



Yearbook 2000

Law Association, HKUSU

ALERE FLAMMAM JUSTITIAE

Yearbook 2000

Law Association, HKUSU

Message from the Dean, Faculty of Law



One of the joys of being teachers is that we are always in the company of young students, and this helps us to stay forever young in heart. Youth is wonderful and beautiful. It is the spring-time of one's life cycle. It is a time of energy and creativity; a time of visions and ideals; a time for the development of commitment to one's lifelong quest and the unfolding of one's life plan. And it is a time for one to prepare oneself for the challenges and tasks that lie ahead.

The learning that takes place in the university is, of course, an important part of such preparation. I always believe that it is of utmost importance for students to take their studies seriously, to do their best not to waste the great educational opportunities that the university and taxpayers have made available for them, and not to disappoint the great expectations of their parents, relatives and friends. But I think it is equally important for university students to participate actively in extra-curricular activities, without which their university education would not be complete. The learning that takes place as one participates in extra-curricular activities is invaluable and cannot be substituted by classroom learning. For example, one learns how to make friends and to interact and work with others; one learns to take control of one's life and to organize and develop projects one creates for oneself; and one learns to cultivate hobbies and interests that will enrich one's life in the years to come.

Designing, planning, editing, contributing materials to and organizing the publication of this Yearbook of the Law Association is one of the extra-curricular activities of the students in our Faculty. I appreciate very much the initiative, enthusiasm and hard work which I have seen in them as they embarked on this project this year, and I would like to offer my warmest congratulations to them on the successful publication of this volume.

I would also like to express here our Faculty's deepest gratitude to the Friends of the Faculty who have been making generous donations to the Faculty year after year to fund student activities, scholarships and overseas mootings. Without their financial support, the publication of this volume would not have been possible.

Professor Albert H.Y. Chen

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Year Photos

YEAR I



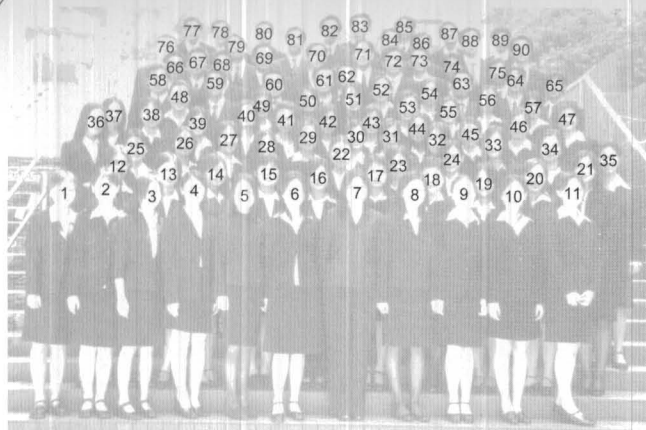


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| 6 Chow Lai On | 25 So Hiu Fai, Scarlet |
| 7 Chow Wan Man, Rosanna | 26 Au Wan Sze, Wendy |
| 8 Lau Wai Hung, Amanda | 27 Suen Hoi Ning, Christina |
| 9 Kiu Mei Kam, Quennie | 28 Chan Wai Yan, Polly |
| 10 Guo Lei, Carmen | 29 Ling Ling |
| 11 Lee Hoi Wan, Edith | 30 Chow Yin Suen, Irene |
| 12 Tang Wai Shan, Alice | 31 Si Ho Ling, Dora |
| 13 Lai Wing Sze, Angela | 32 Kwong Lo Ki, Winnie |
| 14 Chu Wing Sze, Jenny | 33 Wong Ya Sin, Maggie |
| 15 Tsao Yen Lynn (Julia) | 34 Lau Kar Yee, Lucia |
| 16 Lee Nga Yin Fiona | 35 Sze Chun Mei |
| 17 Cheng Kwan Yu | 36 Wong Hui Shan, Hazel |
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| 19 Zhou Min | 38 Yip Wai Ling |

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| 70 Kun Sze Ki, Jasmine | 105 Fung Ka Tat, Raymond | |
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YEAR II



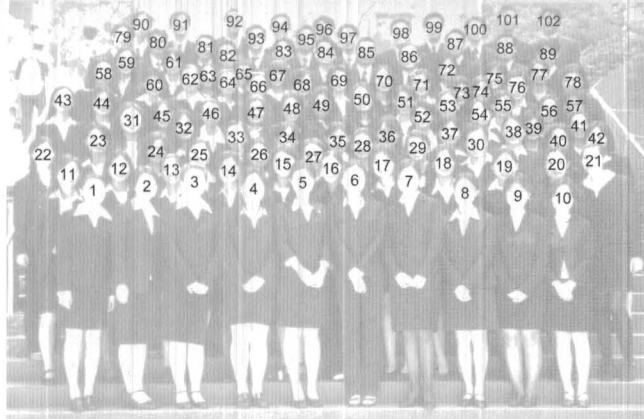


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| 13 Wong Pui Man, Katrina | 30 Lai Kar Pui, Winnie |
| 14 Wong Man Chi | 31 Choi Wing Kei |
| 15 Chan Heung Ying, Joanna | 32 Hong Sum Yee, Cindy |
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| 36 Kee, Eleanor | 66 Leung Sze Yi, Andy |
| 37 To Ching Nga, Gillian | 67 Sun Siu Wah |
| 38 Ho Man Wai, Emily | 68 Law Chung Ming, Lewis |
| 39 Chui Shih Yen, Joceline | 69 Lung Gwun Ting |
| 40 Wong I Chung, Emily | 70 Au Wing Him, Alex |
| 41 Fung, Pamela Candice | 71 Tam Wai Kay, Wilson |
| 42 Hui Man Wai, Wanda | 72 Cook, Adrian |
| 43 Chan Wai Tak | 73 Lam Shing Yin, Newman |
| 44 Leung, Emily | 74 Yung Chun Wan, Eric |
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| 46 Kam On Lai, Ivy | 76 Lo Lok Kiu |
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YEAR III





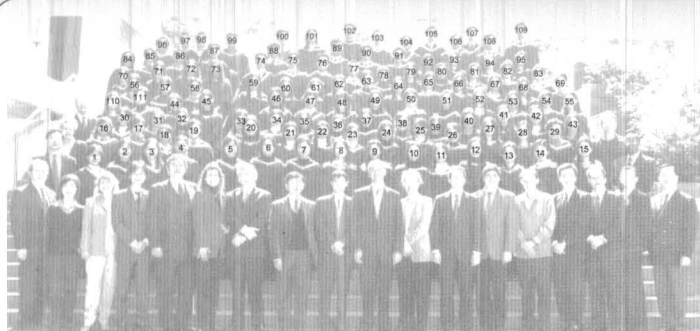
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| 43 Ng On Ki, Angel | 73 Ho Man Chi, Vencei |
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| 46 Ma Lap Yan, Jenny | 76 Yip Lin Po, Tracy |
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| 48 Yip Wai Yan, Charmaine | 78 Mak Kei Man, Fiona |
| 49 Cheng Yun Wah, Venna | 79 Lam Chung Wai, Vincent |
| 50 Tang Tsz Ho, Ethle | 80 Wan Shiu Man |
| 51 Fung Hoi Kwan, Alice | 81 Kwong Chi Chun, Rickie |
| 52 Chan, Roberta | 82 Mak Ming Lai, Nicholas |
| 53 Lam Joy Yue, Joy | 83 Wong, Gary |
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| 55 Cheng Shun, Iris | 85 Tse Tsun Ting, Chris |
| 56 Law Tsz Ying, Karen | 86 Yip Tung Sang, Alan |
| 57 Wong Wai Yee, Rachel | 87 Fung Ting Chung, Donald |
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| 59 Chow, Helene | 89 Ip Wan Fung, Wilson |
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| 62 Fong Yuen Ting, Fiona | 92 Wong Wing Hoi, Martin |
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| 101 Ho Siu Kai, Andy |
| 102 Singh, Baljinder |

PCLL





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| 1 Sham Che Yan, Janette | 22 Kwok, Kristen |
| 2 Cheung Ka Ki, Maggie | 23 Lee On Yin, Flora |
| 3 Tam Lee | 24 Yan Ka Po, Karen |
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| 16 Chugani, Varsha | 37 Ho Mei Shan, Christy |
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| 66 Ko Pui Lam, Perline |
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| 81 Cho Yi Ping, Rae |
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| 83 Leung Ka Man, Carmen |
| 84 Lau Yik Chi, Karine |
| 85 Wu Chi Hang, Jason |
| 86 Wong Yiu Kwong, Raymond |
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| 90 Pang Leung Ting, Norton |
| 91 Fung Kin Wah, Franky |
| 92 Ng Yee Lok |
| 93 Wong Hoi Shan, Momique |
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| 95 Chan Ka Yan, Kane |
| 96 Ng Pak Kin, Danny |
| 97 Fang Fan, Mike |
| 98 Chen Sai Lung, Brian |
| 99 Chang Tien Yin, Jonathan |
| 100 Fang Hsin Jan, Sean |
| 101 Tsui Hang On, Yvonne |
| 102 Lam Wing Yiu, David |

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| 105 Tsang King Fung, Dicky |
| 106 Lee Tin Ho, Peter |
| 107 Chow Ka Lok, Kevin |
| 108 Pao Jin Long |
| 109 Lee Ty Yip, Ronald |
| 110 Yin Ka Man, Carol |
| 111 Wong Chung Kei, Gloria |

Activities and Functions

The Executive Committee

Chairman	: Hon Wai Hon, Wayne (II)
Internal Vice-chairman	: Lee Hai Man, Jenny (II)
External Vice-chairman	: Tang Chun Pong, Carfield (II)
General Secretary	: Leung Sze Ning, Clara (II)
Treasurer	: Wong Chin Pang, Alex (II)
Social Convenor	: Leung Wing Ngar, Emily (II)
External Secretary	: Lau Kar Yun, Joan (II)
Sports Captain	: Chan Chi Ko (II)
Legal Education Secretary	: Tang Yat Lam, Vanessa (II)
Welfare Secretary	: Chan Ho Ki, Anthony (II)
Marketing Secretary	: Yeung Yuen Ki, Violante (II)

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Newsgroup	: hku.law-assn.hk-law (only accessible by HKU account)
Websites	: http://www.hku.hk/lawassn

Message from the Chairman

I had a very inspiring conversation with a PCLL colleague just before the AGM for the Law Association, HKUSU, Session 2000-2001. It was a shame that we didn't have that conversation before I started my term of office, but still, late is better than never. It was so constructive that I decided to bring that up in the Evaluation Meeting before the AGM. The message might not have been well taken at the time, but I believe that it is worthwhile to share it with all the members again.

It was a conversation about the operation and direction of the Law Association. He just came back from his one-year exchange program in Canada and had a lot to say about student's societies from his observation there. We had a long conversation but I will only focus on two things among which we discussed: the efficiency and the nature of the Law Association.

What's the point of having a 30-hour campaign or a 15-hour Evaluation Meeting where only 20 members show up? What's the point of hundreds or even thousands of photocopies while we have our own email system and homepage? What's the point of having our own water fountain while there's a water fountain on the ground floor of KK Leung Building? What's the point of having 400 members while only 100 really care? What's the point?

The nature of the Association should also be revisited. Do we need an association that is no more than a high school class committee? Or do we want an association that can really represent our interests and is for all of us to be proud of? The fact is that the world is changing, but the Law Association is not keeping up. Worse still, traditions and our own Constitution seem to be blocking the way to change. To start with, all the formalities: campaign, AGM, EGM, etc., all of them came from the Constitution. If we have to change all that, we have to change the Constitution. But such a change would be limited by the Constitution of the Student Union, which we must obey. And the traditions are not helping either. Being critical is one good thing, but why wait until the Evaluation Meeting to show your discontent when you can show your support while there is still room to make some changes? Why "approve" the proposal from the potential ExcOs while you can "discuss" with them and help them along?

The situation reminded me of a remark by Albert Einstein: "The significant problems we face cannot be solved at the same level of thinking we were at when we created them." Indeed, this is the kind of situation we are facing right now. Modifying the previous activities may not be enough anymore. As Aristotle said: "We are what we repeatedly do. Excellence, then, is not an act, but a habit." If the Law Association continues to do less than excellent, it will never become excellent. Maybe what we need is a rethinking of the Law Association, from the bottom up, inside out. The Law Association has been great, but I believe it could do better, but only with your help.

Having said all that, being a member of the Executive Committee of the Law Association was still a wonderful and valuable experience. The opinion expressed above was not meant to discredit the existence of the Law Association. Rather, it was based on my strong belief that the Law Association can bring more to its members and do so in a more efficient way - that maybe it is time for some changes.

I would like to take this opportunity to say thanks to the other 10 ExcOs for putting their great efforts into the running of the Law Association. Also, a million thanks to all our members, helpers of various activities, Faculty staff, Friends of Faculty and sponsors; without the help of whom, the Law Association would not exist. Last but not least, special thanks to Alex Au and members of the Editorial Board 2000, without their dedication this Yearbook could not have been published.

Hon Wai Hon, Wayne

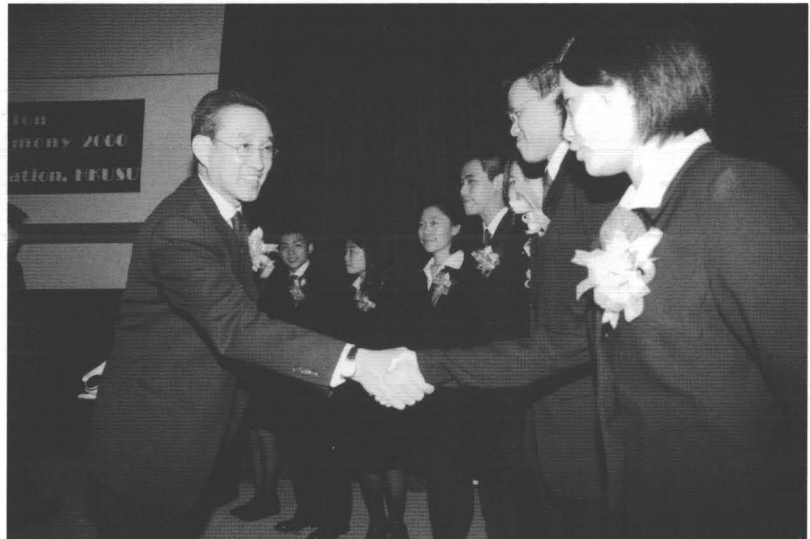
Activities and Functions Held

Date	Event	Venue
25/2/2000 & 3/3/2000	Homepage Workshop	Run Run Shaw Room 201
26/2/2000	Basic Law Exhibition	Polytechnic University of Hong Kong
4/3/2000	Three-on-three Basketball Competition	Flora Ho Sports Centre
23/3/2000	Inauguration Ceremony	Rayson Huang Theatre
14/04/2000	High Table Dinner	KKL Building Senior Common Room
11/08/2000 - 14/08/2000	Registration and Briefing Counter for Newcomers	KKL 303
24/08/2000 - 26/08/2000	Orientation Camp	Po Leung Kuk Pak Tam Chung Holiday Camp
01/09/2000 - 31/12/2000	Legal Education Talks	Various Secondary Schools
08/09/2000	Freshmen Show	CYM 303
15/09/2000	Mass Orientation	Luk Yew Hall
18/09/2000 - 20/10/2000	Individual Visits	Campus
13/10/2000	Legal Book Sale	CYM 302
11/11/2000	Annual Dinner	Hong Kong Jockey Club
15/11/2000 - 18/11/2000	Study Tour With Singapore	Various places
16/11/2000	Career Development Forum	KKL 303
21/11/2000	Legal Forum	Sun Yat-Sen Place
09/02/2001	Freshmen Night	Fong Shu Chuen Canteen

Inauguration Ceremony 2000

Carfield Tang
External Vice Chairman

The Inauguration Ceremony of the Law Association 2000-2001 was held on 23rd March 2000 at Rayson Huang Theatre. There were about 80 guests attending the ceremony, including our Dean Prof Albert Chen, Head of Department of Professional Legal Education Prof Michael Wilkinson, President of the Law Society of Hong Kong Mr Anthony Chow, the representative from the Hong Kong Bar Association Mr Godfrey Lam, the representative from the Young Legal Professionals Association Mr Gilbert Mo, the representative from Herbert Smith Mr. George Lamplough, the representatives from Bloomsbury Books Limited Miss June Lee and Miss Eva Sung, HKUSU's representative, Art Association's representative, Engineering Society's representative, Science Society's representative, Social Science Society's representative, Medicine Society's representative, Lee Chi Hung Hall's representative, Lee Hysan Hall's representative and, of course, the Executive Committee of the Law Association HKUSU 1998-1999.



Mr Anthony Chow, President of the Law Society of Hong Kong, congratulating the new members on their taking of office



Handover of association chop, signifying the transfer of office

As the Person in Charge of the Inauguration Ceremony this year, I believe that the following four goals should be achieved in holding an inauguration:



New committee members making their oath

1. To let others know there is a new executive committee for the new session.
2. To let others see the way law students organise functions.
3. To let us communicate with the representatives from other societies and associations.
4. To let the sponsors come so as to make our solicitation of sponsorships easier and more efficient.

With the very much welcomed attendance of guests from different fields and the smooth run-down that night, it is evaluated that the four goals abovementioned have been achieved. Lastly, I would like to express my heartfelt thanks to the subcommittee members of the Inauguration 2000. Thank you!



Guests enjoying their night



Prof Albert Chen, Dean of the Faculty of Law, making an inspiring speech

General and Current Affairs Committee

Carfield Tang

Director

General and Current Affairs Committee

The Committee

GCAC is a subcommittee under the Law Association. It was established in 1998 with the goals to 1) promote social awareness, 2) draft declarations on social issues whenever necessary and 3) review the Constitution of the Law Association.

This subcommittee is not a standing committee, i.e., it is not stipulated in the Constitution of the Law Association. I continued to hold this subcommittee in my term of office because its nature was so relevant to my major constitutional duty, which is to promote social awareness among law students.

Current Issues

Although immense efforts have been paid, the result as to promotion of social awareness among law students was fair. Only members of the GCAC participated in discussions of current issues. Nevertheless, the discussion atmosphere within the group was satisfactory and encouraging.

Throughout the year, I have placed newspaper cuttings on the GCAC board. Apart from some current issues, I also have introduced special issues in seven periods by producing information, including:

1. The PCLL tuition issue
2. The Student Demonstration issue
3. The Campus Redevelopment issue
4. The Cage Dwellers issue
5. The Human Rights issue
6. The Vice-Chancellor issue
7. The University Council issue

In order to attract more members to watch the GCAC board, a total of four series of GCAC papers were posted near the lifts on 3rd and 5th floor of the KK Leung Building, including:

1. The PCLL tuition issue
2. The Campus Redevelopment issue
3. The Human Rights issue
4. The Vice-Chancellor issue

Declarations

Apart from knowing the current issues, I believe law students should also have their voices and concerns heard. That is why one of the goals of the GCAC is to draft declarations on current issues whenever necessary. Last year, a total of three declarations were issued, including:

1. A Letter to Mrs Alice Lam, the Chairman of the University Grants Committee (UGC) on the cut of subsidy to the PCLL programme. (Both English and Chinese version)

2. 就鍾庭耀事件致香港大學校務委員會之公開信 (Chinese version only) 學校務委員會之公開信 (Chinese version only)
3. “Vice-Chancellor, Prof. Cheng Yiu Chung and Pro-Vice-Chancellor, Prof. Wong Siu Lun Should Resign” (both Chinese and English version)

我們要求香港大學
校長鄭耀宗及副校長黃紹倫
因其不能維護學術自由而辭職

對於於二零零九年九月一號鍾庭耀事件之調查小組向公眾發表的獨立調查報告，我們有以下數點意見：

1) 香港大學校務委員會近日被受其是否有權力去成立現有的調查小組之質疑，但根據《香港大學規程》第九規程所指，香港大學校務委員會是有權力去委聘審慎、財政、會計、投資、物業、商業或其它大學的事務及就以上的原因而去委任銀行家、大律師、律師或其它對相關事的專家。此規程亦再受香港法例1053章《香港大學條例》中的第七(三)條，“校務委員會為大學的行政團體，須訂立有關保管和使用大學印章的規定，並在符合本條例及規程的規定下，管理大學的財產與處理大學的事務”。所以，香港大學校務委員會在法律上是有權去成立現在的調查小組的。

2) 參照該調查小組的報告，我們得出以下數點：
(一) 港大副校長黃紹倫教授和鍾博士於一月及十一月的二次對話中，皆是含有逼使鍾博士停止民意調查的秘密動機。
(二) 調查委員會相信政治考慮是一九九九年一月二十九日會面的主要原因。另一方面，對促成一九九九年十一月二十九日會面雖然有多種原因，但政治考慮仍是最重要的原因。
(三) 調查委員會中多數成員皆相信黃紹倫副校長是受命於鄭宗校長而前去該二與鍾博士的會面的。

根據以上之調查結果，港大校長鄭耀宗和副校長黃紹倫很明顯地在政治壓力前，沒有為香港大學維護學術自由。由於學自由對整間大學的聲譽甚為重要，因其所引發之影響會波及所有大學師生，所以我們懇求香港大學校務委員會終止校長鄭耀宗及副校長黃紹倫教授的合約。因為其未能有效維護學術自由已是香港法例1053章《香港大學條例》第十二(六)條中“校長、首席副校長、副校長、司庫、教務長、圖書館館長及規程指定為主管人員的其他人，由校務委員會按照規程聘任，而校務委員會不得終止任何上述聘任，但如校務委員會在對有關事實妥為作出調查後，認為有好的因由終止聘任，則不在此限”中的好因由了。

3) 雖然現時的獨立調查委員會已作出了它們的調查報告，但我們依然懇請立法會成立一獨立調查委員會去再之探討此事，主要基於以下二點：

(一) 現今之調查報告依然未有任何對政治壓力起源得到結論，而所有調查最遠也只是去到特首助理路祥安先生，反而最為人懷疑的政治來源-特首董建華先生則未有出席該調查委員會，此皆因該調查委員會沒有能力於法律上去傳召大學以外的人士。但根據香港法例第三八二章《立法局(權力及特權)條例》第九條之《命令證人列席的權力》，所有人包括特首也可被傳召作證了，那麼於立法會將較易找到全盤事實了。

(二) 直至現在我們一直不知鄭耀宗校長和路祥安先生說了什麼，因為調查委員會在報告中也指出二人也沒有透露出完全真實及全部的證供。如果再有一調查在立法會進行，以上問題將可減少甚至消除。因為根據香港法例第三八二章《立法局(權力及特權)條例》第十八條之《虛假證據及欺騙》，任何人作假口供皆可被判入獄。

學術自由是一所大學之基石，因其對一所大學之聲譽以及以外界人士對該大學師生所發表之學術報告之信心有莫大影響。所以，我們再次懇請香港大學校務委員會終止校長鄭耀宗及副校長黃紹倫教授的合約。

香港大學學生會法律學會執行委員會 2000-2001

Vice-Chancellor, Prof. Cheng Yiu Chung and
Pro-Vice-Chancellor, Prof. Wong Siu Lun
Should Resign

In regard to the Report of the Investigating Panel on Dr. Robert Chung Issue released on 1st September, 2000, we would like to put forward the following points:

1) The Investigating Panel appointed by the University Council is a legitimate body to handle the investigation since the University Council has followed the correct procedure. According to Statute XIX of STATUTES OF THE UNIVERSITY OF HONG KONG, the University Council is given the power “to administer and manage the finances, ..., and all affairs whatsoever of the University, and for that purpose to appoint bankers, counsel, solicitors, and such officers or agents as it may be expedient to appoint.” The power of the University Council is affirmed by THE UNIVERSITY OF HONG KONG ORDINANCE (Chapter 1053) Section 7(3), “The Council shall be the executive body of the University, and shall provide for the custody and use of the University seal, and subject to the provisions of this Ordinance and the statutes, it shall administer the property and manage the affairs of the University.” And since the Interpretation and General Clauses Ordinance (Chapter 1) Section 40(1) has specified “where any Ordinance confers upon any person power to do or enforce the doing of any act or thing, all such powers shall be deemed to be also conferred as are reasonably necessary to enable the person to do or enforce the doing of the act or thing”, the University Council is perfectly legitimate in setting up the Investigating Panel.

