



**Ambrose Lam**  
*President*

2013 was an eventful year and I am pleased to report on the major work undertaken by The Law Society during the past year.

## Explore New Opportunities

### Advocate proper recognition of our right to practise as Hong Kong solicitors in Taiwan

Hong Kong is a very open legal service market. Lawyers from other jurisdictions can provide their services to the public in Hong Kong as a qualified legal practitioner of their home jurisdictions if they are registered with The Law Society in accordance with our relevant registration rules and offer such legal services from within a law firm in Hong Kong.

However, for some jurisdictions, the situation is less clear. For example, in Taiwan, the criteria in Taiwan's foreign lawyer registration regime do not apply to Hong Kong, Macau or Mainland lawyers because this group of lawyers is not considered as "foreign". There are, however, no other registration rules that apply to us resulting in an anomaly that there is no means for a Hong Kong lawyer to practise as such and provide Hong Kong legal services to the public in Taiwan because we are considered neither local nor foreign. The lack of reciprocity in permitting Hong Kong lawyers to practise in Taiwan is unsatisfactory and disappointing.

In June, I led a delegation to visit various authorities in Taiwan including the Ministry of Justice, the Judicial Yuan, the Mainland Affairs Council of the Executive Yuan and the Straits Exchange Foundation and raised our concern about the exclusion of Hong Kong lawyers from the registration regime. The relevant authorities have reassured us that they are aware of the anomaly and are actively looking at ways to resolve it. We will continue to lobby for proper recognition of our fellow practitioners' right to practise as Hong Kong solicitors in Taiwan.

### Enhance international presence of The Law Society and take part in shaping the global future of the legal profession

It is pertinent that we keep ourselves fully abreast of not only what is happening in our own jurisdiction, but also around the globe. To nurture this awareness in our young lawyers and to help increase their international exposure, it has been our longstanding policy to sponsor their attendance at annual international conferences. This year, The Law Society sponsored young lawyers' attendance at the annual conferences of LawAsia, the Inter-Pacific Bar Association, the International Bar Association, the Union Internationale des Avocats, the Commonwealth Law Conference, the American Bar Association and the All China Lawyers Annual Conference.

Apart from young lawyers, The Law Society also sends delegates to major events overseas. Our participation keeps us updated about global trends and ensures that Hong Kong's legal profession is well represented internationally. As President of The Law Society, I led numerous Law Society delegations to these international events during 2013. Securing an international presence is only the starting point. Our aim is to help shape the global future of the legal profession through our active role in prominent international organisations.

Our current representation spans various international organisations: I am a member of the Policy Committee of the Bar Issues Commission of the International Bar Association; Ms. Melissa Pang, Council Member, is a member of the Executive Committee of LawAsia; Mr. Huen Wong, Past President, is the Vice President of the Inter-Pacific Bar Association; Mr. Fred Kan, member of our Standing Committee on External Affairs, is the Regional Secretary of Union Internationale des Avocats; and Ms. Heidi Chu, Secretary General, is a member of the Executive Committee of the International Institute of Law Association Chief Executives.

Through our diverse representation and network in different international set-ups, we are blessed with valuable opportunities to promote our legal services, learn from each other's experiences and share our aspirations for a better practising environment.

## Foster close relationships with overseas professional bodies

Maintaining a close working relationship with our overseas counterparts has always been the policy of The Law Society. It facilitates useful exchanges of information on jurisdictional developments of law and legal practices. In 2013, The Law Society signed two Memoranda of Understanding with the Luxembourg Bar Association and the Kaoshiong Bar Association in March and July respectively.

## Safeguard the Rule of Law

2013 has been an exciting year with heated public debates on various constitutionality issues including the introduction of universal suffrage for the election of Chief Executive in 2017. One of the important tasks of The Law Society is to defend the rule of law and the independence of the judiciary. The Law Society reflects the views of our members wherever appropriate; but as an apolitical organisation, The Law Society is careful not to get itself involved in political debates. In 2013, The Law Society issued two press statements, in March and in June respectively, urging the Government not to seek a free standing interpretation of the Basic Law after the Court of Final Appeal ("CFA") judgment of the foreign domestic helper case and to put in place mechanisms to protect people from cyber surveillance and interceptions following the Edward Snowden's case.

## Improve Practice Environment

### Recommend reforms on prosecution and compensation policies

Back in September 2011, the Hong Kong Academy of Law Limited organised a seminar called "Reflections on the Shanghai Land case". This seminar attracted over 1,500 members — a quarter of Hong Kong's practising solicitors — by far the largest turnout ever. This speaks volume about the level of concern practitioners have on issues raised by *Vivien Fan v HKSAR [2011] HKEC 949* which has come to be known as the "Shanghai Land case". In that case, the CFA quashed all the convictions of the appellants (three of whom are solicitors) with what I perceived to be critical comments on the prosecution and the courts below. In view of the apparent concerns from our members, the Council had set up a working party dedicated to addressing practice issues stemming from cases such as this.

