Shanghai Bar Association the Bar visited the Bar. The Bar co-organized a seminar with the Hong Kong University Law Alumni Association on "Penalty Clause in Contract" held on their campus, and another seminar on "Professional Ethics and Code of Conduct" was held at the Bar Secretariat afterwards.
- 13/11 Ceremony on Renewal of the Memorandum of Understanding with the Shanghai Lawyers Association, officiated by Mr Rinsky Yuen, SC Secretary for Justice of HKSAR, and Mr Frank Poon, Solicitor-general of the Department of Justice.
- 27/11 A 10-member delegation of Shanghai Municipal Youth Federation visited the Bar.