2) Referring to the report of the Investigating Panel, the following points were found:

a) “The January and November conversations” between Prof. S. L. Wong and Dr. Robert Chung “were both covert attempts to push Dr. Chung into discontinuing his polling work”
b) The panel is satisfied that “political consideration was the principal reason that motivated the 29th January, 1999 meeting” and “whilst there are other reasons that led to the 1st November, 1999 meeting, political consideration remained an operative one.”
c) “...a majority of the Panel is satisfied that Professor S. L. Wong held the 2 meetings at the behest of the Vice-Chancellor.”

Based on these findings, it is clear that Vice-Chancellor, Prof. Cheng Yiu Chung and Pro-Vice-Chancellor, Professor Wong Siu Lun, have failed to defend academic freedom against political pressure. The findings clearly shed doubt on their integrity and the continuance of them being the leaders of the University would further damage not only on the reputation of the University of Hong Kong, but also on the quality of academic work in Hong Kong as a whole. We urge them to resign from their positions without further delay.

3) Since the legitimacy of the Investigating Panel should not be questioned, the University Council should respect the findings and adopt the report. It is a little too late for our Vice-Chancellor to question the legitimacy of the Investigating Panel since he has agreed to the whole arrangement in the first place. He cannot just deny the findings simply because they are not working to his favor. Again, with due respect, we urge Prof. Cheng and Prof. Wong to resign and minimize the damage to the reputation of the University.

4) Although the legitimacy of the Investigating Panel should not be questioned, there are still important pieces missing from the report:

a) There is no investigation in the exact origin of the political pressure beyond the Senior Special Assistant in the HKSAR Chief Executive's Office, Lo Cheung On Andrew. Also, the suspected origin of the political pressure, the Chief Executive, Tung Chee-hwa, was not summoned to the Investigating Panel;

b) Even now we do not know what was said at the meeting between Mr. Lo and the Vice-Chancellor, Prof. Cheng Yiu Chung, since “neither witness disclosed the full and truthful extent of what was said at that meeting” although it is the major point with regard to the origin of the political pressure.

Since the University Council has no power to summon anyone outside the University of Hong Kong to testify, the only way to investigate into the matter would be for LegCo to set up another investigating panel. Under Section 9 of LEGISLATIVE COUNCIL (POWERS AND PRIVILEGES) ORDINANCE (Chapter 382) anyone, even the Chief Executive, can be summoned as a witness in the Legislative Council which enables us to have a clearer picture of the whole issue beyond the university level. Therefore, we believe it would be beneficial to Hong Kong as a whole for LegCo to follow up on the above issues to settle the controversy of this incident.

Academic freedom is of utmost importance to Hong Kong, a democratic society, as it affects its reputation and in turn affects the value of the academic researches and publications originate here. Therefore, we urge:

1. the University Council of the University of Hong Kong to endorse the report of the Investigating Panel;
2. Vice-Chancellor, Professor Cheng Yiu Chung, and Pro-Vice-Chancellor, Professor Wong Siu Lun to resign.

General and Current Affairs Committee,
Law Association, HKUSU 2000-2001
5-9-2000

All the declarations were made after discussion within the GCAC and were approved by the Executive Committee of the Law Association. E-mails, consultation boards and class visits were made for the first declaration because the PCLL Tuition issue affected all the law students directly. Only consultation board was set up for the second and third declarations due to the urgency of these issues.

On the PCLL issue, we also contacted the Law Society, the Bar Association, the Judiciary, the Chief Executive, and various Legislative Councillors such as Ms Margaret Ng, Mr Martin Lee, in order to solicit their support against the reduction of subsidy on the PCLL programme.

Review of Constitution

As to the review of the Constitution of the Law Association, the GCAC has handled the following issues for the past year:

1. Membership problems of the double degrees students.
2. The lack of guidelines for the by-election.
3. The introduction of the IT secretary.
4. To vote for the whole cabinet or for individual post?
5. "A minimum vote of 30% of the Full Members after taking consideration of the difference in (a)" is too harsh?
6. The fee and the membership nature.
7. The overnight problem of the campaign.

The Membership problems of the double degree students arose due to the addition of the degree courses BBA (Law) and BSS (Government & Law). As a consequence, many problems concerning members' privileges and rights have been induced. In view of this, meetings were held to review and amend the membership section of the Constitution. The lack of guidelines for by-election was also recognized due to problems encountered in the election in 1999. The introduction of the post of IT secretary was also a very controversial issue left by the last cabinet. The voting system with respect to the cabinet and the 30% quorum were also hot topics for the past year. Seven of the GCAC meetings focused on discussion of the above issues. Consensus was reached that no IT secretary would be introduced and the election system would remain the same. Some guidelines were introduced concerning by-elections but no amendments were proposed on this issue since the discussion of it was still in a preliminary stage. However, the GCAC has successfully prepared for the passage of amendments as to the membership issue and the AGM period.

Acknowledgements

Thanks should also be given to all GCAC members. They have spent considerable time in meetings when drafting the declarations and reviewing the Constitution. Their contribution is vital for the smooth running and administration of the Association.

Homepage

Violante Yeung
Marketing Secretary

“Key Into 2000 (Two thousand)” ... a line served as the motto for the Law Association 2000-2001, presents our motives to adapt to a new way of life and to get ready for challenges of the new millennium. In face of the breathtakingly increasing demand in internet-usage, we endeavoured this year to make the homepage a more interactive one. New sections were added. As you click into our homepage from section to section, you might notice changes in the general layout from the previous years and changes in content. I hope members of LA had benefited in some ways at different sections of the homepage, whether it was the interactive “Forum” or the informative “Legal Education page”.

Making a homepage was a lengthy and tedious task where obstacles would definitely appear. I could hardly have achieved anything without support from colleagues who allowed me room for creativity and flexibility in the production of the homepage. Thanks to all the co-operation and words of encouragement, I had brought the homepage finally into life. Re-constructing the LA homepage for the year 2000 had been a pleasure and a privilege. Big thanks to Peter Wong Ting Chun, who patiently guided me throughout the process of re-construction. Hope that my endless “dummy” questions had not driven him mad.



New Sections added

Forum: an avenue for members to post messages to express opinions. Glad to see that members began to get use to this tool to communicate their ideas. Most of the opinions posted were constructive. Discussions sometimes involved law students studying overseas who wanted to know more about law schools in Hong Kong and legal practitioners who kindly answered questions raised by members concerning law.

Legal Education Page: Articles posted were those gathered from the Legal Column written by members. This was a new try to include a page of this nature in our homepage and many users welcomed the idea.

Sports Corner: designed for posting of announcements concerning sports activities and name lists of our sports teams. This section highlighted Law students' achievements in sports activities ranging from inter-faculty competitions to intra-faculty competitions. After all, law students are NOT bookworms!

General and Current Affairs Corner: included to arouse social awareness among LA members through posting current issues for discussion (in form of a forum). In addition, declarations made throughout the year were posted for easy reference.

Links: more links were added, ranging from law-related websites to government websites.

Legal Education Column

Vanessa Tang
Legal Education Secretary

A number of articles have been published in the Young Post of the South China Morning Post on Wednesdays periodically. The topics are wide because writers can freely choose a topic which s/he is fond of. Some are invited to write on specific topics such as the ICCPR and defamation. Here I would also like to express my greatest gratitude to all the writers who kindly offered to help and produced high-quality articles for readers.

2 South China Morning Post | Wednesday March 21 2001

Young Post

news

Bill aims to protect our basic rights



Ordinance ensures the fundamental freedoms of citizens

"I know not what course others may take, but as for me, give me liberty, or give me death!"
— Patrick Henry at the Virginia Convention, 1775.

DAVID TANG

Most of us take freedom of expression, thought and movement for granted, as if liberty and equality were automatic rights.

The truth is quite the contrary.

Our forebears have fought for the freedoms at great expense over the past centuries. In many parts of the world people are still fighting for them today.

The rights are not only valuable, but fragile. They are prone to be encroached upon if people just sit back when their rights are being trampled on. We should learn about human rights laws so that we will know how to uphold our legitimate rights when they are being infringed upon.

When did the Bill of Rights come to Hong Kong? To answer this we have to take a look at the International Covenant on Civil and Political Rights which remains in force after the handover.

Controversial decision... the Court of Final Appeal held it justified to suppress the freedom of dishonouring the national and regional flags for public order.

LEFT: The Joint Declaration and the Basic Law state that the International Covenant on Civil and Political Rights shall remain in force after the handover.

ICCPR. The convention was adopted in the General Assembly of the United Nations in 1966 as an international standard for the protection of rights such as the freedom of expression, thought and movement.

Britain ratified most of the convention for Hong Kong in 1976. Nonetheless, not until 1991 was there any law incorporating the ICCPR in Hong Kong.

In 1991, the colonial constitutional document Letters Patent was amended to stipulate that (i) Hong Kong shall enact laws to implement the ICCPR and (ii) no subsequent legislation shall restrict the freedoms of the Hong Kong people in a way that is inconsistent with the ICCPR.

The Bill of Rights Ordinance 1991 (Cap.383) thereby came into force with constitutional superiority, and laws inconsistent with the ordinance were to be repealed.

Basically the Bill of Rights Ordinance (BORO) is identical to the ICCPR. It guarantees various freedoms and rights such as the freedom of speech and the rights of criminal suspects; it prohibits arbitrary administration like unlawful detention; it bans retro-

spective criminal offences and it upholds equality before the law.

With the emergence of the BORO the ICCPR became genuinely enforceable and the recognised rights were thereby protected substantially by the law.

The Joint Declaration 1984 and the Basic Law Art.39 state that the ICCPR shall remain in force. Unlike the Letters Patent, however, there is no word in the Basic Law stipulating that subsequent legislation shall not restrict the freedom of the people in a way that is inconsistent with the ICCPR.

Moreover, certain provisions of the BORO were repealed by the Chinese National People's Congress Standing Committee. Though the legal status of the ordinance is now ambiguous, one can still be assured that the protection of rights remains forceful and substantial.

No right is unlimited - freedoms must be subject to certain restrictions whenever they infringe upon the rights of others. The protection of public order, as provided by the ICCPR, has been considered by the courts on a regular basis in determining if certain restraints are justified.

In the controversial and dramatic national flag case, for example, the Court of Final Appeal held it justified to suppress the freedom of dishonouring the national and regional flag for public order, for the restriction is narrow and the dignity symbolised by the flags is important for public welfare.

David is a past vice-dean of the Department of Law, University of Hong Kong.

2 South China Morning Post | Wednesday February 28 2001

Young Post

'Fair comment' used for defence in defamation



Recent Court of Final Appeal ruling upholds freedom of speech

HAU PAK-SUN

Imagine you are a candidate running for a post in the Legislative Council. Mr X, your main rival, was accused of providing confidential government information to private firms.

At an election forum, Mr X makes insulting gestures while you were making a speech. You saw it and felt embarrassed. With the intention of seeking revenge and injuring Mr X's reputation so that you will have a better chance of winning the election, you write a letter to a newspaper which contains the following paragraph:

"Mr X's involvement in the scandal has shown he is an unethical and unreliable figure. He should no longer receive support in the election campaign because of his dishonourable conduct."

After the letter is published, Mr X loses support and he becomes annoyed. He consults his lawyers and decides to sue you

for defamation. He alleges that the letter is unfair comment because it was malicious and intended to injure him. He also alleges that the letter is defamatory.

In law, one of the defences of defamation is "fair comment".

A fair comment must:

- be about a matter of public interest
- be a comment, not a statement of fact
- be based on facts
- indicate the facts on which the comment is made
- be one which could only have been made by an honest person.

Do you think that the paragraph in the letter can be described as fair comment? If so, it may be a defence for the defamation suit. But is that all?

Some may argue that at the time when you wrote the letter, your motives were to seek revenge and to injure Mr X's reputation, and so it should not be considered fair comment.

In a recent Court of Final Appeal ruling on a defamation case brought by "superman of the law" Paul Tse Wai-chun against famous radio talk show host Albert Cheng King-hon, it was decided that the existence of motives when making a comment is not a reason for excluding the defence of fair comment.

The case is a positive development of freedom of expression because "it is in the public interest that everyone should be free to express his own, honestly held views on such matters, the defence of fair comment envisages that everyone is at liberty to conduct social and political campaigns by expressing his own views", the judge said.

If the motives of a person who makes a remark is also considered in determining whether the statement is fair comment, the law may be going too far and it could be dangerous.

For instance, if an opposition party expresses the view that the Government is doing an appalling job, the Government could sue the party and say that the motive behind the comment was to injure its reputation.

It could effectively stop any voices of opposition and the law could be used as an instrument to oppress the people.

Paul is a past vice-dean of the Department of Law, University of Hong Kong.

Legal Education Talks

Vanessa Tang
Legal Education Secretary

It is gladly reported that 13 legal talks were successfully held by the Law Association this year in 11 secondary schools in different districts. Topics include Basic Law, Human Rights Protection, Legal System, Intellectual Property Law, Police Power, Defamation, and Laws on Discrimination. Since many constitutional controversies have arisen this year, discussions on the right of abode issue as well as the Public Order Ordinance were particularly raised and the response was very encouraging. Student audiences raised interesting and sensible questions concerning the legal topic being discussed. The success was mostly attributed to the help of our fellow schoolmates. I would like to take this special opportunity to thank all the helpers who participated in the programme as speakers and/or researchers. The particulars are listed out below, including all the speakers whom I must acknowledge.

Date(2000)	School	Topic	Speaker(s)
22/9	TWGHs Mrs Wu Tork Yu Memorial College	Human Rights and Basic Law	Jason Wu (PCLL)
27/9	Ying Wa Girls' College	Human Rights and Basic Law	Jason Wu (PCLL), David Tang (II), Hau Pak Sun (II)
20/ 10	Pooi Tun Secondary School	Defamation	Lau Hak Wing (II)
20/10	Yu Chun Keung Memorial College No.2	Human Rights and Basic Law	David Tang (II)
24/10	Shek Lei Catholic Secondary School	Police Power	David Tang (II)
25/10	Lung Cheung Government Secondary Technical School	Laws of Discrimination	Brian Lung (II)
3/11	Chuen Yuen College	Laws of Discrimination	Brian Lung (II)
6/11	Ying Wa Girls' College	Legal System and Intellectual Property Law	Sin Ping Ho (PCLL)
8/11	Chuen Yuen College	Defamation	Nicholas Mak (III)
10/11	True Light Middle School of Hong Kong	Laws of Discrimination	Brian Lung (II)
10/11	Rhenish Church Pang Hok Ko Memorial College	Legal System and Intellectual Property Law	Andy Lam (II)
22/11	Kit Sam Secondary School	Defamation	Wan Shiu Man (III)
24/11	St. Stephen Girls' College	Human Rights and Basic Law	David Tang (II), Vanessa Tang (II)

High Table Dinner

Emily Leung
Social Convenor

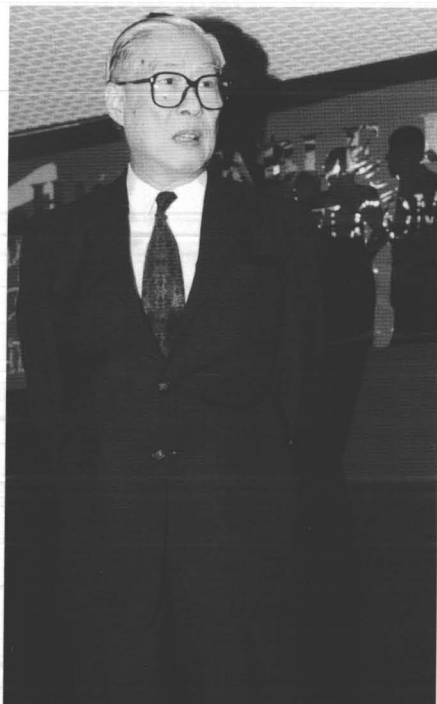
A traditional event of the Law Association - High Table Dinner was held on 14th April 2000.

This year, we were honoured to have Mr Patrick Yu Shuk-siu, Mr Martin Lee Chu-ming and Mr Gary Cheng Kai-nam as our guest speakers, as well as many legislative bodies, legal practitioners and teaching staff as our guests.

Up on the 14th Floor in the Senior Common Room, Mr Yu captivated us with his stories as a barrister, his experience as a student and his prime role in setting up our law school. This was followed by some good advice from Mr Cheng on the different perspectives of interpreting the Rule of Law and his opinion on how well it fits in Hong Kong's society. Finally, Mr Lee gave us an interesting talk of his educational background, all the while hinting at a 'mysterious man' who had helped him in his time of need. A feeling of warmth filled the room when Mr Lee finished his speech and hugged Mr Yu - the mysterious 'Mr X'.



Mr Martin Lee Chu-ming giving his speech



Mr Patrick Yu Shuk-siu giving his speech

There is no doubt that all of us learnt much from these inspiring speeches. But apart from being educational, the High Table Dinner can also be extremely entertaining. This year, a more informal approach was adopted so students could have more interaction with the guests. Clues were revealed throughout the evening for participants to 'guess the murderer' in our dinner theatre. We also had several amazing performances by our talented fellow classmates, beginning with a solo (Oh Sole Mio) by Johnson Lam, then a duet by Chiko Chan and Vanessa Tang (Tonight I celebrate my love for you) which Mr Gary Cheng later confessed to be his favorite song. Last but not least, we had a four-part singing (I wonder why) comprising of Anthony Chan, Jonathan Yung, Chiko Chan and Johnson Lam who warmed our hearts with their song.

At the end of the event, prizes were presented to the winners of the dinner theatre by Kelly Chan (our amazing scriptwriter) and souvenirs to our guests by our Chairman, Wayne Hon.

And what would the evening be without the Master and Mistress of Ceremony? Joan Lau and Eugene Wong led the rundown most successfully with their wit, charm and style.

The High Table Dinner was a most special evening to me (for more reasons than one) and I would like to thank all of those who put their efforts in the event. A huge thanks to my sub-committee - I love you guys! I only hope all the participants enjoyed the High Table Dinner as much as we enjoyed organizing it!



Mr Gary Cheng Kai-nam giving his speech

Orientation Camp

Wayne Hon
Orientation Camp PIC

“Once upon a time, there was a kingdom - ‘LA Kingdom’. Ten counties were living happily and peacefully together. One day, however, an evil force arose and turned all people in these ten counties into 10 different kinds of animals - chicken, dog, fish, bear, wolf, tiger, snake, mouse, spider and horse. In hopes to become human beings again, they had to strike for survival...”

This is the theme story of the Law Association Orientation Camp 2000, which was held on 24-26 August 2000, in Po Leung Kuk Pak Tam Chung Holiday Camp. We can tell from their smiling faces that they enjoyed the time very much! Well, I think words alone cannot describe what had happened during this three-day-two-night event, so, let’s have a brief photo tour and you will know how “horrific” it was!



Is it a coincidence??? This is a photo taken during our first game “Treasure Hunt”. You’ll know the answer if you got the Prelude 2000 (please turn to page 15).



Look, who’s that guy??? Why he is trapped and being blindfolded???

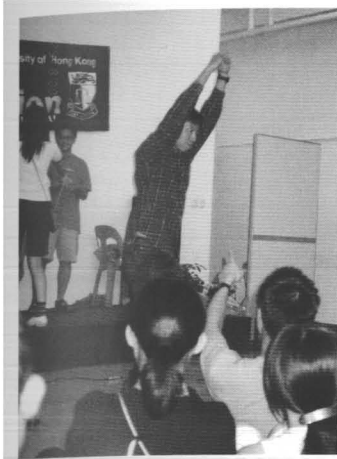


Umm... see, this is the way we give thanks to our honorable Chief Group Leaders - Angie and Carfield!

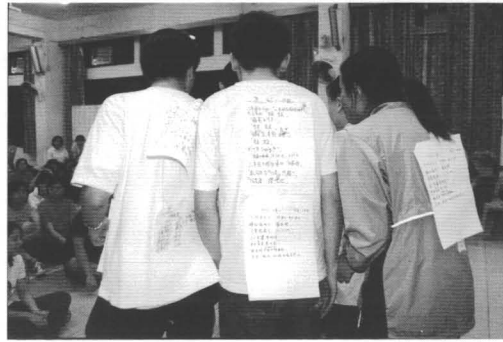


Oh, why are Nicole and Chiko kneeling on the floor? Are they having a religious service? ... Oh, I see, that’s the “Goddess” of their religion!





Have you ever seen this ballet before?



Cheating!!!



Our Sports Captain - Chiko is leading the morning exercises!

Who's so naughty?! Whose hand is this? Wanted: if somebody can find out whose hand it is, no money will be rewarded. But I think our hot and lovely Social Convenor, Emily, might give you a kiss.

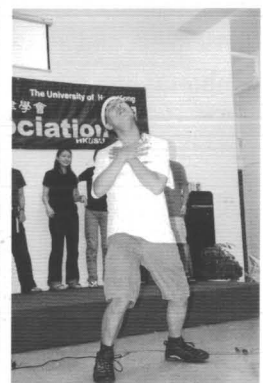
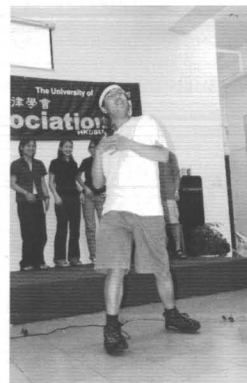
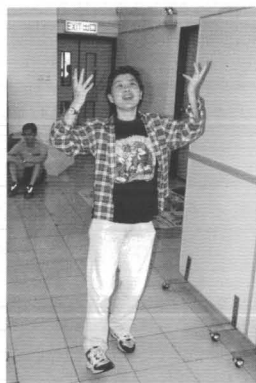
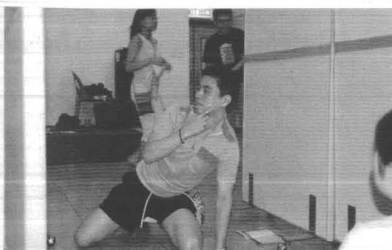


Take a look at these pretty little girls ... oh, or boys ...?



LA super-water-men!!!

Who says law students are bookworms? Many of them have different talents. Look, they got a remarkable talent for drama!



Annual Dinner

Emily Leung
Social Convenor

After one year's hard work, the Annual Dinner 2000 was a social highlight in the Law Association's calendar.

On 11th November, approximately 100 participants came to the Happy Valley Suite Terrace of the Hong Kong Jockey Club with their hearts set on having an enjoyable evening. They were not disappointed of course.

As soon as everyone was seated, the evening began with a hilarious 'Guess Who's Different' game. With Calvin Cheuk dressed up as the beautiful "Kelly", he hid among the numbered contestants who shuffled in with their backs turned - and each table gave wild guesses after they ordered a certain 'action' to be done by the contestants. (Poor Winnie had to kiss Calvin while Kelly had to grind against the wall!)

Following this, the scrumptious dinner buffet began and while everyone was enjoying their food, the talented Alex Wong and Jackie Lam entertained us with a Chinese duet. My incredible Mistress of Ceremony (for the second time) Joan Lau then introduced the next game to the audience. This was a beer drinking competition which consisted of two rounds - one for males and one for females. As everyone crowded around the table on the stage, cheering on for their table representatives, the two winners stunned us with their world breaking records for the event!

Participants piled more food on their plates to enjoy the next performance, which was an incredible solo performance by Jackie Lam and this merged into an amazing magic performance by Tony Ko.

After a while of dining and chatting, we were all ready for a little action. This led us to our third game of the evening - Ball Transport. Two participants were selected from each table and they had to transport a ball from one side of a room to another, using the two body parts that were randomly picked out from a basket. We rolled into laughter as one unlucky pair had to cooperate with their nose and armpit!

But before we could die laughing, the 'Men in Black' comprising of Anthony Chan, Jonathan Yung, Chiko Chan and Johnson Lam captivated our attention with their brilliant X'mas songs, and warmth and cheer filled the room. It wasn't hard to see we were all looking forward to the X'mas holidays!

We promised 'dancing' in the Annual Dinner, but we couldn't do this without first presenting the mini Oscars. Prizes this year included Best Dressed, Biggest Eater, Most Wasteful Eater and Most Active Participant, and as awardees went up on stage to collect their awards, the secretly taped episodes of their 'embarrassing moments' during the evening were revealed to the audience.