In January, the Council published our report titled "Access to Justice — Review of Recent Court of Final Appeal Judgments Affecting Professional Advisers and Others". We highlighted the areas of concern in relation to how cases were prosecuted, the role of the Judiciary, prosecution and compensation policies of the Department of Justice, as well as phone tapping. We will continue to follow up on these areas with all relevant parties.

## Advocate immediate update of the party and party rates

Another area that The Law Society has been working on is to rectify the growing divergence between the normal average chargeable hourly rates of solicitors and the recommended allowable hourly rates for solicitors in party and party taxation. This growing divergence means that a successful litigant is being disadvantaged in that although he succeeds in his court proceedings and we adopt the “loser pays” principle, what he recovers from the losing party under a costs order is substantially insufficient to cover what he actually pays his solicitors. This widening recoverability gap erodes the principle of “loser pays” and effectively diminishes the attractiveness of Hong Kong as an international dispute resolution centre. The Law Society has commissioned external consultants to prepare a report on how the party and party rates should be updated to narrow the recoverability gap for the benefit of successful litigants. In March, we published the consultants’ report with recommendations on the updated rates and have since then been urging the Judiciary to rectify the anomaly as soon as possible.

## Push for early implementation of limited liability partnerships

Conditions in the profession are increasingly competitive. Overheads and labour costs are soaring. One way to reduce cost is to take advantage of the economy of scale. However, solicitors’ practices in Hong Kong are still predominantly small. About 45% of law firms are sole proprietorships and 45% are firms with 2 to 5 partners.

The Law Society has been working closely with the Administration to finalise the subsidiary legislation relevant to the introduction of limited liability partnerships (“LLP”) for solicitors during 2013. In December 2013, we submitted the draft subsidiary rules governing the top-up insurance requirement on LLP to the Judiciary for approval in principle. Hopefully, this additional option to operate as LLP will provide an incentive for firms to expand and grow. The Law Society will initiate more business development and practice management training courses for solicitors who are contemplating a change of their practice operation including converting to LLP.

## Maintain Standards

### Initiate discussion on the proposal of a common entrance examination (“CEE”)

In recent years, views have been expressed by our members that there is a lack of consistency in the standards of entrance to the solicitors’ branch of the profession. Queries have also been raised as to why entrance to the profession is not administered by the profession itself since the Council of The Law Society has been given the statutory power to prescribe the admission requirements including the passing of examinations under the Legal Practitioners Ordinance.

As a result, The Law Society has resolved to undertake a consultation with the stakeholders on the question of a CEE for solicitors. The consultation document sets out the different routes to admission as solicitors, considers the problems to which a CEE might be a solution and whether there might be alternative solutions. If a CEE is appropriate, then there are questions about when it should be taken and at what level; what should be assessed and how the CEE would relate to existing qualifications such as the law degree and the PCLL. The consultation started in December 2013 ending in February 2014. The Council will study the responses very carefully when deciding the way forward.

## Provide Effective Support to Members

As in past years, The Law Society continued to provide a variety of services to our members including recreational and sports activities and joint professions' networking functions. In 2013, we also introduced some new initiatives.

### Code of Good Practice in the Recruitment of Trainee Solicitors

In March, The Law Society introduced a Code of Good Practice in the Recruitment of Trainee Solicitors to assist those involved in the recruitment of trainees to achieve an effective, open and fair recruitment process.

### Young Partners

The Law Society puts in substantial efforts in serving the needs of our diverse membership. In February, the Young Partners Roundtable under the Practice Management Committee was established to take care of the interests and needs of members who have been admitted to partnership or have become sole practitioners for five years or less.

### Sole proprietorships and firms with up to five partners

To serve our members better, The Law Society conducted a study to identify the pressing issues of concern facing sole proprietorships and firms with up to five partners in October. We will study the results and address the identified concerns accordingly.

## Contribute to Community Work

The Law Society organises many community projects every year and our annual signature events include Law Week, Teen Talk, Mentorship Programme for secondary students and many others. One of our new initiatives in 2013 included the extension of our helpline to different practice areas.

### Helpline on matrimonial, personal injury and criminal cases

Since May, The Law Society has provided free telephone advisory service on three practice areas, namely, matrimonial, personal injury and criminal cases. As of the end of December, we received over 1,400 enquiries, out of which, over 1,000 cases had been assigned to solicitors on the helpline panel.

I am deeply grateful to my fellow Council Members, the Secretariat and all those who assisted in the work of The Law Society for their support and contributions without which we would not have been able to achieve what we did.

The year ahead is full of exciting challenges and I look forward to continuing to contribute to the best of my abilities for the benefit of the legal profession and the community.

**Ambrose Lam**  
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