

香港民事司法制度改革 REFORM OF THE CIVIL JUSTICE SYSTEM IN HONG KONG



香港民事司法制度改革

為了完善我們的民事司法制度，確保民事訴訟可在合理的時間內，以恰當的訴訟費用、通過簡便的程序獲得公正審理，終審法院首席法官於2000年2月成立民事司法制度改革工作小組，對高等法院民事訴訟的規則和程序進行檢討，並提出修改建議。工作小組詳細探討過有關問題後，於2001年11月發表民事司法制度改革中期報告及諮詢文件，以進行廣泛諮詢，邀請法律界、法庭使用者、關注人士和團體，以及社會大眾，就諮詢文件所列述的80項改革建議提出意見。

REFORM OF THE CIVIL JUSTICE SYSTEM IN HONG KONG

The Honourable Chief Justice appointed a Working Party in February 2000 to review the rules and procedures of the High Court in civil proceedings and to recommend changes with a view to ensuring and improving access to justice at reasonable cost and speed. Having deliberated on the matter, the Working Party published an Interim Report and Consultative Paper on Civil Justice Reform in November 2001 for extensive consultation. Members of the legal profession, court users, interested parties and organisations, and the general public were invited to give views on the 80 reform proposals contained in the Consultative Paper.

THE CONSULTATION EXERCISE

The Working Party formally launched the consultation exercise at a press conference held on 29 November 2001, which attracted wide media coverage. A total of 5 000 copies of the Consultative Paper, 12 000 copies of the Executive Summary (in Chinese and English versions) and 550 copies of CD-ROM were distributed. Copies of the Consultative Paper were placed as reference papers in public libraries run by the Leisure and Cultural Services Department. A dedicated web site <<http://www.civiljustice.gov.hk>> was set up for the consultation exercise to facilitate viewing and downloading of the Consultative Paper, and making of responses on any of the reform proposals. At the close of 30 June 2002, some 40 000 hit rates on visits to various sections of the web site were recorded.



民事司法制度改革工作小組主席陳兆愷法官(左)與副主席李義法官舉行民事司法制度改革研討會

The Hon Mr Justice Chan, Chairman of the Working Party on Civil Justice Reform (left), and the Hon Mr Justice Ribeiro, Deputy Chairman, hold the Seminar on Civil Justice Reform



民事司法制度改革工作小組副主席李義法官在民事司法制度改革研討會上闡述改革建議

The Hon Mr Justice Ribeiro, Deputy Chairman of the Working Party on Civil Justice Reform, elaborates on the reform proposals at the Seminar on Civil Justice Reform

展開諮詢

工作小組在2001年11月29日舉行記者會，就改革建議正式展開諮詢工作，得到傳媒廣泛報導。在諮詢期內，我們一共派發了5 000份諮詢文件、12 000份摘要(中、英版本)及550隻唯讀光碟。有關的諮詢文件及摘要亦已存放在康樂及文化事務署轄下的公共圖書館作參考資料。同時，我們特別為是次諮詢設立專用網頁 <<http://www.civiljustice.gov.hk>>，方便公眾人士瀏覽、下載，並就文件中提出的改革建議作出回應。截至2002年6月30日止，該網址共錄得40 000瀏覽人次。

工作小組又於2002年1月5日就民事司法制度改革的諮詢工作舉行座談會，與會者約有450人，反應熱烈。關注團體尤其是法律界人士，都藉此機會就諮詢文件所提出的事項，向工作小組提問，並就改革建議發表意見。

The Working Party held a seminar on Civil Justice Reform on 5 January 2002. The seminar was attended by about 450 participants and was well received. The interested parties, particularly those in the legal profession, took the opportunity to seek clarification on the issues raised in the Consultative Paper and express their views on the reform proposals.

The Consultative Paper generated active discussion within the community, especially within the legal profession. Judiciary Members of the Working Party accepted invitations to speak on the reform proposals at various conferences sponsored by professional bodies such as the International Conference on Arbitration & Alternative Dispute Resolution, and the Academy of Experts Conference on Civil Justice Reform, as well as seminars organised by bodies like the Legal Aid Services Council, the Society of Construction Law Hong Kong and the Hong Kong Federation of Women Lawyer. Seminars for Judges and Judicial Officers, as well as internal briefings for the Judiciary's support staff were also organised. In addition, Judiciary Members of the Working Party appeared upon request on radio programmes to explain certain aspects of the Consultative Paper to the public.

A five-month consultation period (to conclude on 30 April 2002) was originally scheduled. The consultation period was extended until the end of June 2002 in the light of the request from the Council of the Hong Kong Bar Association. Such an extension was made open to all the other parties.

