

土地審裁處庭長

撰文

Message from the President, Lands Tribunal

土地審裁處的人力和資源，一向專用於處理涉及《業主與租客（綜合）條例》的案件。時移世易，審裁處須面對社會和經濟變遷帶來的挑戰。租賃案件的數目雖然並無減少，其主流地位卻正漸由建築物管理案件和涉及根據《鐵路條例》與《收回土地條例》收地引起的賠償案件取代。後兩種案件佔用審裁處的資源已開始愈來愈多。

2000年8月立法會對《建築物管理條例》作出重大修訂。該項修訂令建築物的業主在委任管理委員會時須符合的要求降低。這將會鼓勵建築物業主成立管理委員會，繼而成立業主立案法團，以負責建築物的管理。經修訂的條例亦規定，在指定的情況下，業主須根據民政事務局局長的命令或根據土地審裁處的命令，委任建築物管理代理人管理其建築物。這些修訂條文似乎旨在確保或強制使香港特別行政區內所有的舊建築物都獲提供建築物管理服務，而這類建築物為數極多。

由於業主立案法團的數目日增，委任建築物代理人的情況也愈來愈多，所以，涉及建築物管理糾紛的訴訟也一定會增加。

The Lands Tribunal used to devote its manpower and resources mainly in its handling of tenancy cases instituted under the Landlord and Tenant (Consolidation) Ordinance. With the passage of time, it has to face new challenges brought about by social and economic changes. Without diminishing in number, tenancy cases are gradually giving way to building management cases as well as compensation cases in respect of land resumed under the Railways Ordinance and the Land Resumption Ordinance. The latter two types of cases have begun to utilise more and more resources of the Lands Tribunal.

In August 2000, some major amendments were made to the Building Management Ordinance. As a result of the amendments, the requirements to be met by owners of buildings for the appointment of management committees have been lowered. This will have the effect of encouraging owners of buildings to form management committees, and subsequently corporations of owners, for the purposes of managing those buildings. The amendments also provide for the appointment of a building management agent to manage a building by order of the Secretary for Home Affairs or by order of the Lands Tribunal, under prescribed circumstances. These amendments appear to aim at securing or imposing the provisions of building management services to all the old buildings within the Hong Kong Special Administrative Region, the number of which is vast.

Due to the increase in the number of owners' corporations and the appointment of building management agents, litigations relating to building management disputes will certainly increase.

現時的建築物管理案件經常都涉及複雜的事實和法律上的爭議。審裁處現要用相當多的時間處理這類案件。

另外，在賠償案件方面，九廣鐵路公司已展開西鐵計劃。根據過去估計，大量西鐵工程引致的收地賠償案件會交由審裁處處理。事實上，審裁處現時已聆訊數宗與這些工程有關的案件。

市區重建局快將成立，它將會繼續前土地發展公司的工作。依據過去的估計，大量因該局重建計劃收地而引起的賠償案件，將會交由土地審裁處審理，由審裁處裁定應付給受影響業主的賠償金額。

我們預計租賃案件將會佔用土地審裁處資源的小部分，而建築物管理案件及賠償案件將耗盡餘下的大部分。隨著案件數目的增加，候審的時間肯定會延長。面對這些未來的挑戰，司法機構正密切監察有關情況，我們在情況有需要時會增加審裁處的人手以應付。

任懿君

高等法院原訟法庭法官
任懿君

At present, building management cases often involve complicated factual and legal issues, and at the moment they are taking up a great deal of the Lands Tribunal's time.

On the other hand, in respect of compensation cases, the Kowloon–Canton Railway Corporation has already embarked on its West Rail projects. It was estimated that a vast number of cases relating to the compensation for the resumption of land for the construction of the West Rail would be referred to the Lands Tribunal. In fact the Lands Tribunal has already heard a number of cases relating to these projects.

The Urban Renewal Authority will be set up in the near future to take over the work of the former Land Development Corporation. Likewise, it has been estimated that a vast number of cases under the URA projects will be referred to the Lands Tribunal for the determination of compensation payable to owners for resumption of their land by the URA.