With that having done, Prof Wilkinson and Ms Anne Carver gave us some very encouraging words and then led the first dance. Needless to say, other romantic couples soon followed suit. After 2 songs however, the momentum shifted from slow to fast, and all the lights dimmed and the real partying began!

Visitors from the National University of Singapore

Joan Lau
External Secretary

Date: 15 - 18 November 2000
No of participants from NUS: 23

In mid-November we were welcomed with a group of law students from The National University of Singapore. The Law Association acted as a semi-host in welcoming our fellow “future lawyers” with our best efforts to make their short stay a most enjoyable one. We were responsible for the minor arrangements of the group’s daily schedule and most important of all we were in charge of their entertainment itinerary giving them the best taste we could of the celebrated nightlife of the Pearl of the Orient.

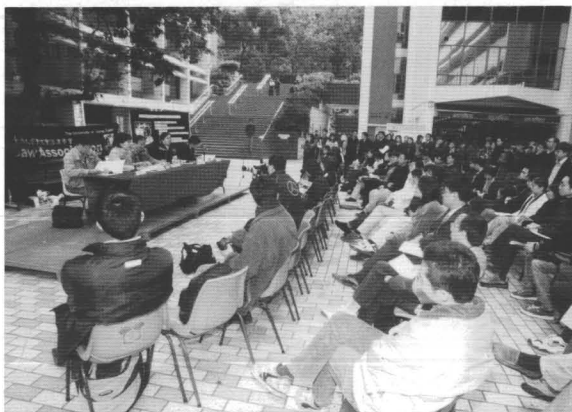
Throughout their short stay we had a brief yet inspiring experience. Our biggest reward was the extra step we were able to take in furthering our connections with law students from overseas universities. However, it must be said that the most heartwarming memory of this experience was the flourishing of friendships and all the fun that filled those four days of exchange.

Legal Forum 2000 - Does the Proposed Anti-Stalking Law Intervene Freedom of the Press?

Vanessa Tang
Legal Education Secretary

The legal forum titled above was successfully launched at Sun Yat-Sen Plaza in the University of Hong Kong on 21st November during lunchtime. Prominent public figures, including Ms Audrey Eu SC, Mr To Kun-Sun (LegCo member), Mr Anthony Law (Assistant Professor of the City University of Hong Kong) and Mr Wong Kwok Wah (experienced journalist representing the Law Reform Commission), were invited as guest speakers. The discussion led by Mr Ellen Lee Peng-Fei JP (the guest MC), was impressive and constructive, and all the speakers were very outspoken and spontaneous, holding different views from different perspectives. Mr Wong explained the need of the proposed law and argued strongly against the alleged encroachment upon freedom of the press, while other guests pinpointed such problems of the law as its catchall definitions, and the test of reasonable person for proof of 'harassment' which may possibly become the crackdown on journalists and hence on press freedom.

The forum attracted approximately 180 HKU students and the press, the result of which was encouraging. Several newspapers reported the event on the following day.



The Forum attracted crowds

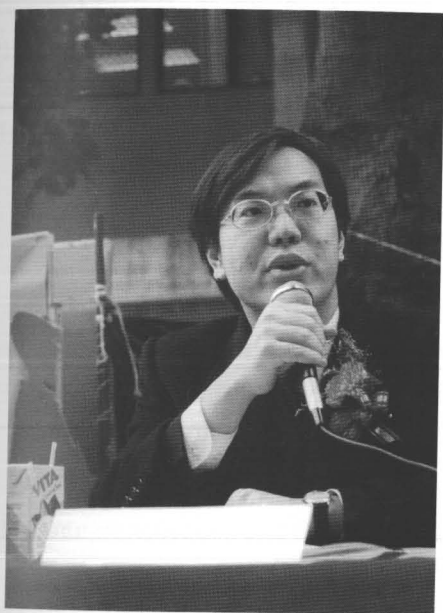




The speakers



Mr To Kun-Sun, LegCo member



Mr Anthony Law, Assistant Professor of the City University of Hong Kong



Ms Audrey Eu, S.C., LegCo member



Mr Wong Kwok Wah, experienced journalist representing the Law Reform Commission



Mr Ellen Lee Peng-Fei JP, the guest MC

Career Development Forum

Joan Lau
External Secretary

Date : 16 November 2000
Time : 1730-1900
Venue : KKL 303
Guests invited : Mr Gilbert Mo (Department of Justice)
Mr Richard Wu (Department of Professional Legal Education, HKU)
Mr Alwyn Li (Tax Consultant from KPMG)
Mr Gordon Wong (Barrister)

The fire was lit...

To promote a good interaction between the legal field and the future lawyers in the faculty is one of the most important aims of the External Stream. This is precisely one of the sparkles that occurred in the atmosphere of a cozy group of around 30 students in the little room on the 3rd floor of KKL Building during that day.

The flames burned with enthusiasm...

In the nature of a forum, casual yet in-depth discussions were made between the students and the guest speakers. Striking and inspirational ideas were given to the students on how their future career prospects can take diverse turns and on what issues should be of their concerns.

Each log of wood contributed to each dazzling spark of the fire...

The guests speakers were professionals working in different fields yet all with a law degree in hand. This presented a broader view for the students, especially those of mixed degrees, on the different professions they may enter and how today's legal environment can open new doors for them. Enthusiastic queries raised by the students also gave the speakers a better understanding of the most imminent concerns of law students nowadays.

The smoke from the fire left a tracing scent that swirled in their memories...

The forum left everyone a motivation to further improve his or her outlooks on their career paths. Contacts were given to students in hope to provide a chance for them to have any future discussions with the guest speakers. The faculty had further organized three career talks of which had furthered the students in their understanding of the legal field.

Faculty Board

Senator: **Nicholas Mak (III)**
Board Members: **Paul Chan (III)**
- Library Committee
Angie Li (III)
- Legal Referral and Education Committee
Careen Wong (II)
- Teaching Quality Committee



Attending Faculty Board Meetings

Faculty Board meetings have been held on a regular basis, with attendance by all academic staff of the Department of Law and of the Department of Professional Legal Education. A number of issues, in particular the University Grant Committee's proposal on reducing PCLL subsidies, were discussed. We expressed students' concern on this matter both in the Faculty Board meeting as well as in the informal meeting with the Vice-chancellor.

Legal referral and Education Committee

The Legal Referral Scheme, run by the Faculty of Law, provides free legal advice to all HKU students, staff members and their relatives. Interview sessions were held every Monday and Thursday, and advice sessions on Fridays. The student coordinator was generally responsible for recruiting student helpers, arranging interviews with clients and following up cases. A briefing session was held in September, with Mr Eric Cheung advising students on the operation of the Scheme. 40 cases were dealt with last year with the help of over 70 students.

We have also arranged student helpers to participate in the Duty Lawyer Scheme. Last year, more than 120 students joined the scheme, which aimed at providing students with an opportunity to observe how cases are dealt with in practice by legal professionals.

Honour classification and the GPA system

As the current third year students will be the first batch of graduates under the newly introduced GPA system, how it is to be run is of the most urgent concern. In relation to this issue, the Student Senator convened two student meetings to collect opinion from our fellow classmates. Numerous communication and discussions with the Faculty have been conducted. Most importantly, two formal meetings were conducted between the various student representatives, Prof Johannes Chan, and Mr Michael Jackson. Although a resolution has been made in the second formal meeting, whether it can be implemented still depends on the approval of the Board of Examiners.

Teaching Quality

A Departmental Teaching Quality Committee, chaired by Miss Alice Lee, Director of Teaching Quality, was set up last year to review and monitor teaching quality and effectiveness of the Department of Law. Discussions on issues relating to teaching quality have facilitated the exchange of views between teachers and students.

Faculty Review Committee

We have attended several Faculty Review Committee meetings as student members. The function of the Committee is to hear students' appeals against faculty decisions relating to such matters as discontinuation and repeat.

Jessup Moot Competition 2000

This annual competition is the world's most prestigious international mooted forum with participants from leading law schools from over 50 countries and regions across the globe. The Jessup Moot Competition is organised by the International Law Students' Association and is a simulation of proceedings before the International Court of Justice. Students are required to research points of international law over a period of six months, and demonstrate their advocacy skills before a panel of experienced judges. The competition provides an excellent opportunity for students to develop their research, writing and advocacy skills, as well as to acquire an in-depth knowledge of one or more fields of international law. This year's results by the HKU team marks one of the best achievements of any team from Hong Kong since the competition was established.

The Jessup Moot Competition involves a mooted competition at the 'regional' (Hong Kong) level, followed by the international competition held in Washington DC. For over 7 years the Hong Kong competition has involved a series of moots between HKU and the City University before benches of appellate judges, leading practitioners, government officials, representatives of international agencies, and international law teachers. This year's problem raised complex questions of extraterritorial jurisdiction, international company law, human rights law, and biomedical ethics and research law. Problems from previous years have included the law of the sea, terrorism and privacy laws. The international competition in Washington, DC had the honour of having Judge Stephen Schwebel (President of the ICJ) as one of the Jessup Finals judges.

The HKU team consisted of five law students: Cindy Hui, Jin Pao, Suen Wai Yu, Daniel Tang, and Jacky Tse and was coached by various Faculty of Law members. The HKU team defeated City University in the regional rounds held in Hong Kong in February, with Cindy Hui capturing the coveted Best Oralist Award. The team then advanced to the international rounds in the United States, where they ranked 4th out of 67 teams in the overall preliminary rankings, having defeated leading law schools from Canada and the USA. The team advanced to the second stage of the competition, and was able to defeat McGill University in a unanimous decision. The team then narrowly missed advancing to the semi-finals in a split decision (2 to 1) loss to Mexico (the 1998 Champion team). One of the HKU students, Jin Pao, was awarded the 4th Best Oralist in the International Rounds (out of over 250 mooters).

Some Reflections by Jessup Team Members

Jin Pao - Jessup Team Member 2000

When I reminisce of the Jessups, the first thing I think of is the competition itself: - the very tense moments of interaction between the judges and my teammates and I, the Ceremonial Court (where the finals were held), our late night cramming sessions, and of course I am able, still, to relive my performance, my mistakes and anxieties as if it were yesterday. Then more subtle points enter my mind.

I remember when I arrived (one day later than my teammates), I saw that one of my teammates (who shall go unnamed!) was already quite drunk! I also remember our experimenting with cuisine from the world over, having a new style of food everyday. And of course, our travels after the competition, where we had a great time enjoying ourselves prior to coming back to reality and examinations.

These snippets of life and competition intertwine to form a vivid memory of the Jessups. Needless to say that the Jessups have been one of most meaningful activities I have participated in, and I am thankful to the Faculty of Law for giving the opportunity to take part.

The Jessup Competition is a competition on various levels - intellect, preparation, and flexibility. For some reason, the judges always know where the weakness in your argument lies, and is always prepared to make you concede on your most important argument. It always perplexes strangers to the Jessups when I say this, because they would expect that we would have all the answers through the rigorous research and practices that we go through for the better part of six months.

But Jessupers will know the feeling of running an entirely novel argument almost every time we moot. This process of intellectual triangulation embodies the rigour of the competition, where we not only compete against opposing law schools from all over the world, but also where we engage in a lively discourse with a panel of judges, many of whom are experts in international law.

The obvious benefits of the competition are learning a new area of law, developing research skills, and gaining exposure in public speaking. But I think the Jessup embraces a wider philosophy which underlies what we do in life in general. It is about doing something which is not really required of you, for the intrinsic, inherent love of the activity. It is about the pursuit of knowledge, which is something which is lost in the very result-oriented nature of our education. It is also about taking on challenges, and telling yourself that there really is not anything you can't do if you set your mind to it. These ideas are invaluable fragments of a portrait I have yet to complete - how to live life to its fullest.

It only remains for me to thank my fellow moot mates: - Anson, Bonnie, Jenkin, and Richard (my first time around in 1998), and Cindy, Daniel, Jacky, and Suen Yu (my second time around in 2000). They have truly made my experience a colourful and long-lasting one, and I am thankful to them for that.

Daniel Tang - Jessup Team Member 2000

Every time when I ponder over the Jessup 2000 Competition, I just can't help being enthralled by that eventful journey.

Though honor and pride subside with time, there were moments which had been inscribed onto memory and shall never be forgotten,

- * working round the clock at the Computer Center for the last minute filing of our written memorials, and ended up with Jacky "obstructing" the closing of the General Post Office for half an hour,

- * being picked by the judges on the weakest, and unfortunately, the least prepared, argument on our side and endured ten minutes' ruthless hammering the ritual of having the Last Dinner before each critical tournament, from the Selection Moot, to the Regional Round and all the way up to the International Round.

International law is a bewildering subject for its close affinity with international politics and the lack of enforcement underpinning its development, and having the chance to build an acquaintance with it is perhaps the most rewarding experience in my final year of LLB study.

Lastly, let history be told about the witty retorts from Andrew Byrnes, which deflected each and

every of out bold assertion of the law, and the cunning card playing of Alice Lee, which had stripped us of the very limited pocket money we had in Washington.

Suen Wai Yu - Jessup Team Member 2000

With no disrespect to the Honorable Judge Philip C. Jessup, the competition is, after all, one of hundreds of common law moot court. What makes it different is the "International" element, both in respect of the people of different nationality you meet and the subject matter of every year's question i.e. an international law disputes. I will restrict myself to the latter.

International law adopts a very different structure as opposed to the common subjects we take in the LLB. In terms of legal principle, nothing is binding. Even the decided cases in the Court of International Justice (ICJ), the authoritative judicial body established under the United Charter of the United Nations, is only "highly persuasive"; not to mention any national court cases claiming to represent the current state of international law (which happens to be mostly in the Super-big-states). In terms of volume, it is devastating. Often you will be looking at Conventions or ICJ cases, on which no two publicists have the same view. Thus you end up in reading hundreds of articles only to know what are they arguing, in addition to the Conventions & ICJ cases themselves (once I came across ONE ICJ case of about 1000 pages - which I restore to the shelf immediately).

I must admit, however, international law is fascinating. Because of the lack of precedent, there is always room for argument. But of most importance, it is INTERNATIONAL. Often it is a dispute between the developed and developing country. As in my year, it was a transnational pharmaceutical corporation of a developed country nationality conducting a vaccine trial in a developing country whose people were infected with a fatal virus. You have a legally, and commercially, sound corporate action on the one hand while there is millions of people's lives at stake on the other. If a nun need to stand trial for turning away people in danger of, and did die as a result of, genocide, I see no reason why not the decision-makers of the few transnational corporation for withdrawing help from the sick, and poor, people - if the test were reasonable foreseeability of death.

My half-year experience of the Jessup Competition had passed and I don't foresee any possibility of another participation in any such international law moot court competition. Nonetheless, it has opened my eyes to the international arena.

Hong Kong Student Law Review

The Hong Kong Student Law Review, the only publication for law students in the Region, was founded in 1994 by a handful of HKU Law students and will be releasing the sixth volume mid-July this year. The Review, is fully written, edited, managed and published by the students of the Faculty and provides a forum for law students to participate in the discussion of current issues and to express their researched opinions on legal problems in a formal, academic manner. The Editors strongly hope to foster an atmosphere where students will learn to be critical of affairs that affect the profession or the law and to boldly voice their viewpoints through the Review.

Throughout the years, topics that have been covered in the Review have been highly diverse. From discussions on China's entry into the World Trade organization and the impact of the Application of English Law Ordinance on Hong Kong during the Transition to post-Handover controversies such as the Big Spender and the Right of Abode case, the Review focuses mainly on matters affecting Hong Kong's political and legal climate. Other areas such as equal rights for homosexuals and the application of legal theories to the VCD situation in Hong Kong have also received attention through our publication.

In 1999, the Editorial Team contributed an article to the Review on the legal position of same sex marriages and will be writing a short comparison on the Adversarial and Inquisitorial system in terms of the criminal litigation in the coming volume. It is hoped that students of the Faculty will be inspired by their initiation to submit articles on areas that they feel are of interest or concern to them.

Volume 6 of the Hong Kong Student Law Review will soon be available and like the volumes before, will be sent to universities abroad as part of our Review Exchange Programme. In addition to being warmly received by other law schools, the Review also met with strong encouragement and support from the Faculty, persons within the profession as well as local law students.

Law Cell

The **Law Cell** is one of the faculty-based religious groups of the University's Catholic Society (Katso) which consists of Catholic and non-Catholic students studying law. It aims at cultivating Catholic faith among its members and helping them to live as disciples of Jesus Christ.

Cell Meetings and special activities

Members of the Cell meet regularly once a week to share with others their experience and thoughts in a religious but relaxing atmosphere. During Cell Meetings, we will also have bible sharing, hymn singing and other activities.



FFM (First Friday Mass). November 2000

Throughout the year, there are many different special functions. These include the monthly First Friday Mass, Feast of St Thomas More (Annual Installation), Passover Meal and Superpass Dinners (勁過飯). We will also jointly organise programmes with other Catholic Cells (eg Social Science Cell, Medicine Cell) in future.

Membership

We welcome ALL Catholics and interested non-Catholics to join us. Special arrangements will be available for non-Catholics on request.

Contact

For queries, please contact the Cell Convener: Paul Yu (9727-3315; email: paulyu@hkusua.hku.hk)



Superpass Dinner (勁過飯). May 2001

Law Fellowship

「念那天起步，懷內滿掙扎；誰料覓真理，路遠又險窄。」

升上大學，每一位法律學院的同學都是非敘繁忙，功課日漸繁多，而所有同學都充滿壓力，透不過氣來。雖然我們的將來目標好像很清晰（差不多有八九成同學都成為律師），心裡仍然有不安和焦慮。

Law Fellowship 是法律學院基督徒建立的基督徒團體，分別有 LLB、BBA (Law)、BSS(GL) 和 PCLL 的同學參與當中。我們和其他同學沒有太大分別，我們也感受到壓力，功課繁重。但耶穌曾說：「凡勞苦擔重擔的人可以到我這裡來，我就使你們得安息。」Law Fellowship 就是一個地方，讓所有法律學院的基督徒聚在一起去感受神的愛。我們會學習神的話語，彼此分享，把我們讀法律的壓力交給神。



四位法律專業教育學系的老師的分享

今年 Law Fellowship 的主題是「如何面對生活的壓力」，透過每個月一次的聚會、每星期一次的祈禱會和每年級都有的小組去學習不要為明天而憂慮，有一個喜樂的生命。

Law Fellowship 更是適合每一位非基督徒來的地方。我們每年有一次佈道會，邀請所有同學參加。今年主題是「陪著你走」，我們邀請了張達明、周偉信等 PCLL 老師分享他們被耶穌改變的經歷。

最後誠意邀請你們參與 Law Fellowship 的聚會。我相信你們必在 Law Fellowship 找到真正的平安和喜樂！想找我們，可以找以下的弟兄 / 姊妹。誠意邀請你！

Year 1: Jasmine Kun (92856373), Edith Lee (92214614)

Year 2: Bryan Lung (91952769), Choi Wing Kei (94242217)

Year 3: Rebecca Lee (93640018)

PCLL: Anthony Sin (94210139)

BBA(Law): Edmund Ma (90480926)



歐陽桂茹地區法院司法敘務官的分享

Masterpieces

Internationalisation: The Future of Hong Kong

Prof Johannes Chan
Head, Department of Law
University of Hong Kong

Recently I received an email from a senior counsel. He said that in the last few weeks he has received half a dozen letters from HKU LLB students applying to be summer students in his chambers. These letters did not provide the name or address of the writer of the letter. There was no addressee on the envelope or in the letter. The letter was undated, and some of them were even unsigned. In short, our law students did not even know how to write a proper letter. I must say that this is not a lone experience. I myself have received many similarly poorly written letters through my chambers (note that there is no 's' for counsel and there is an 's' for chambers) from students applying to do pupillage with me (obviously without giving much thought to it). They are a recipe for disaster. If you are not even careful with writing such a letter, how could you expect the reader of the letter to be impressed and to offer you a job?

This incident also echoes the general dissatisfaction of the quality of our graduates in recent years. In almost in all social functions which I have attended in the last few years, the topic of the quality of our graduates inevitably come up. I must immediately say that some of the adverse criticisms are utterly unfair, and I have tried my best to defend our students. Most practitioners do accept that the top students from our university are comparable with top students from any part of the world, but the average students (including many 2(I) students) are clearly lagging behind the overseas students. The weaknesses they point out are not so much about legal knowledge. English language ability is certainly an area of major concern. Some law graduates are not able to draft a proper and grammatically correct letter, and their reading speed is just too slow.

The most critical comment, however, is the inability to work independently. Many of my contemporaries point out that they have to give very detailed instructions to our graduates before the students know how to start working on a job, whereas overseas students are more able to work with great initiatives and independence with very brief ideas. When our students are given a job, the first thing they do is to ask for precedents, to ask their friends, or even to ask their teachers. If they cannot find a relevant case, they are stuck. Even if they manage to find something, the result is mostly in the form of a summary of the existing work. They are weak in analysis, and are not confident in putting forward their own views. In contrast, an overseas student will first go to the library, to do the research and the reading, to seek clarifications or to make queries on the instructions. They are stronger in analytical power, and can come up with something which they think is right. More, they are prepared to argue and defend their work - a sign of confidence and originality which is lacking in Hong Kong students.

It is also pointed out to us on many occasions that many overseas students have a broader view of the world, whereas most local students never read international news (or news at all except entertainment pages), let alone books or journals not required for their study. Very few of them have any view on current affairs. Most of them have a very limited vision of the world, and are unable to work under pressure. Yet ironically, they have an inflated sense of superiority. They are not aware of their own deficiencies (or sometimes turn a blind eye to them), and are too ready to blame the system for treating them unfairly.

These are of course generalizations and not always fair criticisms on our students. Yet some of these criticisms are certainly true and are indeed reflected in the studying pattern of our students in their undergraduate years. We have heard complaints from students that we have expected them to read too much DMs. So instead of trying to read as much as they can, their response is not to read them at all. In commercial practice, you may be required to read 300 pages of prospectus or shareholders agreements just in one

or two days, and in litigation, it is not uncommon that you have to read 15-20 cases just for a short point, let alone long pages of evidence. How could you equip yourselves for such challenges in just two years' time if you are not going to push yourselves now?

I have noted that many students are absent from class this semester. I have no difficulty with this if you make good use of the class time to do your own study. Many years ago I had a student who told me that he preferred to study one subject at a time. Thus, he would spend a month doing nothing but contract, and unprepared for other subjects during that period. He did not follow our usual schedule; he read ahead. He was sometimes absent from class, but when he was absent, he was working in the Law Library. These days, the explanation given to me for absences in classes include: 'I have to do part-time job', 'I have to attend piano lesson', 'I over-sleep', 'I have to attend sports functions of my hall', 'I have not prepared and therefore I think it is better not to attend class.' The question is why are you not prepared? After all, it is a matter of priority. We all have 24 hours. The decision to do one thing is a decision not to do another thing at the same time. Let me share with you my own experience. When I was in my student days and when I decided to run for the LA Exco, I knew it would take up a fair bit of my time. So I just re-arranged my schedule so that I have to cut down something else for my study to compensate for the lost time in matters which I thought was important. I set aside most of the evenings (from 7-9:45 pm) in the Law Library when I could concentrate on my study, and I worked in the Law Library during weekend if there was no LA or Students Union' or hall functions (I was on the Union Council as well as a resident of St John's in my undergraduate years). The lesson is: if you want to do more, you have to work hard and cannot be too lenient to yourselves - there is no free lunch! I recall that during the period of my LA Exco campaign, we had many long hours of campaign meetings. The AGM was very tough, with all members of the last EXCO being regretted (except the Publication Secretary, who happened to be the current Dean). The meeting ended at around 3 am. We had Trust tutorial at 8:30 am (8:30 tutorial was a norm at that time, though it is virtually unheard of these days). We slept for two hours at the then Union Building, which was now the Main Library Extension, woke up at 6 am and prepared the class at 8:30 am. The purpose of this example is to illustrate that what lies at the heart of the issue is a question of attitude: you may choose to sleep and miss the class, you may choose to attend the class half-awaken and not prepared, and you may force yourselves to be fully prepared for the class. It is a matter of attitude and a matter of priority. What would be your choice in such circumstances?

