

SECRETARY GENERAL'S REPORT

This is my third and last report as the Secretary General. It has been my honour to serve my profession in this chief executive position. The President and his predecessor Mr. Lester Huang whom I have served are brilliant leaders. I have witnessed important initiatives of the Law Society materialise under their presidency. Certainly, their contributions have long-term implications to the profession.

I thank the President and all fellow members of the Council, Committees and Working Parties for their support of the work of the Secretariat. I am grateful to all my colleagues at the Secretariat for their team work in serving our members and the public. I am indebted to Ms Heidi Chu, for her assistance since she assumed the office as the Deputy Secretary General in March 2008. I am pleased that she will succeed me as the new Secretary General on 1 March 2011.

CHANGING PROFILES OF THE LEGAL PROFESSION

By the end of 2010, the total number of solicitors, foreign lawyers and trainee solicitors registered and regulated by the Law Society reached 10,097, an increase of 7%. There were 7,986 solicitors, 1,266 foreign lawyers, and 845 trainee solicitors. 66% of the solicitors were in private practice. Nearly half of them worked in law firms with more than 5 partners, representing about 10% of all 764 solicitors' firms in Hong Kong. The remaining 34% worked either in-house or in the Government, NGOs or commercial organisations. 14,137 unqualified persons, including paralegals, law clerks and secretaries were registered as employees of 764 solicitors' firms; and about 500 as employees of 72 registered foreign firms. Including barristers there are a total of about 26,000 persons working in the legal services sector in Hong Kong.

As a gateway to Mainland China and as a conduit for not only the inflow but the outflow (from the Mainland) of capital, Hong Kong has become a global centre for capital raising after topping the rank in the world in terms of the IPO equity funds raised by The Stock Exchange of Hong Kong for a second consecutive year in 2010. The solicitors' profession has to meet the rising demand for services of an increasingly international nature involving multi-jurisdictional issues. Close to 60% of the 1,266 registered foreign lawyers were employed by local firms. 45% of the foreign lawyers were from the United States, 23% from England and Wales, 10% from Mainland China, 8% from Australia and the remaining from 24 jurisdictions around the world. 26 foreign firms from overseas are practising in association with local firms in Hong Kong. There are in addition 4 associations by Mainland China law firms with Hong Kong firms. By entering into an association registered with the Law Society, a foreign firm, including a Mainland China law firm in Hong Kong, may share fees, office premises, and general staff with its associated local firm.

Some foreign law firms have chosen to localise their operations after having been set up in Hong Kong for not less than three years. In 2010, five foreign firms met the statutory requirements for localisation of their practices in Hong Kong and became Hong Kong firms of solicitors; and in addition, 4 foreign firms were in the pipeline for localisation in the early 2011.

With the opening up of the legal services market in the Mainland, 52 local firms (representing more than 6% of all local firms) have set up 67 representative offices across Mainland China, including the major cities of Beijing, Shanghai and Guangzhou. Besides, there are 23 Hong Kong solicitors' firms which have set up a total of 39 Mainland representative offices in Beijing and Shanghai that are registered at the Ministry of Justice as representative offices of law firms from foreign countries. The Law Society continued to lobby for new measures under CEPA for introduction on a trial basis as a pilot scheme in Guangdong, including the measure to permit the representative offices of Hong Kong firms to employ Mainland lawyers and to provide Mainland legal services in Guangdong.

As mentioned in the President's report, the Law Society is continuing to work closely with the relevant Bills Committee of the Legislative Council on the amendment bill for the introduction of limited liability partnership as a new mode of practice for solicitors and foreign lawyers. The Law Society is also continuing to work with the Department of Justice to finalise the Solicitor Corporation Rules that govern the incorporation of solicitors' practices. Although group practices are permissible, it has not yet been a popular mode of operation by solicitors.

There are two routes to become a solicitor. One of these routes is to complete the Post-graduate Certificate in Laws course offered by the law faculties in Hong Kong; and then to undertake a two-year traineeship as a trainee solicitor under the supervision of a qualified principal. The other route is available to overseas lawyers, Mainland Chinese lawyers and barristers who are in possession of the requisite minimum post-qualification experience as a lawyer by passing the Overseas Lawyers Qualification Examination ("OLQE") administered by the Law Society annually. A record of 224 candidates sat for the OLQE in 2010 in which 176 who have passed the entire examination are eligible for admission as Hong Kong solicitors. These new entrants to the solicitor profession come from a variety of ethnic and education backgrounds and they possess a wealth of experience as practising lawyers from the common law and civil law jurisdictions.

SELF-REGULATION OF THE PROFESSION IN THE PUBLIC INTEREST

The Law Society is empowered by law to regulate the conduct of solicitors, foreign lawyers and trainee solicitors and law firm employees to protect public interest and maintain public confidence in the profession. The Basic Law guarantees the right to confidential legal advice and choice of lawyers for timely protection of individual rights and interests or for representation in the courts.