It is anticipated that tenancy cases will utilise a smaller portion of the Lands Tribunal's resources, whilst building management cases and compensation cases will exhaust the bulk of the remaining portion. No doubt, with the increasing number of cases, the waiting time for the trial of cases will be stretched. In facing these challenges lying ahead, the Judiciary is closely monitoring the situation, and if required by circumstances, we will increase the manpower of the Tribunal in order to cope with the situation.



David Yam
Judge of the Court of First Instance
of the High Court



總裁判官

撰文

Message from the Chief Magistrate

作為總裁判官，我要負責管理勞資審裁處、小額錢債審裁處、死因裁判法院、淫褻物品審裁處和各裁判法院，並要確保這些法庭順利運作及使工作隊伍保持良好的服務水平。

目前，情況需要的時候，法庭都已大量採用本地話（廣東話）進行審訊。北九龍裁判法院已特別開設一個本地話法庭，這試驗計劃相當成功。該法庭不但用本地話為法庭語言，更鼓勵審訊的各方參與人用中文書寫有關的文件和報告。其他法庭使用者對此安排都表示支持。編排在本地話法庭的案件，其當事人只有極少數要求以英語進行審訊。因此，我們打算設立更多同類的法庭以提高效率。

去年，涉及濫用藥物、使用非法燃油、訪港旅客或過期居留人士從事賣淫活動和侵犯版權的案件，引起了社會極大的關注，而且為數極多，使裁判法院應接不暇。雖然上訴法庭已經就上述一些罪行定下指引，但是，由於犯罪者和社會兩者之間存在著利益衝突，刑罰要確定得宜，相當困難。為了在量刑的方法上取得一致，我們召開了數次關於量刑的會議，互相分享意見。我們亦邀請了有關的執法組織給我們介紹這些罪案最新的情況。

As the Chief Magistrate, I am responsible for the administration of the Labour Tribunal, the Small Claims Tribunal, the Coroner's Courts, the Obscene Articles Tribunal and the Magistrates' Courts. It is my duty to ensure the smooth operation of these courts and to maintain the standard of the team.

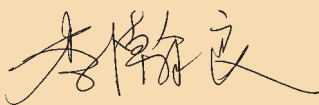
At present, Punti (Cantonese) is extensively used in trials where circumstances warrant. The pilot scheme of a Punti court in North Kowloon Magistrates' Courts is successful. Not only that Punti is the medium in this court, all parties are encouraged to use Chinese in documents and reports. Other court users also supported such an arrangement. Very few cases fixed to this court request for a trial in English. We plan to establish more courts of this nature to improve efficiency.

Last year, offences involving the abuse of drugs, the illicit use of marked oil, visitors/overstayers working as prostitutes and infringement of copyright have jammed our diaries in the Magistrates' Courts as well as causing grave social concern. Although the Court of Appeal have set down guidelines for some of these offences, the competing interests of the offenders and the society have caused considerable difficulty in assessing the appropriate sentence. In order to achieve consistency in our sentencing approach, we have organised sentencing conferences to share our views. We have also invited law enforcement agencies to brief us on the latest development of these crimes.

勞資審裁處和小額錢債審裁處的工作量仍然令兩處不勝負荷，前者疲於應付建築業和因公司清盤引起的糾紛，後者則承擔著管轄權擴大所帶來的額外工作。我們留意到，現時兩個審裁處的與訟人，與過往的相比，更有纏訟的傾向。再者，兩處的案件亦吸引了更多傳媒的報道。

兩處正在傾盡全力地工作，我們的同事也盡一切所能克服這些挑戰。到目前為止，兩個裁判處總的來說仍能按指標完成工作。我們計劃提供更多關於調解和溝通技巧的訓練，提升同事的專業水平。

