CHAPTER 7

THE GOVERNMENT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION

GENERAL REVENUE ACCOUNT

GOVERNMENT DEPARTMENT

Judiciary

The administration of the Judiciary

Audit Commission
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THE ADMINISTRATION OF THE JUDICIARY

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Summary and key findings

A. **Introduction.** The Judiciary is responsible for the administration of justice. In 1999-2000, the expenditure of the Judiciary was estimated at $976 million. Audit recently conducted a review of the administration of the Judiciary. The scope of the review does not include an assessment of judicial performance in terms of judges' effectiveness in discharging their judicial duties (paras. 1.1, 1.2 and 1.5).

B. **Court waiting time.** In recent years, the Judiciary has shortened the waiting time in some courts and tribunals. However, for the Court of First Instance of the High Court, the actual waiting times have been longer than the target waiting times. The main reason for the long waiting times in the Court of First Instance is an increase in civil caseload in recent years. In this regard, Audit notes that from 1989 to 1998, while the financial limits of the civil jurisdiction had remained unchanged, due to inflation, there had been an upward shift of civil caseload to the higher courts. In October 1999, the financial limit of the Small Claims Tribunal was revised. The District Court (Amendment) Bill, which proposed an increase in the financial limit of the District Court, was introduced into the Legislative Council (LegCo). If the legislation is enacted, there will be a redistribution of civil caseload among different levels of court/tribunal (paras. 2.6, 2.10, 2.11, 2.15, 2.22, 2.23 and 2.26).

C. **The Labour Tribunal.** The number of labour disputes has increased considerably with the growing public legal awareness and the expansion of statutory protection effected through legislation. The Labour Tribunal Ordinance (Cap. 25) provides that a claim shall be heard within 30 days from the date of filing the case. However, in practice, in order to meet this requirement, since 1992 the Judiciary has been recording the cases received initially in an appointment register, which is used as a buffer against increasing caseload. Under this arrangement, a claimant is required to file a case with the Tribunal only after a time slot is available for hearing the case. Taking into account the duration for keeping a case in the appointment register, the total waiting time for hearing a claim in the Tribunal has been much longer than the statutory 30-day limit. The Judiciary has been taking measures to clear the backlog of cases in the Labour Tribunal, including the introduction of night court and Saturday court sittings (paras. 3.2, 3.3, 3.5, 3.10, 3.12 and 3.13).

D. **Utilisation of Judiciary's resources.** Judicial time (i.e. judges' working time in court and out of court) is the most important resource of the Judiciary. The Judiciary has been keen to address the public concern about the utilisation of judicial time. However, it has not adopted any standard on the average sitting hours of judges in court. Audit considers that setting such a standard can ease the

public concern and is conducive to improving the efficiency of the Judiciary. In addition, there is a need for providing better management information on judicial time (paras. 4.4 and 4.18 to 4.22).

E. Audit notes that, in the District Court, there was a considerable amount of unused time for each courtroom. It is necessary for the Judiciary to examine whether there is scope for optimising the use of courtrooms. In this regard, Audit notes that the courts of some overseas countries have adopted to a certain extent courtroom sharing (paras 4.32, 4.36 and 4.37).

F. **Provision of support services.** Audit has found that judges and legal practitioners are on the whole satisfied with the court support services. The judges have however identified some areas of concern and made suggestions for improvement. With regard to court reporting services, following the full implementation of the Digital Audio Recording and Transcription Service in April 1998, there is a need for the Judiciary to review the staffing situation to see whether the number of court reporters can be further reduced (paras. 5.7 to 5.10 and 5.20).

G. **Audit recommendations.** Audit has made the following major recommendations that the Judiciary Administrator should:

(a) take urgent action to clear the backlog of cases in the Court of First Instance of the High Court (para. 2.12);

(b) provide information and assistance to facilitate LegCo to expedite the readings of the District Court (Amendment) Bill, so as to implement the proposed revision of the financial limit of the District Court as soon as possible (para. 2.32(a));

(c) devise a mechanism for regularly reviewing the financial limits of the civil jurisdiction at all levels of courts (para. 2.32(b));

(d) set a target for the duration in which a case is kept in the appointment register before the case is formally filed in the Labour Tribunal (para. 3.16(a));

(e) in the longer term, consider stopping the practice of using the appointment register as a buffer against increasing caseload in the Labour Tribunal (para. 3.16(c));

(f) closely monitor the implementation of the scheme of night and Saturday court sittings (para. 3.16(d));

(g) in conjunction with the Labour Department, consider reviewing whether the financial limit of the Minor Employment Claims Adjudication Board's jurisdiction should be increased so that it can take over more cases of wage claims of small amounts (para. 3.17);

(h) consider establishing standards for the average court sitting hours for different levels of courts/tribunals, monitor actual court sitting hours by comparing with the established standards, and identify the reasons for any unfavourable variances (paras. 4.27(a) to (c));

(i) conduct periodic surveys on the utilisation of judicial time so as to provide better management information for planning and monitoring purposes (para. 4.27(d));

(j) explore ways and means of improving the support services for the judges so as to enable them to perform their out-of-court work more efficiently (para. 4.27(e));

(k) take action to improve the utilisation of courtrooms and consider constructing courtrooms of different sizes to suit the different space requirements of different court hearings (first and second insets of para. 4.41);

(l) take appropriate follow-up action on the areas of concern expressed by judges and consider implementing the suggestions made by them for improving the court support services (first and third insets of para. 5.11);

(m) consider deploying surplus court reporters to other support services which are in need of improvement (first inset of para. 5.23); and

(n) in consultation with the Civil Service Bureau, conduct an overall review of the court reporter grade (second inset of para. 5.23).

H. **Response from the Administration.** The Administration generally agrees with the audit recommendations (paras. 2.13, 2.33, 3.18, 3.19, 4.28, 4.29, 4.42, 5.12, 5.24 and 5.25). The Secretary for the Treasury has said that she will take as reference all observations in this audit review in assessing the Judiciary's overall resource requirements to ensure the cost-effective use of resources by the Judiciary (para. 5.26).

PART 1: INTRODUCTION

Background

1.1 The Judiciary is responsible for the administration of justice. The courts of the Judiciary adjudicate on all prosecutions and civil disputes, including disputes between individuals and the Government. The Judiciary of Hong Kong operates on the principle, which is fundamental to the common law system, of complete independence from the executive and legislative branches of the Government.

1.2 The Chief Justice is the head of the Judiciary. He is assisted in his overall administration of the Judiciary by the Judiciary Administrator who heads the administrative and support services. The Judiciary Administrator is the Controlling Officer who is accountable for all public funds expended by the Judiciary. In 1999-2000, the expenditure of the Judiciary was estimated at $976 million. The Judiciary is responsible for two major programmes:

— courts and tribunals (1999-2000 estimate: $706 million); and

— support services for courts' operation (1999-2000 estimate: $270 million).

1.3 ***Courts and tribunals.*** This programme aims to maintain an independent and competent judicial system which upholds the rule of law, safeguards the rights and freedom of the individual and commands domestic and international confidence. There are different levels of courts and tribunals, through which criminal cases and civil disputes are heard and adjudicated. A brief description of the courts and tribunals in Hong Kong is at Appendix A. The main objectives of the programme are:

— to ensure that the Judiciary and courts are kept abreast of changing times;

— to enhance professional standards;

— to ensure just and expeditious disposal of cases; and

— to develop a bilingual court system in Hong Kong.

1.4 ***Support services for courts' operation.*** This programme aims to provide efficient and effective services to support the operation of courts. Its main objectives are:

— to provide effective court reporting and transcription services for court proceedings;

— to ensure that both the Chinese and English languages can be used in the court system;

— to provide efficient and effective bailiff services to the public;

— to keep the best legal reference books and research materials for the use of judges/judicial officers (hereinafter referred to as judges) and the legal profession; and

— to implement the Judiciary's information systems strategy to enhance the efficiency of court support services.

Audit review

1.5 Audit is fully aware of the importance of judicial independence. However, the Judiciary is also accountable for its use of public funds. Audit recently conducted a review to examine the economy, efficiency and effectiveness of the administration of the Judiciary, having regard to the need to preserve judicial independence. **The scope of this audit review does not include an assessment of judicial performance in terms of judges' effectiveness in discharging their judicial duties.**

PART 2: COURT WAITING TIME

2.1 This PART examines the adequacy of the Judiciary's measures to reduce court waiting time. Audit has found that in recent years the Judiciary has shortened considerably the waiting time in some of the courts and tribunals. However, there is still room for improvement in a number of areas.

Public concerns over long court waiting time

2.2 The community is entitled to a court system which inspires confidence by demonstrating that it can resolve disputes within a time span which does not itself impose additional hardship to all parties concerned. In civil trials, plaintiffs are entitled to a just and speedy resolution of their claims. In criminal trials, defendants are entitled to have the agony of uncertainty resolved fairly and quickly. One of the main objectives of the Judiciary is to ensure expeditious disposal of cases (see the third inset of paragraph 1.3 above). In this regard, court waiting time is an important indicator of the efficiency of the administration of justice.

2.3 With the growing volume and complexity of cases brought before the courts, the rapid growth of judicial review cases, the introduction and implementation of the Bill of Rights and the increasing legal awareness of the community, there had been rising public expectation of the standards, efficiency and cost-effectiveness of the provision of judicial services. There had been increasing public concerns over various aspects of the Judiciary administration. The public were especially concerned that court waiting time had not been kept within acceptable limits.

2.4 In 1986, the Chief Justice invited an experienced court administrator from the U.K. to conduct a study of the Judiciary. The study report of December 1986 (hereinafter referred to as the Robinson Report) made a number of recommendations for improving the overall administration of the Judiciary. One of the recommendations was the appointment of a senior administrator to strengthen the Judiciary administration. In April 1990, the first Judiciary Administrator (a directorate officer at D3 level) was appointed. In July 1993, the Judiciary Administrator post was upgraded to the policy secretary level (i.e. a directorate officer at D8 level) to further strengthen the administrative support to the Chief Justice.

Recent measures to reduce court waiting time

2.5 Since the establishment of the Judiciary Administrator's Office in 1990, various measures have been taken by the Judiciary to improve its efficiency so as to reduce court waiting time. These measures include:

— staff increase by creating additional posts of judges and other support staff;

— review of the practices and procedures of the courts, including the listing system, to streamline the judicial process;

— implementation of the Judiciary Information Systems Strategy (JISS) to reduce processing time and to improve productivity; and

— upgrading of court recording and transcription facilities, including implementation of the Digital Audio Recording and Transcription Service (DARTS), to improve efficiency and effectiveness.

2.6 The above measures taken by the Judiciary have brought about some noticeable improvements in court waiting time. Table 1 below gives a comparison of the caseload and court waiting time in the major courts/tribunals for the two years 1989 and 1998.

Table 1

Caseload and court waiting time in the major courts/tribunals for the two years 1989 and 1998

	1989		1998		Percentage increase/(decrease)	
	Caseload (Note 1)	Waiting time (days)	Caseload (Note 1)	Waiting time (days)	Caseload (Note 1)	Waiting time
HIGH COURT						
Court of Appeal						
Criminal appeals	638	54	653	38	2%	(30%)
Civil appeals	202	96	350	93	73%	(3%)
Court of First Instance						
Criminal jurisdiction:						
Criminal cases	387	122	446	199	15%	63%
Appeals from magistracies	1,601	80	1,260	113	(21%)	41%
Civil jurisdiction:						
Civil cases	13,007	104	35,159	201	170%	93%
DISTRICT COURT (Note 2)						
Criminal cases	1,521	123	1,428	51	(6%)	(59%)
Civil cases	39,709	143	59,027	92	49%	(36%)
MAGISTRATES' COURTS (Note 2)	509,872	46	523,994	26	3%	(43%)
TRIBUNALS						
Lands Tribunal	6,180	45	5,955	32	(4%)	(29%)
Labour Tribunal	4,285	25	9,476	23	121%	(8%)
Small Claims Tribunal	37,771	64	54,613	39	45%	(39%)

Source: Controlling Officer's Reports of the Annual Estimates

Note 1: Caseload represents the number of cases filed.

Note 2: District Court cases include Family Court cases. Magistrates' Court cases include Juvenile Court cases.

Note 3: The Court of Final Appeal, which was established on 1 July 1997, was not included in this analysis. In 1998, its caseload was 6 criminal appeal cases and 27 civil appeal cases.

2.7 It can be seen in Table 1 that, from 1989 to 1998, notwithstanding a general increase in caseload, the Judiciary had reduced the waiting time in most of the courts and tribunals. However, for the Court of First Instance of the High Court, the waiting time had increased considerably over this period. In particular, the waiting time for civil cases had increased by 93%. This was mainly due to a significant increase in civil caseload in the Court of First Instance in the past few years (see paragraph 2.15 below). Appendix B shows graphically the changes in the caseload and waiting time for civil cases in the Court of First Instance of the High Court from 1989 to 1998.

Waiting time targets not fully met

2.8 As part of the "Serving the Community" initiative, the Judiciary has published a set of performance standards which show the target waiting times that it aims to achieve in an average case. These waiting time targets form the standards of service that the public can expect from the Judiciary. These targets are set out in the Controlling Officer's Report of the Judiciary in the Annual Estimates. Table 2 below gives a comparison of the actual waiting time for the first eight months of 1999 with the targets set by the Judiciary.

Table 2

Comparison of the actual waiting time for the first eight months of 1999 with the targets set by the Judiciary for the major courts/tribunals

	Target waiting time for 1999 (days)	Actual waiting time from January to August 1999 (days)	Actual waiting time longer (shorter) than target waiting time (days)	(%)
COURT OF FINAL APPEAL				
Criminal appeals	100	105	**5**	**5%**
Civil appeals	120	113	(7)	(6%)
HIGH COURT				
Court of Appeal				
Criminal appeals	50	28	(22)	(44%)
Civil appeals	90	79	(11)	(12%)
Court of First Instance				
Criminal jurisdiction:				
Criminal cases	120	177	**57**	**48%**
Appeals from magistracies	90	129	**39**	**43%**
Civil jurisdiction:				
Civil cases	180	223	**43**	**24%**
DISTRICT COURT				
Criminal cases	100	36	(64)	(64%)
Civil cases	120	87	(33)	(28%)
MAGISTRATES' COURTS	60	32	(28)	(47%)
TRIBUNALS				
Lands Tribunal	100	31	(69)	(69%)
Labour Tribunal	30	25	(5)	(17%)
Small Claims Tribunal	60	35	(25)	(42%)

Source: Judiciary's records

2.9 It can be seen in Table 2 above that the Judiciary was able to keep the waiting times well within the targets in the lower courts/tribunals (e.g. the District Court). **However, the Judiciary has not been able to meet some of its waiting time targets for the higher courts (e.g. the actual waiting times for criminal cases, appeals from magistracies and civil cases in the Court of First Instance of the High Court were longer than the target waiting times by 48%, 43% and 24% respectively).**

Audit observations on waiting time targets

2.10 Audit notes that the growing volume and complexity of cases brought before the courts have put great pressure on the Judiciary in recent years. Given the rising public expectations on the efficiency of judicial services, it is important that positive effort should be made to meet the waiting time targets which represent the standards of service the Judiciary is committed to achieving. This is also in keeping with the Judiciary's objective of ensuring just and expeditious disposal of cases. **However, Audit notes that, for the Court of First Instance of the High Court, the target waiting times have been exceeded considerably. This is a matter of concern.**

2.11 The main reason for the long waiting times in the Court of First Instance of the High Court is an increase of civil caseload of 170% over the past ten years, as can be seen in Table 1 in paragraph 2.6 above.