Another incident of attitude is that many students are now late for classes (and without apology). Secondary school begins at around 8 am, and for years you have no difficulty in attending school punctually. Yet as soon as you enter the university, 9:30 am is still too early. It is lucky if the lecture hall is only half-empty at 9:30 am. Is it not a question of self-discipline and a sign of being unable to control your own freedom? Last summer one of our students was always late for his summer job. The office hour begins at 9 am, and he was never in the office before 9:40 am. Two weeks later he was fired. Not long ago a Government Counsel was publicly censured by the court for being late for 5 minutes in court. The real life is far less tolerant than the university.

We try to address some of these issues through curriculum reform and change in teaching method. When we move towards student based learning, we receive criticisms that students do not learn enough from the teachers (meaning in most cases that teachers do not give a clear lecture on what the law is or to give them an answer). We try to throw our students into situations which they have not learned in lecture and ask them to work out the issues themselves. The result is disastrous, and the feedback is that how can they do the exercise when we do not give them at least an outline of what the law is (when the outline can easily be found in any textbook). Students are not confident that they can learn by themselves, and even less confident of the work of the colleagues. In many overseas universities, students are confident of their own work and pay great respect to the work of their colleagues. They learn from one another. Here, teacher seems to be the only source of learning. Students complain about the workload, yet a survey last

year shows that on average, our students spend only about 2 hours in their study every day. (In contrast, the PRC students under the Postgraduate Diploma in Common Law spent an average of 6 hours per day for their study.) Everyone seems to accept that spoon feeding is wrong, but time and again the complaint is that there is not enough spoon feeding. From time to time we hear that a course is assessed by students not on the basis whether the teaching is stimulating, but whether the material is neatly prepared and sufficiently simplified so that you don't have to read anything else or do any research.

In many overseas universities, the teaching material is nothing more than a reading list. DM is a luxury that was introduced only about 10 years ago here. When I did Legal System (taught by Professor Peter Wesley-Smith) 20 years ago here, the only DM we got for the whole year was a list of 15 pages of cases and prescribed readings and nothing else. I could remember how we spent many evenings in the Law Library copying and ploughing through the long list of cases in stare decisis, wondering how we could manage to read over 30 cases a week and to survive the never-ending questions from the tutors. I could also remember that the first reading list in Contract (taught by the recently retired Judge Downey) contained 20 odd cases, and that was for the first week in the first year alone. Are we moving backward now? Are the students now less competent than students 20 years ago? I think not. The difference is one of attitude. Only a small percentage of students managed to get into the University in those days. They were determined to prove that they were the best among the best. They were demanding on themselves, and worked hard to excel themselves, not only in academic studies, but also in extra-curricular activities, in social affairs as well as in arts and literature. I can seldom find the same determination to excel among students these days. Too many students are too readily to be content to be among the mediocre.

It is probably a combination of all these factors that led the professional bodies, which are increasingly dissatisfied with the quality of our graduates, to propose introducing additional qualifying examination immediately after the PCLL for entry into the legal profession. (Personally I don't think an additional examination will solve the problem.) The consultants of the Review of Legal Education will submit their report in June this year. Among the recommendations are the lengthening of LLB to 4 years, abolishing PCLL, and introduction of a professional qualifying examination immediately after the LLB (the typical passing rate of such examinations which are run by professional bodies in overseas jurisdictions is below 50%). The recommendations, if implemented, will have long lasting impact and serious consequence on legal education in Hong Kong. They will no doubt affect some of you. Yet despite my repeated invitations, I have not heard any student's response to the consultation and the recommendations. I doubt how many of you have read the consultation documents which have laid idle in the Law Library for months.

I think I have said enough of all the negative things. My intention is not to degrade you. Rather, I sincerely hope that these remarks can provide you with some reflection. I believe very few people are born genius. The success of most people is the result of hard working and an attitude to excel. What kind of students and persons do you want yourselves to be? As China is emerging rapidly as one of the most important economic regions in the world, and if Hong Kong is to maintain its competitive edge as a leading hub in the region in light of strong competition, not only from Shanghai or Beijing or Guangzhou, but also from Singapore, Japan, Taiwan, Thailand, Korea, Australia, and even Europe and the US when China accedes to the WTO, the only future for Hong Kong lies in internationalisation. We are losing our competitive edge in the English, and possibly in the Chinese language. We can rely on our better legal and economic system, but for how long? We still have the irreplaceable geographical advantage, as Hong Kong is within hours to any part of Asia. We can only make full use of our existing edges by going international, by making ourselves a truly international centre with an international outlook and perspective. It also means that you are going to compete, not with your contemporaries, but with the best students from all over the world. Are you adequately prepared for the keen and harsh competition that lies before you only within months?

Some Reflections on the Review of Legal Education

Prof Michael Wilkinson

Head, Department of Professional Legal Education

University of Hong Kong

Whilst wondering what I should write about that might interest you, I read a report in today's South China Morning Post saying that two consultants from Australia had just recommended the abolition of the PCLL! That is certainly quite startling news and I thought you might welcome some comments to put the news in perspective.

As I am sure you are aware, for some time the legal profession and the Judiciary have been concerned about the quality of graduates leaving the PCLL to enter practice by way of traineeship or pupillage. Their concern centred around certain capabilities (or rather lack of them) of our 'finished product'. Some say that our PCLL graduates lack the necessary skills to practise; in particular they have difficulty writing good letters and drafting legal documents. Their interpersonal skills are also deficient. Added to this are criticisms that the standard of English of some of our graduates is falling to levels which cause anxious concern; this criticism has been applied particularly to advocates presenting cases in court. Finally too many of our graduates are over-passive and lack the skill of critical thinking. This latter criticism is often related back to the teaching methodology used in Hong Kong schools, where learning by rote and not by questioning what one is told are considered proper.

So the 'stakeholders' in legal education, ie the legal profession, the Judiciary, the Department of Justice, consumers and tertiary institutions jointly set up a working party to look into possible ways of improving legal education. Two distinguished academics from Australia were appointed consultants and given the task of investigating and identifying the problems, reporting on them and recommending ways of improvement for the future. The investigation stage has now been completed and we await the consultant's report and recommendations. Preliminary feedback (which indeed may not represent the final recommendations) is that the consultants believe that a four-year LLB would be preferable to a three-year LLB followed by a one-year PCLL. By combining the two courses into a four-year curriculum would, they believe, bring about a more cohesive programme of legal education. As for the PCLL the consultants conclude that the course is trying to fulfil two purposes which are, to some extent, conflicting; they maintain that the course aims at instilling a great deal of black letter law on subjects such as conveyancing, revenue law, commercial law and civil and criminal procedure whilst at the same time trying to teach the necessary skills required for practice. The consultant's view seems to be that skills could better be inculcated by way of a legal practice course of about three months duration established down-town and that that part of the PCLL which concentrates on teaching black letter law should be transferred to an extended four-year LLB. The outcome would be a period of legal education lasting four and a quarter years to replace the present four-year period. Overseas entrants would no longer have to take the PCLL but instead be required to pass a 'conversion' course, probably of one academic year's duration. It is not clear whether this conversion course would be conducted within a University or by outside providers.

What is our position on these reforms? The Faculty of Law met in February to discuss what our reaction to such a proposal should be and we decided that we are likely to take a stance of supporting the continued existence of the PCLL. But my message to you is this. Don't worry! I confidently expect that any changes which might eventuate as a result of this consultancy report will not detrimentally affect you. I also believe that the consultants have the best interests of legal education and university students at heart. It was time for a proper and objective appraisal of our legal education which is now thirty years old. Let us await the outcome of the working party's deliberations with a confident expectation that the standards of legal education will be improved and the education you receive will even better equip you to fulfil a meaningful and satisfying role in the legal community.

法學教育改革的反思

周偉信

香港大學法律專業教育學系助理教授

在社會普遍提高對服務質素要求的同時，司法及法律界對法學畢業生水準的批評尤為嚴厲。業界認為見習律師或大律師專業表現每下愈況，除因學生入學平均成績下降外，並歸咎於法學教育的模式與架構，未能適當地訓練學生以符合市場需求和期望，促成了去年開始進行的法律教育檢討。

是次檢討，主要由法律界兩個專業發起，並得到政府的支持和撥款，聯同律政司、兩所提供法學教育的大學及業外代表組成核心小組，共同商議、策劃進行，更從海外聘請了兩位專家顧問，走訪各有關團體，搜集相關資料，又作公開諮詢，務求集思廣益，謀尋良策，其志可嘉；然而其過程及現階段所知顧問對改革的初步意見，則不敢恭維。

筆者絕不敢妄言揣測是否有所謂既定議程，但迄今過程中，香港大學法律院所提的意見似未受足夠注視。從起初提名專家顧問，至對諮詢文件中的回應，港大法學院所關注的範疇，均略嫌未獲充份考慮。例如：港大曾提名其他非澳籍專家，可是最後兩位專家顧問不約而同來至澳洲；又如港大曾提出法學院內兩個學系均正落實研究課程改革方案，專家們對此好像沒甚興趣，反而專注於模式改動。

此外，過程中透明度看來不高，宣傳亦嫌不足。專家顧問的工作進度及其初步改革建議和內容，竟然連律師會敘委都不太清楚，枉論一般同業，現時的法律學生以至有志將來投身法律專業的就更不用說了。筆者認識一位資紳業內人士，也只是聽聞此事，收到諮詢文件，卻未曾獲邀給予任何意見。更令筆者驚訝的，是專家們對法學教育模式的初步建議，竟在諮詢文件內所提五個方案之外！其中發生何事，儼如墮入九霄雲內，不知其所以焉。

至於專家建議，只側重模式改革，看來有點本末倒置，失諸交臂。概括而言，專家認為三年法律學士教育基礎不足，而且層面欠廣闊，不容涉獵其他法律以外範疇，造成太專才，通識不夠；另一方面，現時法律專業教育成果顯示，大多數畢業生專業技術未達水平，無論應對、草擬文件及難題處理，大都未達理想，故此提出：

一、將法律學士課程改為四年，學生可選擇於第三年肄業，領取文學士資格；如是者，現行雙重學士課程勢將延長至五年。

二、取消現時法律專業文憑，將現時課程內一些科目如：稅務法、租務法、甚至房地產法的理論部份，移師於學士第四年課程內教授。

三、成立在職訓練機構，在專業技術層面上，包括房地產賣買流程作業、訴訟程序及技巧、文件草擬要旨等，培訓在職見習律師及大律師，要求其必須修畢不少於十五週的指定課程，才可獲認可專業資格。

四、該所在職訓練機構的基本入學資格，由司法及法律界人士組成類似現時法律教育諮詢委員會的組織訂定。

五、海外法律學士畢業生欲到港執業，如符合上述在職訓練機構基本入學資格，可直接受訓，否則須先修讀延伸課程，至符合資格止；而該等課程則非大學專利承辦，可交由商業團體投標經營。

然而，將法律學士課程延展至四年，並若干程度與法律專業文憑合併，只是一種換湯不換藥的手法，顯示對法律專業文憑課程那種又愛又恨的矛盾心理；此外，在職培訓所列舉例子亦在現時法律專

業文憑課程之內，不正說明法律專業文憑課程的存在價值！那又為何強要攔腰殺之而後快？更何況，若一個一年全日制的文憑課程尚且未能涵蓋所需基本技術，那十五週的在職訓練是否真能做到事半功倍呢？專家並未提出半點課程編排、考核及與大學法律教育分工的建議，又如何令人信服其整體效益？

將法律學士課程延展至四年，對建立本地化法律專業未見其利，先見其弊。現時，海外法律學士畢業生欲到港執業必須先修畢法律專業文憑課程。就算其早獲聘用為日後的見習律師，一旦未獲港大或城大取錄，只有望門輕嘆！另一途徑便是先在當地取得執業資格，再循律師會海外律師專業考核試合格，准予在港執業。專家建議如獲採納，難免令人有一種大開中門之感。誠然，有競爭才可望有進步，但試比較一名在港法學生及一名英國法學生，後者在修畢三年課程後，如獲一跨國律師事務所聘用到港，雖說或要修讀某些延伸課程，惟若此等課程交由商辦，那應難限制不准半工半讀，相比之下，另一名在港的法學生便會因仍有第四年的課程而失去先機。

其次，本地學生如有機會，父母或會選擇讓子女負笈海外升學。選擇英國，可以試圖得著上述先機；選擇澳洲，亦可只多花約半年時間，便有機會多獲一處執業資格。加上政府不斷削減高等教育經費，換來學費上漲，勢必影響學生選擇留港升學。再者，政府是否會資助第四年法律學士教育，實屬一大疑問。如是者，報讀人數減少，平均線下調在所難免，屆時又將有說本地生不濟，本地法學教育不善云云。惡性循環，是非曲直，如何定斷？

法律畢業生的質素問題，絕非單憑改革教育模式可以扭轉乾坤。誠然，加強在職培訓乃理所當然，但不能忽視的是成立和營運一所在職訓練機構的成本。推斷估計政府或會資助機構的成立，但日後學費將由參加者自負，雖則或有由僱主支付，但實習大律師因自負盈虧而百上加斤，而且對中小型律師行而言，該等支出負擔可不輕，見習律師在受訓期內對律師樓構成的機會成本更不低，對整體行業的發展不宜輕視。

今日法學教育面對的問題，亦是高等教育面對的普遍問題，其實是一個社會問題。首先，教育改革應從課程改革入手，內容的篩選、編排、配搭，以至教授的方式與方法，都應放在首要位置。惟有配合時代發展的課題內容和刺激教學相長的傳授方法，才會有助畢業生切合社會需求。

另外，三數年高等教育不可以令學生脫胎換骨，中小學的基礎訓練十分重要，正如學習書畫，早期習染了壞習慣或錯誤思想，成形後便難以糾正過來；繼後的在職培訓也重要，不要以為見習律師或大律師便能挑大樑，畢竟他們初出茅廬，實戰經驗少，需要的是機會、時間、包容、提點和指導，而不是責罵、奚落和孤軍作戰。

政府亦應責無旁貸，要馬兒好，就不要吝嗇馬兒吃的草，甚麼社會開支都說要減，才符合用者自負的原則，就連用於教育栽培人材的經費也減，敢問詳省來的又如何用之於民？財富從來不會不勞而獲，要創造財富，便需要自我增值，資助教育資源實在慳不得！

或許莘莘學子也應自省，不要再以消費者心態自居，不要以為付學費正如購票觀賞演唱會或電影，當思來者不易，要好好珍惜做學問的機會。敘言道：書是自己讀來的，教授可以教的是經驗和方法，真正的驗證和應用，是需要你親歷其境，才會成為你的私產，一生受用不盡。

法學教育的真正改革應是不斷進行的，而且是多導向和多階層廣泛參與的。

Some Reflections on the Future of Legal Education in Hong Kong

Mr Herbert Tsoi
President, Law Society of Hong Kong

As the President of the Law Society of Hong Kong, I have been asked to make a contribution on behalf of the Law Society to include in this report.

I am glad to take this opportunity to say something about the Law Society's vision for the future of legal education in Hong Kong. It is timely that I do so, as the legal community in Hong Kong is about to receive a report from overseas consultants who have conducted a comprehensive review of the entire system of legal education and training in Hong Kong.

There has been no such independent and comprehensive review of the legal education system since that system was established over 30 years ago. Since then, Hong Kong has undergone significant change, not the least being its reversion to China. There are many more challenges ahead for Hong Kong as we enter the new millennium and as we embark upon a new role in the emergence of China as one of the major economic and political powers in the world.

If we are to meet these challenges effectively, we must ensure that the quality of the legal services we provide is up to world-class standards. The quality of the services provided by lawyers is, to a significant degree, the product of their legal education and training. Thus, we must ensure that our system of legal education and training is also world class.

Now more than ever, it is incumbent on the stakeholders in the legal education system to put aside any self serving and short term interests and to work together to put in place the best system of legal education for Hong Kong capable of meeting the challenges of legal practice and the needs of Hong Kong well into the 21st century. This will require courage and conviction to do the right thing for Hong Kong, and to not let the significant opportunities that are presented by this review pass us by.

I hope that when future generations of lawyers in Hong Kong look back on the events following this review of legal education and training they will be able to say that those entrusted with determining their future were up to the challenge.

人間有情

陳弘毅

香港大學法律學院院長

柏拉圖認為構成人的靈魂的有三個部份或三種氣質，就是理智（或譯作理性）、氣概（或譯作血性）和欲望（或譯作情欲）。他最推崇的是理智，認為它是靈魂的不朽的部份；理智追求智慧，有智慧者應成為「哲學家王」，統治社會和教導人民如何生活。氣概發達的人是勇敢和愛好榮譽的，他們適合當兵，捍衛國土。至於受欲望主導的人，只知貪愛財富和追求原始衝動欲望的滿足，柏拉圖主張他們留在社會的下層，從事生產工作。

柏氏的靈魂三分說中沒有直接對應著我們中國人所重視的「情」的東西，這不但使我們感到柏氏的學說的不足之處，也反映出中西文化的其中一種根本差異。從古希臘以來，西方傳統便是推崇理性的，現代科技便是理性思維的登峰造極的成就。從先秦以來，中國傳統便以家庭倫理生活中的溫情為貴，歌頌人間有情、天地有情。

人類運用理智，發明了原子彈，登陸了月球，最近更初步完成了人類基因組的解碼。但是，理智不能告訴我們，為甚麼生命是有意義、有價值的，它也不能為人提供動力，使人在最困難、最痛苦的環境中，仍然向前奮進。「情」才是生命動力的最重要泉源。人間有情，這包括親情、愛情、友情，以至愛國的情懷，以至悲天憫人的為全人類謀幸福的慈悲博愛之情。根據中國傳統文化所蘊藏的生命的學問，生命成長的其中一個秘密便是通過禮樂和其他方面的教化，培養和發展健康的情操，從而將生命中的激情投進真正有意義和有價值的事業之中。

最近讀到李敖先生的歷史小說『北京法源寺』，其中寫到梁啟超因政治形勢所迫，要離開他所任教的湖南事務學堂。為他送行的人包括譚嗣同——當時任教於學堂的另一位老師，譚氏說：「我們大家在時務學堂這段因緣，恐怕就此成為終點，但是我們的師生之情、相知之情、救國之情，卻從梁生先這一標準上，有了起點。我們時務學堂的師生都是有抱負、有大抱負的。此後我們會從不同的方向、不同的角度，去救我們的國家，成敗利鈍，雖非我們所能逆睹，但是即使不成功，梁先生所期勉的非破家不能救國、非殺身不能成仁，相信我們之中，一定大有人在。在看不見想不到的時候、在不可知不可料的地方，我們也許會破家殺身，為今日之別，存一血證。那時候，在生死線上、在生死線外，我們不論生死，都要魂魄憑依，以不辜負時務學堂這一段交情……」

殺身成仁的情況，不幸言中。戊戌政變後，譚嗣同作為「六君子」之一壯烈犧牲了。他的死，為的不是兒女私情，甚至也不是父子或手足之情，而是一種更大、更高、更紳、更廣的情。只有偉大的人格、廣闊的胸襟、遠大的眼光、宏偉的抱負和高尚的理想，才能孕育和承載著這種悲壯之情。

Transitions

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I have been a teacher of law, in the specialised area of legal practice, for 12 years now, first in Australia and then for over ten years in Hong Kong. Before that I was a solicitor in Sydney, Australia, for six years. There have been quite a number of transitions for me during my working life in the law. My initial academic training was in archeology, especially prehistoric archaeology, which involved a minute inspection of the last debris of early human kind to try and interpret the history of early man.

In my lectures and tutorials every week I see in front of me many young (and some not so young) faces, mostly eager to learn the ways and means of what they hope will be their future careers as a lawyer. I often wonder what that future career will bring them; what transitions will happen in their lives.

At this time I also reflect back as to what attracted me to the practice of law in the first place, and what had I found in the law to be of interest to have kept me in this area for so long. Twenty years ago, in Australia, it was still novel for women to enter the legal profession, but there were a few women legal luminaries, such as Dame Roma Mitchell in South Australia, and Elizabeth Evatt, former Chief Justice of the Family Court of Australia, both of who were an inspiration to women of my generation. In Hong Kong, Margaret Ng and Audrey Eu are women of inspiration and worthy role models, too.

Actually going through the law school, which in my case was the Australian National University in Canberra with such well renowned classmates as Andrew Byrnes and, a little before my time, the well known Hong Kong tax expert Andrew Halkyard, proved to be the most difficult period of my legal career. Those endless hours spent in cavernous libraries surrounded by great piles of law reports, long into the night when my time could have been spent on some more interesting pursuits. Those lectures on subjects that seemed dry and distant, the principles of *Volenti non fit injuria*, and *Res ipsa loquitur*; "What are they to do with real life?" I asked myself. I could not even pronounce the words, never mind understand the language.

What had I got myself into? My early years as a junior solicitor in legal practice were not a lot better. I first joined a middle-sized commercial firm, as a very, very junior solicitor, assisting a partner in equitable mortgaging. There were only 3 female solicitors in the firm which accounted for at least 35 solicitors. The attitude towards women in practice in those days was ambiguous at best where many men, like the Senior Partner whom I worked for, perceived women as secretaries or in supportive/ancillary roles in the firm, and not as professional equals (albeit very junior ones). Communication was a major problem with my Senior Partner. He could not talk to me as a solicitor, and I was terribly in awe of him.

I found myself working in a lonely office with very little communication with the outside world except via the telephone to a few institutional clients. Hey, this was just like the law library! There must be more to life than this! So I decided to change. I left the hub of the downtown commercial world, and, with the encouragement of an old university friend, joined the Australian Legal Aid Office. I could not have expected a greater change in my working life than this one. I came into contact with worldly reality head-

on. In the Legal Aid Office in Sydney, we handled two kinds of work. We managed referred files, i.e. files for clients who had private solicitors acting for them and for whom my sole responsibility was funding. We also met clients directly who walked off the street seeking advice and assistance, and, in some cases, became our own personal clients.

My first interview with a client was a real eye-opener. He was a young man who wanted advice on behalf of his girlfriend who was too shy to come to the Legal Aid office. His girlfriend wanted to know if she could sue a local magazine, of dubious local repute, for defamation. She was quite a well-known dancer and her boyfriend showed me her photograph. She was stunningly beautiful. She had been interviewed by a journalist from the magazine who described her in the article as a "transvestite now a successful dancer". As her boyfriend explained, she was, in fact, a transsexual, NOT a transvestite, a term which she found particularly distasteful and damaging to her self-image. Oh goodness me, I said to myself, they did not cover this topic in the law of defamation in my law school! This required a good bit of novel research before I could give any kind of informed advice.

I soon discovered that the skills that I had been taught in my legal practice course (also at the Australian National University) did not quite equip me for all eventualities that I would meet in practice. On one occasion a man came into my office carrying a can of peaches. He showed me the can and the writing on the label. He referred to a name that was the name of a well-known brand of producers of canned peaches in Australia. He then showed me a very tattered and not clearly decipherable document, which he said was a copy of his mother's birth certificate. He pointed out his mother's first name, which closely resembled the name of the producer of the peaches, which was in turn clearly stamped on the can. The man then told me that, because the names were the same his mother was, in fact, the daughter of the man who produced the can of peaches and, as her son, he was the heir to fortune of the man who produced the can of peaches! This was where the difficulty began. When trying to point out the unlikelihood of any degree of biological connection based on the evidence before me, the man started becoming very agitated, banging the can of peaches on my desk, raising his voice and screaming at me, then standing up and waving the can of peaches in the air. It was very alarming!

What to do now? My brief course in negotiating skills did not suggest any immediate solution. I pressed the alarm button which was placed under the desk (at that time interviewing officers were placed in a room with specially equipped desks just in case there were violent clients). But to no avail. I did not know at the time that the electric cable had been cut that very morning because workers were repairing the wiring in the building. Fortunately, a colleague in the next room, on hearing the commotion, came into the office and between us we were able to talk the man into a state of calmness. I have never forgot the value of acquiring good communication skills.

The experience which had the greatest impact on me, though, was acting for parents in the specialised Children's Court in Sydney. This was a jurisdiction where children who were deemed to be in need of care, usually on the basis of being neglected, were brought before the court whereby the court would then make orders concerning their future care and accommodation.

