



## **SENIOR PRACTITIONERS BOYCOTT CRIMINAL LEGAL AID CASES** **Month-long Gesture Highlights Chronic Underfunding**

To protest against the Government's continuing refusal to reverse the chronic neglect of criminal legal aid, the Law Society's Criminal Law and Procedure Committee ("Committee") will stage a month-long boycott of criminal legal aid cases next month. The Committee represents criminal law practitioners in Hong Kong.

The criminal legal aid fee system has remained unchanged for many years, despite repeated appeals from the Law Society as well as civic and rights groups.

"Our boycott will not cripple the legal aid system but will serve as a demonstration of our deep dismay at the Government's continuing refusal to conduct a long needed review of criminal legal aid, and criminal legal aid funding" said Committee Chairman Stephen Hung Wan-shun at a press conference today.

Also present at the press conference to voice concerns about criminal legal aid were the Hon. Margaret Ng Oi-ye, representative of the legal constituency at the Legislative Council, the Hon. Leung Yiu-chung, Legco member who has assisted many criminal case defendants from grassroots background, and Mr Ho Hei-wah of the Society for Community Organisation. Signing an open letter at the press conference, they joined Committee members to urge Secretary for Home Affairs Tsang Tak-sing to review the criminal legal aid system immediately.

Hong Kong's legal aid expenditure per capita falls short of other common law jurisdictions, according to a study, "Legal Aid Systems in Selected Places", released by the Research and Library Services of Legislative Council Secretariat this June. Legal aid spending per capita in Hong Kong is HK\$75, compared to HK\$430 in England and Wales, HK\$173 in Ontario, Canada, and HK\$150 in New South Wales, Australia.

"Defendants relying on criminal legal aid are inevitably placed at a disadvantage compared to the well-funded resources of the police and prosecution. This is of great concern to those who take the preservation of the rule of law seriously. In criminal trials, justice can only be served when there is equality of arms between the prosecution and defence." said President of Law Society Huen Wong.

The Law Society's position is that the Government should substantially increase the overall legal aid budget and treat civil and criminal legal aid cases equally. "The professional skills required for the preparation of criminal cases are no different to those required for civil cases. More importantly, unlike civil cases, a defendant's liberty is at stake in criminal trials," said Mr Hung.

The Government has claimed that their latest proposals represented a substantial increase compared to existing criminal legal aid fees. But Mr Hung said while the proposed increases in percentage terms might look substantial, the fact that the percentages were applied to an extremely low base of fees rendered any claim of substantial improvement indefensible.

The Government's latest proposals for criminal legal aid fee rates for High Court proceedings (HK\$730/hr) are three to four times lower than the rates for civil case, and about three times lower for District Court proceedings (HK\$620/hr).

The Law Society expresses concerns that the inevitable result of this disparity is that experienced practitioners will increasingly withdraw from criminal legal aid work. In the long run, this persistent underfunding of the system will also deter young lawyers from developing a career in criminal litigation which will ultimately leave us without a working system.

"Committee members who take part in the boycott are all experienced practitioners. We are concerned about the future of the criminal legal aid system and criminal justice in Hong Kong. Unless the Government addresses this deficiency as a matter of urgency we will find an ever decreasing pool of experienced solicitors working on criminal legal aid cases. This is not in the public interest. Government officials however do not seem to be interested in improving or even maintaining the quality of legal aid service," said Mr Hung.

A survey conducted by the Law Society in 2007 has found that 47% of responding lawyers and 36% of responding firms said they had considered ending their participation in the criminal legal aid scheme, mainly due to the inadequate fee resources allocated by the Government.

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**The Law Society of Hong Kong**  
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