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## 1997 'no bar to sentencing'

By OPHELIA SUEN

Lawyers yesterday dismissed the idea that judges should take the year 1997 into account when passing sentence.

Its implications had been brought up in the High Court on Thursday — and were promptly dismissed by the judge who said he had no regard to 1997 or what happened after that date.

A member of the Bar Association committee, who asked not to be named, said there was no reason why sentences should have to end before 1997.

"What happens if a murder or a serious robbery is committed just one year beforehand?" he asked.

"1997 just can't be taken into account."

He said the idea was "absurd" and that it "would not be right" if all prison sentences were to end just because of the year.

Several other lawyers, all of whom asked not to be named, held similar views.

"I don't think it is a sound argument because as a matter of public policy, the court simply could not accept it," one said.

He explained that the automatic release of prisoners in 1997 could jeopardise law and order.

"In theory, the jurisdiction in Hongkong is for ever because Hongkong and a part of Kowloon had been leased in perpetuity to Britain.

"And the courts in the New Territories were established by the jurisdiction in Hongkong."

One lawyer admitted she found the argument "novel" but said she had no idea whether other defence counsel would pick up the same theme when pleading leniency.

Not everyone agreed the idea was absurd.

"I think this is a beautiful argument," another lawyer said. "I might use it too.

"For if British administration ends in 1997, then theoretically all prisons will be taken over and run by the Chinese.

"So there is indeed some political merit to this argument. And I can see why it has been put forward."

But he conceded that had the argument not been knocked down by the judge, it would have led to an "impossible" situation.

"I think the court may just leave this issue alone and I don't think the Bar Association committee will raise it for discussion," he added.

Meanwhile, the honorary secretary of the Bar Association committee, Ms Maria Yuen, said: "We do have a steering committee on 1997. But as far as each individual case is concerned, it is up to the defence counsel to think what is proper to say in mitigation.

"We don't monitor what the counsel say in each case. We can't and we shouldn't."