

LCQ8: Implementation of jury system in District Court

Following is a question by Dr Hon Margaret Ng and a written reply by the Secretary for Justice, Mr Wong Yan Lung, SC, in the Legislative Council today (November 11):

Question:

Recently, there have been views that the jury system is a good tradition of common law, and as the maximum imprisonment term that may be imposed by the District Court in criminal cases is seven years, which is by no means light, the ideal arrangement is for juries to be formed to try cases in the District Court. Such views have also pointed out that as English was the official language used in court in the past, the number of members of the public eligible for serving as jurors was just sufficient for trying cases in the High Court and the Court of Final Appeal. However, since the use of Chinese as an official language in court, the number of members of public eligible for serving as jurors has grown significantly and hence the jury system should be extended to the District Court. In this connection, will the Government inform this Council:

(a) whether it will consider implementing the jury system in the District Court; if so, of the work plan; if not, the reasons for that;

(b) of the number of cases tried in the High Court in the past three years for which a jury was required to be formed, and the number of jurors and relevant resources involved; and

(c) whether it has assessed how many cases tried in the District Court in 2008-2009 could have been tried before a judge with a jury, and the estimated additional number of members of the public needed to serve as jurors as well as the resources involved for the jury system to be implemented in the District Court?

Reply:

President,

(a) The Government has no current plan to introduce juries for criminal trials in the District Court.

Article 81 of the Basic Law stipulates, among other things, that the judicial system previously practised in Hong Kong shall be maintained. Article 86 provides that

the principle of trial by jury previously practised in Hong Kong shall be maintained. The Basic Law and the Bill of Rights Ordinance do not confer on the defendant in criminal proceedings a right to choose trial by jury. Under the existing system, a defendant is equally assured of a fair trial by a judge alone in the District Court, in which the judge is required to give a fully reasoned judgment, which may then be scrutinised on appeal.

This issue was last raised in the Legislative Council in March 1997 and in the information paper presented to the Administration of Justice and Legal Services Panel, by the then Attorney General's Chambers, it was said that any change at the present arrangements would require a lengthy, detailed and in-depth study. Having reviewed the matters set out in that paper and having consulted the Judiciary, the Administration is not convinced that a re-examination of this issue is warranted. The number of criminal cases tried in Chinese in the District Court has shown a steady increase in recent years, while the number of those in the Court of First Instance has shown no comparable increase. Since 2007, the availability of an increased pool of Chinese speaking jurors has not led to an increase in jury trials in Chinese in the Court of First Instance. It appears unlikely therefore that the introduction of jury trials in the District Court would lead to an increased use of Chinese in that Court.

| Types of Court | Number of trials heard in Chinese | | |
|----------------------------------|-----------------------------------|------|--------------------------|
| | 2007 | 2008 | 2009 (from Jan - Sep) |
| Court of First Instance (Trials) | 29 | 31 | 27 |
| District Court | 219 | 314 | 316 |

The resource implications and the demand on jurors would also be very considerable if the same number of cases were to be tried each year.

(b) The following table shows the statistics of the number of jury trials in the Court of First Instance in each of the past three years, the total number of empanelled jurors and the number of potential jurors on the list who had been summoned for selection.

| Year | Number of cases tried by Jury | Number of jurors empanelled | Number of summonses issued for potential jurors to attend for selection |
|-------------------------|-------------------------------|-----------------------------|---|
| 2007 | 77 | 541 | 18,172 |
| 2008 | 69 | 487 | 17,078 |
| 2009 (Up to October) | 73 | 515 | 14,260 |

The resources necessary for jury trials include the provision of suitable accommodation and the costs of administrative staff and of allowances paid to those who serve as jurors. There is also an indirect cost on self-employed jurors and on the employers of those who are employed, consequential on their absence from work.

(c) It is not possible to assess how many cases tried in the District Court in 2008-2009 could have been tried before a judge and jury. Although an indication may be derived from the figures for criminal trials in the District Court in the past three years, which are as follows:

| Year | Number of trials |
|----------------------|------------------|
| 2007 | 647 |
| 2008 | 588 |
| 2009 (up to October) | 612 |

If all those trials had been before a judge and jury, the additional number of members of the public needed to serve as jurors as well as other resources in managing a jury system in the District Court would have been considerable.

It would be necessary to redesign the District Court rooms to provide for jurors and to add a Jury Assembly Room, separate access and facilities for jurors, including waiting rooms and some overnight accommodation. There would be manpower implications for support staff and there might also be manpower implications for judges.

Ends/Wednesday, November 11, 2009