

LegCo Panel on Administration of Justice and Legal Services
Policy Initiatives of the Department of Justice

Introduction

The 2005 Policy Agenda lists the Government's new and ongoing initiatives over the next two and a half years. This paper describes the initiatives that relate to the Department of Justice.

Effective Governance

2. We have six ongoing initiatives under the heading of "Effective Governance". They are as follows -

- Continuing to take forward constitutional development after 2007 and collating views from the community on how the methods for the selection of the Chief Executive in 2007 and for forming the Legislative Council in 2008 may be changed in accordance with the Basic Law and the Decision of the Standing Committee of the National People's Congress of 26 April 2004. The Constitutional Development Task Force will continue to consult the public and hopes that around mid-2005 a consensus will emerge from among the community to enable legislative work to proceed thereafter.

- Continuing to facilitate the implementation of “One Country, Two Systems” and to demonstrate its success; and to facilitate the promotion of public awareness and understanding of the Basic Law.
- Promoting understanding of the rule of law in and outside Hong Kong and considering reforms to improve the legal system.
- Promoting transparency in the area of public prosecutions and implementing practical steps to avoid miscarriages of justice.
- Liaising with our justice partners to enhance the quality of criminal justice and taking of measures to secure a better deal for victims of crime and witnesses.
- Continuing the Bilingual Law Information System to provide easy access to our bilingual laws of Hong Kong and improving the standard of government lawyers in respect of bilingualism in law.

3. The Secretary for Justice is a member of the Constitutional Development Task Force that was established in January 2004 to examine the relevant issues of principle and legislative process in the Basic Law relating to constitutional development, to consult the relevant departments of the Central Authorities, and to listen to the views of the public. Since its establishment,

the Task Force has published four reports, in March, April, May and December last year. The next stage of the Task Force's work is to collect further views from different sectors of the community and to formulate a comprehensive package which stands the best chance of achieving consensus among the various parties, having regard to the nine factors stated in the Report submitted by the Chief Executive to the NPCSC in April 2004 and the Decision of the NPCSC. The package will be put forth in the Fifth Report of the Task Force.

4. The Department of Justice will continue to provide legal advice to all Government bureaux and departments to ensure that their policies and legislative initiatives comply with the Basic Law. It will also provide legal assistance whenever any of those policies or initiatives are challenged in court. This advice and assistance will help to ensure that the concept of "One Country, Two Systems" is faithfully implemented. The department will also continue to assist in promoting public awareness and understanding of the Basic Law by participating in the publication of the Basic Law Bulletin and in the work of the Basic Law Promotion Steering Committee, and through speeches, briefings and other activities.

5. The promotion of the rule of law will continue to be achieved in numerous ways – such as through articles, speaking engagements, conference attendances and briefings, both in Hong Kong and elsewhere. The department's ongoing work in considering ways to improve the legal system will include participating in the Chief Justice's Working Party on solicitors' rights of audience, and promoting the Statue Law (Miscellaneous Provisions)

Bill 2005.

6. As a responsible prosecuting authority, we recognise the importance of explaining our work to the community. Through the publications of the Prosecutions Division and a policy of openness, we will continue to promote transparency and accountability in respect of public prosecutions. Awareness of latest developments in the criminal law will also be furthered.

7. Recent initiatives to avoid miscarriages of justice will continue to be taken forward. These include -

- implementation of a code of practice to regulate the conduct of expert witness engaged by the prosecution
- application of new guidelines on the use of prisoner informants
- reshaping of cultures and practices amongst frontline enforcement personnel
- retention of case materials to facilitate reviews of convictions in light of forensic advances
- post-exoneration reviews of cases which have miscarried.

8. Recent initiatives to promote the interests of persons involved in criminal cases are ongoing. These include -

- implementation of new prosecution guidelines on the treatment of victims and witnesses
- improved guidance for witnesses at court, and pre-court
- better treatment at court of victims in sexual cases.