Audit recommendation on waiting time targets

2.12 **Audit has *recommended* that the Judiciary Administrator should take urgent action (some possible courses of action are proposed in paragraphs 4.27 and 5.11 below) to clear the backlog of cases in the Court of First Instance of the High Court with a view to reducing the waiting times to nearer the published standards.**

Response from the Administration

2.13 The **Judiciary Administrator** has said that he accepts that urgent actions should be taken to bring the waiting time to within the performance pledges. In this regard, in addition to the expected relief from redistribution of cases to the District Court as a result of legislative changes (see paragraphs 2.25 and 2.26 below), he will consider taking various improvement measures as elaborated in the second inset of paragraph 5.12 below. He has also said that:

— it has always been the Judiciary's aim that the judicial system should be easily accessible in terms of simple procedures at reasonable cost within reasonable time. Justice which is not affordable or delayed will amount to justice denied. To this end, the Judiciary has been monitoring court waiting time constantly, and conducting regular reviews of court operations to ensure that the judicial process remain efficient and effective. These measures include increasing resources, streamlining practices and procedures of the court, and improving productivity through the use of information technology;

— during the past ten years, the Judiciary has been able to bring about some noticeable improvements in court waiting time (see paragraph 2.6 above). On the whole, the court waiting time for cases at various levels of courts was maintained at a reasonable limit and within targets, despite continual increases in caseload;

— there was, however, a sudden increase in the number of civil cases since the economic downturn in the latter part of 1997. The situation is particularly acute in the case of the Court of First Instance of the High Court. As evident in Appendix B, the number of civil cases filed with the High Court in 1998 increased by about 45% over that of 1997. This phenomenon was exceptional, and had created significant burden on the courts;

— apart from strengthening case management, the Judiciary made flexible deployment of staffing resources to help clear the backlog. It has created three posts of Deputy Registrar, and appointed up to eight Deputy Judges to the High Court. However, with very limited additional resources, it is still not possible to bring the waiting time down to the pledged targets for the time being; and

— the waiting time at the Court of First Instance in December 1999 was as follows:

	Target waiting time (days)	**Actual waiting time (days)**
Criminal cases	120	177
Appeals from magistracies	90	107
Civil cases	180	212

He considers that the situation, though improved (as compared with the position as at August 1999), is not yet satisfactory.

Upward shift of civil caseload to the higher courts in recent years

2.14 In Hong Kong, as in some other countries, financial limits of the civil jurisdiction are set for different levels of court/tribunal. The distribution of civil caseload among the courts/tribunals is directly affected by the financial limits of the civil jurisdiction. The current financial limits are $50,000 for the Small Claims Tribunal and $120,000 for the District Court. There is no financial limit for the High Court. The financial limit of $50,000 for the Small Claims Tribunal only came into effect in October 1999. The previous revision of the financial limits of the civil jurisdiction was made in 1988 (see paragraph 2.18 below). Meanwhile, in October 1999, a bill, proposing legislative amendments to increase the financial limit of the District Court from $120,000 to $600,000, was introduced into the Legislative Council (LegCo).

2.15 From 1989 to 1998, while the financial limits of the civil jurisdiction had remained unchanged, there was an accumulative inflation of 101% (Note 1). This had given rise to a situation where many civil claims of relatively small value in real terms might have fallen into the jurisdiction of the High Court. As shown in Table 1 in paragraph 2.6 above, from 1989 to 1998, the civil caseload of the District Court and the Small Claims Tribunal increased by 49% and 45% respectively. However, the civil caseload of the Court of First Instance and the Court of Appeal of the High Court increased more significantly by 170% and 73% respectively. **It is evident that in the last decade there had been an upward shift of civil caseload to the higher courts**.

Recommendations of the Robinson Report on the need to review the financial limits of the civil jurisdiction

2.16 In 1986, the Robinson Report already noted the overloading of the High Court and the decreased workload of the District Court, which was mainly brought about by the upward shift of civil caseload as a result of inflation. The Robinson Report stated that this situation would adversely affect public interest because this would result in:

— a general failure to make the best use of human resources;

— high litigation costs; and

— discouragement of some prospective plaintiffs to bring their cases to the courts.

2.17 Among other things, the Robinson Report recommended that:

— the financial limits of the civil jurisdiction should be increased from $60,000 to $250,000 for the District Court, and from $8,000 to $15,000 for the Small Claims Tribunal; and

— a system for reviewing the financial limits of the civil jurisdiction every two years should be established.

Note 1: *The accumulative inflation for the past ten years was calculated based on the Composite Consumer Price Indices for 1989 and 1998 published by the Census and Statistics Department.*

Revision of the financial limits of the civil jurisdiction

2.18 After consultations with the legal profession, in 1988, the Administration decided to increase the financial limit of the Small Claims Tribunal from $8,000 to $15,000. For the District Court, it was decided that the financial limit should only be increased from $60,000 to $120,000 at that time. In the Executive Council (ExCo) Memorandum dated 26 April 1988, it was noted that some important changes should be made to the District Court rules to improve its procedures so as to enable the District Court to cope adequately with the new class of business which the increase in financial limits would bring within its jurisdiction. The ExCo Memorandum noted that, when the necessary changes to the District Court rules had been made, the question of raising the financial limit of the civil jurisdiction of the District Court to $250,000 should be looked at again.

2.19 In October 1991, the Chief Justice appointed a working party under the chairmanship of a High Court Judge to consider the terms of the District Court Ordinance (Cap. 336) and the District Court Civil Procedure Rules and to recommend amendments. The working party submitted its report in June 1993. The main recommendations of the report, which were accepted by the Chief Justice in August 1993, included:

— raising the financial limit of the District Court in order to reflect the rate of inflation since the last review in 1988; and

— providing a procedural framework in the District Court more akin to that of the High Court, by revamping the District Court Civil Procedure Rules on the basis of the Rules of the High Court.

2.20 In line with the proposed increase in the financial limit of the District Court, in November 1995 the Judiciary proposed that the financial limit of the Small Claims Tribunal should also be raised from $15,000 to $30,000. This proposal took into account the effect of inflation since 1988 in order to ensure that worthy cases would be pursued at the appropriate levels of court.

2.21 The implementation of these recommendations required extensive amendments to the District Court Ordinance and a complete rewriting of the District Court Civil Procedure Rules. In the ExCo Memorandum dated 5 November 1996, it was noted that several aspects of the District Court Ordinance, particularly the financial limit of the civil jurisdiction, were outdated. In the ExCo Memorandum, it was proposed that, among other things, the financial limit of the District Court be revised from $120,000 to $300,000 to enable more civil cases to be heard in the District Court and also to cover inflation since the limits were last reviewed. In November 1996, the District Court (Amendment) Bill was introduced into LegCo. However, the Bill lapsed at the end of the 1996-97 legislative session as LegCo did not have enough time to scrutinise the Bill. Regarding the Small Claims Tribunal (Amendment) Bill, a time slot was not available in the 1996-97 Legislative Programme. As the Administration decided that only urgent and essential Bills would be considered in the 1997-98 legislative session, the proposed legislative amendments to revise the financial limits of the civil jurisdiction could only be introduced into LegCo in the 1998-99 legislative session.

Latest developments

2.22 ***Revision of the financial limit of the Small Claims Tribunal from $15,000 to $50,000 in October 1999.*** In March 1999, ExCo considered the Small Claims Tribunal (Amendment) Bill. In June 1999, the Small Claims Tribunal (Amendment) Ordinance was enacted and came into effect in October 1999. The present financial limit of the Small Claims Tribunal is $50,000.

2.23 ***Proposed revision of the financial limit of the District Court from $120,000 to $600,000.*** ExCo considered the District Court (Amendment) Bill in 1999 and was of the view that the proposed increase in the financial limit of the District Court should be large enough to enable more litigants to file their claims in the District Court, so that the litigation costs for the public could be reduced. In September 1999, ExCo was informed that for civil proceedings in the High Court and the District Court, the total litigation costs for the winning side and losing side of about $170,000 would be roughly 28% of the proposed financial limit of $600,000. ExCo also noted that the Judiciary would consider further increasing the financial limit of the District Court to $1,000,000 in two years' time subject to the results of a review for the purpose of:

— assessing the impact on the demand for court services;

— assessing the pattern of the cost of litigation;

— assessing the resource implications on the Judiciary in the light of actual increase in caseload; and

— recruiting and developing qualified judges to cope with likely increases in caseload and maintain quality.

In September 1999, ExCo decided that the financial limit of the District Court should be increased to $600,000. In October 1999, the District Court (Amendment) Bill was introduced into LegCo.

Audit observations on the financial limits of the civil jurisdiction

The need for regular review of the civil jurisdiction

2.24 The Judiciary has long been aware of the tendency of an upward shift of civil caseload and its adverse consequences (see paragraph 2.16 above). In 1988, the financial limits were revised following the Robinson Report's recommendations. **However, the Judiciary did not establish a mechanism for regularly reviewing the financial limits of the civil jurisdiction so as to make necessary adjustments to take account of the impact of inflation.** It had taken eleven years for the financial limit of the Small Claims Tribunal to be revised in 1999. At the time of the audit review, in October 1999, the legislative amendments to revise the financial limit of the District Court had still not been enacted. **Audit considers that a revision of the financial limit of the District Court is long overdue. There is also a need for the Judiciary to regularly review the financial limits of the civil jurisdiction at all levels of courts in future.** In this regard, Audit notes that the Judiciary will consider reviewing the financial limit of the District Court in two years' time (see paragraph 2.23 above).

Expected redistribution of civil caseload among different levels of court/tribunal

2.25 From 1989 to 1998, because the financial limits of the civil jurisdiction had remained unchanged and because of inflation (see paragraph 2.15 above), many minor civil claims of relatively small value in real terms had been escalated to the High Court level. This is not an optimal use of resources under the existing hierarchy of courts/tribunals for the civil jurisdiction. This has also resulted in the significant increase in civil caseload in the High Court and the failure of the Judiciary to meet the waiting time targets for the High Court (see paragraph 2.9 above).

2.26 The recent increase in the financial limit of the Small Claims Tribunal to $50,000 with effect from October 1999, as well as the proposed revision of the financial limit of the District Court from $120,000 to $600,000, is expected to bring about a large-scale downward shift and redistribution of civil caseload to the District Court and the Small Claims Tribunal. The Judiciary expects that:

— about 10,000 cases will be transferred from the District Court to the Small Claims Tribunal;

— upon the enactment of the legislation which will revise the financial limit of the District Court to $600,000, about 17,000 cases will be transferred from the High Court to the District Court; and

— there may be hidden demand for the services of both the Small Claims Tribunal and the District Court. This is because in future people who otherwise will not proceed with litigation may consider doing so due to the relatively lower litigation costs of these courts.

2.27 To enable the Small Claims Tribunal and the District Court to handle the additional workload, the Judiciary has indicated that:

— an additional court at an annual staff cost of $2.8 million will be required in the Small Claims Tribunal; and

— three judicial posts and 14 non-judicial posts at an annual staff cost of $13.1 million will be created in the District Court.

2.28 Audit notes that the redistribution of civil caseload brought about by the revision of financial limits will not result in an increase in caseload of the Judiciary as a whole. The net increase in caseload will only occur if the hidden demand materialises.

2.29 As can be seen in Table 2 in paragraph 2.8 above, in the first eight months of 1999, the District Court and the Small Claims Tribunal had consistently performed better than the targets by 28% and 42% respectively for civil cases (by 64% for criminal cases in the District Court). Therefore, they should be able to cope with some additional caseload, while at the same time meeting the waiting time targets.

2.30 Audit notes that the Judiciary will conduct a review to assess the impact of the revision of the financial limits of the District Court in two years' time (see paragraph 2.23 above). **Audit considers that, in the meantime, the Judiciary needs to adopt a cautious approach if it decides that there is a need to seek additional staff resources.**

2.31 The expected transfer of some 17,000 civil cases from the Court of First Instance of the High Court to the District Court will significantly reduce the civil workload of the Court of First Instance by some 48% (Note 2). **It is important to critically assess the resource implications on the Court of First Instance of the High Court in the light of actual reduction in caseload.** In this regard, Audit notes that there were prolonged acting-up appointments of District Court Judges as Deputy Judges in the Court of First Instance, partly because of its heavy workload. In 1998-99, there were on average five Deputy Judges acting as High Court Judges (Note 3) in the Court of First Instance, representing 20% of its judicial establishment of 25. **With the expected 48% reduction in civil caseload, there is a need to re-examine the justifications for prolonged acting-up appointments in the Court of First Instance.**

Note 2: *As can be seen in Table 1 in paragraph 2.6 above, in 1998 the civil caseload of the Court of First Instance was 35,159 cases. Therefore, the expected transfer of 17,000 civil cases to the District Court constitute about 48% (i.e. 17,000 ÷ 35,159) of the civil caseload of the Court of First Instance.*

Note 3: *In 1998-99, the following acting appointments were made:*

Number of Deputy Judges acting as High Court Judges	*Duration (Months)*	*Number of man-months*
(a)	*(b)*	*(a) × (b)*
3	*1.5*	*4.5*
2	*2.5*	*5*
2	*3.5*	*7*
2	*4.5*	*9*
3	*12*	*36*
	Total:	*61.5*

Therefore, on average, there were about five Deputy Judges acting as High Court Judges throughout 1998-99 (i.e. 61.5 man-months ÷ 12 months = 5.125, or say 5).

Audit recommendations on
the financial limits of the civil jurisdiction

2.32 **Audit has *recommended* that the Judiciary Administrator should:**

(a) **provide information and assistance to facilitate LegCo to expedite the readings of the District Court (Amendment) Bill, so as to implement the proposed revision of the financial limit of the District Court as soon as possible and to curb the undesirable upward shift of caseload to the High Court;**

(b) **in consultation with all the stakeholders concerned (including the judges, the Department of Justice, the Legal Aid Department and the legal profession), devise a mechanism for regularly reviewing the financial limits of the civil jurisdiction at all levels of courts;**

(c) **in devising the mechanism for reviewing the civil jurisdiction, take due account of:**

(i) **the impact of the financial limits of the civil jurisdiction on the demand for court services;**

(ii) **changes in the pattern of the cost of litigation; and**

(iii) **the need for reviewing regularly the financial limits of the civil jurisdiction having regard to the impact of inflation;**

(d) **in the review to be conducted by the Judiciary on assessing the impact of the revision of the financial limits of the District Court in two years' time, critically assess the impact of redistribution of civil caseload on the waiting times and on the resource requirements of the Court of First Instance of the High Court, the District Court and the Small Claims Tribunal;**

(e) **before the review is completed, adopt a cautious and incremental approach if the Judiciary decides that there is a need to seek additional staff resources; and**

(f) **in the light of the actual reduction in civil caseload, re-examine the justifications for the current prolonged acting-up appointments in the Court of First Instance of the High Court.**

Response from the Administration

2.33 The **Judiciary Administrator** has said that:

Regarding paragraph 2.32(a) above

(a) the District Court (Amendment) Bill, proposing to increase the financial limit from $120,000 to $600,000, is being scrutinised by LegCo. The Judiciary is committed to facilitating the Bills Committee in examining the detailed proposals so that the legislation can be enacted as soon as possible;

Regarding paragraph 2.32(b) above

(b) he agrees that there is a need to conduct regular reviews of civil jurisdictional limits. The Judiciary has done so in the past. In 1995, it reviewed the financial limit of the Small Claims Tribunal and decided to increase it from $15,000 to $50,000. The increase was instituted in October 1999 when the Small Claims Tribunal (Amendment) Ordinance took effect. In December 1999, there was already a 25% increase in caseload of the Small Claims Tribunal over the same period last year;

(c) as an ongoing exercise, he will assist the Chief Justice in regularly reviewing the financial limits of various courts dealing with civil cases;

(d) he agrees that a reviewing mechanism should be devised in consultation with judges, the Department of Justice, the Legal Aid Department and the legal profession;

Regarding paragraph 2.32(c) above

(e) in devising the mechanism for reviewing the civil jurisdiction, he will take into account the caseload pattern, the effect of inflation on litigation cost, waiting time and resource requirements;

(f) it is relevant to note that, in proposing the increase of the financial limit of the District Court to $600,000, he has provided an undertaking that the limit will be further increased to $1 million in about two years subject to a review on the following:

(i) the impact on the demand for court services;

(ii) the pattern in cost of litigation and the impact before and after the changes;

(iii) the impact on waiting times for court hearing;

(iv) the resource implications on the Judiciary in the light of the shift in caseloads from the higher courts to the lower ones; and

(v) the provision and availability of qualified judges to cope with the anticipated increase in workload while maintaining quality;

Regarding paragraph 2.32(d) above

(g) he will monitor the caseload position to ensure that the caseload redistribution, and the hidden demand, if any, are carefully assessed;

Regarding paragraph 2.32(e) above

(h) he is conscious of the fact that the revisions in financial limits for the Small Claims Tribunal and the District Court will bring about redistribution in caseload for different levels of courts, and that appropriate manpower plan and other arrangements are required to be put in place to tie in with the changes or proposed changes;

(i) he will monitor the number of cases filed, the associated number of interlocutory and taxation hearings, the complexity of the cases, and re-examine the assumptions in the original estimate;

(j) it is his intention to exhaust the possibilities of redeployment first before resorting to creating additional posts. He informed the Bills Committee on the District Court (Amendment) Bill in January 2000 of the projections on the caseload situations in the High Court, the District Court and the Small Claims Tribunal respectively upon the implementation of the new financial limits and the related manpower plan. He has also explained that, with the anticipated reduction in the workload for the High Court, there is some scope in redeploying resources to the District Court, in terms of two Deputy Judges of the High Court, two Deputy High Court Masters and ten support staff; and

Regarding paragraph 2.32(f) above

(k) when the pressure on the Court of First Instance of the High Court is reduced and the waiting time comes within target, the number of acting appointments for Deputy Judges could be reduced.

