

PRESIDENT'S REPORT



2008 was a year of contrasts and challenges. We started the year with a buoyant economy but this gave way to a guarded and gloomy, if not pessimistic, outlook in the latter months. Solicitors have not been immune to the challenges as illustrated by the dramatic drop in the number of transactions in the capital and property markets. The Law Society is alive to the challenges faced by members and waived membership fees for 2009. We are considering even more financial support, including a reduction of the practising certificate fee for 2010.

In the meantime, members are experiencing a new landscape in meeting their continuing professional development and risk management education commitments. After a review of the ten years of operation of the *CPD Scheme*, and the more recent *RME Scheme*, the Council resolved that it was time to move to an honour-based scheme. This means that members will no longer have to check in and out of courses and seminars, but will instead have to maintain their own records.

Speaking of CPD and RME, in the course of the year The Law Society incorporated the Hong Kong Academy of Law Limited, a company limited by guarantee. The principal function of this company is to administer all educational and training activities. The Academy will also be a platform for Hong Kong and mainland lawyers to learn from each other. As a company with charitable status, the Academy received a generous endowment from Council Member Mr. Billy Ma which was handed over at a ceremony to mark its inauguration officiated by the Chief Justice, the Secretary for Justice and visiting US Supreme Court Justice Mr Anthony Kennedy. The Academy now offers a wide range of courses and seminars, most of them free of charge. We thank those who have devoted their time and effort to deliver educational and training activities for fellow practitioners.

The call for training was stepped up with the introduction of wide ranging reforms to our civil justice procedures. After a long gestation of consultations, legislation and rule making, the reforms are being introduced on 2 April 2009. To enable practitioners to master the intricacies of the changes, courses were offered as from October 2008 and it is expected that more than 3,700 in the profession will have completed training before the implementation date. The Law Society will also continually monitor the operation of the civil justice reforms and liaise closely with the Judiciary on refinements which will be found to be needed to meet the unique requirements of the Hong Kong community.

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A significant change in the reforms will see the introduction of increased mediation as an alternative dispute resolution mechanism. As solicitors we are best positioned to take up this relatively new area of professional practice, provided that proper training and accreditation is available. The Law Society is committed to providing such training in the hope that solicitors will be the community's mediators of first choice.

Given the significant number of smaller practices that make up the solicitors profession, and the particular requirement for two or three smaller sound proof rooms in mediation practice, such solicitors will need proper premises to offer a mediation service. The membership of The Law Society has also practically doubled since the present premises were acquired, and there is a pressing need for more space to accommodate more secretariat staff to service the membership. On top of this we have no facility to provide training or seminars, or to house larger meetings and have to rely on external providers. The Council has therefore established a working group to consider our premises needs and will report to members with recommendations in due course.

One of the principal reasons that practices remain small is, it is widely believed, the inability to organize partnerships with limited liability. We conducted a members' survey in May 2008 and I am pleased to report that after many years of lobbying, we have convinced the Administration that solicitors should be eligible to practise in limited liability partnerships. The Department of Justice is now working on introducing the relevant legislation under the *Legal Practitioners Ordinance* and we can hope for mergers of firms into bigger partnerships over time. The Department of Justice is also working on the legislation to implement the Chief Justice's decision to enable solicitors to enjoy the right of audience in higher courts. On these two issues which are so pertinent to the practice of solicitors, the Council is not pleased that the time to introduce this legislation is so long.

The Council has had a focus on better servicing the needs of individual members and established a new standing committee to put the focus on members' interests. For too long a significant proportion of the membership has considered that The Law Society's only role is in regulation or disciplinary conduct, and our work in promoting members' interests has gone unnoticed. This new standing committee will make sure that appropriate resources are devoted to servicing the needs of members, and in enhancing practice management. In the present economic climate new areas of practice have to be explored.

Lawyers around the world celebrated the 60th anniversary of the Universal Declaration of Human Rights in 2008. The Law Society reached out to the Hong Kong community by printing a flyer setting out the Hong Kong Bill of Rights and sending this to hundreds of thousands of households in Hong Kong. My counterpart at the Hong Kong Bar also joined me in reading out a public statement to reaffirm the role of lawyers in defending human rights and ensuring the rule of law. The Law Society also joined over 100 bars and law societies around the world to subscribe to the Convention Between Lawyers of the World to mark the role of lawyers as sentinels of freedom.

Our engagement with lawyers in other jurisdictions was also strengthened when leaders from pinnacle legal professional bodies from 4 jurisdictions came to Hong Kong to witness the ceremonial opening of the legal year in 2008. This favourable response encouraged us to extend our invitations further afield and 15 leaders with accompanying delegations came for the event in 2009. In particular, to consolidate the association of the Czech Bar and The Law Society of Hong Kong pursuant to a Memorandum of Understanding signed in May 2008, the

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delegation coming from the Czech Republic numbered over 25 and all of them reached out to Hong Kong firms to explore opportunities for mutually beneficial professional engagements. The Law Society plans to continue hosting bar leaders from around the world at the opening of the legal year.

Furthermore, we engaged with legal professional leaders throughout the year through the auspices of the POLA (Presidents of Law Associations of Asia), the International Bar Association, the American Bar Association, the Commonwealth Lawyers Association (in which we have observer status), and Lawasia to understand issues of mutual concern and explore areas for cooperation. I was honoured to have been elected as President-elect of Lawasia, and I look forward to serving the legal profession in the region when I take up the appointment in November 2009. We shall also look forward to hosting the Commonwealth Law Conference in April 2009, the first time this auspicious conference shall take place outside of a Commonwealth jurisdiction.

Our focus on issues in the mainland remained principally on the privileges extended to lawyers under the Closer Economic Partnership Arrangement. However we also played our part in the two disasters to strike our motherland, namely when snow storms struck much of China in February and an earth shattering earthquake struck western China in May. Our donations were followed by exploring ways to render direct assistance to lawyers affected in these disasters.

Not every endeavour of The Law Society has met with success and a sore point that remains with the Administration refusing to offer realistic remuneration to solicitors who perform criminal legal aid work. Our advocacy on this has continued throughout the year with speeches in the Legislative Council during meetings of the Panel on Administration of Justice and Legal Services, on the radio, and in numerous meetings with government officials. The Administration has made some slight improvement in its offer, but the gulf in our differences remains very large.

Issues pertaining to title registration in the landed property market are still to be resolved and The Law Society is not pleased with the Administration's current proposal relating to the conversion mechanism. We sense that the public is not properly informed of the issues at stake and will step up our public education efforts. This is an issue that has come and gone for over 20 years, and we can only hope that the Administration will launch something meaningful before too long.

I will have served two years as your President by the time of the next annual general meeting and the time has come to step down to make way for fresh initiatives and renewed energy from another candidate. I have enjoyed the privilege of serving all solicitors as well as the Hong Kong community, and hope that my work has enhanced the standing of the solicitors profession, and my initiatives introduced in the last two years will bring some benefit to the profession as a whole. I sincerely thank all members, and in particular those who have served on Council with me, and the Secretariat staff for their invaluable counsel, good cooperation and unfailing support.

Lester G Huang
President