9. As an effort to further improve public access to the Bilingual Laws Information System (“BLIS”), an additional feature allowing those who gain access to the BLIS through the Internet to download all or selected provisions of an Ordinance or a piece of subsidiary legislation in one go has been added to the system since May 2004. This feature relieves a user who would like to download all or a substantial number of selected provisions of a piece of legislation of the trouble of downloading and printing the provisions one by one.

10. The department will continue to take various steps to improve the bilingual skills of counsel. These include provision of special Chinese courses at Zhonshan University, the development of bilingual legal glossaries and sample bilingual documents and charges, and the translation of significant judgments.

Vibrant Economy

11. We have one new initiatives, and four ongoing initiatives, under the heading “Vibrant Economy”.

12. The new initiative is to explore with Hong Kong legal profession, and discuss and conclude with Mainland authorities, on further market access opportunities for legal services under the Closer Economic Partnership Arrangements (CEPA) III. The CEPA I and CEPA II between the Hong Kong SAR and the Mainland have already conferred significant benefits on Hong Kong lawyers who wish to provide legal services in the Mainland. The Department of Justice will explore further ways in which Hong Kong lawyers could benefit under CEPA III.

13. The four ongoing initiatives are as follows -

- Overseeing socio-legal research being conducted by consultants into the supply of, and demand for, legal services in the community.
- Facilitating further discussions with Mainland authorities on legal co-operation; implementing legal co-operation agreements with individual Mainland Justice Department or Justice Bureau; enhancing exchanges between Hong Kong legal profession and

the Mainland counterparts; and promoting greater understanding of business opportunities among Hong Kong lawyers in business opportunities in the Mainland.

- Contributing to the development of a legal services information website.
- Assisting in the development of Hong Kong as a regional centre for legal services and dispute resolution.

14. In July 2004, the Department of Justice commissioned consultants to undertake a two-year study into the supply of, and demand for, legal services in the community. The results of this socio-legal research can help in shaping future policies in respect of legal services and dispute resolution. The department has established an advisory committee, consisting of members of the legal profession, legislators, academics and others, which will monitor the work of the consultants.

15. The department will continue to develop co-operation, mutual legal understanding and business opportunities in respect of the Mainland by implementing legal co-operation agreements between itself and justice bureaux and departments in various Mainland provinces and cities; by facilitating exchanges between members of the Hong Kong legal profession and their Mainland counterparts; and by promoting greater understanding among Hong Kong lawyers of the business opportunities in the Mainland.

16. In March 2004, the Department of Justice commissioned experts at the University of Hong Kong to establish a bilingual legal information website. This will enable members of the community to have free access, via the Internet, to user-friendly information in respect of legal problems that commonly arise. It will also help them to find legal advisers, and to obtain information about financial help and the costs of legal services. The department will continue to monitor the development of this website, which will take about three years to complete.

17. The development of Hong Kong as a regional centre for legal services and dispute resolution will continue to be promoted through speeches, articles and briefings of visiting delegations, as well as by ongoing discussions on the proposed reciprocal enforcement of Hong Kong and Mainland judgments and on the Hague Convention on Exclusive Choice of Court Agreements.

Enlightened People with a Rich Culture

18. We have one ongoing initiative under the heading of “Enlightened People with a Rich Culture”, which is to continue to participate in the work of the Standing Committee on Legal Education and Training to oversee and promote reforms in legal education. A new statutory Standing Committee on Legal Education and Training is taking over the work previously done by the ad hoc Steering Committee on Legal Education and Training, and

by the statutory Advisory Committee on Legal Education. A representative of the Department of Justice will be a member of the new Standing Committee, which will ensure that the momentum of reform continues in the years ahead.

Comments

19. The Department of Justice welcomes comments by members of the Panel on these initiatives and will continue to co-operate with the Panel as it takes the initiatives forward.

Department of Justice

January 2005

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