PART 3: THE LABOUR TRIBUNAL

3.1 This PART examines the measures taken by the Judiciary to meet the statutory time limit for hearing labour disputes. Audit notes that the Judiciary has been taking steps to clear the backlog of labour dispute cases. However, more efforts are needed to meet the increasing demand for the services of the Labour Tribunal.

Statutory time limit for the Labour Tribunal

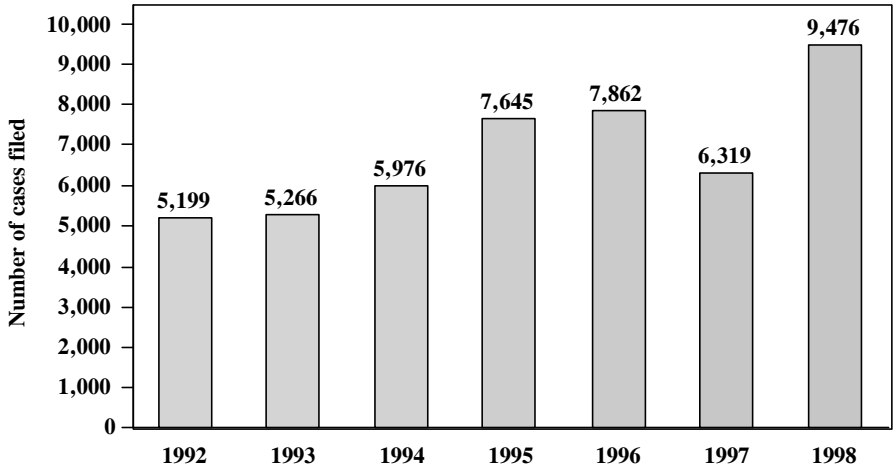
3.2 The Labour Tribunal was established in 1973 under the Labour Tribunal Ordinance (Cap. 25) to provide a quick, simple and informal method of settling some of the more common types of dispute which arise between employers and individual employees. It conducts hearings in a relatively informal manner without legal representation. **There is a statutory requirement that the Labour Tribunal has to hear a claim within 30 days from the date of filing the case unless the parties concerned agree otherwise.** This 30-day time limit has been adopted by the Judiciary as the waiting time target for the Labour Tribunal.

Increase in workload of the Labour Tribunal

3.3 With the growing public legal awareness and the expansion of statutory protection effected through legislation, the number of labour disputes has increased considerably. The caseload of the Labour Tribunal has increased by ten-fold since its inception (from 908 cases in 1973 to 9,476 cases in 1998). According to the performance statistics published in the Controlling Officer's Reports of the Judiciary, despite the large increase in workload, the average waiting time of the Labour Tribunal in recent years was well within the statutory time limit. Figure 1 shows the number of cases filed from 1992 to 1998. Figure 2 shows the average waiting time from the date of filing a case to the date of first hearing in the Labour Tribunal.

Figure 1

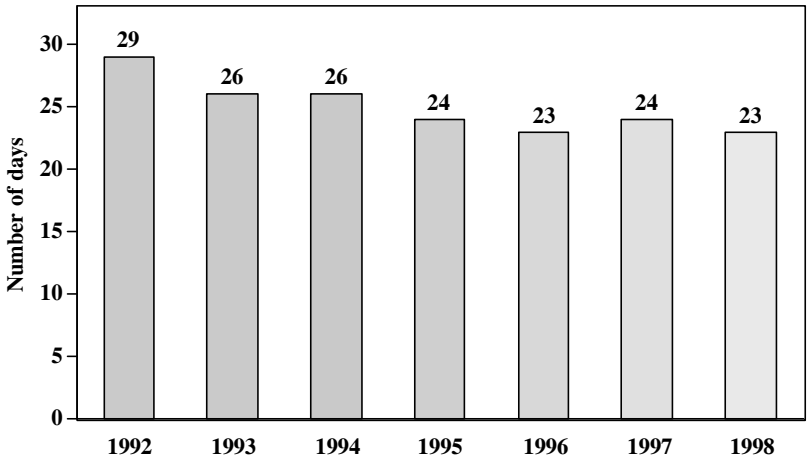
Number of cases filed in the Labour Tribunal from 1992 to 1998



Source: Controlling Officer's Reports of the Annual Estimates

Figure 2

Labour Tribunal's average waiting time from the date of filing a case to the date of first hearing from 1992 to 1998



Source: *Controlling Officer's Reports of the Annual Estimates*

Note: *The statutory time limit from the date of filing a case to the date of first hearing is 30 days.*

The use of an appointment register as a buffer against increasing caseload in the Labour Tribunal

3.4 The Labour Tribunal Ordinance provides that a proceeding in the Tribunal shall be commenced by filing with the Tribunal Registry a claim which shall be in writing in the prescribed form and signed by the claimant. A claimant can make an appointment with the Tribunal Registry staff for registration of his claim by telephone. On the date of appointment, the claimant goes to the Tribunal Registry to file his claim. After filing the claim, the claimant will normally be interviewed on the same day by a Tribunal Officer who is responsible for making enquiries into the claim. The Presiding Officer will then hear the claim in the Labour Tribunal within 30 days from the date of filing.

3.5 In practice, in order to ensure that all the incoming cases meet the 30-day statutory time limit, since 1992 the Judiciary has been recording the cases received initially in an appointment register. The cases entered in the appointment register are not considered as having been formally filed in accordance with the Labour Tribunal Ordinance. The Registrar, Labour Tribunal uses the appointment register to allocate pending cases and to keep track of the claimants. When he finds available time slots within the following 30 days for hearing the cases, he will ask them to complete the formality of filing their cases in the Labour Tribunal (by completing and signing the prescribed form). In this way, the appointment register serves as a buffer against the increasing caseload of the Labour Tribunal. Therefore, despite the substantial increase in caseload, the Judiciary has been able to ensure that all cases filed with the Labour Tribunal are heard within the statutory time limit of 30 days.

3.6 In a paper submitted to the Establishment Subcommittee of LegCo on 15 June 1995, Members noted that the average waiting time from the date of appointment to the date of formal filing of claims had increased from 87 days in 1992 to 200 days in 1994. **Members also noted that, with the increase in volume and complexity of judicial work in the Labour Tribunal in recent years, it had become evident that the Tribunal was unable to provide the simple and quick justice that it should provide.** Thereupon, the Judiciary decided to take steps to clear the backlog of cases in the Labour Tribunal with a view to dispensing with the appointment register.

Recent measures to clear the backlog of cases in the Labour Tribunal

Establishment of the Minor Employment Claims Adjudication Board

3.7 In December 1994, the Minor Employment Claims Adjudication Board (MECAB) was established under the MECAB Ordinance (Cap. 453). The aim was for the MECAB to take over the minor cases from the Labour Tribunal. The MECAB is operated by the Labour Department. Originally, the MECAB only dealt with disputes between employers and employees over wage claims where the amount claimed did not exceed $5,000 per claimant and the number of claimants involved in a case did not exceed five. In June 1997, the financial limit of the MECAB's jurisdiction was increased to $8,000 per claimant and the maximum number of claimants involved in a case was increased to ten.

Setting up additional courts in the Labour Tribunal

3.8 To cope with the ten-fold increase in caseload of the Labour Tribunal from its inception (see paragraph 3.3 above), the Labour Tribunal has grown from a single court sitting in 1973 to the present set-up of ten courts. In a paper submitted to the Establishment Subcommittee of LegCo on 15 June 1995, Members noted that after setting up the tenth court, the Labour Tribunal should be able to cope with the new cases without resorting to the appointment register mechanism. **The Judiciary expected that the Labour Tribunal should thereafter be able to dispense with the appointment register and to formally adopt the practice of filing a case on the date of receipt.**

Introduction of night court and Saturday court sittings

3.9 However, from late 1997, the financial turmoil has brought about a soaring number of labour dispute cases. The number of cases filed with the Labour Tribunal increased by 50% from 6,319 in 1997 to 9,476 in 1998. In the first nine months of 1999, there were already 8,780 cases filed with the Labour Tribunal. As at September 1999, there were still 901 cases on the appointment register pending formal filing in the Labour Tribunal. From January to September 1999, on average a new case had to be kept in the appointment register for 38 days before it was formally filed in the Labour Tribunal. Currently, the Labour Tribunal still has to use the appointment register mechanism.

3.10 Back in April 1999, in order to cope with the increasing backlog of cases in the Labour Tribunal, the Judiciary had commenced night sittings, on a trial basis, in three courts which operated from 6 p.m. to 9:30 p.m. from Monday to Friday. At night, the courts are presided by temporary Presiding Officers who are legal practitioners in private practice. The cost of operating the three courts at night was about $5.4 million a year. In June 1999, in order to expedite the clearing of the backlog, the Judiciary also introduced Saturday sittings (Note 4) in three courts of the Labour Tribunal.

3.11 In July 1999, the Judiciary reviewed the trial scheme of night sittings in the Labour Tribunal. The review found that, from April to June 1999, in the night sittings the three courts handled a total of 320 cases (i.e. an average of 107 cases per month). The Judiciary considered that the night courts performed well compared with the day courts. Besides, the response of the community towards the trial scheme of night court sittings had been both positive and encouraging. In December 1999, after reviewing the need for and the mode of operation of the night court system, the Judiciary decided that night courts and Saturday courts should continue.

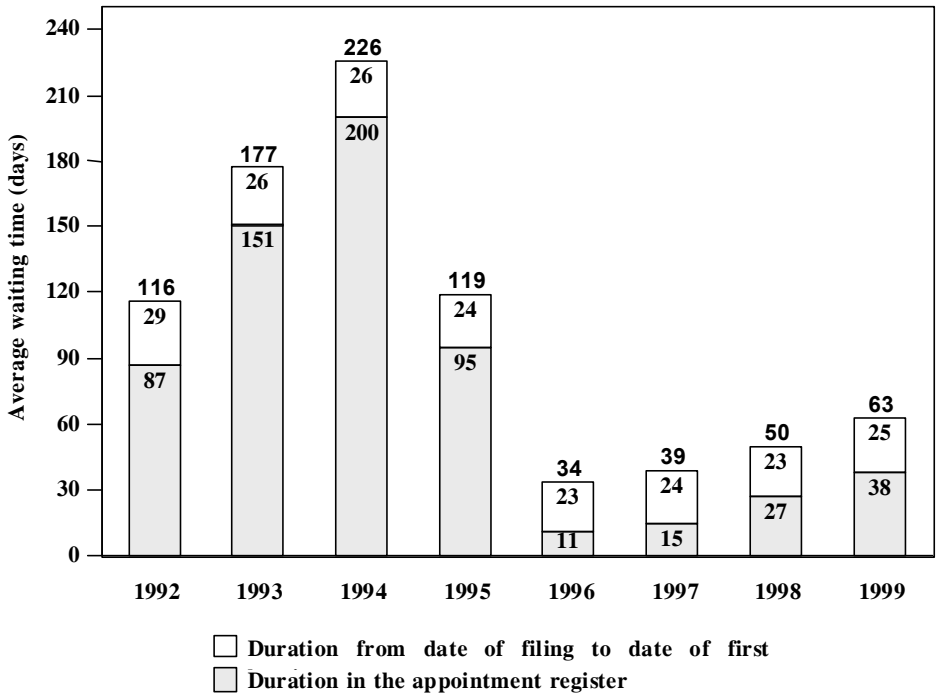
Audit observations on
the statutory time limit for the Labour Tribunal

3.12 The Labour Tribunal aims to provide a quick, simple and informal means of resolving labour disputes. The Labour Tribunal Ordinance provides that a claim shall be heard within 30 days from the date of filing the case. However, in practice, since 1992 the Judiciary has had to resort to using the appointment register mechanism which requires a claimant to file a case with the Labour Tribunal only after a time slot is available to hear the case. Audit has analysed the average waiting time for hearing a case from 1992 to 1999, broken down into the duration it is kept in the appointment register and the duration from the date of filing to the date of first hearing (see Figure 3 below).

Note 4: *Before the introduction of Saturday court sittings in June 1999, there was a Presiding Officer on duty in the Labour Tribunal each Saturday but there were no court hearings.*

Figure 3

Average waiting time for hearing a case in the Labour Tribunal from 1992 to 1999



Source: Judiciary's records

Note: The figures for 1999 are based on the first nine months of 1999.

3.13 **It can be seen in Figure 3 in paragraph 3.12 above that, taking into account the duration a case is kept in the appointment register, in recent years, the total waiting time for hearing a claim in the Labour Tribunal has been much longer than the statutory 30-day limit.** For instance, in 1994, the average waiting time of 226 days was 7.5 times that of the statutory 30-day limit. From January to September 1999, the average waiting time of 63 days was double that of the time limit. To date, the Labour Tribunal is still relying on the appointment register mechanism. Audit notes that the appointment register mechanism was devised as an expedient to deal with the problem of long waiting time arising from the increasing workload of the Labour Tribunal. In this regard, noting that the practice is unsatisfactory, the Judiciary has recently been taking steps to clear the backlog of cases with a view to dispensing with the appointment register, but with limited success. There is an urgent need for this problem to be resolved.