As a Legal Aid Officer I acted on a pro bono basis for the parents of these children. This would have to be one of the most emotionally charged, pathetic jurisdictions which could possibly exist. I was confronted on a daily basis with children who had been beaten, abused, burnt or just generally neglected, often suffering major injuries, while with some who were just naughty using social workers as a means of obtaining retaliation against their parents. And my clients were these children's parents. My initial reac-

tion was one of revulsion against my clients. How could these things happen in our so-called “enlightened world”? But I was a solicitor, and had an obligation to act professionally for the best interests of my clients.

After a time, I realised that the world, and the people in it, could not just be divided into black and white, good and bad, innocent and guilty, categories. A lot of my clients were very sad, diminished persons, many of whom, being in impoverished situations, could not cope with the demands expected of them (Not all of them though!). The victims, often without any deliberate malice, were the children. These were situations where the law intervened to achieve a specific purpose, but could not resolve the underlying problems that were social and personal in origin. In many cases, I felt that my knowledge and skills as a lawyer were useful and that I could provide advice, not always legal, that could assist people. I also realised that the law was very limited in its capacity to achieve true justice in this world, but just a state of truce.

Now I had definitely found a world very different to the limited confines of the law library, and the premises and norms of the law, that I had read about, started making some sense, though the law in application did not always coincide with the law in principle.

The Australian Legal Aid Office ceased to exist, and a new, more political structure of legal aid funding commenced in Australia. It was time for me to make a new transition. I could not even contemplate returning to the world of legal practice in a commercial law firm. I had “been there and done that”. With some other friends from the Legal Aid Office, I went to the College of Law in Sydney, and became an instructor on the Legal Practice course teaching litigation. From there, I moved to Hong Kong, again teaching litigation on the legal practice course, the PCLL, at the University of Hong Kong.

I don’t have clients anymore. At times I really miss this kind of relationships. During my years as a solicitor for the Australian Legal Aid Office I met some very interesting people mostly, though not always, as clients. I will never forget the old lady who came to ask me to help her draft her will. She was 85 years old and had been born in Russia. She had left Russia with her parents when she was a child during the Russian Revolution in the early 1900s and lived in Shanghai as a young woman. She then married and came to Australia with her husband who was now dead. She was fiercely independent and loved life, even though she had lost a great deal that was valuable to her, including her cultural heritage. She had been a part of some of the great historical events of the 20th century. To me, these kinds of experiences with people were the most valuable that I have had.

I miss the friends whom I made at the Legal Aid Office, colleagues with whom I shared many dramatic experiences and with whom I am still very good friends. That bond will never go away.

Teaching is very different again, and has many different rewards. So when I look out at my students during my lectures, at their eager (and some not so eager!) faces, I wonder where their careers will take them. The practice of law can open many doors, and not just financial. It can take you to many interesting places. I do not regret my choices that I made, and am grateful to whatever god exists in the universe, that I have had the opportunities to practise and to teach what had been given to me. I hope that my students will be as fortunate as myself.

My Experience of Learning the Common Law in a Second Language

Guanghua Yu

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I was born and grew up in a small town in China. My short education of ten years from primary school to high school fell exactly during the Cultural Revolution. One third of the time was wasted due to political events. The limited English I learned was some slogans of political nature. Unlike the current generation of high school students, students in my period did not have the chance of entering universities right after graduation from high schools. This led me to a production team (village) in a commune to receive "re-education" from the farmers. Only at the end of 1977 when I left the village to work in a factory did the universities start to be open to high school graduates and former graduates.

My interest in receiving university education drove me to learn English at the age of 20. At that time English became one of the subjects for the university entrance examination. Learning by myself was certainly not efficient, but it was adequate for me to pass the university entrance examination. After entering Shanghai Maritime Institute, I received some formal training in English. Nevertheless, we never got any opportunity to put our English into practice. We rarely talked to and wrote assignments for native English speakers.

At the beginning of 1987, I earned an opportunity to read my Master of Laws (LLM) at Osgoode Hall Law School in Canada. The difficulty of learning the common law in a second language was obvious. I was not able to write down notes in lectures and seminars. While I was able to understand what the professors said during classes, my memory did not last very long as I could not remember much days or months thereafter. Despite these difficulties, I attended all the interesting courses I chose. The options of assessment methods available to third year students and postgraduate students were enormously helpful. I chose to write essays for the credit courses needed, together with a thesis, to comply with the requirements. Writing essays gave me the advantage of controlling my time allocation. It seemed to me that finishing my master degree appeared to be easier than I had expected.

It was at the University of Toronto that I managed to do an LLB while doing my doctoral studies. The difficulty of learning in a second language did not end at my master level. I encountered two further difficulties in my studies at the University of Toronto Law School. One difficulty was in writing critical pieces for courses in my postgraduate studies, which requires very good command of English. My recollection was that the quantity of reading materials was three to five times that assigned to our students in the Faculty at the University of Hong Kong. Many reading assignments were very difficult to students who were not familiar with the Western legal culture. Despite the difficulty I faced, I completed all the assignments. Reading the influential pieces was considerably helpful. The internationally acclaimed legal scholars such as Professors Michael Trebilcock and Ernie Weinrib, and the eminent young legal scholars including Professors Bruce Chapman, Ronald Daniels, and George Triantis gave me long lasting influence. With the deliberate shift away from its concentration on practical legal training, interdisciplinary studies at the University of Toronto Law School have become increasingly important, providing students with enormous judgmental power.

The other difficulty I had was in writing the traditional examinations for my LLB studies. But it turned out that the difficulty of using a second language also gave me the greater opportunity to improve myself in a very challenging environment. As a minority foreign student, I had no say on whether the teaching of a particular course was too demanding or not. As a matter of fact, I never complained of any teacher's teaching method. The reading assignments were very helpful in assisting me to enhance my analytical skills and judgmental power. Preparing notes also appeared to be fruitful not only for my LLB studies but also for my future development.

Learning the common law is not easy. Learning the common law in a second language is even more difficult. A positive attitude is to face the difficulties and to find ways to overcome the difficulties. My personal experience is that meeting the challenge is the best way to improve oneself in the long run. I also find that concentrating on practical legal training in law schools is not necessarily able to guarantee that the graduates are of high quality, just as predominantly emphasizing on teaching may appear to be counterproductive. In the end of the day, it is the influence of a law school that matters.

親愛的同學們，多謝你們盛情邀請，要吳老師為你們的年刊寫篇文章，吳老師非敘感激。然而老師課務繁重，無論如何都無法有份閒情與時間執筆，於是只好找了兩篇多年前念高中時寫的短文濫竽充數，希望你們不會太失望。吳老師答應將來有機會再為你們好好的寫一篇。

可愛的音符

呵！多謝小蘇！

是你叫庭院里的玫瑰花吐散了幽郁芳香。梢頭的鳥兒正緘默不語，欣賞著清音的飛躍；天邊浮移的白雲輕盈地舞動。是你叫悠揚迴迤的琴音繚繞著淡雅的小室，如行云，似流水，飄逸淌淌在我心坎。

我曾漫步海濱，看晨風撫慰椰梢，聽浩洋歡唱古老的情歌。海濤開出繽紛的銀花，不住地輕吻岩石。默默地踱著，我想起了你這夏天的浪花，在鍵盤上飛舞，潺潺地抖出了音符的可愛.....。

入暮的山途，我曾獨自彳亍；歸鴉兩點在熠熠的斜暉里飛翔；古橋的波影恆古地映著波心；魚兒在水草間喋喋私語。我小立橋端靜聽著遠近的音籟，回憶起你曾彈過的Souvenirs D'enfance，那是一個難忘的五月天，伴著彩霞朵朵，你流暢的音旋在原野飛揚.....。

我又曾在夜里的燈池徘徊，柔淡的燈光勾勒出彎曲如虹的白橋。星光在流水里閃爍。我消磨了幾度光陰，痴等著月亮在昏黃里上粧。林野里秋蟬兒唱出了喜悅。荷花彷彿俏麗的姑娘，依偎著點點綠葉。你炯瑩的星眸，綴著情意盎然的夜色，引我翩翩入夢。池里的月色編織著光與影底和諧的旋律，恰似你指尖滑出的串串愛的音符.....。

細聽你可愛的旋律，眼前平鋪了一幅亮麗的彩畫，我與你變成了畫中人；在音樂的世界里，我與你，化成了可愛的音符，化為永恆典雅.....。

曾登於星洲日報「學府」版（一九八四年十月一日）

歌

海濱的生活真清爽、閒淡。

雙手托在頷下，倚著窗台；眼前千頃鱗鱗波光正映著變幻萬千的落日餘暉。斑斕的紅霞把半個天邊粉妝得紅艷綺麗。海風似母親溫暖的手撫慰著我的雙頰。呀！五月的海風，它從遙遠的家鄉帶來了泥土的芬芳，滋潤了我冰冷的心房。

正當原鄉的海波里飛濺的浪花一滴滴敲在我心絃時，隱隱傳來了清脆潤滑的鄰屋歌聲，奏和著瀝淅嘩啦的水流，大珠小珠落玉盤地划破了時空的幽靜，敲響了寂寞的沙濱。

這歌聲的魅力竟盛於大自然的變幻！它闖進了我的思緒，撩起了朵朵漣漪於我寧靜的心湖。

「這歌聲彷彿在那兒聽見過似的，什麼時候我曾……」

於是，不覺中，我閉上了雙眼靜默地追憶。

往事一幕幕地昇起，三年前的一個印象湧上心頭。——一個小雨飄飛的黃昏。雨滴如滾珠般的從屋簷滴下，撞進泥沼里的一潭污水，響起可愛的泡聲，泡泡兒宛如倒蓋的小杯滑來滑去。

煙嵐吹來，點點雨滴濕漉漉地沾透了衣襟，只覺寒意沁骨。這時屋里傳來陣陣活潑的歌聲，伴著雨音滴滴。暖和的歌聲驅散了我身軀的寒冰……。

「咦！這歌聲彷彿在那兒聽見過似的……」

飛躍的思潮於是猶如在瞬息飛逝的時光流里追逐著隱蘊在紳壑的寶藏，心幕又回轉倒流到六年前的一天。——獨自在鄉間的小徑閒憩。一抹熠熠西落的斜暉，三五飛鳥划空而歸，彩霞在天邊飄浮，田隴空蕩蕩一無所有，池塘里的小牛在泥濘里打轉，小橋旁流水潺潺；望著一河波幻，我靜聽著遠近的音籟。呵！這向晚間的漫溯真是一帖靈性的補劑。

這時，嚶嚶的清音，繚繞著村舍的靜謐，彷彿幽谷里小鳥的歡噪，稚子的歡唱聲，在原野迴響……。

這同樣微妙的歌聲，宛若游絲般地攏來，在心間激盪。

此刻，霎那的歡欣，曇花似的湧現，驅散了昏夜的晦塞。耳際間的縈繞的三個清響，剎時化入愛的音符里，在心底迴漾……。

登於星洲日報「學府」版（一九八四年七月十六日）

猜一猜，他是誰

張達明

香港大學法律專業教育學系副教授

時光飛逝，不經意地我已在港大法律學院任教約四年，剛好與自己當年在此修讀的年期相約。太古橋依舊，人事卻幾翻新。若問我當中改變最大的是甚麼，我會毫不猶豫地說：老師及同學相互間的關係遠較以前疏離，學院內似乎亦少了些歡樂的笑聲。

為使自己緬懷過去的同時，亦讓同學對當年師生的關係有多點體會，對一些現任老師有多點認識，特將自己在此就讀時認識的老師及同學的一些花絮逸事寫下，讓同學參與一個沒有獎的人物競猜遊戲。

*** 此君熱愛運動，是網球、壁球及足球的能手。當時每年都舉辦一至兩次師生友誼足球賽，在其中一次比賽中該老師不幸地被一名姓鮑的同學「合法」地撞掉兩顆牙，各參賽師生大為緊張，即時暫停比賽，封鎖現場，各人列作一排，作地毯式搜索，惜未能尋獲失掉的牙齒，但此君勇猛絕倫，堅持繼續作賽，令鮑姓同學膽顫心驚。

*** 此君1986年來港任教PCLL，人生路不熟，卻受到筆者及一班同學熱情款待，學懂不少日用廣東俚語，現已操得一口流利廣東話。到PCLL第二學期時，該老師已無法拒絕一眾同學的要求，在盛情難卻下，同意提早下課，一起到置富酒樓茗茶，彼此言談甚歡，舉杯痛飲，結果大醉而歸。

*** 此君文質彬彬，弱不禁風，治學及教學態度的認真，可謂一時無兩。每次講課，必充分預備，深受同學敬重及欣賞。有次本班一好事之徒藉機偷看該老師的講稿，赫然發覺連「各位同學早晨」及相關的開場白亦一字不漏地詳細載於講稿上，其認真態度可見一斑。此君初來(土步)到時，似乎未慣面對本班同學的熱情款待，甚少與同學在課堂外閒聊，路經同學們的聚腳點時也往往低下頭匆匆而過。當年傳聞有一次當該老師經過時，本班一衣著入時、相貌端好的女同學嘗試與他打個招呼，他竟滿面通紅、含羞答答地

轉身而去，筆者未能親自考究這傳聞的真實性，但傳言者言之鑿鑿，一時傳為佳話。

*** 此君性格與上一位老師大相迥異，初來任教即與學生打成一片，積極投入學生組織的文娛關社活動。法律學會一眾幹事遇有困難或需要幫助時，他都樂意聆聽及提供寶貴意見。筆者與不少同學在太古堂餐廳的下午茶聚或在般含道的上海飯店的晚飯甚至水街的宵夜很多時也有他的份兒。有一次他更邀請筆者與另一些同學到他沙田的寓所一聚，閒話家常之餘，更暢談文學與人生。戲劇性的情節後來發生，筆者一位同學在畢業後一年多被律師樓派往英國實習數月，巧遇當時放長假往英國修讀博士的他，他鄉遇故知，加上時值六四天安門事件的爆發，國難動盪不但勾起兩人的悲情及中國心，更讓他倆擦出愛情火花，同年年底，有情人終成眷屬，美滿婚姻，一直維持到現在。

*** 此君當年在此修讀法律時，充滿熱血及愛國情懷，積極投入學生及社會運動，曾任法律學會外務秘書，後任學生會幹事，課堂鮮見其蹤影。英雄未形氣短，兒女情卻更長，在學期間兩度談戀愛，惜情海翻波，先後兩度失戀，最後一次發生於修讀PCLL期間，極度失意沮喪下，幸蒙上主垂顧，絕處逢生，有機會接觸信仰，參加慕道班，查考聖經，終能經歷從基督而來的真愛。畢業後參與基本法諮詢委員會工作，機緣巧合，認識了當時在該委員會任職的港大文學系畢業生，兩人志趣相投，情愫漸生，當中雖經歷一些波折，最終有情人終成眷屬，現育有兩子一女，夫婦同心在教會積極事奉，同證神的愛與恩典。

*** 此君與上一位老師有不少共通之處，兩人於同月同日出生，更於同年同月同日在同一教會接受洗禮，同窗四年修讀法律，在讀PCLL那年同居於一「小舍堂」，在同一屆法律學會擔任幹事，同樣地絕少出席課堂，現同在法律學院任教，兩人的兒子曾在同一幼稚園同班上課，兩人的大女兒將在同一小學肄業。

In the Cradle of Our Nation's Birth

Perfecto G. Caparas II
LLM student

*We cannot die, Kasama;**

*in our youth we had dared
to endure the blaze
of scorching earth;*

*built bridges with our hearts,
arms and feet
between distances
of multitudes;*

*we've conquered
our narrow, shallow concerns
seeing ourselves
as tiny stalks brought forth
by our hungry land
to soar and glide
in the winds of freedom
unfettered*

*we've quenched our thirst
with promises of liberation
nursed in our hearts
rent by filth
of sufferings and tears*

*we've photographed
in our mind's eye
our bony children,
naked, awash with dusts;
hairs made dry
by warm winds,
radiant sun,
robust earth,
nourishing water
from wellsprings we've dug
with the collective strength
of our bare hands;*

*stomachs that bloat
with hunger
want
disease
flies and worms*

*and the stench of death
that hovers upon our children
all the more stokes
the embers
of revolution
in our fists*

*the children of the land
are soaked
in the blood
of our forbears -
heroes and heroines,
sons daughters
who've ennobled
our race
with their resolve to sail forth
in protracted warfare;*

*yet still unvindicated
due to our forgetful selfishness,
shadowless existence*

*in the womb of our youth
we nurture our faith
eternal as the vast panorama
of the open universe
limitless and boundless abyss
of our undying quest
for the humanity
of our sons daughters
our mothers fathers
of men and women
of children
of birth.*

- The author, a Filipino lawyer, is a former columnist of the Philippine Post and ISYU Newsmagazine and of The Manila Times. He also served as a reporter of Ang Pahayagang Malaya and Manila Times. He is currently completing his Master of Laws in Human Rights at the University of Hong Kong and is recipient of the Human Rights Fellowship Grant from the Asia Foundation. He is a columnist for Pinoy Gazette.

* Kasama is the Filipino word for "comrade"

Political Power of Culture - People Power in the Philippine Context

Perfecto G. Caparas II
LLM student

The EDSA¹ people power - viewed as the culmination of our people's long-running collective struggle and effort, both in the underground and legal arenas, to oust the despotic regime of former President Ferdinand Marcos and his coterie of cold-blooded torturers and killers in the police, military, and vigilante death squads - has imbued the national soul with a certain level of critical and vigilant attitude towards the crucial affairs of government. The tyranny and abuse that had characterized Marcos' 14-year strongman rule taught our people that, absent their own critical and dynamic vigilance and involvement, national leaders may tend and be able to abuse their powers and privileges, to the people's own despoliation and detriment.

It is in the people power of EDSA that our people reclaimed what rightfully belong to them as their own birthright - a government that truly serves as a vehicle for the effective advancement and promotion of the collective interests and wealth.

Never could we downplay and underestimate the impact upon our own political culture of the EDSA people power, especially as it reasserts its own vibrant spirit and force in the ongoing political drama that is proving to be a defining moment for the whole nation.

As a political process, people power is doing a nation a great service in spelling the doom of traditional, elitist politics in our midst. It dramatizes both the power of the pen and the clenched fist in defending and protecting our own people against the foray of their trusted officials and leaders into the national coffers. It warns them of the serious implications, risks and dangers ensuing from their own officials' sins of commission and omission.

Through this dynamic political process, the principles of transparency and accountability become more ingrained in our own political culture, thereby emerging as a powerful force to reshape and provide greater impetus for the achievement of a more people-oriented government.

Erap² Embodies Our Political Culture

Erap is being pilloried.

Yet he is playing a very critical role for the collective evolution of the Filipino people as a great nation. Remember, his ascent to political power is phenomenal, coming as it does with the electorate's implicit repudiation of the brand of politics espoused by his immediate predecessor, Fidel V. Ramos. This, as seen by the people's flat rejection of Jose de Venecia, Ramos' anointed political successor, during the May 1998 elections.

¹ EDSA refers to Epifanio delos Santos Avenue, a highway which served as the actual and symbolic situs of People Power I in February 1986 and People Power II in January 2001

² Erap is the nickname of former Philippine President Joseph Ejercito Estrada. It is the Filipino term for "pal" ("pare") in reverse order.

Happening as it does, too, with the Filipino masses' rejection of the likes of Sen. Raul Roco and Sen. Miriam Defensor Santiago, with whom, owing to their much-flaunted intellectual prowess and academic verbosity, the masses could not identify themselves, and in fact, feel very much alienated, and intimidated.

Erap's ascendancy to the peak of his political career - even though practically everyone had been belittling and ridiculing him for his supposed notoriety for "carabao" English - bespeaks of the masses' regurgitation of the politics of the elite. In Erap, the womanizer, gambler, drunkard, the masses had found a person with whom they could closely identify.

But there's more to Erap than his own admission to being a womanizer, drunkard, and gambler. Erap's own frank admission, without being apologetic and contrite, to his living a life of vice and seemingly reckless abandonment, so typical of the lifestyle of a movie star, had all the more endeared him to the masses. For with his own admission to his own personal weaknesses and frailty, Erap had in turn displayed the virtue of truthfulness and candor. A virtue so much lacking among Erap's rivals who typify the traditional and elitist politicians, whose adroitness in the art of sweet-talking the masses into electing them into office had already made the Juan and Juana dela Cruzes very wary. At least, in Erap, there was no attempt to deceive what's quite characteristic of the purveyors of elitist politics.

This also manifested the people's political culture that puts premium on one's own candor, to the extent of admitting one's own weaknesses and failures.

In terms of his political merits, Erap had a political track record that negates allegations of his being bereft of any astute political sense and conviction that would empower him to deal with and handle crucial political problems and issues.

Erap had fought tooth and nail against the retention of the United States military bases in the country. He was even the most articulate among his colleagues in the Senate then headed by the illustrious Sen. Jovito Salonga in popularizing the anti-bases stand by doing a movie starring himself and Sen. Anna Dominique "Nikki" Coseteng which attacked the evils entailed by the presence of foreign military bases in the Philippines.

Further, Erap's own Senate bill meant to provide carabaos for the farmers - though seemingly hilarious for urbanites - actually spelled life and death for farmers and indigenous peoples.

In the heat of the presidential polls, Erap's rivals in the presidential seat had taken turns in battering him for his weaknesses and vices, which all the more lent an underdog image to Erap. The barrage of attacks against Erap had made him an outcast in the game of politics dominated by English-speaking politicians, making the masses further identify themselves with him.

The masses' penchant for going for the underdog, however, does not completely explain Erap's political star. The mystique of Joseph Estrada, the actor, the Asiong Salonga³, has much to do with the masses' self-identification with Estrada. His action-packed movie had always depicted Erap as the staunch fighter and defender of the poor and the oppressed, even outside the traditional and institutional avenues whereby the poor and the downtrodden could seek redress.

³Asiong Salonga is the leading character in the movie of the same title starring former President Estrada. Asiong Salonga was a street toughie in the slums of Tondo, Manila in the 1960s.

Thus, the Church's and his critics' attacks against Erap's own shortcomings had only resurrected the role-image of Erap as a wounded, blooded, defeated character in his own heart-rending movies, however always managing to vanquish and defeat the enemies of the people in the end.

All that Erap had to do therefore was simply to capitalize on and transform this magical image of himself that had captured the hearts and minds of the masses, of all ages, into an election formula to catapult himself to power.

The masses' own act of electing Erap as President, contrary to the sneering attitude of some, however, does not constitute, or reflect, a poor, uninformed political judgment. It is, rather, a qualitative leap in terms of the political maturity of the masses. With the masses, intellectuals at the University of the Philippines and personalities from civil society had cast their vote for Erap during the May 1998 elections.

In the eyes of the masses, Erap holds the promise to smash and destroy the vestiges of the politics of the elite, who are in turn closely associated with the English-speaking bureaucrats and technocrats.

In Erap, the masses had quietly reposed their trust in order for him to build up and establish a new brand of politics that would not marginalize, but instead, provide room for participation and involvement on the part of the common people, in the domain of politics.

Erap: Masses' Fallen Angel

The broad masses of the people, who had rightfully credited themselves for the ouster of strongman Ferdinand Marcos and Estrada by means of the phenomenal people power, are now assuming and asserting a vibrant and active, and even critical participatory role, in the life of our national politics. Together with a vibrant free press, the people are once again affirming what they had fought for in EDSA, that symbolized the people's long-running struggle against the Marcos dictatorship in the form of workers' strikes and barricades, guerrillas' mountain bases, students' rallies and pickets, and all the other manifestations and display of our own people's courageous and wilful opposition against the much-hated regime. They are now reclaiming a political vision that has yet to be spelled out in concrete terms.

Yet, this political vision can be defined and interpreted by examining our own people's culture of universality and inclusiveness - *tayo* or we, instead of *ako* or I; *sa atin* or ours, instead of *sa akin* or mine - and a strong sense of transparency, openness, *"pakikisama"* or getting along, collectivism, and community. What best explains the Filipinos' natural ability to get along well with people from all the other nations of the world?

Our own indigenous culture in fact has so much to do with the people's repudiation of Erap by seeking his immediate ouster.

