

第二章 CHAPTER 2



回顧 REVIEW

我欣然發表2011-12年年報，這是我擔任法律援助服務局主席以來，第六份及最後一份的年報。

2011年是值得記念的一年。在2011年5月27日，本局首次舉辦兩岸四地法律援助研討會。這個研討會為中國內地、台灣、澳門和香港提供一個平台，分享法律援助制度的資訊和經驗，並為四地的法律援助從業員和制定政策的官員，創造建立網絡的機會。本局非常榮幸，能邀得終審法院法官馬道立首席法官和從蘇格蘭遠道而來的國際法援組織主席Alan Paterson教授擔任主講嘉賓，高等法院原訟法庭法官林文瀚法官發表午餐演講，其他講者包括國家司法部法律援助工作司司長和副處長、台灣法律扶助基金會董事長及代表、澳門法務局局長、香港法律援助署助理署長（申請及審查）和本局成員。研討會廣受歡迎，逾110名來自四地的法律援助當局代表、法律援助工作者、學者和非政府機構代表參加。

在去年年報中，我提及本局在2010年12月向行政長官提交了有關法律援助輔

I am pleased to present the 2011-2012 Annual Report, the sixth and the last during my tenure as Chairman of the Legal Aid Services Council.

2011 was a year worth remembering. On 27 May 2011, the Council held its first Cross-strait Legal Aid Conference. The purpose of the conference was to provide a forum for sharing information and experience about legal aid practices in the Mainland, Taiwan, Macau and Hong Kong. It also provided networking opportunities for legal aid practitioners and policy formulation personnel of the four places. The Council was honoured to have the Chief Justice, the Honourable Geoffrey Ma, and Chairperson of the International Legal Aid Group, Professor Alan Paterson from Scotland, as keynote speakers. The Honourable Mr Justice Johnson Lam, Judge of the Court of First Instance of the High Court, also spoke at the conference luncheon. Other speakers included the Director and the Deputy Section Chief of the Department of Legal Aid of the Ministry of Justice, the People's Republic of China; the Chairperson and a representative of the Legal Aid Foundation, Taiwan; the Director of Legal Affairs Bureau, Macau; Assistant Director of Legal Aid (Application & Processing) of Legal Aid Department, Hong Kong; and members of our Council. The conference was very well-received. More than 110 attendees including officials of

助計劃（下稱「輔助計劃」）涵蓋範疇的建議。在2011年3月，行政當局在參考本局意見和建議，以及相關持份者的觀點後，向立法會司法及法律事務委員會提交建議書。關於行政當局的立場，詳述於第六章內的「法律援助輔助計劃的檢討」。本局喜見法律援助條例及規例現正進行修訂，以落實擴大普通法律援助計劃及輔助計劃的建議，並有望在2011-12立法年度完結前通過。

根據《法律援助服務局條例》（第489章）第4(5)條，本局是行政長官在關於獲公帑資助並由法律援助署提供的法律援助服務的政府政策上的諮詢組織，並須就建立一個獨立的法律援助管理局的可行性和可取性提出建議。如去年年報所述，本局已邀請所有遞交了顧問研究意向書的公司/機構/大學提交建議書。在仔細審議收到的六份建議書後，法律援助獨

leg aid authorities, legal aid practitioners, academics, and representatives of non-governmental organizations from the four places participated in the conference.

In the previous report, I mentioned that the Council submitted its recommendations on the scope of Supplementary Legal Aid Scheme (SLAS) to the Chief Executive in December 2010. In March 2011, the Administration, after taking into account the Council's advice and recommendations as well as views from relevant stakeholders, presented its proposal to the Panel on Administration of Justice and Legal Services (AJLS Panel) of the Legislative Council. Details of the Administration's views are given in the "Review of Supplementary Legal Aid Scheme" in Chapter 6. The Council is pleased to know that legislative amendments to the Legal Aid Ordinance and Regulations to give effect to the expansion of the Ordinary Legal Aid Scheme (OLAS) as well as the SLAS are in progress and will hopefully be passed before the end of the 2011/12 legislative year.