3.14 In the Controlling Officer's Report, the Judiciary has published the waiting time from the date of filing a case to the date of first hearing as the only performance indicator for the Labour Tribunal. The waiting times have always been well within the 30-day target (see Figure 2 in paragraph 3.3 above). **Audit considers that in order to provide a more meaningful performance indicator, relevant explanatory notes showing the time which a claimant has actually spent in waiting for a hearing (including the duration in which the case has remained in the appointment register) should be included.**

3.15 Audit notes that the MECAB was established to alleviate the workload of the Labour Tribunal (see paragraph 3.7 above). **In view of the existing heavy workload of the Labour Tribunal and following recent initiatives of increasing the financial limits of the civil jurisdiction (see paragraphs 2.22 and 2.23 above), Audit considers that there is a need to review the financial limit of the MECAB's jurisdiction so that the pressure of increasing workload of the Labour Tribunal can be eased by transferring some of the minor employment claims currently being dealt with by it to the MECAB for adjudication.**

Audit recommendations on the statutory time limit for the Labour Tribunal

3.16 **Audit has *recommended* that the Judiciary Administrator should, in respect of the Labour Tribunal:**

(a) **set a target for the duration in which a case is kept in the appointment register before the case is formally filed;**

(b) **provide useful management information in the Controlling Officer's Report, including additional performance data on the time taken between the reporting of a case to its filing, in order to enhance the transparency and public accountability of the Judiciary;**

(c) **in the longer term, when the effect of the financial turmoil has waned, consider stopping the practice of using the appointment register as a buffer against increasing caseload;**

(d) **closely monitor the implementation of the scheme of night and Saturday court sittings; and**

(e) **in the future review of the scheme, critically assess the cost-effectiveness of the night court system for clearing the backlog of cases.**

3.17 **Audit has also *recommended* that the Judiciary Administrator should, in conjunction with the Labour Department, consider reviewing whether the financial limit of the MECAB's jurisdiction should be increased so that the MECAB can take over more cases of wage claims of small amounts.**

Response from the Administration

3.18 The **Judiciary Administrator** has said that:

Regarding paragraph 3.16(a) above

(a) he agrees that a target should be set for the duration in which a case is kept in the appointment register;

(b) he accepts that too long a period for keeping a case in the appointment register defeats the Labour Tribunal's aim to administer speedy justice;

Regarding paragraph 3.16(b) above

(c) with the agreement of the Principal Presiding Officer, he will set a performance pledge of 30 days in 2000-01 in the Controlling Officer's Report in respect of the duration in which a case is kept in the appointment register;

(d) as a reference, a claimant may have to wait for six months to get a hearing before the Employment Tribunals in the U.K. Without appearing to be complacent, the Judiciary is of the view that the Labour Tribunal has been and still is providing a simple and informal means of resolving labour disputes;

Regarding paragraph 3.16(c) above

(e) since the Labour Tribunal does not allow legal representation, its Tribunal Officers have a duty to assist claimants in the preparation work for filing their claims in order to reduce the number of visits that they may have to make before hearing. An appointment system will ensure that adequate attention is given to the claimants when they turn up at the scheduled time. The system can also even out the caseload to ensure manpower resources are optimally deployed. It is particularly necessary in group cases where hundreds of claimants are involved;

(f) the earlier attempt to dispense with the appointment register (see paragraph 3.8 above) was made on the assumption that with additional resources requested, the Labour Tribunal should be able to clear the backlog of cases, hence there was no need to regulate case flow. The assumption, however, was put to test in the last two years when there was an upsurge in labour disputes following the economic downturn. The appointment system has proven to be necessary to provide a buffer (against breaching the statutory 30-day limit) to allow resources to be mobilised in time to cope with sudden increase in workload;

(g) the use of the appointment system will be reviewed when the situation has stabilised;

Regarding paragraph 3.16(d) above

(h) he has been monitoring the backlog of cases in the Labour Tribunal through bi-weekly reports. With the establishment of night courts in April 1999, the introduction of Saturday sittings in June 1999 and the creation of two additional day courts in January 2000, the backlog has now been further reduced to 640 cases (compared with 901 cases as at September 1999 –see paragraph 3.9 above);

Regarding paragraph 3.16(e) above

(i) the effectiveness of the measures to clear the backlog of cases will continue to be monitored and reviewed;

Regarding paragraph 3.17 above

(j) the proposal to increase the financial limit of the MECAB's jurisdiction is to be considered by the Administration; and

(k) it must, however, be pointed out that adjudicators of the MECAB are not legally qualified persons. Any such consideration, apart from the need to demonstrate cost-effectiveness (if the Commissioner for Labour would seek additional resources), will also need to take into account whether it is the best way of preserving the quality of justice delivered and professionalism involved.

3.19 The **Commissioner for Labour** has said that he has no objection to the recommendation set out in paragraph 3.17 above, subject to additional manpower and other necessary resources being made available to the Labour Department to cope with the additional workload.

PART 4: UTILISATION OF JUDICIARY'S RESOURCES

4.1 This PART examines the use made of the two major resources of the Judiciary, judicial time and courtrooms. Audit considers that there is a need for the Judiciary to enhance its transparency and public accountability on the use of these resources.

Significant increase in Judiciary's resources in recent years

4.2 In recent years, the Judiciary has generally been able to reduce court waiting times in spite of rising demand for its court services (see paragraphs 2.6 and 2.7 above). As shown in Table 1 in paragraph 2.6 above, there had been a general decrease in the court waiting time. This was partly achieved by an increase in the Judiciary's resources, as follows:

— **the annual expenditure of the Judiciary had increased significantly from $270 million in 1989-90 by 243% to $926 million in 1998-99. The increase in real terms is 70% (Note 5);** and

— with increased funding, the number of posts in the Judiciary had increased by 24% from 1,544 in March 1990 to 1,916 in March 1999.

4.3 Given the large increase in real terms in the Judiciary's expenditure in recent years, it is important for the Judiciary to make more efficient use of its resources.

Judicial time as the most important resource of the Judiciary

4.4 The most important resource of the Judiciary is judicial time (i.e. judges' working time in court and out of court). It is the responsibility of the Judiciary to ensure that its judicial time is well managed and efficiently utilised.

Judges' concerns over the utilisation of judicial time

4.5 In general, judges have been very positive in addressing the public concerns about the utilisation of judicial time. Commenting on a suggestion that the number of working hours of judges should be quantified for public consumption and scrutiny, in March 1994, the Chief Justice said in a public speech that:

Note 5: *The 70% increase in real terms in the Judiciary's expenditure is calculated after adjusting for the accumulative inflation from 1989-90 to 1998-99 (based on the Composite Consumer Price Indices published by the Census and Statistics Department for the years 1989 and 1998).*

> ***"The public has the right to know. And I am seeking to make the Judiciary more transparent and accessible. Indeed, had there been an adequate and proper understanding of the workings of the Judiciary, the current concern might not have arisen."***

4.6 More recently, in his speech at an international conference on 8 September 1999, the Chief Justice said:

> ***"...Judges will have to recognise that court time is a public resource and that as with all public resources, it is limited. They therefore have to ensure that this public resource is fairly and efficiently allocated and used. Judges will find that they will be increasingly held publicly accountable for its use. ....***
>
> ***There is no magic solution to the challenges which have to be faced. With increasing globalisation, it is important for there to be cross-fertilisation between jurisdictions so that we can learn from each other's thinking and experience.***
>
> ***In conclusion, the courts in the 21st century face exciting challenges in the administration of justice. The Judiciary is an institution of government that belongs to and serves the community and all societies would have rising and greater expectations of their Judiciary. To enable the rule of law to continue to thrive, we must rise to the challenges and meet those expectations."***

4.7 The above statements show that the Chief Justice and the judges are prepared to meet the challenge of increased public expectations on the transparency and public accountability of the use of judicial time. In this regard, it is worth noting that the Chief Justice considers it important to learn from the experiences of other jurisdictions.

Measures taken by the Judiciary to address the issue of judicial time

4.8 In 1993, in examining the 1994-95 draft estimates of the Judiciary, LegCo Members noted that the average court sitting hours of judges were 3.02 hours for the Court of First Instance, 3.01 hours for the District Court and 3.45 hours for the Magistrates' Courts.

4.9 To address the public concern, in his speech on 10 January 1994 marking the opening of the 1994 legal year, the Chief Justice spoke at some length on judicial efficiency. On the question of judges' sitting hours, it was pointed out that people had assumed that if a judge was not in court, he was not working. That was not true because judges had a great deal of work that they undertook other than in open court. For example, they had to keep abreast of the law, read court files and draft judgements, all of which were time consuming. **As to what should be the reasonable time for judges to spend in open court, the Chief Justice said that he had given it considerable thought and had come to the conclusion that four hours a day was satisfactory as an average taken over the year.**

4.10 In March 1994, the Judiciary amended the 1993 figures on the average court sitting hours (see paragraph 4.8 above) to include:

— ***Trial-related/housekeeping time spent in court by judges before, and in between, trials in the course of a court day.*** For example, as normally there are several cases listed for trial in a Magistrate's Court in a day, a magistrate has to ask questions of a preliminary nature in court in relation to the cases listed before him for that day (e.g. ascertaining which cases are ready to be heard). In 1993, such trial-related/housekeeping work in the Magistrates' Courts needed a daily average of 45 minutes for each court; and

— ***Time taken up by short adjournments in a court day.*** Short adjournments are not infrequent in the Court of First Instance and the District Court. During these brief adjournments, although a judge may not be sitting in open court, he is still technically and fully preoccupied with the trial before him. In 1993, such adjournments amounted to a daily average of 30 minutes.

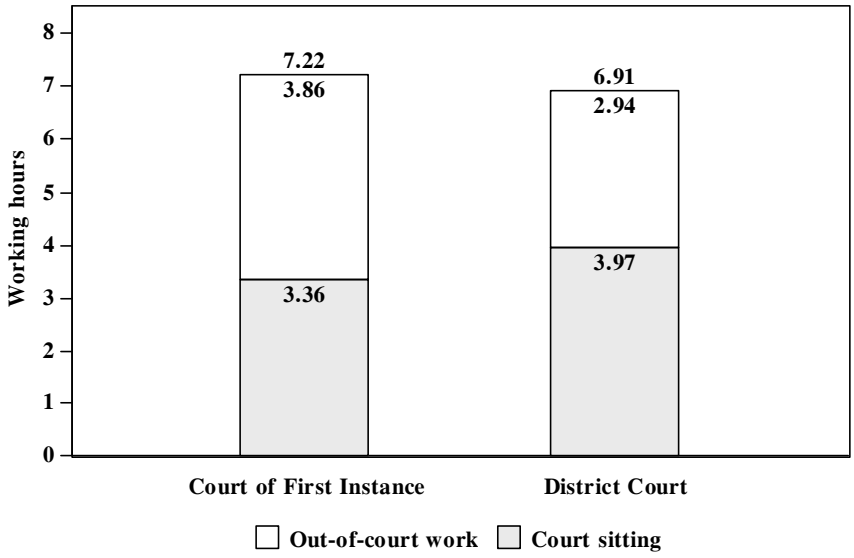
4.11 If the time referred to in paragraph 4.10 above was taken into account, the average time that a judge spent in court in 1993 would be 3.52 hours for the Court of First Instance, 3.51 hours for the District Court and 4.2 hours for the Magistrates' Courts.

4.12 At a special meeting of the Finance Committee (FC) of LegCo in March 1994, a question was raised about the working hours of judges. To provide the information to LegCo, the Judiciary conducted a survey among all Court of First Instance and District Court Judges for a three-month period from June to August 1994. The judges were asked to fill in a daily return which covered their working time in court and out of court. Working time in court included time spent by judges sitting in court or in chambers dealing with cases (including short breaks and brief adjournments in the course of a court day). Working time out of court included case preparation and pre-trial reading, preparing judgements, law research, checking transcripts as well as other administrative duties and committee work.

4.13 The survey conducted by the Judiciary in 1994 revealed that a substantial proportion of the judges' time (i.e. 53% for the Court of First Instance Judges and 43% for the District Court Judges) was spent on out-of-court duties. Figure 4 below shows the results of the Judiciary's 1994 survey.

Figure 4

Results of the Judiciary's 1994 survey on judges' working hours



Source: Judiciary's records

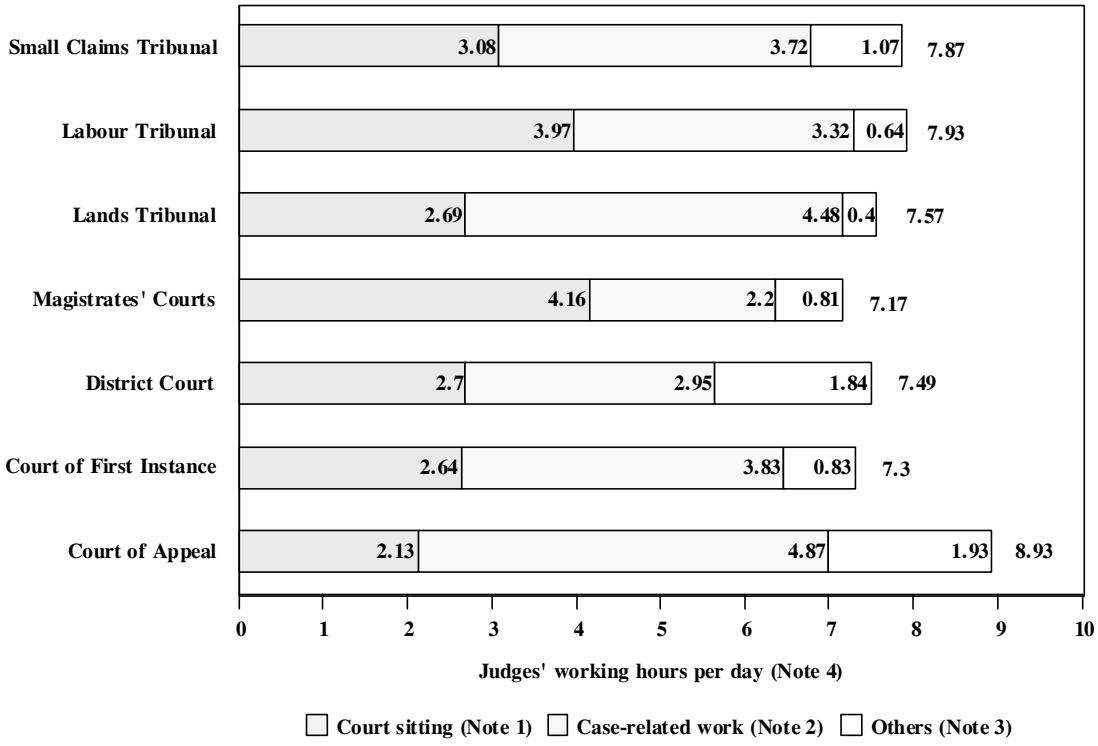
4.14 In January 1995, in an information note submitted to the LegCo Panel on Administration of Justice and Legal Services, the Judiciary Administrator drew Members' attention to the 1994 survey results which indicated that **there was still scope for maximising judges' working time.** Members noted that this situation arose because the existing system was such that a judge might, on occasion, be left with no case to handle through no fault of his own. According to the Judiciary Administrator's explanations, a criminal trial listed before a judge for a few days may suddenly end as a result of the defendant(s) pleading guilty. Similarly, a civil case may suddenly "collapse" because parties reach an unforeseen out-of-court settlement in the middle of a hearing. Under these circumstances, it is not always possible to find a suitable case to fill the odd and unexpected gap in the judge's diary simply because of the practical difficulties of getting the parties, counsel and witnesses ready at short notice. In addition, frequent and sometimes prolonged adjournments at the request of parties could lead to court days being wasted.

4.15 Members of the LegCo Panel on Administration of Justice and Legal Services expressed concern about the short working hours of some judges. **They enquired whether more flexible arrangements could be made for listing court cases in order to better utilise court resources.** In this regard, Members noted, among other things, that the Judiciary had launched its information systems strategy (i.e. the JISS —see the third inset of paragraph 2.5 above). The first phase of the strategy would lead to the computerisation of the District Courts' diaries and should result in up-to-date and easily accessible management information which would assist in the more flexible listing of cases.