Erap had betrayed the masses. But note as well that far from being cruel and harsh in regarding him, our people would continuously shower and bless Estrada with their own understanding and compassion for his own frailties and weaknesses. But staying in power he could do no more.

Unpardonable for the people are Erap's actions in providing multi-million palatial homes and mansions for his numerous women and for pocketing more than P400 million in jueteng (the poor's illegal numbers game) protection money and for dipping his hand in the national treasury by raking in P130 million in tobacco excise taxes, as Ilocos Sur Gov. Luis "Chavit" Singson⁴ had exposed.

For the "Boracay"⁵ palatial home at 11th Street, New Manila, Quezon City and the sprawling mansion in Wack-Wack Subdivision⁶ symbolize a clear negation and betrayal of the people's aspiration for an emerging, though still undefined in concrete terms, brand of new, alternative politics, for which they had elected Erap; for which they had ousted Marcos; for which they had initiated and popularized throughout the whole world people power as a potent form of direct political action.

Erap's and his own women's perceived profligacy in office - amid the rampant homelessness of our ubiquitous street children, the modern-day slavery of hundreds of thousands of overseas Filipino workers, especially women, and the grinding poverty all over the country - has proven that what they had sought to repudiate and negate during the May 1998 elections, the self-serving and greedy politics of the elite, was exactly what Erap, due to sheer human frailty and folly, had fallen for. The masses, however, would also not fail to see the bootlicking cronies and friends of Erap who had exploited to the hilt their own closeness and association with the "man of the masses" simply in order to promote their own selfish designs and interests.

In no small way, the Erap jueteng, tax and mansion scandal would further deepen and entrench in the national consciousness the unending quest and aspiration of our people for a new brand of politics.

Far from diminishing their own hope and fervor in earning for themselves a truly pro-poor and pro-people government, Erap's own frailties and weaknesses as a national leader would but serve as another grim reminder for the ever-growing need for the development of the people's own alternative brand of new politics, exactly the anti-thesis of Erap's brand of elitist, traditional politics.

Filipino's Concept of Justice: Core of People Power

The elections that were held in the aftermath of EDSA people power in February 1986 have been imbued with a new streak in the people's consciousness. This streak in our people's political consciousness is closely intertwined with our own indigenous culture as a people.

This critical politico-cultural consciousness and aspiration had driven our own people to overthrow Marcosian rule. They have been very much fed up with the Marcosian politics that had been marred with election fraud, enrichment in office, cronyism, profligacy, terrorism, and human rights violations. For all these are anathema to our own people's indigenous culture and value-system, which are actually embodied in the revolutionary creed and teachings of our forebears, especially Apolinario

⁴ Ilocos Sur Governor Luis "Chavit" Singson is the former drinking buddy and political ally of former President Estrada belonging to his so-called "Midnight Cabinet" or a group of his drinking buddies who had supposedly decided official policies during their midnight drinking sessions. Singson had exposed the latter's alleged involvement in the illegal numbers game

⁵ "Boracay" is the name of the palatial home built for one of former Estrada's mistresses according to the Philippine Center for Investigative Journalism's expose

⁶ Wack-Wack Subdivision refers to an affluent residential area in Pasig City, Metro Manila where former President Estrada had another mansion for another woman of his

Mabini, Emilio Jacinto, and the original members of the Katipunan, who had valiantly fought for our country's deliverance from Spain.

Thus, people power serves as a collective act of negation, not only of Marcos but his particular brand of politics as well.

However, to their chagrin, the collapse of the Marcos regime had failed to provide deliverance to the masses from the clutches of self-enrichment and corruption and political marginalization, from the time of former President Corazon C. Aquino up to the exit from power of former President Fidel V. Ramos.

These still pervasive, notorious ingredients of traditional, elitist politics, whose evil Marcos had epitomized, had strongly influenced the people in voting for Erap. Conversely, however, this act of political negation constitutes an affirmation of our own core, fundamental values, as embodied in our own indigenous culture, as a people.

And the political exercise, which is the EDSA people power, serves to further entrench and inculcate in our national soul, in the realm of our political affairs and governance, our values and culture, especially its underpinning character and ethos of universalism, inclusiveness, harmony and peace based on fairness and justice.

It is in making a direct reference to our own indigenous culture, rather than in viewing our own national history and affairs through Western lenses, that the people power and the unfolding political events can be deeply and meaningfully explained. For all these events are defining moments for our maturing nation.

The Filipino concept of justice as subsumed in our own indigenous culture explains well the people's wrath against the publicized extravagance and profligacy of former President Estrada's women, as well as his alleged act of dipping his hands in the national treasury by pocketing P130 million in tobacco excise taxes and raking in more than P400 million in jueteng protection money. For our concept of justice goes beyond the Western notion of justice and even ventures further into the area of mysticism, humanity, fairness and reason. Our own notion of justice is inextricably intertwined with and woven into the fabric of our own national soul and ethos. This is, as explained by foremost human rights lawyer Sen. Jose "Ka Pepe" Diokno and as further elucidated upon by humanities professor Jun de Leon of the University of the Philippines.

In his book, *A Nation for Our Children*, Diokno writes: "In summary, our language establishes that there is a Filipino concept of justice; that it is a highly moral concept, intimately related to the concept of right; that it is similar to, but broader than, Western concepts of justice, for it embraces the concept of equity; that it is a discriminating concept, distinguishing between justice and right, on the one hand, and law and argument, on the other; that its fundamental element is fairness; and that it eschews privilege and naked power."

Thus, we see our nation's core values asserting itself in defining the shape and character of our national life, by addressing pressing issues concerning Erap and his national leadership.

The oust-Erap movement to a large extent derives its own vigor and strength from the well-spring of our own indigenous value-system and culture that remain intact and ingrained in our na-

tional psyche, in spite of its non-articulation due to the pervasive, impeding and corrosive effects of Westernized education.

This is an innate, homegrown culture that seeks to permeate our contemporary political life and infuse it with a new, emerging brand of political culture which is in turn more responsive to and reflective of our own people's fervent hopes and aspirations.

This, as manifested in the people's collective act of ousting Marcos, and until recently, in electing Erap as President; but now, in ousting him - though not necessarily hating and condemning him as a person - from the Presidency.

This, although traditional, elitist politicians keep on undermining the developing critical consciousness of the masses, particularly in the realm of electoral politics, by their usual resort to the proverbial guns, goods, gold, and girls. For this emerging political culture stands anathema to the politics of guns, goons, gold, and girls.

Thus, the paradigm, which political handlers, public relations experts, and psy-war operatives utilize in examining and trying to manipulate the political directions and tendencies of our country, can no longer be exactly appropriate and convenient for them to achieve their corresponding self-serving political purpose. This, owing largely to the people's active participation and involvement, together with a vibrant and critical free press, is directing and shaping our national life.

Clearly, what underlies our people's political act of ousting Marcos, in electing and, now, in deposing Erap, is their own aspiration for an alternative, new brand of politics that truly represents and seeks to promote and advance the people's collective interests and will.

- The author, a Filipino lawyer, is a former columnist of the Philippine Post and ISYU Newsmagazine and of The Manila Times. He also served as a reporter of Ang Pahayagang Malaya and Manila Times. He is currently completing his Master of Laws in Human Rights at the University of Hong Kong and is recipient of the Human Rights Fellowship Grant from the Asia Foundation. He is a columnist for Pinoy Gazette.

Coming of Age of People Power: Legal Arguments in Ousting An Incumbent President

Perfecto G. Caparas II
LLM student

Was the resort to People Power in forcing him to step down from the Presidency violative of the rules that allows former Philippine President Joseph Estrada or Erap to serve his full six-year term? Could he only be ousted from office by means of impeachment? Does this necessarily mean that other than through the impeachment process, the President cannot be forced out of office?

This is how his apologists had sought to blunt the impetus of the then brewing oust-Erap movement. Is People Power unconstitutional then? Or, is it rather an exercise of the Filipino people's fundamental human right to directly act and express their will on matters of governance? This, even outside the express confines of the Constitution?

Does this violate our Constitution which expressly provides for impeachment as the only mode of ousting the President?

Social Contract

The people - through their own plurality vote during the May 1998 elections - had reposed upon Estrada the power and authority to govern, and that, implicitly, he can only be removed from office by means of impeachment. This is the rule as embodied in the country's Constitution.

Implicit, however, in the people's mandate for Erap to govern is that he would carry out and fulfill on behalf of the body politics the duties and functions of the Presidency in order to advance the public wealth and interests. Hence, the six-year term hinges upon the President's own conscientious performance of his own mandate.

This is true in our Constitution. This is what the philosopher Jean Jacques Rousseau's theory of social contract states as well. Erap's power and authority as President rests and hinges upon the condition that such power and authority would be solely and exclusively wielded and used for promoting and advancing the people's rights and interests. The objective for which these power and authority had been conferred upon Erap reigns supreme and prevails over and above Erap's occupation of the seat of Malacanang (Office of the President) per se. Clearly, whatever privileges this seat of power carries with are but purely incidental to, and should not and cannot be used to counter and undermine, the objective of advancing and promoting the national wealth and interests. And this is what the People Power movement proclaims.

Thus, in case of any willful failure and/or breach to carry out and fulfill his mandate as President, say, by a willful breach and betrayal of the public trust, the essence of the charges laid against Estrada - his alleged involvement in the multi-million jueteng (an illegal numbers game) payoff and siphoning off of P130 million in tobacco excise tax, among others - he could be ousted by means of impeachment.

Direct Political Action

The question, however, is that, outside the impeachment procedure, does the Constitution bar our own people from resorting to and exercising initiatives meant to achieve the aims and ends for which the impeachment procedure had been instituted?

Are there, outside the mantle of, though not necessarily contrary to the letter, spirit and intent of, the Constitution, parallel measures which our people themselves as citizens could resort to and avail of in order to achieve the express aims and spirit behind the institution of the impeachment procedure?

Are such initiatives legally tenable? Could our own people resort to the one million email signature gathering campaign aimed at demanding Erap to resign? Or resort to demonstrations calling for his ouster?

Clearly, these are within the ambit and protected by the spirit, as well as the letter of the Constitution, as evidently constituting a valid and legitimate exercise of our own people's constitutional right to freedoms of speech and of assembly.

The resounding calls for Erap to step down from office had proven to be a formidable expression, and representative as well, of popular public opinion finding Erap unfit for the Presidency.

Two years into the Presidency, Erap had proven to all and sundry, for instance:

- * How he could disdainfully clamp down on critical members of the press as well as
- * Nurture and enhance his own women's profligacy and extravagance as borne out by the expose by the Philippine Center for Investigative Journalism on the mansions bought and/or built apparently for his own women, and
- * Promote the self-serving schemes and designs of his own cronies, as well as gambling and drinking buddies.

The people's resort to the bar of public opinion clearly falls within the range of the legitimate and valid exercise of our own people's constitutional rights to freedom of speech, expression, assembly, as well as right to demand transparency and accountability on the part of no less than the highest official of the land.

Vigilance

We see in People Power a vigorous, potent, and inexorable exercise of our people's democratic right and freedom, outside the halls of Congress - though complementing the impeachment process initiated in the House of Representatives - that is clearly anchored on and supported by the fundamental law and democratic spirit of the land.

Based on these premises, Estrada had continually found it sounding more hollow, day by day, even to himself, to persist in bellowing out the line that he had had the mandate to govern as the

President.

For ultimately, it is the people's will, whether exercised directly or through their own representatives in Congress, that would, and should, prevail in a democracy, The latter being pathetically unreliable owing to their continual obsession with their own selfish vested interests.

For to argue otherwise would be to blunt the power and vigor of our own people's vigilant and direct effort in safeguarding and asserting the national interests by directly holding Estrada to account for his own actions and behavior in office.

And this, this power of our own people to hold their own public officials - whether appointed or elected, from the lowest to the highest - accountable for their actions and behavior in public office, and which principle of accountability also extends to any action and behavior that can be reasonably demonstrated to have a bearing and impact upon the national interest and well-being, and vice-versa, is clearly provided for under the Constitution.

Thus, it can be argued that, while the Constitution expressly provides only for impeachment as the mode under which President and other government officials, including those appointed such as the honorable justices of the Supreme Court, can be ousted from office, the people are not estopped from, much less stripped and bereft of any right, power, and authority, directly and expressly seeking, by their own creative, mass actions - that concretely express their own popular political will and sentiment - the aims and purposes for which they, through the 1987 Constitution, had instituted the impeachment procedure.

This must necessarily be the case, for the Constitution likewise provides for a system of referendum, initiative, and recall whereby the people themselves could directly express their will and legislate as well as oust any incumbent elective local government leader. What People Power demonstrates before the world is that - in spite of the shortcomings and unfulfilled promises of People Power in February 1986 - the vigorous, militant, yet peaceful characteristic of this creative people's show and display of their own will and power, remains very much alive and a real force to contend with, especially by unscrupulous politicians and opportunistic leaders.

Hence, People Power does not subvert, but rather strengthens the very foundation of our country's constitutional democracy.

Moreover, the People Power movement's own recognition of the constitutional process is very evident. Estrada's own act of stepping down from office had paved the way for the operation of the constitutional provision on succession, that is, for President Gloria Macapagal-Arroyo to assume the Presidency during the remaining four years of Estrada's six-year term.

The people's wrath as manifested in the People Power movement serves as a wake-up call to politicians of all shades and hues that the Filipino people had already finally waken up from their own self-debilitating lethargy in critically monitoring and scrutinizing the way their own leaders are managing their own national affairs.

The People Power movement demonstrates to all and sundry that the people themselves could directly and militantly act on matters of governance even on a national level, if necessary.

Thus, the movement's own potential for empowering the people in organizing and mobilizing themselves in further holding other national and local government officials accountable for their own actions and behavior that affect the national welfare can never be underestimated in the years to come.

Truly, this expression of the people's wrath against Erap's own palpable display of his own reprehensible brand of cronyism, nepotism, as well as hooliganism, only serves to strengthen and institutionalize in the Philippine society a tradition of vigilance and militancy in monitoring as well as demanding full transparency and accountability on the part of all government functionaries.

Sovereign Power

The People Power movement serves to heighten the people's own consciousness about their own power and capability to collectively act and direct the course of their own history, and in order to assert and press for their own democratic rights as well as entitlement to a transparent and accountable government.

This could only strengthen the Filipino people's own democratic tradition.

On a long-term basis, thus, this movement would surely redound ultimately to the public good.

This movement also carries with it the potential of banishing the well-entrenched grip and stranglehold of traditional politicians - or those who regard public office as nothing but a personal privilege with which to whimsically and capriciously dispose of goodies and spoils among their own families, friends and cronies, to the detriment of the national wealth - from our own political life.

For even as our own people had reposed upon our elective representatives in both the Senate and the House of Representatives the power and authority to rule the nation - particularly in the legislative arena - this is not tantamount to an abdication of their own right, power and authority to directly and vigorously act on matters of pressing national concerns, such as, for instance, those involving the competence and fitness of our own President in promoting and advancing the national and collective interests and welfare.

True, the impeachment process as laid down by the 1987 Constitution provides for the institutional route along which to hold the former President accountable for any act of betrayal of his exalted office, with the members of the Senate serving as members of a jury who would ultimately determine his own culpability for high crimes committed against the people.

However, beyond this impeachment procedure lies - and which actually underlies, and forms the base, and breathes life and spirit to this same impeachment process - our own people's collective right, power and authority to directly and powerfully act, by any creative and proactive forms, on matters that spell life and death for the nation.

There is therefore no way for the People Power movement to be stamped with the seal of extra-legality.

The initiative could even be characterized as a form of a metalegal remedy, a phrase coined by the late Senator Jose "Ka Pepe" Diokno, foremost Filipino human rights lawyer and one of the founders

and moving spirit of the Free Legal Assistance Group (FLAG). Metalegal remedies refer to the gray areas in the Constitution and the law, as regard those fields of action which are not expressly provided for or allowed, on the one hand, but are not expressly prohibited or barred by the law or the Constitution either, on the other. Rather, these are forms of action that directly involve the masses of people as the main actors/actresses in the theatre of political change.

A mere instrument of their own making, the 1987 Constitution, cannot and should not tie down the Filipino people's own hands in demanding their own President to step down from office.

The 1987 Constitution simply came in the heels of the staging of the phenomenal, peaceful people power revolution as so-called, in February 1986, in order to regain their democratic rights and freedoms by toppling down Ferdinand Marcos' 14-year iron-hand rule.

It is actually in keeping, and in furtherance of, this fervent political tradition and exercise, which is the people power, that our people again massed up in the streets, gathered electronic signatures, and resorted to other creative forms of mass protest actions, both nationally and internationally, in order to make the oust-Erap calls reverberate not only within the national frontiers but throughout the whole world as well.

Once again, People Power shows to all and sundry the deadly potency with which peaceful, direct political actions, in their various forms and nuances, can be mounted in order to counter and defeat the emergence of national leaders who betray the people's trust as well as undermine and ruin the people's fundamental interests and well-being.

- The author, a Filipino lawyer, is a former columnist of the Philippine Post and ISYU Newsmagazine and of The Manila Times. He also served as a reporter of Ang Pahayagang Malaya and Manila Times. He is currently completing his Master of Laws in Human Rights at the University of Hong Kong and is recipient of the Human Rights Fellowship Grant from the Asia Foundation. He is a columnist for Pinoy Gazette.

Life in Nottingham

Kerensa Chan

LLB II

Ring... off goes the alarm clock as I reached over with a groan to turn it off. After much effort, I managed to drag myself out of bed and have a quick shower before heading down for breakfast as lectures start early at 9am. However, this means that I have the afternoon free to explore the city. I have got lost in the old and dark caves, gaped at the fascinating castle set on a hill and trekked in the famous Sherwood Forest (where the tales of Robin Hood were set). Nottingham is a populated city with a vibrant nightlife. We even have buses that fetch us from our halls to various nightclubs!

The First Week in Nottingham University

Before the semester formally started in late September, every international student is invited to attend the welcoming program hosted by the international office. The main objective of this program was to familiarize ourselves with the university and to have the opportunity to get to know other international students before university life officially started. Last but not least, it was free!

It was useful to familiarize ourselves with the university as Nottingham University is a huge university consisting of three campuses: University Park (main campus), Jubilee Campus (new campus) and Sutton Bonington Campus. In all, the three campuses add up to 330 acres. Since it is practically impossible to visit every nook and cranny of the university within the few days in the welcoming program, I decided to explore the main campus as that is where the law school is situated. The law school used to be located in the Trent Building. I wished that they had not relocated the law school last year as the Trent Building looks very grand compared to the current law building.

The Trent Building has a certain kind of an old charm attached to it. As I had chosen to stay in Newark Hall, which is in the Jubilee Campus, I took the hopper bus to check out the new campus. I found out that my hall looks like a brand new hotel, with rooms on both sides of the corridor.



The next point about the welcoming program was for socializing. Since it was an international week, you would be able to meet people from all over the world. Of course, the best way to know friends was through the clubbing and pubbing activities that were held every night. Sounds exciting? Well it was. For the hot-blooded males out there, they would find a wide assortment of girls in the clubs and bars. As for the females, there were many well-built guys with floppy hair and sky blue eyes. However, there is a condition attached: in order to make more friends, you have to be the one who takes the initiative to talk to others. But I am sure this wouldn't be a problem for us: enthusiastic, warm-hearted and smart looking law students.

How's School Like?

The teaching method at Nottingham University is more or less the same as at the University of Hong Kong. There are two lectures every week, an hour each, for every subject. The teaching method in law school is akin to those we have back home except that there is no such thing as duplicated materials (DMs) at Nottingham. Consequently students tend to prepare for a lecture by reading outlines instead of reading all the materials beforehand. I personally prefer having the DMs as I know what topic the lecturer would be focusing on and secondly, it is easier to search for the necessary materials as I would know precisely what the lecture would be about. I am positive that you do not wish to end up photocopying the wrong or the 'not-so-important' materials because it is very expensive to do photocopies here (5p/page). As the students here have a very nasty habit of hiding the relevant textbooks, I suggest that if you are looking for an important book, it is best to go early in the morning.



Tutorials are held every fortnight in the tutors' offices. Be forewarned, do not be too thrilled about the thought of such infrequent tutorials. As the tutors have given us longer times to prepare for our tutorials, they demand more from us. For example, at HKU I tended to spend five to eight hours preparing for a tutorial. But now, I have to devote an extra two to four hours. Not only that, due to the fact that there are no DMs available, it takes an extra hour or two researching for reading materials in the library. If you do not prepare for tutorials at all, not only will you be unable to understand the tutor, but also to participate in the discussions. I have learnt my lesson the hard way as I had prepared for the wrong tutorial and realized that I had made a fool of myself. So always be prepared and show others the HKU power!

How's hall-life?

Hall life can differ between individuals as we stay in different halls. Perhaps, I should tell you about my hall life in Newark Hall, Jubilee Campus. I bet some of you are asking: Why Jubilee and not University Park?

I chose to stay in Jubilee campus as it is a new, state-of-the art campus, which costs about 50 million pounds to construct. There are two undergraduate residential halls: Newark Hall and Southwell Hall. I live in the former. It is a big hall with around 400 residents. All rooms in Newark and Southwell are single en-suite bedrooms. Therefore, I do not have to line up to take a shower nor do I have to step out of my room to go to washroom late at night, which is especially dangerous for a young girl. One word of warning though, the hot water supply tends to run out after midnight. So if you wish to soak yourself in hot water after an exhausting night out at the clubs, too bad.

Another advantage of living in Newark Hall rather than other halls on the main campus is that you would get to meet a lot of other people from different faculties, for example, business and computer science students. After all, the business, computer science and education schools are located in Jubilee Campus itself. Is it not the essence of the exchange program to interact with all the students at Nottingham

University regardless of their faculties?

Now here comes the most interesting part: nightlife around the halls. There is a bar in every hall of residence on campus. Newark Hall has the biggest and newest bar of all, with a pool table, a projector big screen TV, and a few video games machines. Parties are thrown by the Junior Common Room executive committee once a term except for the fresher's week (the first week of school) when parties were held every night with different themes. At the very moment when I am writing this article, the 'Castaway' party is being held in the Atrium (the dining hall) and the bar. It is a big party where everyone is made to dress up in Hawaii-printed clothes. There are a few guys who rented a sailor suit and even a few daring ones who are half-naked, with a small cloth covering their important parts, running around the place! Do not ask me how the girls are dressed as I never really pay attention to the girls. It is only natural to check out the guys from a girl's point of view and vice-versa.



I enjoy my time spent in Newark Hall except for one problem. After a night out at the clubs, drunken students have a tendency to set off fire alarms in the middle of the night. Imagine standing out in the freezing cold clothed in only your thin pajamas impatiently waiting for the security guards to check each floor and for the porters to reset the fire alarm. I can tell you, it is definitely not the most pleasant experience in the world. So it is better to be 'fully clothed' (obviously this piece of advice applies to a small proportion of those reading this article) for bed and have an extra jacket handy by your side.

A word of compliments

The above article sums up how life is like at Nottingham University. If I had to write an in-depth article describing every aspect of life in the UK, it would take more than a law report's length to record everything. Everything is new and refreshing here. I learn new things, meet different people from all walks of life, and encounter lovely adventures everyday. What lovely adventures? Not telling. You must come and experience the Nottingham life personally.

Finally, I would like to take a moment and express my gratitude to Mr David Omerod, the exchange coordinator and my criminal law lecturer, who has provided me with a lot of advice regarding module selection and other academic matters. Unfortunately, the next group of exchange students will not be able to meet him, as he has accepted the job as professor at the University of Hull.

Once again, special thanks to Mr. David Omerod for all the assistance he has provided.

The International “Spy” Incident

Catherine Leung

LLB I

To be caught snooping around the Chinese coastline is apparently called “routine surveillance” by the U.S. Is it not the same as saying “we are routinely intruding and violating your privacy”? Evidently, all negotiations were carried out so as to preserve the China-US relations at all costs and to prevent deterioration of it due to political and long-term economic implications that is of mutual interest on both parties. However one must bear in mind that the very act of spying by the U.S. destroys an element to which a relationship pertains. That is the basic notion of respect.