Complaints against the conduct of a solicitor, a foreign lawyer, a trainee solicitor or an employee of a solicitors' firm or a foreign firm are investigated by the Law Society; and where circumstances warrant, the Council of the Law Society submits these complaints to the Tribunal Convenor of the Solicitors Disciplinary Tribunal.

The "Notes to Parties to a Complaint" which have been posted on the Law Society's website provides guidance to the public on the complaint procedure.

In 2010, there were 992 complaints against the conduct of solicitors, foreign lawyers, trainee solicitors and employees of law firms lodged to the Law Society. About half of these complaints were not pursued as no issue of professional misconduct was raised. 262 cases were referred to the Investigation Committee for determination. 19 matters were referred to the Tribunal Convenor by the Council on the recommendation of the Standing Committee on Compliance.

The Council is also empowered to appoint inspectors to ensure compliance with the law and regulations by law firms in their practices; and to intervene by taking control of the office, clients' money, files and documents of a law firm for the protection of the public in the exceptional circumstances where clients' interests are at risk. In 2010, the Council resolved to intervene in the practice of one solicitors' firm for failing to comply with the Solicitors Professional Indemnity Rules.

It is a mandatory requirement for solicitors' firms to keep and maintain separate clients' accounts for funds held in trust or as stakeholders for their clients in compliance with the Solicitors' Accounts Rules. The Law Society Monitoring Accountants conducted seminars on a regular basis to assist solicitors and their accounting staff to familiarise themselves with these Rules. Routine visits were made by the Monitoring Accountants to new firms of solicitors and foreign firms.

A "Software Directory and Selection Guide" on the practice management software, including the law firm accounting software, with an assessment of their respective features, functionalities and comparative pricing has been published by the Law Society to assist practitioners to make the right choice.

FREE LEGAL CONSULTATION AND PRO BONO SERVICES BY THE PROFESSION

The 45-minute free legal consultation at www.choosehklawyer.org continues to receive the support of the solicitors' profession. About 100 law firms have renewed their services to the public by offering 45-minutes' free initial consultation in a whole range of practice areas, such as building management, consumer protection, employment, guardianship, intellectual property, landlord and tenant disputes, personal injury claims, wills and probate, and Mainland-related legal services.

Maintenance and champerty or "trafficking in litigation" are criminal offences in Hong Kong. To assist victims of traffic or industrial accidents to make their claims for compensation in court by engaging the services of solicitors, a "Personal Injuries Helpline" has been set up by the Law Society. More than 100 solicitors have joined the panel to provide up to one hour's free legal consultation to the accident victims.

Many solicitors have volunteered their services free of charge for various pro bono schemes such as the Free Legal Advice Scheme run by the Duty Lawyer Service at the District Offices, the Property Management Advisory Centre, and the Hong Kong Trade Development Council's SME Advisory Service and China Business Advisory Service.

The "specialist" committees of the Law Society have received the voluntary support of over 400 members who are busy practitioners. They review reports for public consultations and legislative proposals issued from time to time by Government bureaux, the Law Reform Commission, Securities and Futures Commission, the Consumer Council and various other public bodies and professional organisations on a whole range of law-related topics of public importance. The Competition Bill, for instance, is one of such topics recently considered by the Competition Law Committee of the Law Society. Further, during the past year, over 120 presenters most of whom are members of the Law Society have assisted in giving talks and seminars as part of our Continuing Professional Development and Risk Management Education programmes. The Law Society is grateful to all those who have volunteered their valuable assistance to the profession.

The Pro Bono Committee and the Pro Bono and Community Work Recognition Committee set up by the Law Society oversee all the existing initiatives on free legal advisory services, identify and develop new pro bono projects for lawyers; and give due recognition to the pro bono services extended by solicitors to the community by holding an annual pro bono awards ceremony and work for reciprocal recognition with other agencies on the pro bono services by the legal profession.

LAW SOCIETY MANAGEMENT & ADMINISTRATION

In 2010, the Law Society appointed a software developer to revamp the existing membership database system and website system that had been in use for more than 20 years. It is expected that the new systems will be launched around mid-2011. The document management system has also been replaced by a new system with special features to cater for the needs of the secretariat. An IT team led by an IT Manager is managing these projects.

The Law Society Clubhouse has been renovated as a multi-purpose venue for seminar, meetings and for social functions by members.

Under the Secretary General's Office, there are six departments in the Secretariat. They are the Finance and Administration Department, the Compliance Department, the Standards and Development Department, the Practitioners Affairs Department, the Member Services Department, and the Communications and External Affairs Department. Each of these departments is responsible for implementing the policy initiatives and directions of the respective Standing Committee under the Council. I do not intend to repeat the details of the work of these departments under the auspices of the Standing Committee on Policy and Resources, the Standing Committee on Compliance, the Standing Committee on Standards and Development, the Standing Committee on Practitioners Affairs, the Standing Committee on Member Services, and the Standing Committee on External Affairs that are summarised in this annual report.

It remains for me to say a special word of thanks to all fellow members of the profession for their advice and support in these years.

Raymond C. K. Ho
Secretary General