4.16 More recently, in March 1999, a question on the working hours and court hours of judges was again raised in LegCo. In response to the legislators' concern, the Judiciary conducted another survey on the utilisation of judicial time. The survey, which covered the period February to June 1999, was similar to the one conducted in 1994. The Judiciary produced a draft survey report in November 1999. Figure 5 below shows the results of the Judiciary's 1999 survey.

Figure 5

Results of the Judiciary's 1999 survey on judges' working hours per day



Source: *Judiciary's records*

Note 1: *Court sitting includes hearing in courts/chambers but excludes adjournments.*

Note 2: *Case-related work includes case preparation, conducting research, preparing judgements and summing-ups.*

Note 3: *Others include non-case-related work (e.g. reading recent decisions and journals, preparing judicial and administrative papers), judiciary related committee work, non-judiciary related committee work (in the capacity of a judge), training and conference.*

Note 4: *The period covered for the Court of Appeal and the Court of First Instance was from 22 February to 23 May 1999, while that for other courts, magistracies and tribunals was from 22 March to 20 June 1999.*

4.17 Similar to the results of the Judiciary's 1994 survey on judges' working hours (see paragraph 4.13 above), the 1999 survey also showed that a substantial proportion of the judges' time was spent out of court in case-related and other non-case-related work. By comparison, there had not been any increase in court sitting hours of judges over the years.

Audit observations on judicial time

The need for setting a standard on court sitting hours

4.18 The Judiciary is aware of the need to better utilise judicial time. While the Chief Justice said in his opening speech for the 1994 legal year that he considered four hours to be a reasonable time for judges to spend in court each day, this has not been officially promulgated by the Judiciary as a standard.

4.19 **Audit notes that the issue of sitting hours of judges has been debated publicly for many years. Without an officially adopted standard, the actual sitting hours will be of little use as management information. It is necessary for the Judiciary to adopt a standard against which actual sitting hours can be compared, and improvement can be made by identifying the reasons for any unfavourable variances.**

4.20 Audit notes that the Chief Justice has been keen to address the public concern about the utilisation of judicial time. **Audit considers that setting a standard on court sitting hours can ease the public concern about the utilisation of judicial time and is conducive to improving the efficiency of the Judiciary.**

The need for better management information on judicial time

4.21 As mentioned in paragraph 4.4 above, judicial time is the most important resource of the Judiciary. To assist the management in analysing the utilisation of judicial time, statistics on the utilisation of judicial time at different levels of courts/tribunals should be compiled periodically. It is the responsibility of the Judiciary Administrator's Office to provide comprehensive management information on judicial time to the Chief Justice and the judges to enable them to manage the utilisation of judicial time efficiently. In the same speech delivered on 8 September 1999 referred to in paragraph 4.6 above, the Chief Justice mentioned the need for providing management information on judicial time:

> ***"To meet the challenges in the administration of justice, courts would increasingly have to gather and analyse data and information on the workings of the courts. This will enable the courts to propose solutions to problems and to measure the effectiveness of solutions. This will also enable the courts to discharge better their accountability for the use of public resources."***

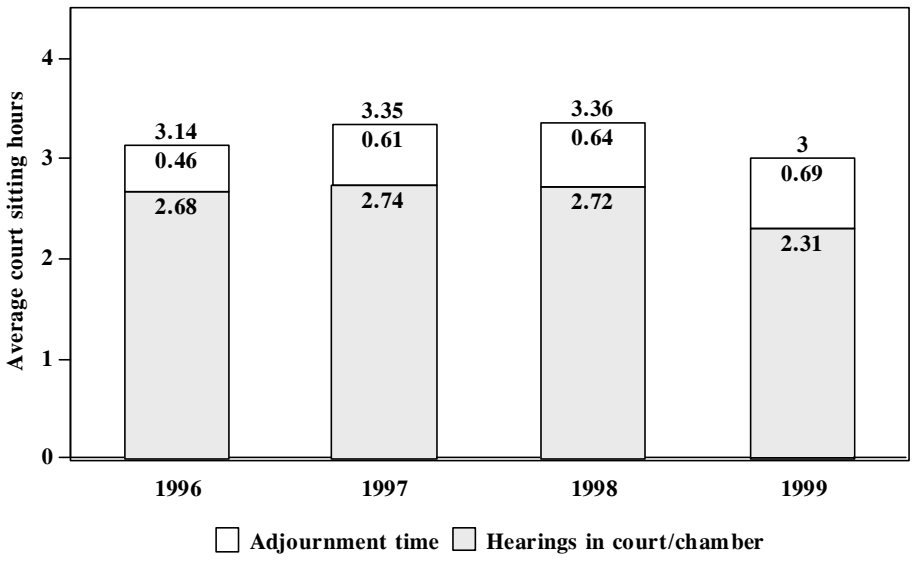
4.22 With the implementation of Phases I and II of the JISS in November 1995 and July 1998 respectively, information on the sitting hours of judges in most of the courts/tribunals is now available from the JISS and the management of the Judiciary is now better equipped to improve the efficiency of the courts. However, in order to give the management a full picture of the utilisation of judicial time, it is necessary for the Judiciary to also collect information on judges' out-of-court time. In this regard, the surveys on the utilisation of judicial time conducted by the Judiciary in 1994 and 1999 can provide such useful management information. **Audit considers that it is necessary for the Judiciary to conduct similar surveys periodically.**

Scope for improvement in utilisation of judicial time

4.23 Audit conducted a detailed analysis of the judges' sitting hours in the District Court. The District Court was selected because the District Court was the first one to become computerised under Phase I of the JISS (which was completed in November 1995) and, as a result, court sitting hours for the District Court since 1996 were readily available. Figure 6 below shows the average court sitting hours in the District Court from 1996 to 1999.

Figure 6

Average court sitting hours in the District Court from 1996 to 1999



Source: *Judiciary's records*

Note 1: *The sitting hours included all hearings held in court/chamber as well as the time taken up by short adjournments in a court day.*

Note 2: *The average court sitting hours were calculated on the basis of the information in the JISS. The 1999 figure was based on the latest available information for the first nine months of 1999.*

4.24 It can be seen in Figure 6 above that the average sitting hours for the District Court in recent years have been fairly stable (i.e. from 3 to 3.36 hours in a court day). The sitting hours are considerably less than the four-hour sitting time which the Chief Justice considered in 1994 to be a reasonable average figure (see paragraph 4.9 above).

4.25 As mentioned in paragraphs 4.13 and 4.17 above, a substantial proportion of the judges' time was spent on out-of-court work. One of the explanations of the Judiciary for the short court sitting hours is that judges have to do a great deal of out-of-court work which is time consuming. The results of the questionnaire survey on judges conducted by Audit in mid-1999 also show that judges in general consider that there is room for improvement in the support services (e.g. library, secretarial support and research support services) provided to help them discharge their out-of-court duties (see paragraphs 5.8 to 5.10 below). **Audit considers that it is necessary for the Judiciary to enhance the support services provided to judges so that they can perform their out-of-court work more efficiently (see also paragraph 5.10 below).**

Court sittings on Saturday

4.26 In the Judiciary, the courts normally do not conduct any sitting on Saturday, except in the magistracies. Sittings in other courts are held on Saturdays only on an ad hoc basis. However, conducting Saturday court sitting increases the available court sitting hours. As mentioned in paragraph 3.10 above, the Judiciary is currently conducting a scheme of Saturday court sittings in the Labour Tribunal for clearing its backlog of cases. The initial response of the community has been favourable. **Conducting court sitting on Saturday can improve court services for the public, which however has resource implications. Audit notes that the Judiciary is considering to conduct a user satisfaction survey on court services. In this connection, Audit considers that it is necessary for the Judiciary to assess users' views on the need for Saturday court sitting in other courts/tribunals.**

Audit recommendations on judicial time

4.27 **Audit has *recommended* that the Judiciary Administrator should:**

(a) **consider establishing standards for the average court sitting hours for different levels of courts/tribunals. In this regard, he should fully consult the judges and other stakeholders so as to ensure that the standards are reasonable and acceptable to all parties concerned;**

(b) **monitor actual court sitting hours by comparing with the established standards;**

(c) **identify the reasons for any unfavourable variances so as to take improvement action;**

(d) **conduct periodic surveys on the utilisation of judicial time so as to provide better management information to the Chief Justice and the judges for planning and monitoring purposes;**

(e) **explore ways and means of improving the support services for the judges (some suggestions are given in paragraphs 5.11 and 5.23 below) so as to enable them to perform their out-of-court work more efficiently and to better utilise the judicial time; and**

(f) **in the user satisfaction survey on court services to be conducted, assess users' views on the need for Saturday court sitting in other courts/tribunals. If the user survey indicates a need for more Saturday court sittings, he should consider extending these sittings to other courts/tribunals.**

Response from the Administration

4.28 The **Judiciary Administrator** has said that:

Regarding paragraph 4.27(a)-(d) above

(a) it is noted that the surveys conducted by the Judiciary in previous years had indicated certain norms in court sitting hours;

(b) he will discuss with the Chief Justice and court leaders whether such norms could be taken as the Judiciary's standard range, and the need to conduct surveys periodically to monitor the trend in the utilisation of judicial time (i.e. both court time and out-of-court time);

Regarding paragraph 4.27(e) above

(c) support services will be improved to facilitate judges' work. Improvement measures are elaborated in the second inset of paragraph 5.12 below;

Regarding paragraph 4.27(f) above

(d) there are normally no court sittings on Saturdays. However, sittings on Saturdays have been held on a need basis to deal with applications for admissions, urgent cases or to clear backlog. In 1999, for example, the Court of First Instance of the High Court sat for over 290 hours on Saturdays;

(e) in fact, Saturday has been set aside for training and development of judges. In 1998-99, all except eleven Saturdays were filled up with training activities organised by the Judicial Studies Board. The Judiciary considers that professional development and enhancing professional competence are of the utmost importance, and training on Saturdays will create the least disruptions to the normal operation of the courts; and

(f) although there is no complaint so far from the public or the legal profession on not being able to access the courts on Saturdays, he intends to conduct user satisfaction surveys on court services so that the views of court users on the matter can be properly gauged.

4.29 The Judiciary Administrator has also given additional comments on judicial time, as follows:

Increase in Judiciary's resources

(a) the increase in resources provided to the Judiciary (i.e. 70% in real terms between 1989-90 and 1998-99 —see the first inset of paragraph 4.2 above), should be viewed in the context of increase in resources to the public sector as a whole, which was 76% in real terms in the same period;

Utilisation of judicial time

(b) judicial time is a public resource and, as with all public resources, it is limited. The courts have a responsibility to ensure that judicial time is fairly and efficiently allocated and used;

(c) court sitting time is not equivalent to judicial time. (Note: Audit is aware that judicial time includes the judges' working time in court and out of court —see paragraph 4.4 above.) The efficiency of the court is not, and should not be, determined by the length of time a judge spends in the courtroom. To prepare for trials, judges need to read files, documents, authorities and written arguments related to the case submitted by parties or their legal representatives. For complex cases, they can be in terms of thousands of pages. For criminal trials in the Court of First Instance of the High Court, judges need to prepare summing-up to the jury, and they are of course on duty (although not sitting in court) when the jury retires to consider the verdict, during which they may seek further directions from the judge. After hearing, judges need to put in writing their judgements. In addition, judges have to constantly keep abreast of the law in reading legal reference from reports, journals, or the Internet, and in attending seminars and conferences. Judges are frequently involved in law reform, legislative proposals and other areas of public importance (e.g. legal education and professional training of lawyers) where the particular qualities of a judge are needed. All these contributions are not reflected in court sitting time which, as the Chief Justice pointed out recently in the Opening of the Legal Year 2000, is only a fraction of a judge's working time;

(d) it is also not true that the longer a judge sits in court, the higher is the productivity of the judge. On the contrary, the effective use of court time will result in shorter hearings and saving of costs for the parties, which is in the public interest. This is what the Judiciary has been striving to achieve. For example, the implementation of the DARTS in courts since 1996 helped to reduce court sitting hours by 20 to 30% as judges and judicial officers no longer need to take notes of proceedings manually. The Judiciary has also adapted the court procedures requiring written submission of arguments prior to the hearing. This allows judges to be well prepared for the case, saving hours of court time in argument over issues of law and fact during trial. Finally, the practice of handing down as opposed to the delivery of judgements has also reduced judge's sitting time in court;

Listing policy

(e) under the current listing (case allocation) policy, each judge is to be listed with trials every day Mondays to Fridays during 9:30 a.m. to 1 p.m. and 2:30 p.m. to 4:30 p.m. With 30 minutes recess to be taken during a day's trial, effectively five sitting hours per day are adopted for the purpose of listing. Saturdays are regularly used to deal with applications under the Legal Practitioners Ordinance (Cap. 159) for the admission of barristers and solicitors, urgent application cases, cases adjourned as a result of unavailability of parties or witnesses on the trial day in the week, case over-run from Friday, and backlog. On this basis, the judge's available time is fully occupied;

(f) as explained to LegCo on a number of occasions, it is not possible to 100% utilise the listed time slots for hearing. There are circumstances outside the control of the courts. For example, trials listed for a period could either be pleaded or settled at the early stage, they can under-run the full allocated lengths, and they can be adjourned at the request of parties for reasons such as negotiations for compromise, non-availability of witness, or for further reports on defendants' background;

(g) with a view to maximising the utilisation of judges' available time, the Judiciary has been taking the following measures:

(i) listing urgent and short cases to fill time slots vacated at short notice; and

(ii) overbooking judges' diaries so that more cases are packed within the available time; and

(h) while the above measures have brought improvement in the utilisation of judges' time, it is simply not possible to fill all unexpected vacant time slots as sufficient time (at least 24 hours) has to be allowed for parties or witnesses to prepare themselves. Moreover, to ask parties, counsel and witnesses to get ready, come to court and stand by but ending in their cases not being heard could waste their time and costs. There is therefore a limit on maximising the utilisation of judges' available time for the purpose of hearing trials. In any case, as explained above, the judges' time is fully and usefully occupied even out of court.

Courtrooms as a valuable resource of the Judiciary

4.30 In the administration of justice, a judge does not work alone. He requires, among other things, a well-equipped courtroom and a team of supporting staff (e.g. judicial clerks, court interpreters and ushers) in discharging his judicial duties. Courtrooms are an integral part of the judiciary infrastructure. In Hong Kong, lands and buildings, especially those in prime urban areas, are a precious commodity. The Judiciary has 186 courtrooms which are accommodated in 14 court buildings and one leased premises. Many of the Judiciary's buildings are located at prime sites which are easily accessible by public transport (e.g. the High Court Building in Queensway and the District Court in the Wanchai Tower). At present, the 186 courtrooms serve 180 judicial posts. Basically each judge has his/her own courtroom.

4.31 The normal court opening hours are 9:30 a.m. to 1 p.m. (i.e. 3.5 hours) in the morning session, and 2:30 p.m. to 4:30 p.m. (i.e. 2 hours) in the afternoon session from Monday to Friday. There are no Saturday court sittings, except in the magistracies and the Labour Tribunal. The total court opening time is 5.5 hours per day (excluding Saturdays, Sundays and other public holidays).

4.32 ***Utilisation of courtrooms in the District Court.*** Audit analysed the actual hours of utilisation of the 26 courtrooms (Note 6) of the District Court in 1998-99. Audit found that, of the 5.5 hours of court opening time a day, the courtrooms were on average utilised for only 2.5 hours (Note 7) a day (i.e. 1.8 hours in the morning session and 0.7 hour in the afternoon session). Therefore, the average rate of utilisation of courtrooms was only 45% (i.e. 2.5 ÷ 5.5).