This whole affair was handled in high profile. U.S. President George W. Bush had resisted to a positive and upfront act of apology initially. However, days drifted and Bush’s demands for the “prompt and safe” return of the crew and that the plane be returned without “further damaging or tampering” turned into an utter of “regret” which subsequently adjusted itself into a “sorry” when justice was seemingly in favor of the Chinese.

At last, the U.S government has reluctantly spelled out an expressed apology and was passed to the hands of Chinese Foreign Minister Tang Jiaxuan after days of firm standing on both Countries over the deadlock. The formal letter stated “Both President Bush and Secretary of State Powell have expressed their sincere regret over China’s losses.” And on behalf of the United States Government, they were “very sorry” for entering China’s soil and “very sorry” to the Chinese People and to the family of pilot Wang Wei for their losses. Out of humanitarian grounds, the U.S. crews were released.

Light must be given on the fact that the U.S. have not expressly said that they have taken up the responsibility of the incident caused as that would implicitly imply that they were sorry to have the spy plane up for reconnaissance activities. Then inference is made on the fact that to be sorry means it would never happen again. But this is not what the U.S intended. They intend to continue sending aircraft around the Chinese coastline for reconnaissance activities, but perhaps be more aware and careful not to let accidents happen again whilst on their spying escapade. As a result of this, further negotiations will continue and that it is not the “conclusion of the case” as further issues ought to be dealt with as pointed out by the Chinese Embassy in response of the letter issued by the U.S.

法律，專業？－對法律專業的一點反思

陳智遠

LLB III

社會學家 Pierre Bourdieu 曾提及「文化資產」(Cultural Capital) 的理論：所有特定文化風格(Culture)皆可理解為「資產」(Capital)。擁有特定文化的人，就如擁有若干「文化資產」。他們會在其「文化圈」內，不斷發展及製造更多他們獨有的風格及特色，以產生更多的「文化資產」和實質資產(Cultural and economic capital)。

專業的由來是擁有特別知識技能者，在工作圈內不斷製造特殊的用語、定義及工作文化，使普通人根本無法理解和把握該技能知識，因此，該項「文化資產」便順理成章成為圈內人所獨有，而擁有與否便成為指標去區分「專業」和「不專業」。障礙於是形成，普通及「不專業」的人被拒諸門外，趕出該「專業圈子」。然後「專業」的人便為自己產生更多「文化資產」及真實利益。

有些概念及知識技能看似很專門，但只要詳加講解，其實是顯淺易明及易上手的。但透過這途徑，圈內人把這些都據為己有，成為他們的專利，建立專業。

法律專業給大眾的感覺是自成一閣，普通人不易理解及望而卻步。有任何有關法律的疑難，好像「被迫」需要找法律工作者的幫助，彷彿法律知識已成了他們的專利，旁人一竅不通。撫心自問，這三年所學的知識雖然艱深，卻未至於外人會完全不懂及不能認識。但現實是只要我們成功取得了執業資格，便足以把這門知識「據為己有」，以此為生及成為賺錢的工具。這正符合了 Pierre Bourdieu 的觀察。

在此，我不是否定法律專業的存在意義。相反，專業其實是社會發展的必然產物。隨著社會不斷進步，工作種類變得層出不窮，變得繁複。為了使整體社會運作更有效率，我們見到社會上的分工越趨精細專門，每個人可在特定的崗位內發揮自己所精所長。再加上每個範疇內的知識日新月異，不斷倍增，以前一項知識技能，可衍生出各項分支，成為獨立的新學問及技能。例如以前診所的配藥工作，護士也可擔當，但隨著藥理發展，變得專門，便衍生出藥劑師專門處理這工作。室內裝修以前視為一種工作，現在也分為水電裝鋪及間格裝修兩類工作。因此，工作和技能知識不斷增加，分門別類更仔細，乃是大勢所趨。再加上隨著互聯網和知識經濟蓬勃發展，更多專業的產生，使社會分工更有條理，確是符合社會發展所需。

但我認為，大部分人對「專業」的定義實在太狹窄。傳統的概念灌輸我們，「專業」都是指一些賺大錢及社會地位高崇的職業。就以法律專業為例，一般人均認為法律工作是高薪職業，知識很專門，成功考取了執業資格便等同變得專業。

其實何謂專業？從廣意來說，只要精通任何一項技能知識，並在工作崗位內發揮出來，便應被稱為從事一種專業。一個農夫、廚師和一個律師、醫生都是用自己特有的能力貢獻社會，本質上應該是沒有分別的。當然，有些行業的規定比較嚴格，要求考取執業資格，例如律師、會計師、工程師等。但這些程序的規定，背後的理念如出一徹——從事該專業的人掌握有關技能必需到達若干水平。

因此，所謂「專業」並非只是等同一個執業資格。有人認為辛辛苦苦完成法律教育，捱過專業文憑試、取得了執業資格，便走上了專業的路。但這看法未免不夠全面，並失卻了專業中最重要內涵。作為專業的法律工作者，必須精通及透徹瞭解法律知識及理論，深入分析，遇到不合理的時候要作出中肯評批，真真切切運用其精通的知識達至公義。這才會令法律工作變得專業，一紙專業文憑顯然並不足夠。

另外，法律是維持社會的運作秩序及保障每一個人的基本權利，因此法律和社會其他範疇如經濟、政治、文化、社會制度、公共行政等實是息息相關，千絲萬縷。要真正成為法律專業工作者，便不能固步自封，只局限自己在小小的法律知識圈子內。除了法律條文案例外，更應擁有全面及廣闊的社會觀，將法律和各方面的知識聯繫起來。其實通識教育對所有大學生同樣重要，但法律工作和社會的互動尤其密切，通識對於法律學生便更必須，可惜現時的教育方針及同學態度卻好像背道而馳。走上專業很可能變成一個陷阱，困自己在圈內，並把圈縮得越來越小，自成一閣和社會各層面完全脫勾。外國的法律教育模式，一般規定要完成一個通科學位方可修讀法律學士學位，背後的理念我相信是相同的。

當然，這三年所學的所有知識都是重要，是成為專業工作者的過程中不可或缺的。法律專業亦是在維持法治社會中扮演舉足輕重的角色。但我仍然堅信，法律專業的產生，並不是去製造任何障礙以突顯我們的重要性，使法律成為法律工作者的專利。相反，這專業給予我們機會在這範疇內運用專門的知識向社會上有需要幫助的拖予援手。或許現在是時候對法律專業進行反思及重新定位，而這篇文章也總結了這三年自己對法律專業的所思所感。

（註：感謝謝綺雯小姐及李康仁先生給予的寶貴意見，使自己解決了很多寫這篇文章時所遇到的問題。）

酒吧

區曉嵐
LLB III

三個月了，才一瞬的事，卻叫我思潮起伏了好一陣子。

那天晚上我本在蘭桂坊一泰國餐廳與友人共進晚餐。便是到隔鄰酒吧借用洗手間的時候，拿著托盤的你給我領了路。

你那染了金褐色的頭髮修得很短。驟眼看過去，亂七八糟的。再細看一下，卻見凌亂中有條理，明顯是使心思用髮蠟捏的刻意的效果。不知怎麼，我對短髮的女孩子特別在意，尤其是敢露著脖子和整隻耳朵的那種。我覺得她們在吶喊，要對種種如「女人的名字是弱者」之類的舊觀念、歪傳統作出抗議。然而為何要把頭髮營造一個亂的形象呢？是純為了迎合潮流扮酷，還是潛意識要宣洩不甘於平淡之憤慨？

我渾渾回去了餐廳繼續與友人用餐。但那頭短髮似乎已牽起了心裡的漣漪，教我面對一桌佳餚也心不在焉的。為了要滿足我對你的好奇心，我遂向友人提議飯後到隔鄰酒吧舉杯。

一個多鐘點以後，我再次踏進了你工作的酒吧。說實在話，蘭桂坊的酒吧成行成市，很多還是裝修簇新豪華的。而你的這所卻呆在偏巷旁邊，破破落落的樣子。木造的窗框門檻都舊了，像快要掉下來似的，真不像話。甫進去，看見很多客人，其中還有許多外籍人士，嘰哩咕嚕的用洋文交談著。有些大概是受了酒精的影響罷，高談闊論的，真不知他們懂不懂自己在說甚麼。

這時候你還忙著，沒閒理睬我們這撮新來的客人。不知是哪裡來的風，我心裡頓然湧起了一陣無端的失落感，悵然悵然的。

伙計招呼了我們往店內靠裡的桌子坐。我是酒吧敘客，很快便熟道地點了喝的。但我那兩位友人卻是第一次到酒吧來，酒單上一項項林林穀穀的叫她們看了半天也摸不著頭腦。正當伙計熱心地給友人介紹各酒屬性的時候，我按捺不住要往店靠外的方向走去。

好明亮的一對眸子。睫毛長長的，眼珠圓圓大大黑黑的，像會說話的樣子。五官合起來也俊秀，鼻子蔥蔥直直的。但最討好的還是那雙慧黠的眼，像有攝人的能耐。你個子不高，穿了一件紅色的鬆的長袖衛衣，一條寬的磨得褪了色的牛仔褲，腰後還繫了一個腰袋子，好一副年輕新派的打扮。才二十多歲，但為甚麼那動人的眼硬是缺了神采？是累嗎？還是有著對生活的無奈？這年紀應當是闖天下的時候喔！外面刺激有趣的玩意兒多著哩！何必躲在這破舊的小酒鋪裡聽著別人的呼喝？要記得自己才是自己的主噢！

然而一記悶棍棒喝到頭上來：世事又豈能盡如人意？在金錢至上、物質為尊的香港，多大抱負還拗不過一個「錢」字。要玩音樂、塗油畫、弄藝術嘛，那不能給你掙口飯糊口！打球游泳是全港第一又怎樣：一剎那的喝采能持續多久？三十歲還不是要退下火線來。運動員的生涯是極短暫的，賺的微薄的獎金和資助還不夠租個像樣的房子！基本的溫

飽都弄不妥當，理想和抱負也不過是潦倒的藉口！

我返回了自己的桌子陪笑臉。我一瓶一瓶的啤酒和伏特加直往肚子裡灌。酒很烈，燒得我喉嚨直發燙。酒精也開始發揮其作用了，我變得興奮起來，興奮得甚至有點不理智。我跟其中一位女友打賭，說如果能成功哄你到我們處喝上一口，酒錢算她的。我覺得這場賭博很刺激，也挺有意思，而賭肴也不過是那麼一點點的勇氣。不料那女友信口雌黃，突然說不賭了。那沒膽子的東西！我本可自掏腰包把遊戲繼續下去，但當發覺錢包內的錢僅夠我乘公車回家的時候，我的興致沒了。原來勇氣還需用錢騰出來的。

我心裡吶悶，面上卻不動色，如舊談笑風生。怎地面頰癢癢的？倏地伸手去抓，摸到了一隻戴了一輩子仍懔然不覺的很醜陋的面具。

賭肴和臉皮一下子沒了，落得一席惆悵。就在這時候你走了過來，坐在鄰桌跟客人聊天。我別過臉去瞄，我們的目光相遇了，我不期然心裡打了一個寒顫——好一個凌厲的眼神！但轉眼間氣勢沒了，態度軟了，祇剩下些憐憫的意味。我呢？大概是一隻受了傷的兔子罷，來東奔西竄的逃，異敘狼狽。

一盞茶的時候，你結束了你的小憩，起來繼續你的工作了。我尾隨著你往外走去。不知怎的，我的注意力總擺脫不了你，可能是你的頭髮罷，硬生生的給你槳得豎豎的，好像很憤怒似的，給我一種既熟識又震撼的感覺。可是為甚麼會是熟識的呢？難道這憤慨是源自我自己內心的激動？怎麼我一直都沒有察覺？還是我不過自欺欺人地強把高亢的情緒壓抑？我不知道。見著你，我好像模糊地看到了自己的影子。

收藏了多時的情緒給人道破，感覺既震撼，又神傷。我轉過身去搖電話，可是我又可以給誰搖電話呢？此刻心中極度忐忑不安，煩躁得頭要被炸裂了一般。我搖了個空電話，自己跟自己說了十來分鐘。周圍的環境很吵，有人在發酒瘋亂說亂罵，我聽不到自己在說甚麼。

我竟然變成了「寂寞的十七歲」裡面我最鄙視的主角。

我頹然回到自己的座位。友人們都開始不勝酒力，面上發紅暈了。我提起了勇氣開口向你要冰，這是我第一次跟你說話。

不一會兒，你給我們拿了冰來，並問了一句：「這裡的冰夠不夠？」不過是一句話，卻教我興奮了好一陣子，便像一個人第一次聽到自己在說話，明白自己人生欲求甚麼般雀躍。慢著，奇怪我怎麼從來沒有這般振奮過？

瞥了一下手錶，該回家了。我拖著疲憊的步伐往大門走去，心裡盤算著何時回去再喝它一杯。

後記

以後我去了那酒吧數趟，走尋不著那撥倔強的短髮了。你去了哪裡？大概是聽到你自己的聲音，明白人生何求之後，尋找理想去了吧！祝你一路順風！

出路

區曉嵐
LLB III

爸媽：

一連兩天都是公眾假期，室友們都回家去了。現在夜已紳，一個人在蒲飛路的寓所發呆。唱機放著 Paganini 的 Violin Concerto No. 3 & 4，蠻振奮的，卻又提不起精神唸書，便決定給你們寫信。

考試將近了，心裡有點惆悵。過去二年的考試成績或多或少給我添了陰影，使我有害怕會重蹈覆轍之恐懼。再者，過去的數月，我的情緒壞透了。眼看著同學們一個接一個地收到招聘信，替他們歡喜的同時，我卻連面試的機會都沒有，你說多氣人！奇怪的是我竟沒有半點妒忌的感覺，祇剩下技不如人的悲哀。往日的狂傲和氣燄是從骨子裡滲出來的，按也按不了。現在，還好，尚剩一點作為一個年青人應有的最起碼的尊嚴和信心，但靠的祇是對當年勇的懷緬和對未來憧憬——也不過是瞎吹牛罷了。

其實客觀情況並不容許我覺得這麼悲觀：香港每年的大學畢業生有數萬人，當中又有多能即時獲得聘用？獲得聘用的當中又有多少月薪有二萬元以上的？恐怕少於一百；匯豐、恆生見習生也不過一萬七千元一個月，羅兵咸會計師事務所聘請大學畢業的見習會計也不過一萬三千元一個月！大概祇有唸法律的才有機會初出道嚐月薪數萬元的滋味！而連同城大法律系的同學，每年香港「出產」約二百多三百的法律系學生，當中又有幾個能儕身這些超級跨國法律事務所？我想數十人總是有的。為甚麼我不是他們其中之一？問題的癥結在哪裡？

從小我便是各項比賽的勝利者。學業成績、音樂、體育、與人相處等等無一不能，叫自己驕傲得不得了，卻從未嘗過失敗的滋味。別人覺得不怎麼一回事的境況發生在我身上已教我感覺挫敗——天上的鳥兒失足跌到人家的天台也喊痛。我驚覺原來長期處於一個比賽的緊張狀態是極不健康的。

再者，我醒覺金錢原來不是衡量一個人的才能和成就的絕對標準！賺四萬塊的初出道見習律師不見得比羅兵咸的見習會計和瑪麗醫院賺一萬多的見習醫生優秀！在香港，也許最出色的畫家和舞台劇工作者賺的連糊口都不夠！在香港這個金錢至上、物質為導的地方，洋樓、跑車、華衣是地位的標記！大學畢業生的薪酬也肯定了香港人的「物質上的命運」是市場主導的。

我也許對銅腥臭的控訴變得太激烈了。然而為甚麼我以前沒有這樣的憤慨？難道這控訴不過是我目前失敗的借口？我不知道。

在過去的數個月，每當我感徬徨找不到工作之際，輒有好友提醒說當律師並不是唯一出路：數萬元月薪不過是暫時性的。如果放長線以十年為指標，屆時一個銀行家、商家或媒體大亨賺的遠比律師為多，滿足感也大！現時最要緊的是要認清自己的路向.....

我好像迷失了。一直以來當律師似乎是唸法律以後最自然不過的事。周遭的人也好像在期待著我當律師的一天。然而這是我心底所求嗎？好像是，但又好像不是.....我不肯定！

我大概頭腦開始有點不清楚了，剛才寫了甚麼連我自己都弄不明白。我懊惱許久了，給我一點指引吧！

祝好！

女兒上
零一年五月一日凌晨



Interviews

Interview with Ms Audrey Eu

Personal experiences

From your curriculum vitae that you posted on your website, we learnt that you have studied a year of LLM before you took the Bar Examinations, what made you choose to study a master degree of law at that time?

Well, I decided to do an LLM for a special reason. I wasn't sure whether I could make it at the Bar. It was much tougher, or then there were fewer certainties, I must say in the seventies when I wanted to join the Bar because there were very few women at the Bar. And of course you know, as a barrister you have got to have cases referred to you from solicitors and in those days most of the solicitors were men and it was quite unthinkable for a male barrister to instruct a female barrister in the court. So I was not quite sure whether I could make it to the Bar and I decided that to be on the safe side I should do a master degree and in case I couldn't make it at the Bar I have an extra option of becoming a law lecturer.



We knew that you have once been a District Court Judge for a few years after you have become a Barrister for some years. How would you compare being a judge and a barrister?



Yes I remember it was many years ago when I was invited to apply to become a District Judge in the summer but I didn't meet the minimum age requirement at that time. The main difficulty of being a judge is that I was asked to hear all the difficult criminal cases and I wasn't really familiar with them. I thought that as judges it is important to specialize as well and therefore it re-

ally wasn't quite appropriate, economical or advisable for you to expect so much to learn as District Judges. Therefore my main difficulty at that time was to really getting used to hearing criminal cases.

The other difficulty I had was trying not to fall asleep after lunchtime. Actually I rarely fell asleep and Martin Lee asked me, "How come you never fell asleep in LegCo meetings?" I think there is a gender bias that women tend more not to fall asleep than men. But what I was saying was that the one time I have real difficulty trying to stay awake is when I was sitting as a District Judge that day, it was so difficult trying to stay awake and listen to the arguments. The main difference of being a judge and a practitioner is that as a judge you have to hear the arguments and make a decision but other than that there's not much difference.

We knew that you had also sit as a member of the Law Reform Commission before. Which area of law do you see now as the most in need of reforms?

That's a very difficult question. A lot of areas need reforms. I suppose one way in answering your question would be to say in what areas there still need work to be done. I think environmental protection is most needy of that. Apart from that, I think another thing that needs to be done is to enact legislations to encourage fair competition. Because in Hong Kong in many kinds of trades and businesses there are too few participants, which means it's very easy to form cartels, to fix prices, to manipulate and control the market, to stop people from coming in and thereby not having any genuine competition. One vivid example would be that if you want to do business in China you



often have to utilize the terminal services and Hong Kong has the highest Terminal Handling Charges in the world because there are too few companies involved in providing this service. So this is one area which is in need of reform.

There are many other areas where the law is less desirable. One of these is consumer protection. Even if you say there is sanctity of contract, the parties of the contract are often of unequal bargaining powers. For example, if you go to the bank and you want a particular service, you have to accept their terms and conditions as stated in the documents, you could not draft your own documents. So I think for businesses where there are already well-established companies, it is very difficult for new companies which are smaller in size to compete with them. And much had not been done because people do not want to "offend" the well-established companies. Nobody wants to run into problems with the authority basically.

We know that you have been involved in many past community services apart from being a barrister, and now you have recently become a member of the LegCo, could you share with us your secrets of time management?

But the answer is I don't. I have all the problems, all the stress and try to do my best. And time is always not enough for everyone. So here is the way I deal with stress: in general I think there are many things that you cannot control and so even if you have studied hard, that doesn't mean your examination results would reflect your efforts. All the things in the world are not within your control except one thing: that's how you feel. Whatever is happening around you, how you feel is entirely up to yourself. People around you may say: "Oh! You've had a great day" or "you are the most fantastic person in the world!" But no matter what others say, if you don't feel that, what others say wouldn't help you. And I always think no matter how terrible others are to you, if you are terrible to yourself, do you know how stupid you are? So I try to remind myself of these when things begets me or

when times are tough. I would try to say the same thing to myself. Keeping happy and feeling happy is one thing that is very important.



The Political arena

How would you predict the political changes within 10 years time?

Well, you may say I am shortsighted or you may say I am non-committal but I never feel that the future is really mapped out. I remember when I was the Chairman of the Bar in 1997, because of the handover, reporters all over the world came and asked me: How do you think of the time after the handover? Optimistic or pessimistic? I refused to commit not because I tried to be non-committal or refused to answer their questions but I really don't think that the future is mapped out. Things in the world change really fast and big events can happen overnight, especially for

a place like Hong Kong where there are always surprises, the same goes for the future. Future is there for everybody to strive for and work for. But in the short term I think things are going to be a bit tougher

because atmosphere in Hong Kong have changed over the past years. As you can see in 1997, everybody was talking about stability and did not want to make changes, but now everybody is prepared to make changes and they no longer think that changes don't mean stability anymore. So I would say that one would have to be prepared for changes in the near future.

Do you think Hong Kong would have a universal suffrage election for the Chief Executive in 2007? Well, I think that's something Hong Kong people have to work for. You know, things just won't jump out if you don't ask for it. In fact I have once asked the Chief Executive (CE) for universal suffrage and he said: "Audrey, people are not interested in this and there is no public demand for this." So I think that's the way it is, if Hong Kong people don't keep asking for it, I don't think that's going to happen or any change to be made to our present system. If there's no public demand for it, it's not going to change, period. It's not how loud 1 or 2 people cry or protest or whatever; I think there has to be public movement for it.

I think this year and next year is going to be critical because there's going to be election next year. The natural question would be: Not 2002, but when? When are we going to have universal suffrage election for the CE? And why? What is the pace and why do we have to wait? Is it because of economical question or high IQ or low IQ? Why do we have to be behind everybody else for our election of our leader? There will be discussions on this only when people raise it. If they don't, then I don't think there's going to be any discussions. It should concern everybody.

Would you run for election next term?

Yes and no. I don't regard myself as a politician even for now. I regard it as a job which needs to be done. And I have committed 120% of my time in LegCo matters; I try to do a little bit of legal work on the side. I think it helps me to maintain my balance. I think maintaining contacts in the legal profession is good to me: a) I think it would help my work in LegCo, b) it makes me feel I haven't really fallen out of it, if after 4 years I think LegCo is not really suited for me, then I can always come back. So I would like to have an option open to myself.



Now you are an independent LegCo member, how do you view other parties?

I think parties are very powerful in that they can move things along and they are more organized in doing things. The fact that I haven't joined any political parties doesn't mean that I dislike them or they are bad, actually I admire them. Though they have their shortcomings they also have their great contributions. I think it's really personal that I haven't joined any political parties.

How do you find your job as a LegCo member?

I don't think I have difficulties in taking in different viewpoints from others. Generally it so happens that others often have different visions and they are from different backgrounds and I don't think just because we are in LegCo we cannot carry out any civilized conversations. In court, people are restricted to certain acceptable standards of behaviour. But in LegCo sometimes people do flare up for all sorts of reasons, and I try not to provoke others. If I disagree with the others, I would say: Well I don't quite subscribe to your point of view because of 1,2,3,4,5, without saying: a) because you are stupid or b) because you are talking nonsense. So in this way I try to deal with things in a non-personal level. But sometimes I do find it hard to have a civilized conversation in LegCo because sometimes when people protest, they simply state their position and walked out of the Council, or they went out to have a cup of coffee, they won't stay to listen to what others say. So



we very often don't have a real debate in LegCo. So if you notice TV shots of LegCo, you'd find that quite often the Chambers is less than half full because some people are simply not there. They just state their position and leave.

Legal Career

Now for many young barristers, there's a saying that there's simply too much barristers recently and competition is very tough if you want to become one. What do you think of that?

I think it's easy for people to say things when you look on hindsight. I think if at any time you want to become a barrister, it always happen to be difficult at that particular time. Looking back the time in 1978, you can now say that: Oh there are so few barristers! But my experience is that I have tried to apply to

Chambers but I was refused entry to a particular Chambers. So that's why I'm telling you that whichever time you looked at, at the time it's always tough. It's always been the same in the sense that people who are really good should go for it.