各裁判法院和審裁處跟大眾市民的接觸非常廣泛，這一審級的法庭所處理的案件性質比以前更為複雜，傳媒報道亦更多。過去一年，我們的同事竭盡所能爭取保持最佳表現。但是，我們不能自滿，我們會繼續力求進步。估計，隨著電腦技術的迅速發展，關於這方面的罪案將會增加，對法庭來說，這將會成為新的考驗，這方面的培訓實在急不容緩。總的來說，我們未來的工作是艱巨的，我和每一位同事都必會竭盡所能，為提升現有制度的水平而努力。

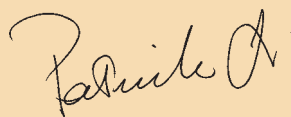


總裁判官
李瀚良

The Labour Tribunal and the Small Claims Tribunal continue to be overloaded with claims. The former was pre-occupied with disputes arising from the construction trade and insolvent companies. The latter is taking its toll of the increased jurisdiction. We notice that parties to the Tribunals are more litigious than before. Further, cases often attract more publicity.

The two Tribunals are now operating in their maximum capacity. Colleagues in both Tribunals are doing their utmost to meet these challenges. So far, the respective diaries of both Tribunals are generally within target. We plan to organise more training on mediation and communication skill to enhance professionalism among colleagues.

The Magistrates' Courts and the Tribunals have broad contact with the society. Cases dealt with at this level have increased in complexity and publicity. In the past year, colleagues have tried their best to upkeep the highest standard of competence. But there is no room for complacency, and we would continue to strive for improvement on our part. With the fast development in computer technology, I anticipate there will be more crimes in this area and this poses new challenges for the courts. The need for training in this aspect is imminent. In all, the work ahead is demanding, my colleagues and I will certainly try our best to improve the standard of our present system.



Patrick Li
Chief Magistrate



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Picture by Hong Kong Economic Times

第四章

裁判法院

CHAPTER 4

Magistrates' Courts





裁判法院

裁判法院的刑事司法管轄範圍廣泛，有權審理多類可公訴罪行和簡易程序罪行。雖然，就可公訴罪行來說，裁判官最高只能判兩年監禁和10萬元罰款，但是愈來愈多條例賦予裁判官更大的權力，使其可判高達三年的徒刑和遠比以前高的罰款額，而有些罪行，更可判高達500萬元的罰款。

MAGISTRATES' COURTS

The Magistrates' Courts exercise criminal jurisdiction over a wide range of indictable and summary offences. Although there is a general restriction of two years' imprisonment, and a fine of \$100,000 for indictable offence, a growing number of ordinances give Magistrates the power to impose sentences of up to three years' imprisonment and substantially larger fines, for some offences up to \$5,000,000.



總裁判官李瀚良與南京大學學生會面
Mr Patrick Li, Chief Magistrate, meeting with students from the Nanjing University

一切刑事檢控必須在裁判法院展開。律政司司長可因應案件的嚴重性，申請把案件移交區域法院審理，或申請把案件轉解高等法院原訟法庭審理。如裁判官在初級偵訊中聽取證供後，認為有足夠證據將被告人交付陪審團審訊，或如被告人選擇不經初級偵訊而自動轉解，裁判官便會將案件轉解高等法院原訟法庭審理。此外，裁判官也可根據《複雜商業罪行條例》將案件移交高等法院原訟法庭審理。

All criminal prosecutions must commence in a Magistrates' Courts. The Secretary for Justice may apply to have a case transferred to the District Court or committed to the Court of First Instance of the High Court depending upon its seriousness. Defendants are committed to the Court of First Instance for trial if a Magistrate, after hearing evidence in a preliminary inquiry, is of the opinion that there is sufficient evidence to put the defendant on trial before a jury, or if the defendant elects to have an automatic committal instead of a preliminary inquiry.

A case can also be transferred to the Court of First Instance by a Magistrate under the Complex Commercial Crimes Ordinance.