4.33 Audit further analysed the percentage of unused courtroom-sessions (Note 8) in the 26 courtrooms of the District Court in 1998-99. Audit notes that on average in any half-day session (morning or afternoon), about eleven (i.e. 43%) of the 26 courtrooms were not used at all. The notional cost of these unused sessions was estimated to be $9.5 million a year, as shown in Appendix C. (It should also be noted that about 7 of the 26 courtrooms, or 28%, were not used at all for the whole day.)

Scope for courtroom sharing

4.34 In November 1997, the Judiciary's Management Services Agency Unit (MSAU) conducted a review on the accommodation strategy of the Judiciary. The MSAU recommended that:

Note 6: *The 26 courtrooms of the District Court do not include courtrooms designated for the Family Court.*

Note 7: *The average time of utilisation of courtrooms included court hearing time and the time taken up by short adjournments in a court day.*

Note 8: *A courtroom-session (morning or afternoon session) was deemed to be unused only if the courtroom was not used at all for the whole session. If any time was recorded for the use of the courtroom during the session, the whole session was deemed to be used for the purpose of calculating the percentage of unused courtroom-sessions.*

— before resorting to seeking funds for extra courts or extra buildings, the ratio of courts to judges should be optimised, where practicable, from 1:1 to 1:2 by introducing a morning court sitting and an afternoon court sitting for different cases. In so doing, new courts would not necessarily have to be found;

— the court shifts each weekday be changed to 9 a.m. to 1 p.m. (i.e. 4 hours, instead of 3.5 hours from 9:30 a.m. to 1 p.m.) in the morning session and 1:30 p.m. to 5:30 p.m. (i.e. 4 hours, instead of 2 hours from 2:30 p.m. to 4:30 p.m.) in the afternoon session; and

— the District Court should be selected to test the above new arrangement as a pilot scheme.

4.35 As far as can be ascertained, the MSAU's recommendation for launching a pilot scheme to test the feasibility of courtroom sharing is still being considered and a firm decision has not been made by the Judiciary.

Overseas experiences in courtroom sharing

4.36 In ascertaining whether there is scope for courtroom sharing in the Judiciary, Audit made enquiries about the practices of other jurisdictions, including the U.K., Canada, Australia, New Zealand, Singapore and the United States. **Audit's enquires indicate that in general the courts of the above-mentioned countries have adopted to a certain extent courtroom sharing.** The overseas practices on courtroom sharing are summarised in Appendix D.

Audit observations on courtroom utilisation

4.37 Courtrooms are a valuable resource of the Judiciary. According to Audit's estimate, the cost of constructing a standard courtroom is about $14 million (Note 9). Unused courtrooms are idle assets which have a significant notional cost. It can be seen in Appendix C that in the case of the District Court there was a considerable amount of unused time for each courtroom. **Given the substantial unused time for the courtrooms, it is necessary for the Judiciary to examine whether there is scope for optimising the use of courtrooms in the District Court.**

Note 9: *Audit calculated the construction cost of a standard courtroom based on the estimated capital cost of $444.6 million for the construction of a new ten-courtroom magistracy (i.e. the Kowloon City Magistracy) to replace the existing San Po Kong Magistracy in December 2000. The total space requirement according to the schedule of accommodation for the new magistracy is 6,490 square metres. The area of a standard courtroom is 210 square metres (including 60 square metres of waiting area). Therefore, a conservative estimate of the cost for constructing a standard courtroom, excluding areas for supporting services, is $14 million (i.e. $444.6 million × 210 ÷ 6,490).*

4.38 Audit notes that the MSAU has recommended that the Judiciary should launch a pilot scheme to test the feasibility of courtroom sharing. **Audit also considers that if all courtrooms are pooled and allocated to judges when there is a need for hearing cases, the utilisation of courtrooms can be improved and optimised.**

4.39 At present, a typical courtroom in the District Court needs to be constructed as a full-sized trial courtroom of 210 square metres (including 60 square metres of waiting area for each courtroom) to cater for all types of proceedings. However, not all types of hearings require a full-sized courtroom. For example, a simple civil case involving only two parties with no legal representation can be heard in a much smaller courtroom. In this regard, Audit notes that in many cases, most of the seats provided for the public in the courtroom are vacant during court sittings. This is not the most efficient use of courtroom space. **By pooling courtrooms, a suitable mix of full-sized and smaller, less expensive courtrooms could be constructed by the Judiciary for allocation to a judge according to the nature of the case to be heard. This will ensure better overall utilisation of courtroom space.**

4.40 Audit recognises that, in the pursuit of continuous improvements in judicial efficiency, the prime objective should be to maximise the utilisation of judicial time which is the most important resource of the Judiciary. **Therefore, Audit considers that, in considering any courtroom sharing arrangements, care should be taken to ensure that the arrangements will not affect the operation of the courts. Audit also considers that it is useful to draw on the experiences of overseas jurisdictions which have generally adopted the practice of courtroom sharing (see paragraph 4.36 and Appendix D).**

Audit recommendations on courtroom utilisation

4.41 **Audit has *recommended* that the Judiciary Administrator should:**

- **take action to improve the utilisation of courtrooms (e.g. by pooling of courtrooms);**
- **consider constructing courtrooms of different sizes to suit the different space requirements of different court hearings; and**
- **in planning the construction of a new court building, assess the accommodation requirements on the basis of pooling of courtrooms of different sizes, so as to optimise the use of courtroom accommodation.**

Response from the Administration

4.42 The **Judiciary Administrator** has said that:

— he will consult the Chief Justice and court leaders about building courtrooms of mixed sizes in the design of new court facilities and allocating courtrooms by case nature (e.g. civil or criminal, jury trial and the level of public interest) rather than by judges;

— under the current listing policy (see paragraph 4.29(e) above), it is expected that judges would use the courtrooms allocated to them for a full day on every weekday. Courtroom sharing is only possible if the listing policy is changed so that judges are not listed with trials for every day. But this may result in long queues and waiting time. The "low" utilisation of courtrooms observed is more apparent than real. It is linked to the present listing arrangements and affected by factors beyond the Judiciary's control. The unpredictable development of cases (under-run and over-run) as well as adjournments have made listing a very difficult and sophisticated task; and

— it has been suggested by the MSAU (see paragraph 4.34 above) that cases can perhaps be listed in terms of morning and afternoon sessions in order to reduce the unoccupied time (i.e. a one day's case be tried for two mornings and, if the case collapse on the first morning, there may still be time to notify parties and fix another case for the second morning). This arrangement was not necessary for magistracies and tribunals, given the nature and volume of the cases they deal with. Trials in the District Court and the High Court usually last more than a day, the effect of half-day listing may necessitate parties to return on more days, resulting in inconvenience and costs to them. This "shift" system is also not acceptable professionally as it would involve a judge, and counsel, in dealing with more than one case at the same time. The required concentration and continuity of thoughts in the trial throughout its duration would be seriously affected.

PART 5: PROVISION OF SUPPORT SERVICES

5.1 This PART examines the provision of services to support the efficient and effective operation of courts. Audit has found that judges and legal practitioners are on the whole satisfied with the court support services. The judges have however identified some areas of concern and made suggestions for improving the court support services.

Importance of support services

5.2 As mentioned in paragraph 4.30 above, the administration of justice requires a team of supporting staff to provide support services for courts' operation. Examples of important support services are court registry, court interpretation and court reporting services. Besides, the adequacy of the law library, secretarial support and research support services also affects the efficiency with which the judges perform their out-of-court work. This in turn affects the time available for the judges to spend in court hearing. The Judiciary Administrator's Office is responsible for the efficient and effective provision of support services to the judges and other court users. A brief description of the main court support services is at Appendix E.

Audit surveys on the opinions of judges and legal practitioners

5.3 In ascertaining whether there is room for improvement in court support services, Audit had sought the views of:

— judges (including judicial officers); and

— legal practitioners (i.e. barristers and solicitors).

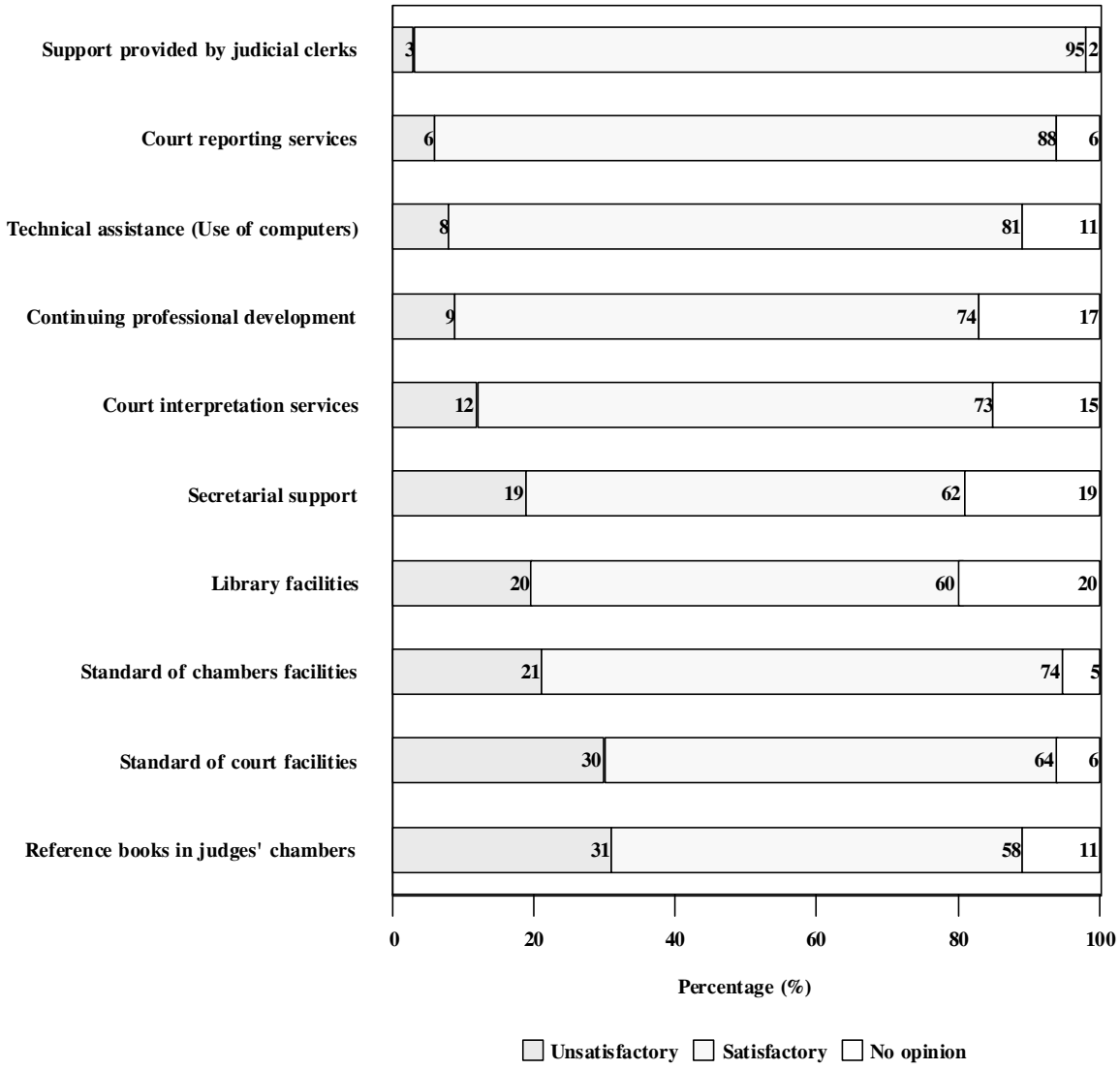
5.4 In mid-1999, Audit conducted two questionnaire surveys, one on all judges and the other on selected legal practitioners.

5.5 The main objective of the questionnaire survey on judges was to ascertain how far they were satisfied with various court support services and to seek their suggestions for improving these services. The Chief Justice and the senior judges had been very supportive throughout the conduct of the survey. As a result, the response rate of judges was high. Of a total of 155 questionnaires sent out to all judges (Note 10), 119 completed questionnaires were returned (i.e. a response rate of 77%). Audit also conducted follow-up interviews with 35 judges. The results of the survey of judges' opinion on court support services are shown in Figure 7 below. A summary of comments and suggestions of judges is at Appendix F.

Note 10: *At the time of the opinion survey, in mid-1999, the strength of judicial posts was 155 (the establishment of judicial posts was 180).*

Figure 7

Results of the survey of judges' opinion on court support services conducted by Audit in mid-1999



Source: *Report on the questionnaire survey on judges prepared by Audit in November 1999*

Note: *The opinions of judges on individual aspects of the court support services are categorised as "unsatisfactory" (i.e. very unsatisfactory or unsatisfactory), "satisfactory" (i.e. very satisfactory or satisfactory) and "no opinion". For example, regarding the reference books in judges' chambers, 31% of judges considered them unsatisfactory, 58% considered them satisfactory and 11% expressed no opinion.*

5.6 The questionnaire survey on the opinions of legal practitioners also sought to ascertain how far they were satisfied with various court support services. The Chief Justice had been consulted before conducting this survey. 730 questionnaires were sent out and 88 (or 12%) completed questionnaires were returned. Given the low response rate, the results of the survey on legal practitioners are intended to be used for reference only. They will however be used in this report to provide additional corroborative evidence to support the judges' opinions. The results of the survey of the opinion of legal practitioners on court support services are shown in Appendix G.

Audit observations on the opinions of judges and legal practitioners

5.7 The opinion surveys found that judges and legal practitioners were on the whole satisfied with the court support services. The response from the judges was encouraging. The majority of judges considered that each major aspect of the court support services (see Figure 7 in paragraph 5.5 above) was satisfactory. However, the judges also identified some areas of concern and made suggestions for improvements (see Appendix F for details). Audit considers that the judges' comments and suggestions merit the Judiciary Administrator's attention and follow-up action. This will ensure that the court support services can help judges in discharging their judicial duties more efficiently and effectively.

5.8 As shown in Figure 7 in paragraph 5.5 above, the judges were dissatisfied with some of the court support services. Those areas which were considered unsatisfactory by 20% or more of judges were:

— the adequacy of reference books in judges' chambers;

— the standard of court facilities;

— the standard of chambers facilities; and

— the library facilities.

5.9 Similarly, the survey on legal practitioners also shows that over 25% of the respondents were dissatisfied with the standard of court facilities (especially the Magistrates' Courts) and the library facilities (see Appendix G).

