

## **Legal Education**

The LegCo Panel on Administration of Justice and Legal Services has asked for the Administration's views on a number of issues relating to legal education.

### **Role of the Administration**

2. Before addressing the particular issues, this paper will consider the role that the Administration has in respect of legal education.

3. First, as an employer of hundreds of qualified lawyers, the Administration has a legitimate interest in ensuring that its recruits are of a high quality. It also has a duty to ensure that adequate continuing legal education and (where necessary) specialised training is provided for its recruits. The legal services provided by government lawyers must meet the reasonable expectations of its clients.

4. Secondly, the Administration wishes to ensure that Hong Kong's private legal profession is of a high quality. Members of the community should be able to obtain legal advice that is of a proper professional standard. In addition, Hong Kong must maintain its international reputation as a leading centre for dispute resolution. The rule of law and the independence of the judiciary rely heavily on the integrity, honesty and professionalism of the legal community.

5. The Administration nevertheless recognises that the legal profession is to a large extent a self-regulating institution, and the universities must enjoy academic freedom. The best way forward is for the Administration to work together with the legal profession, the law faculties and the Judiciary in addressing issues relating to legal education.

6. This has, in fact, been the approach that has been adopted all along. Under the Legal Practitioners Ordinance, there is an Advisory Committee on Legal Education which consists of -

- (1) the Chief Justice or his representative, who is chairman;
- (2) the Secretary for Justice or her representative;
- (3) the Secretary for Education and Manpower or his representative;
- (4) 10 other members appointed by the Chief Executive, of whom -
  - (a) 3 are nominated by the Law Society;
  - (b) 2 are nominated by the Bar Association;
  - (c) 2 are nominated by the Vice-Chancellor of this University; and
  - (d) 1 is nominated by the Vice-Chancellor of the City University; and
- (5) co-opted persons.

The Committee is required to, and does, report its advice at least annually to the Chief Executive or more often as the Chief Executive requests.

7. The Department of Justice has also co-operated with academics, judges and legal practitioners on particular projects through other channels. For example, it was represented on a Steering Group established by the City University to consider new law courses it was planning, and it is represented on Mr Justice Waung's committee which is now considering the PCLL examinations. In addition, the Secretary for Justice chairs a Committee on Bilingual Legal System. This is expected to

provide a blueprint for a co-ordinated approach to the greater use of Chinese in the law. This is bound to have implications for legal education.

### **Quality of new entrants**

8. With regard to the quality of new entrants to the legal profession, the experience of the former Legal Department and of the Department of Justice has been gained mainly from observing the graduates that have been employed by the department. It is considered that those graduates are, by and large, of a very good standard. Some recently recruited law graduates are of outstanding ability.

9. At present, the Department of Justice has 102 counsel who have gained both their LLB and PCLL in Hong Kong, and 46 counsel who gained their PCLL here. Many of them are directorate officers, including 6 at the Deputy Law Officer rank. Of the 148 counsel with local qualifications, 86% are either already on permanent and pensionable terms, or have had their applications for transfer to such terms approved. These figures indicate that the locally qualified lawyers that the department has recruited are doing well. The Department of Justice certainly values their services highly.

10. It is not clear how representative of the general standard our locally qualified counsel are. The Department of Justice tries to recruit the best and, in recent years, its terms of employment and promotion prospects have made the Department of Justice a relatively attractive employer.

### **Government recruitment**

11. In its recent recruitment exercise, the Department of Justice selected only 14 applicants for permanent appointment, although there were 18 vacancies. A number of other candidates will be considered for temporary appointments. There were many good lawyers amongst the candidates who applied for the post of Government Counsel. A lot of

them have years of experience in private practice and have demonstrated very good legal knowledge in their respective areas of expertise.

12. However, many aspects of the work of the Department of Justice, for example, bilingual law drafting, China law and constitutional law, require expertise quite different from that needed for legal work in the private sector. The knowledge and skills of many experienced candidates are not, therefore, readily transferable for application in the Department.

13. In this year's recruitment exercise, all legal divisions in the Department, except Law Drafting Division, have been able to identify suitable candidates to fill vacancies. The gap between intake and vacancies in Law Drafting Division has arisen because lawyers in private practice rarely have relevant experience in drafting bilingual legislation and few candidates indicated an interest in this kind of legal work.

14. One English-language newspaper recently quoted a member of the Department of Justice as saying that the standard of applicants was 'appalling'. However, that comment did not accurately reflect the department's views, which are set out above.

### **Continuing legal education**

15. The Administration supports the efforts being made by the Law Society and Bar Association to provide continuing legal education for solicitors and barristers.

16. The Department of Justice has a well established training programme for its counsel, with the objective of enhancing their professional, management and linguistic skills. Details are set out in the annexed question and answer.

## **Improvements**

17. Various suggestions have been made for improving the quality of new entrants to the legal profession. The Department of Justice considers that these suggestions merit thorough considerations. The question is how and by whom.

18. Last year, the Advisory Committee on Legal Education recommended that a full scale review of legal education in Hong Kong should be conducted. This year, the Law Society has applied for Government funding to arrange a year-long review by an independent consultant. A decision is expected in respect of that application in the near future.

19. Assuming that some form of review is conducted, it would be helpful if all sectors of the profession were fully supportive of the review. The Department of Justice would give its full support to such a review.

Bureau Serial No.