The Chief Magistrate is the court leader and he heads the Principal Magistrates, Magistrates and Special Magistrates. Special Magistrates deal with minor offences such as hawking and traffic offences. Their jurisdiction is generally limited to a maximum fine of \$100,000.



總裁判官是所有裁判法院的首長，領導各裁判法院的主任裁判官、裁判官和特委裁判官。特委裁判官負責審理輕微的罪行，例如非法擺賣和交通違例案件，管轄權一般只限於判處最高不超過 10 萬元的罰款。

全港共有九所裁判法院，分布於各區：港島兩所、九龍三所和新界四所。

為使資源管理更有效率，南九龍裁判法院在 2000 年 7 月 1 日已關閉。該法院的案件已轉交其他裁判法院審理。

少年法庭

少年法庭由裁判官主理，有權審理涉及兒童和未滿 16 歲的少年人的刑事控罪，但兇殺案件除外。少年法庭亦有權就為保護未滿 18 歲的少年頒布照顧保護令。

裁判法院登記處

裁判法院登記處負責處理控罪和傳票的入稟程序，保存法院的記錄，並負責為裁判法院的法庭提供支援。

中文審訊試驗計劃

目前，裁判法院約有百分之七十的審訊是以中文進行的。為配合法庭使用者的需要，我們在 2000 年 7 月於北九龍裁判法院實施中文法庭試驗計劃。這項計劃的目的，是把中文審訊集中在一個法庭進行，並試驗其效果如何，從而改善案件管理和更有效率地調配法庭傳譯人手。我們會定期對試驗計劃進行檢討。計劃如果證實成功，將會擴展至其餘八所裁判法院。

There are nine Magistrates' Courts located throughout the territory: two on Hong Kong Island; three in Kowloon; and four in the New Territories.

The South Kowloon Magistrates' Courts were closed on 1 July 2000 for better management of resources. Its cases are re-allocated to other Magistrates' Courts.

JUVENILE COURT

The Juvenile Court, presided by Magistrates, has jurisdiction to hear charges against children and young persons under the age of 16, except in cases of homicide. It also has jurisdiction to make care and protection orders in respect of young persons under the age of 18.

REGISTRIES OF MAGISTRATES' COURTS

The Registries of Magistrates' Courts are responsible for the filing of charges and summonses and maintaining court records. They also provide support to the Magistrates in court.

PILOT SCHEME ON CHINESE COURT

At present, about 70% of trials in the Magistrates' Courts are conducted in Chinese. To meet the needs of the court users, a pilot scheme on Chinese Trial Court was launched in North Kowloon Magistrates' Courts in July 2000. The scheme aims to test out the effectiveness of pooling of Chinese trials in one court so as to enhance better case management and better deployment of court interpreters. The pilot scheme is under periodic review. If proved successful, the Chinese Trial Court Scheme will be extended to the other eight Magistrates' Courts.



新建裁判法院大樓

新建的九龍城裁判法院預計會在 2001 年啟用。該法院將取代新蒲崗裁判法院。粉嶺裁判法院將會遷往在 2001 年中落成的新大樓。

為配合目前法庭使用者的需要，新建法院大樓的設備將會更趨完善。大樓內將會設置現代化通訊網絡和辦公室自動化器材。此外，還會有數碼錄音系統、影音播放設備、為易受傷害證人而設的閉路電視系統、即時傳譯設備，和更精密的電子保安系統。



法律周二〇〇〇的學生大使參觀東區裁判法院
Students ambassadors of Law Week 2000 paying visits to the Eastern Magistrates' Courts

案件量和輪候時間

裁判法院的案件量在過去數年保持穩定。預計 2000 年的案件量會較 1999 年減少約百分之十。不過，審結案件的數目則較前減少，原因是案件較為複雜，聆訊時間較長。

各類案件輪候時間仍然能夠控制於目標預計之內。

NEW MAGISTRATES' COURTS BUILDINGS

The new Kowloon City Magistrates' Courts are expected to commence operation in 2001. It will replace the existing San Po Kong Magistrates' Courts. The Fanling Magistrates' Courts will be re-provisioned to a new court building to be completed in mid-2001.

