

**Panel on Administration of Justice and Legal Services  
Use of Official Languages for Conducting Court Proceedings**

**Background**

The LegCo AJLS Panel discussed this subject at a meeting on 13 December 2002. The Panel has requested another discussion, with reference particularly to the following issues:

- (a) statistics on trials conducted at various levels of court vis-à-vis the number of applications for court proceedings to be conducted in Chinese and the number of trials conducted in English;
- (b) the number of bilingual judges at different levels of court;
- (c) progress made in enhancing the ability of judges to conduct proceedings in Chinese and ensuring adequate supply of judges competent to conduct proceedings in Chinese;
- (d) the progress of use of Chinese in proceedings at different levels of court and problems encountered, if any; and
- (e) the impact of the increasing use of Chinese in court proceedings on litigation costs, particularly in relation to cases tried in the Court of Final Appeal and the High Court.

2. This paper sets out the responses of the Judiciary Administration to those issues.

**Statistics on trials conducted in Chinese**

3. The Panel has been provided with information on the ratios between the use of English and Chinese in conducting trials at the different levels of courts in 2002. The table at Annex A updates that information to 2003 and compares it with 1999 when such information was first available for all levels of courts.

**Number of bilingual judges**

4. The table at Annex B shows the positions as at August 2001 (when such information was first available) and December 2003. The percentage of bilingual judges and judicial officers in the High Court and the lower courts increased slightly from 62% to 64% of the total.

## **Training for judges on Chinese ability**

5. Prior to 30 June 1997, during the period of 3½ years between 1 January 1994 and 30 June 1997, the Judiciary conducted 14 Chinese Language training courses for judges and judicial officers, involving a total of 100 attendees. Of these, 12 courses were on spoken Putonghua and Cantonese and 2 were on Chinese writing.

6. During the period of 6½ years between 1 July 1997 and 31 December 2003, the Judiciary had organised a total of 42 Chinese Language training courses, involving a total of 233 attendees. Of these, 23 courses were on spoken Putonghua and Cantonese and 19 were on Chinese writing.

7. More detailed information is at Annex C.

8. Apart from the Chinese Language training courses, the Judiciary has been discussing with the University of Hong Kong and the City University of Hong Kong on running courses on the writing of judgments in Chinese for judges and judicial officers. We have received proposals from the two universities and hope to start the courses in the latter part of 2004.

## **Progress of use of Chinese in proceedings**

9. The table at Annex A illustrates that the percentages of trials using Chinese in the courts have significantly increased. This may tend to show that the capability of the courts to conduct Chinese trials is not inadequate although the number of bilingual judges and judicial officers has only increased slightly since 30 August 2001.

10. Compared with other levels of courts, the Magistrates' Courts use Chinese much more extensively. In order to meet the needs of the court users and to facilitate greater use of Chinese in court proceedings, a pilot scheme on "Chinese Trial Court" was initially launched in North Kowloon Magistrates' Courts and Shatin Magistrates' Courts in July 2000 and March 2001 respectively to test the feasibility of using Chinese as the medium in trials and preparing reports. In such trials, the Magistrates and all the parties would use Cantonese and the documents for use in the proceedings, including pre-sentencing reports, would be in Chinese as far as practicable. There would be no interpretation services in such trials. The scheme proved to be successful and has been extended to all Magistrates' Courts since February 2002, each with one court designated as "Chinese Trial Court".

11. In facilitating the use of Chinese in legal proceedings, the Judiciary has co-operated with a publisher of legal publications to produce a Bilingual Common Law Series. The first case book in the series, on Criminal Law, was published at the end of 2003. It contains excerpts from judgments in English both from Hong Kong and other common law jurisdictions and their Chinese translation. The excerpts included are among those which are often cited in our criminal courts. Parties to legal proceedings, lawyers, judges and judicial officers should find the case book helpful in citing and quoting judgments in proceedings conducted in Chinese.

### **Impact of increasing use of Chinese in court proceedings on litigation costs in the High Court and the Court of Final Appeal**

12. Such data is not available in relation to proceedings in the High Court. However, it is reasonable to assume that litigation costs are usually reduced because the length of hearings is usually shortened as there is no need to interpret between Chinese and English and vice versa and this is consistent with the experience of bilingual judges. But their experience has been that that the time taken to write judgments in Chinese is usually longer than writing judgments in English.

13. As to the Court of Final Appeal, hearings in court are usually conducted in English and the question of saving in litigation costs with the use of Chinese at hearings does not arise.

Judiciary Administration  
February 2004

**The ratios between English and Chinese trials  
at the different court levels in 1999 and 2003**

	<b>1999</b>	<b>2003</b>
<b>Court of Final Appeal</b>		
English	100%	100%
Chinese	0	0
<b><i>Court of Appeal</i></b>		
Criminal cases		
English	87.4%	72.1%
Chinese	12.6%	27.9%
Civil cases		
English	87%	77.9%
Chinese	13%	22.1%
<b><i>Court of First Instance</i></b>		
Criminal Cases		
English	88.4%	80.7%
Chinese	11.6%	19.3%
Civil Cases		
English	94.7%	73.1%
Chinese	5.3%	26.9%
Appeals from lower courts		
English	60.5%	35.6%
Chinese	39.5%	64.4%
<b><i>District Court</i></b>		
Criminal Cases		
English	85.9%	69.9%
Chinese	14.1%	30.1%
Civil Cases		
English	94.1%	66.7%
Chinese	5.9%	33.3%
<b>Magistrates' Courts</b>		
Charge cases		
English	59%	36.3%
Chinese	41%	63.7%
Summonses		
English	Not available	6.1%
Chinese	Not available	93.9%

### Bilingual Ability of Judges and Judicial Officers (JJOs)

Court	As at 30.8.01		As at 22.12.03	
	No. of JJOs	Bilingual JJOs	No. of JJOs	Bilingual JJOs
Court of Appeal	39	18 (46%)	39	17 (44%)
Court of First Instance				
District Court, Family Court and Lands Tribunal	34	18 (53%)	33	19 (58%)
Magistrates' Courts and other Tribunals	81	60 (74%)	83	63 (76%)
Total	154	96 (62%)	155	99 (64%)

#### Note

Bilingual judges and judicial officers refer to those who are able to speak, read and write Chinese, including conducting trials and preparing summing-ups and judgments in Chinese.

**Comparison of Statistics of Language Training Course  
before and after July 1997**

Course		Year	1.1.1994 to 30.6.1997	1.7.1997 to 31.12.2003
Putonghua Course (Organized by Judiciary/CSTDI)	Elementary		4(19)	5(23)
	Intermediate		2(11)	5(23)
	Advanced		2(18)	4(24)
	One-to-one		1(1)	4(4)
Cantonese Course (Organized by Judiciary/CSTDI)	Elementary		2(11)	0
	Intermediate		1(3)	3(4)
	Advanced		0	1(3)
	One-to-one		0	1(1)
Chinese Writing Course (Organized by CSTDI)	Applied		0	4(34)
	Refresher		0	9(49)
	Practical		2(37)	1(9)
Tsinghua University Chinese Writing Course for Bilingual JJOs			0	5(59)
	Total		14 (100)	42 (233)

Note

Number in bracket is the total number of JJO attendees at that level of course during the period.