Pursuant to Section 4(5) of the Legal Aid Services Council Ordinance (Cap.489), the Council is the Chief Executive's advisory body on Government policy concerning publicly funded legal aid services provided by the Legal Aid Department. The Council shall advise on, among other things, the feasibility and desirability of the establishment of an independent legal aid authority. As mentioned in the last report, the Council had invited all the firms/ institutions/ universities that had submitted their Expression of Interest (Eoi) to undertake a consultancy study on the matter to submit their proposal. Out of the six proposals received, the Working Party on Independence of Legal Aid, after detailed examination of the proposals, recommended to the Council to appoint Deloitte Consulting (Hong Kong) limited to undertake the study. The objectives of the consultancy study are:



立性工作小組建議本局委任德勤企業管理諮詢(香港)有限公司負責此項研究。而顧問研究的目標是：

- (a) 研究在香港建立一個獨立的法律援助管理局的整體可行性和可取性；
- (b) 比較各種管理香港法援服務的運作模式，以了解其優點、缺點、成本和效益；
- (c) 建議最適合管理香港法援服務的模式；以及
- (d) 如研究結果認為應成立一個獨立管理機構，則建議一個設立獨立法律援助管理局的執行計劃。

本局通過有關建議，而顧問研究亦於2011年年底展開。顧問公司已完成海外制度研究和諮詢持份者兩部份工作，現正著手草擬工作報告，可惜落後原定工

- (a) to examine the overall feasibility and desirability of establishing an independent legal aid authority in Hong Kong;
- (b) to compare various operational models for administering legal aid services in Hong Kong to examine their merits, demerits, costs and benefits;
- (c) to recommend the best model for administering legal aid services in Hong Kong; and
- (d) to propose an implementation plan for setting up an independent legal aid authority, if an independent authority is recommended.

The Council approved the recommendation and the consultancy study commenced in late 2011. The Consultant has completed both the study of overseas practices and consultation with stakeholders and is working on the report, which is unfortunately behind the Council's planned schedule. The Council will make recommendations to the Chief Executive after considering the report of the study.

作進程。本局在參考研究報告後，會向行政長官提出建議。

為加強社區法律援助服務，本局要求「法律援助範圍興趣小組」研究為被執法機構，特別是警察和廉政公署，拘留的人士提供法律意見的可取性和可行性。目前，有很多這類人士當首次被拘留時，他們沒有獲得即時的法律意見，亦未必懂得在被拘留期間接受有關執法機構審問時的法律權利和利益，此情況並不理想。興趣小組的成員來自社區廣泛層面，他們正研究推行一個試驗計劃，政府部門、兩個法律專業團體等持份者亦被邀請參與討論，同時為了引起關注和徵求不同的意見，本局在2012年5月舉辦了一個研討會，期望在未來數月可完成制定這個試驗計劃，提交行政當局考慮，這個將會是刑事法律援助一個重要的里程碑。

服務本局接近六年，我將於不久後離任。本人衷心感謝本局成員在我出任主席期間所作出的寶貴貢獻和支持，他們非常慷慨地付出時間、知識和經驗，令本港法援服務精益求精，我很高興和榮幸能與他們共事。同時，我感謝法援局秘書處的專業支援，亦要多謝法援署職員、法律業界人士和其他的持份者，他們在不同的層面，幫助本局的工作。法治是本港成功的其中一個最重要的基石，我有信心本局會堅守崗位，維護法治精神，確保缺乏經濟能力的人士，可以在法律面前人人平等，尋求正義伸張。

In an effort to enhance the scope of legal aid services to the community, the Council has asked the Interest Group (IG) on Scope of Legal Aid to study the desirability and viability of providing legal advice to people detained by law enforcement agencies, notably the police and the Independent Commission against Corruption. At present, many of these individuals do not have any ready legal advice when they are first detained and they may not be aware of their legal rights and privileges when they are interrogated by the law enforcement agency concerned during the period of their detention. This situation is unsatisfactory. The IG, with members coming from a wide spectrum of the community, is studying a possible pilot scheme. Stakeholders including relevant government departments and the two legal professional bodies have been invited to participate in the deliberation. To bring focus to the issue and to solicit views from a wider spectrum, the Council organised a seminar on this subject in May 2012. It is hopeful that a pilot scheme will be worked out for submission to the Administration for consideration in the coming months. It will be an important step in the area of criminal legal aid.

I shall soon retire from the Council after nearly six years of service. My heartfelt appreciation goes to the members of the Council for their invaluable contributions and support during my tenure as Chairman. They have been very generous in volunteering their time, knowledge and experience for the betterment of legal aid services in Hong Kong. It has been a pleasure and my privilege working with them. I am also very grateful to the Council Secretariat for their dedication and professionalism. I would also like to thank staff of the Legal Aid Department, the legal profession and the many stakeholders who have contributed to the work of Council in different ways. Rule of Law is one of the most important cornerstones underpinning the success of Hong Kong. I am confident that the Council will continue to work towards upholding the rule of law by ensuring access to justice and equality before the law for people of limited means.