The new court buildings will be well-equipped to meet the present day needs of court users. The new court buildings will be equipped with modern communication network and office automatic devices. They are also furnished with digital audio recording system, audio-video presentation facilities, close circuit TV system for vulnerable witnesses, simultaneous interpretation facilities and an improved electronically controlled security system.

CASELOAD AND WAITING TIME

The caseload in Magistrates' Courts remained steady in the past few years. It is projected that the caseload in 2000 may reduce by some 10% as compared to that in 1999. But fewer cases were concluded as a result of the increased complexity of cases for which longer hearing times were spent.

The target court waiting times of all types of cases could still be met.



市民現可使用「易辦事」在各裁判法院會計部繳交定額罰款
Fixed penalty can now be paid by EPS at the Accounts Office of the Magistrates' Courts



表 9
Table 9

裁判法院的案件量
CASELOAD OF THE MAGISTRATES' COURTS

	1999 案件數目 No. of Cases				
	承接往年 [△] Brought forward from previous years	送交 Filed	結案* Disposed of	訴訟中止# Inactive	訴訟進行中 In progress
控罪紙 Charge sheets	43 206	92 101	89 764	154	45 389
傳票 Summonses	52 310	196 951	198 108	24 854	26 299
雜項程序通知書 Miscellaneous proceedings	10 070	7 562	5 868	193	11 571
亂拋垃圾者傳票 Anti-litter notices	3 760	33 994	35 272	801	1 681
定額罰款通知書 Fixed penalty notices	17 670	96 452	98 075	11 427	4 620
合計 TOTAL	127 016	427 060	427 087	37 429	89 560

	2000 (截至 9 月 30 日 up to 30.9.2000) 案件數目 No. of Cases				
	承接往年 [☆] Brought forward from previous years	送交 Filed	結案* Disposed of	訴訟中止# Inactive	訴訟進行中 In progress
控罪紙 Charge sheets	45 389	57 327	55 535	84	47 251
傳票 Summonses	26 299	142 083	139 960	21 377	31 899
雜項程序通知書 Miscellaneous proceedings	11 571	6 324	4 380	139	13 569
亂拋垃圾者傳票 Anti-litter notices	1 681	17 943	17 890	689	1 846
定額罰款通知書 Fixed penalty notices	4 620	65 692	66 569	8 870	6 300
合計 TOTAL	89 560	289 369	284 334	31 159	100 865

[△] 承接往年的案件指訴訟中止及訴訟進行中的案件。這些案件在 1999 年首次如此分類
The figures brought forward from previous years refer to cases inactive and in progress. It is the first year to categorise the cases brought forward into inactive and in progress in 1999

[☆] 承接往年的案件指訴訟進行中的案件，並不包括訴訟中止的案件
Cases brought forward from previous years to 2000 refer to cases in progress and do not include cases inactive

* 結案指被告人被定罪 / 被判無罪 / 聆訊結束
Disposed of refers to cases where defendants have been convicted/acquitted/hearings concluded

訴訟中止指一年內沒有文件送交或聆訊
Inactive refers to those having no action (including filing of document or hearing) for one year from the date of last filing of document

* 由 2001 年 1 月 1 日新增設之項目
New item planned to be introduced in 2001

表 10
Table 10

裁判法院案件的輪候時間
WAITING TIME FOR CASES IN THE MAGISTRATES' COURTS

		輪候時間 (日) Waiting Time (days)			
		目標 Target	1999	2000 (截至 9 月 30 日 as at 30.9.2000)	2001 (預計 Plan)
傳票 Summonses	由答辯日至審訊日 [#] From plea to date of trial	-	-	46	50
控罪案件 Charge cases	由答辯日至審訊日 From plea to date of trial				
	• 被告人在押的案件 Cases involving defendants in custody	45	33	39	45
	• 被告人獲保釋候審的案件 Cases involving defendants on bail	60	45	52	60