It's very easy to tell whether a person is going to be a good barrister or poor barrister - it all depends on the common sense and judgment of that person. It doesn't matter whether you know the law or not because a lot of people studied very well and they know all the rules and principles but if you ask him to answer a simple question he would cite all the law in the world around the question but they can't give you the answer. Such a person has no sense or no judgment but that person wouldn't know that because he thought: "Oh I have cited 30 cases on the point and I must be a very good lawyer." But if you look at the question and his answer, you know that his answer lacks common sense. So if you think you are good it doesn't really mean you are good. but if you think you are not that good it doesn't mean you cannot make it. If you can afford the chance, then you should try it. The worst thing is to regret it.

What do you think about the meaning of taking silk for barristers?

I think people who take silk are the role models of the fellow barristers and they have a community responsibility in that they should be involved in public affairs. Taking silk is often a goal for many barristers and I think having a goal is very important. Even in everyday life, if you have a goal to work towards, it really helps you much.



大律師公會主席梁家傑專訪

資深大律師梁家傑現為大律師公會主席，忙碌的他跟我們做了一個很長的訪問。過程中除談及公會的工作，亦與我們分享他對成功的看法及其個人經驗，當中包括很多同學關心的課題，像新入職大律師的生計和法律學生應作的準備等。凡是法律學生，務請一讀。

每個大狀的必經階段 - 初入行的困境

梁明白現時行內「僧多粥少」的問題，表示公會已引入新措施幫助新入行的大律師。可是他強調，公會的宗旨並非要幫助每一個律師留在行內。「我們相信競爭，有競爭才有進步，只有競爭才能令大律師行業維持最高水準。這是適者生存的道理，在法庭上最為殘酷，優勝劣敗呈現眼前。」他勸告初入行的大律師應減少不必要的經濟負擔，否則難以達至最高的水準，亦容易受動搖而作出不當的行為(Malpractice)。

梁直言現時公會的新晉大律師基金和獎學金是基於具規模的律師行出高薪招攬畢業生才推出的，以避免新入行的大律師因其技能以外的原因轉行。公會亦有兩項新措施。第一為引入“Paid Pupilage”英國大律師公會剛通過了議案，2002年起大律師學徒每年會有一萬鎊的「薪金」。但梁表示香港大律師公會不打算把這立作強制性的，否則會阻礙新入行的大律師找師父的機會。他們可擔當宣傳的工作，如在大學列出願付「薪金」給學徒的大律師供學生參考。第二，Bar Council有一執委負責學生事務，加強和學生(特別是一年級生)的溝通。他們希望為學生選擇出路時作出指引。」



不會對新晉大律師存過分批判的態度



梁認為“Advocacy(訟辯技巧)”是一種“Acquired Skills”要親身接觸案件才能學好，而出色的大狀往往從不斷上庭的經驗累積實力，因此他不會對新晉大律師存過份批判的態度，而會給他們機會。梁提到任用“Lay Prosecutors 的做法”，影響了新晉大律師親身接觸案件的機會，而他們亦不受兩個專業法律團體的規管，難以控制其水準。「我和刑事檢控專員商討過，請他們不要以為我們每個會員都要收六千

五百元一天的薪金，其實不少年青會員也願收取少一些薪金以換取出庭的機會。」梁表示會繼續要求政府重新開放外判檢控工作。

然而公會也有自救措施：第一，給新晉大律師多些機會跟資深大律師出庭，並安排他們在出庭前接觸文件；第二，和律師們作出安排，讓他們把鎖碎的上庭工作讓給一些願以低收費增加出庭機會的大律師。

不要讀死書，要有“Common Sense”

被詢問同學應如何裝備自己成為大律師，梁列出三大條件。首先，「如要做一位中規中矩的大律師，先要勤力(Diligence)。不勤力的話，“Advocacy”再好也不能補救」；第二，提高語文能力，做到中英俱佳。對大律師而言，語言是武器，也是“Tool of Tricks”，要對自己有嚴格要求。他認為香港要成功，一定要成為區域服務中心 (Regional Service center)，阿姆斯特丹是個好例子。中國在香港扮演非常重要的角色，香港的服務業(包括律師行業)要配合香港成為區域中心，人們必要練好中文。因此中、英文同樣重要。第三，不要讀死書。梁說：「對近十年畢業生最常見的批評，是缺乏“Common Sense”法律問題必有源起，尤其是民事案，十居其九是“Means to an end”很多人不明白在商業社會，任何事皆有理由。和你們的院長，系主任交流過，發現你們的問題是不懂閱案例。如懂看，有很多機會鍛鍊“Common Sense”，被動去看是不得其法的。」他表示，英國的判決水準極高，應以主動和批判的角度去看，只看濃縮的案例是不行的，不能訓練腦筋。



梁接著解釋何謂“Common Sense”如何斷練自己：「法律學院並非職業訓練學校。社會對你們有期望。專業之所以能成專業，不是“Commercial enterprise”(商業運作)，基礎在於社會對專業人士的期望，希望他們在專業範疇內為社會帶來進步，並為非專業社群作出貢獻，如大律師公會的免費法律諮詢服務。因此，讀好書並不等於盡了責任，社會希望你們培養出批判的眼光，對社會的承擔，和對社群的關心，這些概括來說便是“Common Sense”。適當時候做適當的東西，在大學時把時間放在互動的活動之上，培養對社會的承擔和服務精神。“Common Sense”這樣培養的。」梁希望帶出的訊息是：大家在求學時，不要忽略書本以外的機會和空間，這些畢業後便沒有。能否把握這些機會，會大大影響你的前途。最後，他這樣為“Common Sense”下註腳：「“Common Sense”只是一個標籤，包括了你對人對事的看法，對事情的獨立見解，人際關係的處理，工作態度，機會的把握，對社群的承擔，對群體服務的精神。」梁告誡同學應反省一下，改進自己，並要有危機感。他謂，曾在北京大學參加座談會，遇見英文非常好的一年級生。他感嘆香港的學生態度有問題，被寵壞了，不明白對手的拼搏精神。「他們擁抱機會的態度我們是比不上的。沒有危機感，將來只能做最好或是最差的一批，中層的機會全沒有了。」

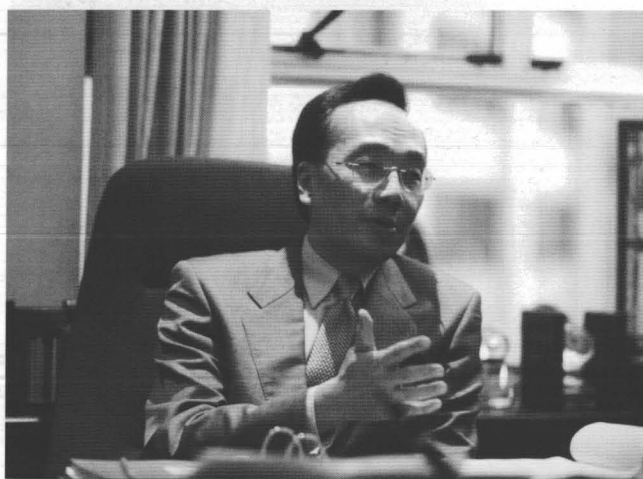
大律師與律師有直接競爭

所謂大律師賣廣告，梁認為應稱之為放寬資料披露的限制。他表示不會在短時間內再提出此動議，並非害怕再次失敗，而是要化解內部矛盾。他道持反對立場的會員有一定道理，需要盡量取得共識。有人認為大律師列明收費會太商業化，因為專業和商業運作要有分別。但他直言，現時律師們列明收費，在裁判法院和區域法院與大律師直接競爭，若不列收費等於自斷一臂。另一方面，有一些會員認為，「我們



“earn our reputation by fighting in the ring”」，如讓會員將資歷列出，市民可能會因有偏見而未能客觀選擇。另外，梁承認列明收費會有“Undercutting”的情況出現，但從宏觀角度看，讓大律師列出收費，首先可駁斥人們對大律師收費太貴的指控，第二，以大律師為一整體計算，整體的工作量一定會增加。他最後表示，問題的癥結在於較自私的以個人為出發點，還是以大律師整體的利益為重。

不應獨立處理事務律師爭取於高等法院的發言權一事



訴求。

梁表示，大律師公會在這課題上已發表了立場，並一再強調不能將之獨立處理。「我們很願意看到一個比較高層次及就香港整個法律服務的一個全面性檢討，以公眾利益為依歸。」他認為開放事務律師於高等法院或以上的發言權這題目在法律服務業裡面只是片面部分，加上消費者的角度乃用一個合理價錢找一些能力達一定水平的律師或大律師解決法律需要或提供訴訟服務，因此我們要深入研究的問題是究竟擁有一個專門只做訴訟的專業抑或事務律師能處理訴訟及一般法律服務能符合消費者以上的

可能會出現大律師樓壟斷訴訟市場

梁解釋，現時制度其中一個好處是不論規模大小，當香港任何一間律師樓接到大型的案件時都不用推辭，原因是他們可找到有能力的大律師去負責。但一旦事務律師有發言權，梁擔心一些大型律師樓由於財力雄厚，能養兵千日用在一時，訴訟市場便可能被大律師樓壟斷。

大律師收費便宜

梁續表示，不少人有一項誤解，以為找一個律師的價錢便宜於兩個（按：指一事務律師與一大律師）。「但打過高院官司的人可告訴你，一宗高院民事官司，最後最大的費用落在



律師裡，而不在我們（大律師），這是不爭的事實。這解釋了為何一些律師有區域法院發言權也不行使，而找一些年資淺的大律師。這是因為我們收費便宜。若找一個八年經驗的事務律師打三天官司，他收取三千五百元一小時，由家裡乘車出外的一刻開始計算，一天做七句鐘，一天的成本就是二、三萬，但他未必敢收客人這麼多。但若你找一個新晉大律師，他可能打三天官司但只收一萬，那是一點也不出奇。消費者寧願找一個心無旁騖，只打官司的，抑或一個星期一做遺囑，星期二做樓契，星期三打一場官司，星期四幫客戶上市的事務律師好呢？」

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當大律師或會自斷一臂

梁問我們法律學生，將來的兩條路，一是當大律師，只可打官司，並要和律師爭長短，第二條是選擇做事務律師，但所有服務也可提供，我們會選擇哪條？梁表示正常人也會選擇做律師，哪有人會選做大狀。從消費者利益考慮，你是否願意看到法律學生不會直接由法律學院進入大律師的行業，而要繞過律師行業呢？梁一再重申，他們並沒有一個決絕的立場，會一直從聽取各方意見，而不是盲目為現時的狀況辯護。若大眾認為開放事務律師發言權為消費者最佳選擇，路線便會這樣走。



不可貿然作合併

被問及有新晉大律師建議若開放律師發言權，大律師應可直接接觸客戶或減少有發言權律師的數目，梁主席的意見是若這邊箱能直接接觸客戶，那邊有高等法院發言權，那便是將律師和大律師合併。實際上律師會的訴求也不是這樣，他們只希望有一計分制度，律師和大律師都須考一個試，達到某一水平才有高院發言權。所以我們會研究會否以大律師直接接觸客戶作回應，但我們不可貿然行出這步，因行出了這步便沒有回頭路。

兩律師公會有溝通和合作空間

梁主席承認，不同行業間必然有利益衝突，這是無法避免的。但除了這情況，兩律師公會絕對有溝通和合作的空間。就算在行業上有必然衝突的範疇上，經過雙方了解後才對抗總比盲目爭鬥好，所以他相信溝通的重要性，知道對方的困難，才能用對方的角度了解問題。他表示，他與律師會的溝通正在一合理層面上進行。

大律師公會非政治組織

回應有關「法律學生在政治參與應有的投入程度」的提問時，梁主席熱情地討論他對「政治」一詞的看法：「我覺得政治並不是一個很玄的概念，其實並沒有含糊之處。」對於有人認為大律師公會是個高度政治敏感的組織，他反問說公會對於公安條例或人大釋法的表態是否一些政治行為呢？他解釋，公會成立的目的乃關注香港的法治及公義的執行，並不會因某一主席的喜好而改變。每當他們發言時，就是察覺到香港法治受威脅，公義的執行走歪了，而非從政治角度出發。他表示他們是本著大律師公會作為社群的一份子，作為香港一群受過法律專業訓練的一份子去履行社會責任。但當分析討論問題、發表一些立場時，難免給人與行政機關對著幹的印象，而不少人的確認為發表一些與行政機關相反的立場就是政治化的。「我不斷向人解釋，包括北京港澳辦的人員，不應只看我們的立場，應看我們的出發點，我們思維的過程和分析的邏輯，而不是用一些很煽情的角度渲染我們的立場。我們沒有從政的野心，沒有任何參政的意欲。言者無心，聽者有意，就由他吧。」他觀察到國際上有不少從政者都擁有法律背景，如英國首相貝理雅、前美國總統克林頓等，他們的國家制度都是以法治為依歸。律師乃最接近法律的行業，因此大律師公會不用迴避自己的立場，他相信公會的會員都是真誠地肯定和擁護著公會憲章上所載的原則的。



會員以公會立場和原則為榮

梁主席承認，每當大律師公會發表立場時，往往難以平衡不同會員的意見，因此，公會的執委會一定要起帶頭作用。當然，會員也可作出糾正，若他們認為公會立場不能代表他們的意見，可以召開特別會員大會，提出不信任動議。據他了解，大部分會員以公會有自己原則的立場為榮，至少暫時是如此。他表示在今屆的主席競選，他與另一候選人共得約六百票，顯示出會員對公會有原則地執行公義的制度是認同的。在聽取會員意見方面，他指出如有些問題是很早已預見的，他們會諮詢會員；然而許多事情是突發的，例如葉劉淑儀在早上發言，下午他就會接到記者的電話提問，若還要進行會員諮詢，那便不能作即時回應了，所以即使他希望能多出諮詢文件，但往往做不到。

通過傳媒的溝通不可取

被問及如何有效向政府表達意見和立場，梁主席慨嘆若政府不肯聽他們的意見，亦唯有通過傳媒作溝通渠道，即使效果往往令人不滿意。



「何謂通過傳媒去溝通？例如在釋法、莊豐源案、法輪功等事件上，政府一發言，記者便致電詢問我們意見，我給了回應後，報紙翌日刊登出來，接著訪問梁愛詩她的看法，接著又刊登她的意見。這就是透過傳媒溝通。」他語重深長地說，這既不必要，而局限性亦很大。就算記者如何了得，也沒有接受過法律訓練；加上記者有自己的新聞角度，在報導時難免會出現歪曲成分，過程中亦可能會由於他們的不明白和不了解，誤解了講者的意見。

梁認為作一個深層的溝通應是在同行間相

互進行的，但這情況十分罕見，行政機關從未正式邀請公會作直接對話，只表示他們有看報章報導以了解我們的意見。總括來說，現時的溝通模式除通過報章雜誌報導，參與論壇及上電台外，唯有在社交場合或透過工作小組與一些官員溝通，相信這是一個傳達意見給司長的方法。

「我是應酬失敗者」

成功對他而言，客觀的基準乃是在自己選擇的專業上達一定水平，受業者認同。問他為何當大律師，他一開腔便說這是因為他是個失敗的應酬者。另一原因是他對這專業有一些嚮往。他表示他很早接觸到在這行業有成就的人，他們給他的印象是除在事業上有出色的表現外，更對社會有承擔。他們對於社群有服務精神，有遠見及對自己有嚴格要求。基於以上原因，他決定加入大律師的行業：「我可以高興地告訴大家，我做了大律師十六年，這行沒有令我失望。」他更道出他的理想是希望有機會多參與社會事務，能為香港的法治及周遭的社群作出貢獻，他亦相信自己做到了。「我回頭看，若我沒當大律師，我未必能容易做到。就我所見，大律師公會是香港的社會上其中一個最重要的非政府機構，我有幸能帶領這會，是我的榮幸。」

家庭事業難達平衡

梁主席自覺現時他的孩子年紀還少，應多抽時間陪伴他們，這倒令他有時挺傷腦筋的。他感嘆，很多人生的決定並非能由人的主觀願望完全控制。因此在專業需要你的服務時，只能盡辦法去平衡，儘量把握時間和孩子相處。梁主席還告訴我們他的妻子當年是他在法律學院的同班同學，辭去在孖士打律師行的合伙人一職後，現專心在家中相夫教子，對妻子的決定他表示極之欣賞。

奇怪為何一年級生當法律學會主席

問及梁主席對現在香港大學學生會法律學會有何意見時，他表示對由一年級生當主席的情

況感到奇怪。他認為，一年級同學在十月才進入新環境，一月便要上任，在環境還未熟習、還未知如何適應之時，便要背負這樣重的責任，這解釋了為何有些候選內閣未能成功上任。他回想當年他是法律學生時，在一年級擔任內務秘書，第二年才當主席，這做法多年來都很普遍，所以他對現時的情況感到不明白。他續說，一年級生當主席未能有充份自信，面對著三個年級、資歷均高於自己的師兄師姐時，他的說話又怎夠份量？回想從前參與學生活動的點滴，他很是回味。「辦學生活動，做得辛苦，又不多人參與，投入的與成果或會不成比例，但人生有很多事何嘗不是呢？這是一個經驗，參與者應享受組織和籌辦過程和成果。若問我執業的第四年發生過甚麼事，我一點也想不出；若問我從前在法律學會經歷的，我倒能答你。」梁主席以這樣作出總結：「The memory stayed in you longer than when you read a case or a chapter in a book you happened to read. The long memory gives something for you to cherish when you look back.」



法律人語

李崇瀚 (Alwyn Li) 在一九九七年於香港大學修畢法律專業文憑，那時的他選擇了一條沒人走的路 — 他沒有加入任何律師行或大律師事務所 — 他加入了當時六大會計師行的其中一家工作。數年後，兜兜轉轉地他又步進了一家律師行。人家會問他：「你是否覺得自己走錯了路所以回頭？」然而他並沒有後悔自己所走的路，因為當天無心插柳的他，今天感到略有成果了。

Alwyn 在香港聖保羅男女中學附屬小學度過了六年的小學生活後，在一間國際學校唸了兩年初中，再到加拿大完成中學課程。後來他考進了卑詩大學 (University of British Columbia) 政治系，並取得文學士學位。一九九三年他回到了香港，在香港大學修讀法學士 (LL.B.) 課程，於一九九六取得學位，並於一九九七年於同校修畢法律專業文憑 (P.C.LL.)。



大學生活

談到在香港大學的生活，Alwyn 表示由於他並不太計較成績和分數的得失，所以在學業上沒有太大的壓力。在課餘的時間，他常常參與法律學會舉辦的活動，例如協助籌辦周年舞會、高桌晚宴和畢業聚餐等。另一方面，不少 Alwyn 在大學裡認識的朋友在畢業後亦給予他不少工作上的方便。例如當 Alwyn 在會計師行任職時，他往往需要翻查案例，這時他的大學同學便能為他提供協助。亦由於 Alwyn 在會計師行負責稅務顧問工作，當他的同學在遇到和稅務有關的問題時，也會向他請教。因此可以說，他在業務上的人際網絡在求學時期已開始建立起來。

無心插柳



當 Alwyn 就讀 P.C.LL. 時，其實早已有律師樓聘請做見習律師 (Trainee Solicitor)。本是一心也加入律師行工作的他，根本從來沒想過會加入法律以外的行業。後來他發現身邊有位有意加入當時六大會計師樓的外籍同學，他倆一起參加招聘講座，從講者口中明白到稅務與法律唇齒相依的關係，並得悉其畢馬威會計師事務所 (KPMG) 有打算招請非商學院畢業生。講座後，Alwyn 和幾位同學決定申請入職，然而他起初並沒有意思去加入這公司，只不過想試試自己的實力，看看自己的成績會否得到外界的認同。經過數輪的甄選後，最後 Alwyn 和另一位同學同時得到聘用。

珍惜機會

Alwyn 雖多了一個工作選擇，但那時的他仍未清楚在會計師樓的工作範圍和性質會是甚麼，因始對前途始終有點不明朗；及他曾與KPMG的數位稅務顧問及經理傾談，希望透過吸納一些不同背景的人，得到一些不同的觀點，用以幫助其客戶業務之發展及為同學提供機會各展所長。Alwyn 的同學勸他不要到會計師樓去，因那裡提供的薪酬律師樓的低，但最終他還是選擇了這份工作，原因是他從 P.C.L.L. 的稅務法 (Revenue Law) 課中了解到自己對這科目的興趣。另一方面，有幾位講師亦不斷鼓勵同學們考慮其他範疇的工作，如入加司法部門等。在好奇心的驅使之下，Alwyn 其實也希望試試不同的行業，於是他就放棄了律師樓的聘用，加入了 KPMG。



加入會計師樓給他的好處

Alwyn 對稅務計劃(Tax Planning)這範疇很有興趣，他認為這是一門很具創意的工作。由於每個建議都需要為客戶度身訂造，所以提出建議前必須經過深思熟慮、靈巧地運用腦筋以想出個辦法來。稅務本身也是一門切身的學問，透過會計師樓的工作，他獲得了大量非在 LL.B. 或 P.C.L.L. 課程中能學到的稅務知識，不知不覺間成了 Alwyn 與眾不同的地方，使他輕易地在每年生中突出自己，增強自己不同凡響的是：本地問並不多，稅務專家多少有本土出品；當稅項服務又是這麼的缺乏人貨」。另一方面，爭較大，而跨國律師但若他加入的是國際性的會計師樓，客戶來自四面八方，業務範圍覆蓋全世界，能在此無國界性的工作環境下，眼界既可以大開，人面也得以擴大，這自然成了一個吸引的選擇。



在會計師樓的日子

KPMG 這間會計師樓的培訓課程不只是著重於技術方面的培訓，他們亦強調的是個人的邏輯思考與整體的合作性之配合。Alwyn 覺得在會計師樓工作與在一般的公司或律師行不同，國際性的會計師樓裡的晉升路程是十分明確的，當你表現出色，你便能一級一級的晉升到經理甚至合夥人。晉升的過程中，工作會變得更具挑戰性。Alwyn 認為一個人的成功除了自家的努力，還有賴天時、地利和人人的配合，而他入行之時正值公司的人事有所變動，使他有很多機會發揮。不久，又遇上亞洲金融風暴，很多公司都紛紛前來徵詢意

見，當中不泛極富挑戰的個案及發揮的機會。

由於 Alwyn 所屬的部門是處理稅務的，而很多時稅務的問題都會牽涉到法律的範疇，所以 Alwyn 不時都可以把學過的法律知識運用出來。Alwyn 認為眾人所走的路未必就是一條合適自己的出路，相反，去為自己開闢一條新路，才能真真正正擴闊眼界和發揮出自己的才能。

離開會計師樓

在 KPMG 從事稅務工作一段日子後，Alwyn 開始思索日後事業發展的路徑。在幾年的稅務工作中，他體會到具備法律知識的重要性。在 KPMG 工作時，Alwyn 的同事和上司敘敘遇到法律疑難，因為不少法律知識亦能應用到稅務工作上。每當他們碰到這些問題時，都會跟 Alwyn 討論。因此，雖然 Alwyn 不是在律師樓上班，他仍然有很多機會接觸法律問題。這亦令他意識到其他行業對兼具法律和商業知識的人材的渴求。事實上，這也是近年的趨勢。加上 Alwyn 不想浪費努力取得的法律學位，希望取得執業資格，進一步增廣見識及擴闊視野，所以他便毅然放下 KPMG 的工作，加入的近律師行(Deacons)。

在律師行的日子

談到他現在工作的律師樓，Alwyn 表示他是被 Deacons 在業內的聲譽所吸引。他坦言，一所大規模的律師行給予的經驗和訓練是毋庸置疑的。由於 Deacons 的業務範圍廣泛，他亦有較多機會接觸不同性質的工作，這些經驗都是十分難得的。

雖然 Alwyn 在 Deacons 工作的日子還短，但他相信有不少機會把在 KPMG 所學到的運用到現在的工作上。這當然包括一些關於稅務的知識，同時亦包括他在舊公司所建立的人際網絡，這些都是他自覺比一般新畢業生優勝的地方。正因如此，他認為自己當初選擇到 KPMG 工作是一個正確的。

對於現在的工作，Alwyn 十分滿意，亦覺得很有意義和挑戰性。他認為最重要的是抓緊每一個機會自我增埴，這樣才能令自己脫穎而出。



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