SJ16

Question Serial No.

**Annex**

Examination of draft Estimates of Expenditure 1999-2000

**CONTROLLING OFFICER'S REPLY TO  
ORAL/SUPPLEMENTARY QUESTION**

Head 92 Department of Justice Subhead (No. & title):

Programme: All

Controlling Officer: Director of Administration and Development

Question: Will the Department of Justice provide this Committee with details of training for counsel?

Asked by: The Honourable Emily Lau

Reply:

The Department has a well established training programme for counsel with the objective of enhancing their professional, management and linguistic skills. Details of the training activities in 1998 - 99 are as follows (expenditure figures shown in brackets) -

- (A) Training activities under Subhead 149 - General departmental expenses
  - (a) Overseas legal training (\$580,000) - 20 participants attended 8 overseas courses, including courses on law drafting and international law, the Middle Temple Advocacy Training Course and attachment programme on constitutional law.
  - (b) Seminars and short courses on law organised by local institutes (\$350,000) - 326 participants attended 84 courses/seminars.
  - (c) Local long courses (\$227,000) - 15 participants attended part-time degree courses in law, run by local institutes, e.g. LLM in Chinese Law.
  
- (B) Training activities under Capital Account Subhead 700 Item 511 - Training in China law and advocacy in Cantonese
  - (a) Fudan Course (\$720,000) - the 7-day short course on China Law was conducted at the Fudan University, Shanghai. Four classes were organised and were attended by 52 participants.
  - (b) Chinese advocacy training (\$20,000) - 14 participants attended the Chinese advocacy courses organised by the Advocacy Institute of Hong Kong.
  - (c) Seminars on China law (\$22,300) - 4 participants attended the seminars conducted in the Mainland.
  
- (C) In-house legal training (no additional expenditure) - 54 in-house seminars/workshops/visits were organised, with a total attendance of 499 participants. Details are as follows -
  - (a) 20 in house seminars/workshops/visits were conducted and attended by 333 participants. With the exception of (i), all were conducted by in-house speakers. The following legal subjects were covered -
    - (i) 1 course in criminal procedure law of PRC
    - (ii) 1 course in Basic Law
    - (iii) 4 courses in advocacy training

- (iv) 2 courses in role of prosecutors
- (v) 5 courses in law/evidence
- (vi) 5 courses in trial/procedure
- (vii) 2 visits to police station
- (b) 34 training sessions on Chinese advocacy were organised and attended by 166 participants -
  - (i) 18 training sessions in Chinese mock trial
  - (ii) 12 sessions in Chinese mock appeal
  - (iii) 4 sessions in drafting court documents

(D) Training courses centrally coordinated and financed by Government

Our counsel participated in training courses in various areas, such as China studies, information technology, human resources development, Chinese writing, Putonghua and Cantonese. A total attendance of 183 participants was recorded. Details are as follows -

- (a) Management Training
  - 32 participants attended the following courses -
    - (i) Senior Staff Development Programme (7-week local full-time course) - 4 participants at Senior Government Counsel level attended the course.
    - (ii) Leadership Enhancement and Development (LEAD) Programme, Harvard University (one-week local residential course for D3 officers or above) - 3 participants attended the course.
    - (iii) Overseas management development programmes - 1 participant attended a 4-week management programme in the United Kingdom.
    - (iv) Local short seminars on management - 4 participants attended the directorate seminars on management.
    - (v) Local short management courses conducted in CSTDI - 10 participants attended short management courses in CSTDI.
    - (vi) Media Training - 10 participants attended such training.
- (b) China studies training
  - 53 participants attended the following programmes -
    - (i) Tsinghua Course (4-week full-time residential course in Beijing) - 10 participants attended the course.
    - (ii) Familiarisation Visit to the Mainland (one-week full-time residential course in Mainland) - 7 participants took part in the visits.
    - (iii) Zhongshan Course (two-week full-time residential course in the Mainland for non-native Cantonese speaking officers) - 2 participants attended the course.
    - (iv) Local short seminars on China Studies - 34 participants attended the seminars.
- (c) English and communication training - 4 participants attended such courses.
- (d) Computer training - 1 participant attended a computer course.
- (e) Course on Use of Chinese - 38 participants attended Chinese Writing Courses and 5 participants attended the courses on Chinese characters.
- (f) Putonghua Courses - 45 participants attended such courses.
- (g) Cantonese Courses - 5 participants attended such courses.

In 1999-2000, the Department will continue to send counsel to various training courses/seminars. The estimated expenditure for the training of counsel is as follows -

<b>(A) Recurrent Expenditure (Subhead 149 General departmental expenses)</b>	<b>Estimated Expenditure</b>
(a) Overseas legal training	\$800,000
(b) Seminars and short courses on law organised by local institutes	\$400,000
(c) Local long courses, e.g. LLM in Chinese Law (Part-time)	\$300,000
<b>Total</b>	\$1,500,000
<b>(B) Capital Account (Subhead 700, Item 511 - Training in China Law and advocacy in Cantonese)</b>	<b>Estimated Expenditure</b>
(a) Fudan Course	\$800,000
(b) Chinese advocacy training	\$250,000
(c) Seminars on China law.	\$50,000
<b>Total</b>	\$1,100,000

Signature	_____
Name in block letters	Mrs Pamela TAN
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	Director of Administration
Post Title	and Development
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Date	22 March 1999
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