5.10 Audit notes that some judges were not satisfied with the secretarial, research and other support services provided to them (Note 11). Some judges also complained about the poor English standard, typing skills and legal knowledge of their support staff (e.g. judicial clerks, ushers, court interpreters and typists). As mentioned in paragraphs 4.13 and 4.17 above, judges had to spend a substantial proportion of their time on out-of-court work. **Audit considers that improving the support services will enable judges to perform their out-of-court work more efficiently.**

Audit recommendations on the opinions of judges and legal practitioners

5.11 **Audit has *recommended* that the Judiciary Administrator should:**

- **take appropriate follow-up action on the areas of concern expressed by judges, which have been identified by Audit in paragraph 5.8 above;**

- **in taking follow-up action, give priority to those areas where judges have expressed dissatisfaction (e.g. the standard of court facilities and the library facilities);**

- **consider implementing the suggestions made by judges in Appendix F for improving the court support services; and**

- **consider the feasibility of redeploying resources within the Judiciary to strengthen those support services which are most in need of improvement (see also paragraphs 5.21 and 5.23 below).**

Response from the Administration

5.12 The **Judiciary Administrator** has said that:

- he accepts that further improving support services will enable judges to perform their out-of-court work more efficiently. In this regard, out-of-court work is part of judicial work and no support staff can be deployed to replace the judges to do such work;

Note 11: *At present, only the most senior judges have their own personal secretaries. Judges of the Court of First Instance and below do not have their own personal secretaries (e.g. in the Court of First Instance and the District Court, two Judges share one Personal Secretary II. In the Magistrates' Courts, two Magistrates share one Typist). Each Judge is supported by a Judicial Clerk and an Assistant Clerical Officer(i.e. usher) who are not required to have a legal qualification. Unlike some jurisdictions (e.g. the United States and Australia) where judges have research assistants or marshals to help them in legal research and the writing of judgements, judges in Hong Kong do not have the support of qualified assistants to help them in legal professional work.*

— he will consider appropriate actions to address concerns expressed by judges, including strengthening support by resource redeployment. The High Court library is going to have a major refurbishment programme, and catalogues of reference books are to be computerised. Replacement of lighting in the High Court is in progress. New court facilities are being built at Kowloon City and Fanling. The competence of judicial clerks is being constantly enhanced through training; and

— it is also important to regularly consult judges on their needs. Committees (e.g. Library Committee), with judges' participation and input, have proved to be useful.

Court reporting services

5.13 The keeping of proper records of court proceedings is a statutory requirement (Note 12). Such records are essential when appeals are made to the higher courts. Before the implementation of the DARTS by phases commencing May 1995, the Judiciary had to rely on court reporters for the verbatim recording of court proceedings and the production of transcripts. The shortage of sufficiently qualified court reporters had previously restricted court reporting services to the High Court only. In the other courts, judges and judicial officers did not have the support of court reporting services and must themselves write verbatim record of the court proceedings. This adversely affected the efficiency of the judicial process. The problem remained notwithstanding the introduction of the Computer Aided Transcription (CAT) in 1982 and the Mechanical Sound Recording System (MSRS) in 1989. The Judiciary originally expected that the CAT and the MSRS would improve the efficiency of the court reporting services and would enable their expansion to all courts. However, this did not materialise.

5.14 In the Director of Audit's Report No. 23 of October 1994, Audit noted the disappointing results of the implementation of the CAT and the MSRS and recommended to the Judiciary Administrator that a critical re-examination of the role of the CAT in court reporting should be conducted vis-à-vis other reporting methods such as sound recording and privatising the court reporting services. At the hearing of the Public Accounts Committee in November 1994, the Judiciary Administrator accepted the past failures and undertook to improve the court reporting services.

5.15 In October 1994, the Judiciary engaged a private contractor to provide, on a pilot basis, digital audio recording and transcription services in the District Court. The results of the pilot scheme were satisfactory. In April 1998, the DARTS was fully implemented. In 1998-99, two

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Note 12: *Some ordinances, e.g. section 79 of the Criminal Procedure Ordinance (Cap. 221), Order 68 of the Rules of the High Court (Cap. 4), section 79 of the District Court Ordinance (Cap. 336), Rule 46 of the District Court Civil Procedure (General) Rules (Cap. 336) and section 34 of the Magistrates Ordinance (Cap. 227), stipulate the requirements to keep records of court proceedings.*

contractors were engaged at an annual cost of $38.5 million to operate the DARTS in all courts (Note 13).

5.16 The DARTS has brought about improvements in the quality and efficiency of court reporting. As indicated in Figure 7 in paragraph 5.5 above, the court reporting service of the DARTS was considered by judges to be one of the most satisfactory support services.

Surplus staff in the Court Reporters' Office

5.17 At present, court reporting work in all courts is conducted by the DARTS contractors. The role of the Judiciary's court reporters has changed from the previous mainly operating role to a managerial role. In the past few years, the court reporters had played a key role in coordinating and monitoring the implementation of the DARTS in all courts. However, with the full implementation of the DARTS in April 1998, the main duties of the court reporters are to supervise and evaluate the services provided by the DARTS contractors.

5.18 The change in the role of court reporters brought about by the full implementation of the DARTS has enabled a reduction in the number of court reporter posts from 71 to 37. In January 1997, Members of the FC were informed that the deletion of court reporter posts represented a saving of about $27 million a year.

5.19 In March 1997, the MSAU of the Judiciary completed a review of the Court Reporters' Office. Anticipating that the traditional role of the court reporters would disappear completely upon the full implementation of the DARTS in April 1998, the MSAU considered that it was necessary to reorganise the Court Reporters' Office to meet its new role.

Audit observations on the court reporting services

5.20 ***Relatively high supervision cost.*** Audit notes that, since April 1998, the role of court reporters has changed from the direct delivery of court reporting services to the supervision of private contractors. In 1998-99, the full cost for the supervision of the DARTS incurred by the Court Reporters' Office was $45.7 million (Note 14), which was 19% higher than the annual DARTS operating cost of $38.5 million. **This shows that the supervision cost of the court reporting services was on the high side vis-à-vis the actual operating cost of the DARTS.**

Note 13: *In October 1999, five contracts were awarded to two new contractors to operate the DARTS for five years from December 1999 to December 2004 at a cost of $196.2 million.*

Note 14: *The 1998-99 full cost for the supervision of DARTS incurred by the Court Reporters' Office was based on the cost centre analyses produced by the Judiciary's Departmental Financial Management System.*

There is a need for the Judiciary to review the staffing situation in the Court Reporters' Office to see whether the number of staff can be further reduced.

5.21 ***Scope for deploying surplus court reporters to other areas.*** Audit notes that court reporters generally possess the qualities of very good standards of English, shorthand and audio-typing skills as well as adequate familiarisation with the commonly-used legal terms and court procedures. Some of them even have the experience of coordinating and monitoring the implementation of a major project (i.e. DARTS) in the Judiciary. Their expertise and experience should be relevant to other duties both inside and outside the Judiciary. **Audit considers that there is scope for deploying surplus court reporters to other areas which are in need of their expertise and experience (e.g. to strengthen the support which was identified by judges to be unsatisfactory, or to help in the coordination and monitoring of the JISS implementation).**

5.22 ***The need for a review of the court reporter grade.*** At present, the salary scale for court reporters (Note 15) reflects the demanding entry requirements of very good standards of English, shorthand and audio-typing skills. **With the change in the major role of their duties from operational to managerial, some of these qualifications and experience may no longer be relevant. On the other hand, their new role requires skills and aptitudes (e.g. contractor supervision and liaison) which existing court reporters may not possess. In this regard, the advice of the Civil Service Bureau (CSB) should be sought.**

Audit recommendations on the court reporting services

5.23 **Audit has *recommended* that the Judiciary Administrator should:**

- **explore the possibility of deploying surplus court reporters to other support services which are in need of improvement (e.g. the support services which have been identified by judges to be in need of improvement and the coordination and monitoring of the JISS implementation);**

- **in consultation with the CSB, conduct an overall review of the court reporter grade; and**

- **having regard to the need to provide supervision of the DARTS operations, assess the attributes and skills required and the salary scale for the staff to be recruited in future.**

Note 15: *The current salary scale is $36,940 to $46,485 per month for Court Reporters and $47,970 to $60,190 per month for Senior Court Reporters.*

Response from the Administration

5.24 The **Judiciary Administrator** has said that:

— he will continue to keep under review the staffing position of the court reporter grade. Where the skill requirements are appropriate or properly developed, court reporters will be redeployed to other areas of work;

— in fact, he has already redeployed two of the court reporters to work in the Judiciary Project Management Unit to assist in the development of the JISS Phase III. He has consulted the staff concerned and many are willing to take on new challenges after retraining. He will channel more of them to other duties (e.g. enhancing the legal referencing system to support judges); and

— he will consult the CSB when regrading or other formal structural changes are required. In this regard, the establishment of the court reporter grade had been reduced to a level commensurate with its new role in overseeing the performance of DARTS contractors. Apart from performing supervisory and quality control work, court reporters are required to provide a core team to cater for contingencies, such as system breakdown and sudden termination of service by the contractor. The present establishment of the court reporter grade of 37 represents an achievement of a reduction of 34 posts committed in the FC meeting in 1997 (see paragraph 5.18 above).

5.25 The **Secretary for the Civil Service** has said that:

— he agrees to the recommendation for the Judiciary Administrator to conduct a review of the court reporter grade, in consultation with the CSB, with a view to assessing the attributes required and the salary scale for new recruits in future; and

— any proposal for changes to the salary or structure of a grade, if supported by the Administration, will require a submission to the Standing Commission on Civil Service Salaries and Conditions of Service in due course.

5.26 The **Secretary for the Treasury** has said that she will take as reference all observations in this audit review in assessing the Judiciary's overall resource requirements to ensure the cost-effective use of resources by the Judiciary.

Appendix A
(paragraph 1.3 refers)

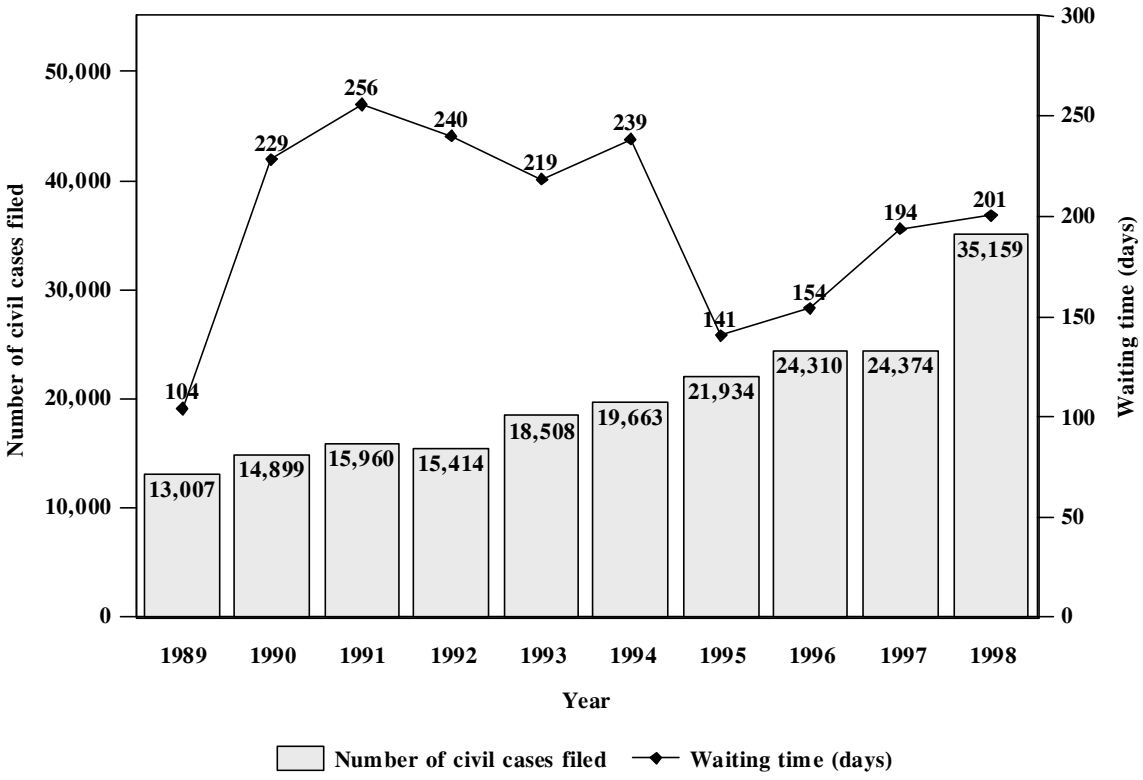
Brief description of the courts and tribunals in Hong Kong

Court of Final Appeal	It is the highest appellate court in Hong Kong. It hears appeals on civil and criminal matters from the High Court (comprising the Court of Appeal and the Court of First Instance). The Chief Justice of the Court of Final Appeal is the head of the Judiciary.
Court of Appeal of the High Court	It hears appeals on all civil and criminal matters from the Court of First Instance of the High Court, the District Court, magistracies and tribunals.
Court of First Instance of the High Court	It has unlimited jurisdiction in both civil and criminal matters. For criminal trials, Judges of the Court of First Instance sit with a jury of seven, or nine on special direction of the Judge.
District Court	It hears civil disputes of a value up to $120,000. Its criminal jurisdiction is limited to seven years' imprisonment.
Family Court	It deals mainly with divorce cases and hears related matters concerning the maintenance and welfare of children.
Magistrates' Courts (i.e. Magistracies)	They exercise criminal jurisdiction over a wide range of indictable and summary offences and are empowered to impose sentences of up to three years' imprisonment and fines of up to $100,000. There are ten magistracies in Hong Kong.
Lands Tribunal	It assesses compensation where lands are compulsorily resumed or their values reduced by redevelopment. It also hears rating, valuation and tenancy disputes.
Labour Tribunal	It hears civil claims arising from contracts of employment. Hearing is informal and no legal representation is allowed.
Small Claims Tribunal	It hears minor civil claims of up to $50,000. Hearing is informal and no legal representation is allowed.
Obscene Articles Tribunal	It determines and classifies whether an article or a matter publicly displayed is obscene or indecent.
Coroner's Court	It conducts inquests into unusual circumstances causing death.
Juvenile Court	It hears charges against children and young persons up to the age of 16, except in cases involving homicides. It also has jurisdiction to make care and protection orders in respect of young persons in need of care and protection. It sits in five of the magistracies.

Source: "Guide to Court Services", November 1997

Appendix B
(paragraph 2.7 refers)

Caseload and waiting time for civil cases in the Court of First Instance of the High Court from 1989 to 1998



Source: Controlling Officer's Reports of the Annual Estimates

Appendix C
(paragraph 4.33 refers)

Estimated annual notional cost of unused courtroom-sessions in the District Court in 1998-99

Percentage of unused courtroom-sessions

	Morning sessions	Afternoon sessions	Overall average	Annual notional cost (Note 1)
Unused courtroom-sessions (Note 2)	30%	55%	43%	$9.5 million

Source: *The JISS records*

Note 1: *The annual notional cost was based on the standard accommodation cost for the Wanchai Tower of the 1999-2000 Standard Accommodation Cost Tables compiled by the Treasury. It was calculated as follows:*

26 × (standard size of a courtroom in the District Court)
× (standard accommodation rate per month × 12) × (average percentage of under-utilisation)

Standard size of a courtroom = 210 square metres (including 60 square metres of waiting area)
Standard accommodation rate per month = $338 per square metre

i.e. 26 ´ 210 ´ $338 ´ 12 ´ 43% = $9.5 million

Note 2: *A courtroom-session (morning or afternoon session) was deemed to be unused only if the courtroom was not used at all for the whole session. If any time was recorded for the use of the courtroom during the session, the whole session was deemed to be used for the purpose of calculating the percentage of unused courtroom-sessions.*

Summary of overseas practices on courtroom sharing

United Kingdom

It is not a policy in the United Kingdom for each judge to be given his/her own courtroom.

A courtroom is allocated to each judge working in the court building. Courtroom sharing takes place when a single short hearing is required (e.g. announcing a sentence). The judge who conducts that hearing is only at the courthouse for that single hearing. Courtrooms are frequently used by different judges. A number of courtrooms have special equipment (e.g. video links for child witnesses) and are of different sizes.

The Court Service of the United Kingdom is reviewing whether a standard on courtroom utilisation should be set.

Canada

It is not a policy in Canada for each judge to be given his/her own courtroom.

For the Federal Court of Canada, in each of the cities where it has premises, the existing courtrooms are allocated by seniority among the levels of courts. The Federal Court tracks not only the days and percentage that the courtrooms are used but also the days and percentage that the courtrooms are reserved.