諮詢文件在社會上，尤以在法律界為然，引起有建設性的討論。不少專業團體都邀請了在工作小組中來自司法機構的成員，在他們舉辦的會議中就改革建議發表講話，如以仲裁及解決糾紛的另類方法為題的國際性會議，以及專家學術協會就民事司法制度改革所舉辦的會議等。此外，法律援助服務局、香港建築法學會及香港女律師協會等亦相繼舉辦研討會，邀請工作小組中來自司法機構的成員參與討論。工作小組亦為法官及司法人員，以及司法機構支援人員舉辦座談會。有關成員還應邀出席多個電台節目，向聽眾解釋諮詢文件中的相關事宜。

諮詢期原定於2002年4月30日屆滿，為期五個月，但我們因應香港大律師公會執行委員會的要求，將諮詢期延展至2002年6月底。社會其他人士亦可利用延展了的時間研究諮詢文件的內容。

諮詢期於2002年6月30日結束，工作小組一共收到96份回應，這些回應分別來自社會各界人士，包括香港大律師公會、香港律師會、法律界人士、關注團體和組織如消費者委員會、醫院管理局、香港和解中心、香港仲裁司學會及公眾人士等。這些回應清楚顯示我們的民事司法制度確需進行改革。工作小組現正就諮詢期所收集的意見詳加探討，並會因應研究結果擬寫最後報告，提交終審法院首席法官考慮。

After the close of the consultation period which ended on 30 June 2002, the Working Party received a total of 96 responses from various sectors of the community including the Hong Kong Bar Association, the Law Society of Hong Kong, legal professionals, interested organisations like the Consumer Council, the Hospital Authority, the Hong Kong Mediation Centre, the Hong Kong Institute of Arbitrators, and members of the public. It is clear from these responses that reforms need to be introduced to our civil justice system. All the feedback and comments gathered during the consultation are being studied in detail and will be taken into account during the preparation of the Final Report for submission to the Chief Justice.



民事司法制度改革工作小組主席陳兆愷法官於法律援助服務局舉辦的一個研討會上致辭

The Hon Mr Justice Chan, Chairman of the Working Party on Civil Justice Reform, addresses a seminar organised by the Legal Aid Services Council

民事司法制度改革工作小組

工作小組的成員包括：—

主席：終審法院常任法官陳兆愷

副主席：終審法院常任法官李義

委員：高等法院上訴法庭副庭長羅傑志

高等法院原訟法庭法官孫國治

高等法院原訟法庭法官夏正民

高等法院原訟法庭法官朱芬齡

律政司民事法律專員溫法德先生
(經諮詢律政司司長後獲委任為小組成員)

法律援助署署長陳樹鏌先生

資深大律師何沛謙先生(自2001年12月3日起，經諮詢香港大律師公會主席後獲委任為小組成員)

律師史沛加先生(經諮詢香港律師會會長後獲委任為小組成員)

香港大學韋健信教授

消費者委員會總幹事陳黃穗女士

秘書：高等法院原訟法庭暫委法官潘兆初

研究員：許家灝先生

工作小組打算在2003年向終審法院首席法官提交最後報告。

WORKING PARTY ON CIVIL JUSTICE REFORM

The Working Party has the following members -

The Hon Mr Justice Chan, Permanent Judge of the Court of Final Appeal (*Chairman*)

The Hon Mr Justice Ribeiro, Permanent Judge of the Court of Final Appeal (*Deputy Chairman*)

The Hon Mr Justice Rogers, Vice-President of the Court of Appeal

The Hon Mr Justice Seagroatt, Judge of the Court of First Instance

The Hon Mr Justice Hartmann, Judge of the Court of First Instance

The Hon Madam Justice Chu, Judge of the Court of First Instance

Mr Ian Wingfield, Law Officer (Civil Law) (Member of the Department of Justice appointed in consultation with the Secretary for Justice)

Mr Chan Shu-ying, Director of Legal Aid

Mr Ambrose Ho, S.C. (since 3 December 2001, Barrister appointed in consultation with the Chairman of the Hong Kong Bar Association)

Mr Patrick Swain (Solicitor appointed in consultation with the President of the Law Society of Hong Kong)

Professor Michael Wilkinson, University of Hong Kong

Mrs Pamela Chan, Chief Executive of the Consumer Council

Deputy Judge Poon, Deputy Judge of the Court of First Instance (*Secretary*)

Mr K H Hui, Research Officer

The Working Party aims to submit its Final Report to the Chief Justice in 2003.