

Solicitors' Higher Rights of Audience - the facts and the fiction.

By a series of articles, the Law Society's Working Party on Solicitors' Higher Rights of Audience will clarify the changes sought to current practice in Hong Kong. Members are invited to let the Working Party have their thoughts in this important and pressing issue.

Fusion

The Law Society does not seek fusion of the profession. Rather, the Law Society seeks an extension of rights of audience for solicitors into the higher courts.

What is meant by "fusion"? It means there being only one branch to the profession - no distinction between legal practitioners.

Fusion might be said to exist in the USA, Germany, and, closer to home, Singapore. In such jurisdictions those who are admitted, or called, as lawyers may practise law in any professional arrangement they choose, and they have full rights of audience before the courts in which they are admitted. There is only one regulatory body for all legal practitioners.

Fusion, as defined above, does not occur simply because all legal practitioners, including those who practise *qua* solicitor, have full rights of audience. For example, in certain states of Australia, legal practitioners are admitted, or called, as barristers and solicitors. There remains in those jurisdictions lawyers who practise in partnership within the environment we would recognise as a firm of solicitors. At the same time, other lawyers elect to practise as "barristers sole", much as barristers practice here in Hong Kong. Further, there commonly remains two regulatory bodies - a Law Society supervising the conduct of legal practitioners who practice *qua* solicitor, and a Bar Association supervising those who practise *qua* barrister.

In short, the fact of solicitors having higher rights of audience does not lead, in itself, to a fusion of the branches.

The Law Society does not seek, or advocate, fusion of the profession. The Law Society supports the existence of an independent private Bar. Indeed such a Bar is vital both for solicitors who choose not to pursue higher rights of audience, and those who do. An independent Bar provides an important source of referral advice, and the facility for general practitioners to engage in High Court litigation.

The existence of both an independent private Bar and solicitors with higher rights of audience, would allow each branch of the profession to develop into two strong, but complementary, branches adapted to, and able to, develop in accordance with the needs of Hong Kong's public.

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