In Ontario, each level of court has its own set of courtrooms and there is a practice of courtroom sharing by judges.

In Quebec, depending on the size and importance of the courthouse, a certain number of courtrooms may be assigned to one jurisdiction.

In British Columbia, all Superior Courtrooms are shared by Superior Court Justices. Superior Courtrooms for each small court location (i.e. one or two rooms) are shared with Provincial Court Judge when necessary. All Provincial Courtrooms are shared by judges. Courtroom sharing is subject to room designs. For example, high security trials will not be put in rooms designed for civil courts.

In Nova Scotia, it is a tradition that judges each have a courtroom but it is not a standard. However, the courts are moving away from the "one judge, one courtroom" practice. For example, the Court of Appeal has one designated courtroom and one shared with the Supreme Court. The Supreme Court shares 11 – 12 courtrooms by 18 judges. The Family and Provincial Court Judges share with the Supreme Court in other locations across the rest of the Province.

Australia

For the Federal Court of Australia, it is not a policy for each judge to be given his/her own courtroom. Judges are not allocated to a particular courtroom. Judges are usually allocated the courtroom on the same floor on which their chambers are located. Many judges have preferred courtrooms and some courtrooms are equipped to accommodate specific needs, e.g. video conferencing facilities and other electronic aids.

The High Court of Australia has only three courtrooms which are allocated according to the type of hearing (preliminary, appeal or constitutional). Thus, all Justices share these courtrooms.

The practices in the States of Australia vary. For example, the Supreme Court of Victoria has a "one judge, one courtroom" practice. However, in general, other States of Australia do not strictly follow such a practice and have adopted some degree of courtroom sharing.

New Zealand

In New Zealand, judges share courtrooms within their particular jurisdictions. Judges do not have their own courtrooms, but are rostered to work in various locations.

In larger courts, there are a number of judges performing duties in particular courtrooms. Some courts have no resident judges. These circuit courts rely on the larger courts to provide judges by way of regular visits. Larger courts will have one or more resident judges, who sit in that court and also regularly visit the circuit courts.

Rosters are prepared by the larger courts at regular intervals, which show which judges will sit in which courts on particular days. All circuit courts are allocated a judge on a regular basis, usually monthly, to come and hear their list matters.

Singapore	At present, the practice in Singapore is that each judge is given his/her own courtroom. However, this practice has been reviewed and, in planning for the new Supreme Court Building which will be ready by 2002, a common pooling system is used to maximise the use of judicial facilities.
United States	According to the Judicial Conference of the United States policy statement on "Space Cost Containment, March 1997", each active judge and each senior judge who carries a caseload requiring "substantial" use of the courtroom is provided a courtroom. There is an informal system of sharing courtrooms in the federal courts. From time to time, district courtrooms are used by senior judges, visiting judges, magistrate judges, bankruptcy judges and others as circumstances require. During periods of courthouse construction, courtroom sharing may be necessary. Further, senior judges with a light caseload share courtrooms. The policy of "one judge, one courtroom" has been reviewed and it is currently under review again. In a recent audit review completed in May 1997, the United States General Accounting Office noted the under-utilisation of courtrooms and found that the Judiciary of the United States did not have sufficient data to support its practice of providing one trial courtroom for every district judge. It recommended that the Judiciary should establish criteria for determining effective courtroom utilisation and explore whether the "one judge, one courtroom" practice was needed or whether other courtroom assignment alternatives existed. Meanwhile, the Judiciary of the United States is researching into the issue of courtroom usage and considering what policy on courtroom sharing should be adopted.

Source: Audit enquiries of the judiciaries of overseas countries in 1999

Appendix E
(paragraph 5.2 refers)

Brief description of the main court support services

1. ***Administrative services.*** The Administration Division, headed by a Deputy Judiciary Administrator, deals with human resources and financial management, computerisation projects, supervision of support services and administrative matters involved in running the Judiciary.

2. ***Registry services.*** The courts and court registries at various levels are manned by Judicial Clerk grade officers. The Principal Judicial Clerks in the High Court and the District Court, who report to the Registrar, High Court on matters relating to court proceedings and the judicial process, are in charge of the daily running of registries.

3. ***Bailiff services.*** The Bailiff's Office, headed by two Chief Bailiffs, is responsible for effecting service of summons and the execution of court orders.

4. ***Court interpretation services.*** The Court Interpreters' Office, headed by three Chief Court Interpreters, is responsible for:

— providing consecutive interpretation services in courts;

— certifying transcriptions of audio and video tape recordings; and

— translation of documents for use in court.

5. ***Court reporting services.*** The Court Reporters' Office looks after all court reporting work in Hong Kong's courts. Following the introduction of DARTS in all courts, the Court Reporters' Office now supervises and evaluates the digital audio recording and transcription service provided by contractors. Their role has changed from purely operational to managerial.

6. ***Accounting services.*** The Accounts Office is headed by a Senior Treasury Accountant and deals with financial and accounting matters of the Judiciary.

7. ***Library services.*** The Judiciary's libraries include the Court of Final Appeal Library, the High Court Library and the District Court Library. The libraries, headed by the Librarian, provide legal publications, research materials and supporting services for judges and judicial officers, as well as for legal professionals in the private sector. The High Court Library is the main legal reference library.

8. ***Press and public relations services.*** The Press and Public Relations Office is headed by a Principal Information Officer, who is responsible for all media-related and public relations work as well as the production of all publications and publicity materials of the Judiciary.

9. ***Management services.*** The MSAU of the Judiciary, headed by an Assistant Director of Management Services, carries out efficiency reviews, modernisation programmes, implementation of the JISS and court reporting projects, and accommodation reviews.

Source: Chapter 8 of "Hong Kong Judiciary 1996-1998" published by the Judiciary

Summary of comments and suggestions of judges

	Percentage of judges who expressed dissatisfaction	Comments	Suggestions
Reference books in judges' chambers	31%	• Books in judges' chambers are outdated and are insufficient to share among judges. • It is difficult to access books in other judges' chambers. • It is very inconvenient to perform their duties when judges do not have the basic reference in their own chambers.	• To update reference books more frequently and buy more books. • To set up a small library of those most frequently used references in a common area to increase their accessibility. • To provide a full set of basic tools of law references in all chambers.
Standard of court facilities	30%	• Lighting is inadequate and may affect judges' eyesight. • Air-conditioning is either too cold or too hot. • Sometimes bad smell comes in through the ventilation system. • The court design is too old and the decoration is drab. • Judges' chairs are uncomfortable and are bad for their backs. • The bars in the dock for defendants obstruct the view of judges. • Acoustics in some courts is poor and there is no amplifier facility. • There are frequent breakdowns of lifts; toilets are filthy; canteens are dirty; and cleaning services are poor.	• To increase lighting. • To enhance the air-conditioning system. • To build new courts with modern design. • To redesign judges' chairs and the dock for defendants. • To install amplifier facilities. • To use double-doors and double-windows to screen out unwanted noise in the courtrooms. • To renovate toilets and canteens. • To ensure more regular and proper cleaning services.

	Percentage of judges who expressed dissatisfaction	Comments	Suggestions
Standard of chambers facilities	21%	• Lighting is poor. • Central air-conditioning system does not encourage judges to work in the court building after office hours. • The chambers are small with insufficient space to keep books or other materials. • Furniture and carpeting are old-fashioned. • Toilet conditions and cleaning services are poor. • Telephone system is outdated. • Security is poor in judges' chambers (e.g. defence counsel, prosecuting counsel and defendants all use the staff lifts and use the corridor outside judges' chambers).	• To provide new court chambers. • To enhance the ventilation system and provide air-conditioning to individual chambers. • To provide new carpeting and additional bookshelves in the chambers. • To install a new telephone system and fax machines in the chambers.
Library facilities	20%	• Some judges are not satisfied with the card index system of the High Court Library and complain that the classification system is unsuitable for research. • Some judges consider that the books and materials in the High Court Library are outdated and the quantity is also insufficient. • There are no libraries in some court buildings.	• To computerise the High Court Library's index system and change the existing author index system into an index by territorial application and subject matter. • To set up a library committee to review the collection of books in the High Court Library. • To employ a legally qualified law librarian for the High Court Library.

	Percentage of judges who expressed dissatisfaction	Comments	Suggestions
		• Some judges do not regard the library as a library due to its limited resources and poor facilities. • There are insufficient quantities of references for loan in some libraries.	• To buy more new books to expand and update the present supply of materials in the libraries of the District Court and the magistracies. • To have more copies of books for loan. • To provide each magistrate's chambers with a key of the library. (Some judicial officers would like to have access to the library when the library staff are off-duty.)
Secretarial support	19%	• Some judges claim that there are no secretarial services at all. • Some judges only have judicial clerks and ushers to provide some sort of secretarial support to them. However, their services are in general unsatisfactory due to their poor typing skills, language ability and legal knowledge. • As the judicial clerks have to be in court with the judges during court sittings, they are unable to deal with other work such as answering solicitors' telephone enquiries and correspondence. • Some judges complain that there are no telephone answering machines.	• To provide each judge with his/her own personal secretary or to provide a personal secretary to serve several judges in the same office. • To provide more language and computer training to the judicial clerks and ushers. • To install telephone answering machines or voice mail facilities. • To provide more typists with the ability to type accurately from audio tapes and with higher standard of English. • To provide better training to improve the standard of English and the typing skills.

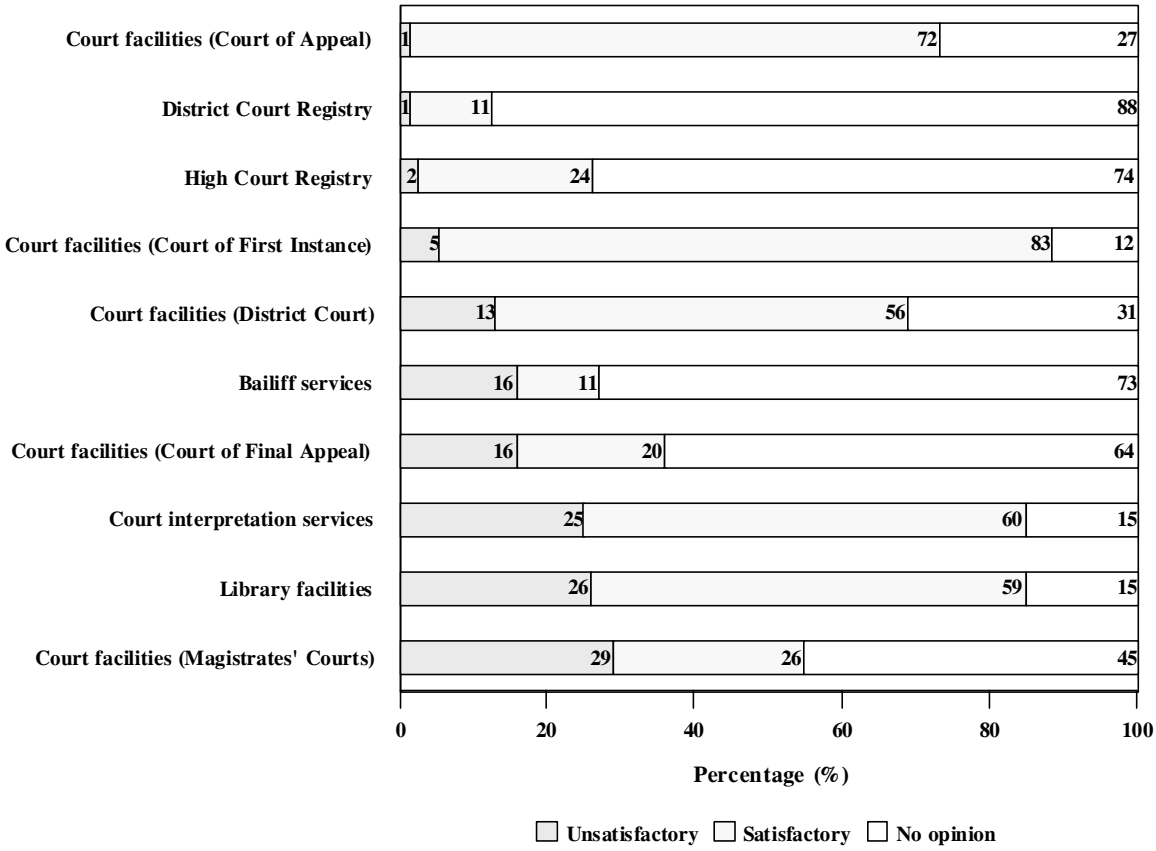
	Percentage of judges who expressed dissatisfaction	Comments	Suggestions
Court interpretation services	12%	• The standard of court interpreters varies. Some court interpreters are slow in interpretation and not very accurate. • The standard of court interpreters is inconsistent due to substandard English, insufficient training and constant changing of court interpreters among judges.	• To attract better quality interpreters to join the Judiciary. • To provide more rigorous training to court interpreters. • To arrange a court interpreter to stay with a judge for a longer period of time to minimise the disturbance arising from changes.
Continuing professional development	9%	• The main problem is the unsystematic provision of unsorted materials to judges. • Some judges consider some of the talks/courses are too specific or too general that they are not useful at all. • Some judges consider that they are not provided with useful materials such as judgements and new legislation. • Some judges complain about the heavy workload which makes them unable to read all incoming references.	• To edit the circulated materials and to cut down the materials given to judges. • To devise a point system to encourage the judges to attend essential courses for professional developments. • To offer judges more opportunities for attending international law conferences. • To provide more knowledge about the Mainland legal developments. • To set up academic groups among judges to stimulate interest and collate judges' opinions. • To organise more Chinese language courses and to provide professional assistance in writing up judgements in Chinese.

	Percentage of judges who expressed dissatisfaction	Comments	Suggestions
Technical assistance (Use of computers)	8%	• Some judges consider that the access time of the computer system is slow.	• To enhance the computer system in order to speed up the access time. • To provide more training to those unfamiliar with the computer system.
Court reporting services	6%	• Some judges complain about the limited functions of the system (e.g. cannot replay the recording from the judge's seat; difficult to locate the precise point for a playback; and the judges have to speak loudly for their words to be picked up clearly in the recording system).	• To enhance the DARTS system.
Support provided by judicial clerks	3%	• Some judges complain about the poor English standard and inadequate legal knowledge of their judicial clerks. • Some judges consider that the heavy workload of judicial clerks is a reason for the unsatisfactory performance.	• To provide more formal training to judicial clerks before they are required to perform their duties. • To provide additional clerical assistance in order to alleviate the workload of judicial clerks.

Source: Report on the questionnaire survey on judges prepared by Audit in November 1999

Appendix G
(paragraph 5.6 refers)

Results of the survey of the opinion of legal practitioners on court support services conducted by Audit in mid-1999



Source: *Report on the questionnaire survey on legal practitioners prepared by Audit in November 1999*

Note: *The opinions of legal practitioners on individual aspects of the court support services are categorised as "unsatisfactory" (i.e. very unsatisfactory or unsatisfactory), "satisfactory" (i.e. very satisfactory or satisfactory) and "no opinion". For example, regarding the library facilities, 26% of legal practitioners considered them unsatisfactory, 59% considered them satisfactory and 15% expressed no opinion.*

Appendix H

Acronyms and abbreviations

CAT	Computer Aided Transcription
CSB	Civil Service Bureau
DARTS	Digital Audio Recording and Transcription Service
ExCo	Executive Council
FC	Finance Committee
JISS	Judiciary Information Systems Strategy
LegCo	Legislative Council
MECAB	Minor Employment Claims Adjudication Board
MSAU	Management Services Agency Unit
MSRS	Mechanical Sound Recording System