

**立法會**  
**Legislative Council**

LC Paper No. CB(2)1882/10-11  
(These minutes have been seen  
by the Administration)

Ref : CB2/HS/2/10

**Subcommittee on Proposed Senior Judicial Appointments**

**Minutes of the meeting**  
**held on Thursday, 21 April 2011, at 8:30 am**  
**in Conference Room A of the Legislative Council Building**

**Members present** : Dr Hon Margaret NG (Chairman)  
Hon LAU Kong-wah, JP  
Hon Emily LAU Wai-hing, JP  
Hon Paul CHAN Mo-po, MH, JP

**Members absent** : Hon Albert HO Chun-yan  
Dr Hon Priscilla LEUNG Mei-fun  
Hon LEUNG Kwok-hung

**Public Officers attending** : The Administration  
  
Miss Jennifer MAK  
Director of Administration  
  
Miss Agnes WONG  
Deputy Director of Administration

Judiciary Administration

Miss Emma LAU  
Secretary, Judicial Officers Recommendation  
Commission

Mrs Angela LO  
Assistant Judiciary Administrator (Corporate  
Services)

**Clerk in attendance** : Ms Amy YU  
Chief Council Secretary (2)6

**Staff in attendance** : Mr KAU Kin-wah  
Senior Assistant Legal Adviser 3

Miss Evelyn LEE  
Assistant Legal Adviser 10

Ms Catherina YU  
Senior Council Secretary (2)6

Ms Carmen HO  
Legislative Assistant (2)6

---

Action

**I. Election of Chairman**

Dr Margaret NG was elected Chairman of the Subcommittee.

**II. Meeting with the Administration**

[LC Paper Nos. CB(2)1588/10-11(01) and CB(2)1501/10-11]

2. The Subcommittee deliberated (index of proceedings attached at **Annex**).

3. Members noted a submission from a member of the public which was tabled at the meeting.

Procedure for considering judicial appointments

4. The Chairman sought members' views on the need to invite views from the two legal professional bodies and other relevant organizations on the proposed senior judicial appointments.

Action

5. Ms Emily LAU said that it was a common practice for committees of Legislative Council ("LegCo") to invite public views on a subject matter under discussion. She considered that relevant organizations should be invited to give views on the proposed judicial appointments.

6. Mr LAU Kong-wah held a different view. He said that he was a member of the Subcommittee appointed in 2010 to study the proposed senior judicial appointments ("the former Subcommittee"). He shared the view of members of the former Subcommittee that it should be a constitutional convention for LegCo to respect and accept nominations made by the Judicial Officers Recommendation Commission ("JORC") unless there were controversies over the proposed appointments. He stressed the importance of adhering to this principle. He pointed out that deputations had not been invited to give views on the proposed judicial appointments in the last appointment exercise conducted in 2010 and considered that such a practice should be followed unless there were grave concerns with the recommended appointments. He did not consider it necessary to invite deputations to give views on the proposed appointments under consideration.

7. The Chairman said that the fundamental principles of separation of powers and judicial independence should be respected in considering judicial appointments and it was vital that the appointment process should not be politicized. LegCo's role was to act as the final gatekeeper not to endorse a judicial appointment which was manifestly contrary to public interest. However, such power should only be exercised in exceptional circumstances.

8. Mr Paul CHAN concurred with the Chairman's views. He shared the view that the procedure for appointment of judges should not be politicized as it would violate the fundamental principle of separation of powers. While LegCo's power to endorse judicial appointments was substantive, it should only act as the final gatekeeper. He pointed out that as a barrister and a solicitor were sitting on JORC, views from the legal profession had been taken into account in the consideration of the proposed appointments. As there was no controversy over the proposed appointments, he did not consider it necessary for the Subcommittee to invite views from relevant organizations on the proposed appointments.

9. The Chairman drew members' attention to paragraph 37 of Annex D to the Administration's paper (LC Paper No. CB(2)1501/10-11) which stated that the two JORC members from the legal profession had consulted the views of the two legal professional bodies on the proposed appointment

Action

of the Chief Judge of the High Court. She added that during the discussions on the procedure for endorsement of judicial appointments by LegCo, Members generally were of the view that it was not intended that LegCo should duplicate the elaborate process JORC had gone through in coming up with the recommended appointments and LegCo should as a matter of convention accept the recommended appointments unless it had serious concerns with them.

10. The Subcommittee agreed that it was not necessary to invite relevant organizations to give views on the proposed appointments.

Provision of information on recommended appointees

Jud Admin

11. Members noted the information provided by the Administration on the recommended appointees (LC Paper No. CB(2)1501/10-11). The Judiciary Administration was requested to provide information on major publications of and judgments made by the recommended appointees for members' reference.

Conclusion

12. Members supported the proposed senior judicial appointments and had no objection to the Administration giving notices of motions to seek the endorsement of LegCo on the recommended appointments. Members agreed that the Subcommittee would report its deliberations to the House Committee on 13 May 2011.

**III. Any other business**

13. There being no other business, the meeting ended at 9 am.

Council Business Division 2  
Legislative Council Secretariat  
24 May 2011

**Proceedings of the meeting of the  
Subcommittee on Proposed Senior Judicial Appointments  
on Thursday, 21 April 2011, at 8:30 am  
in Conference Room A of the Legislative Council Building**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject</b>	<b>Action required</b>
000000 - 000438	Dr Margaret NG Ms Emily LAU Mr Paul CHAN Mr LAU Kong-wah	Election of Chairman	
000439 - 000507	Chairman	Submission from a member of the public	
000508 - 000826	Chairman Admin	Briefing by the Administration on the proposed senior judicial appointments [LC Paper No. CB(2)1501/10-11]	
000827 - 002721	Chairman Ms Emily LAU Clerk Mr LAU Kong-wah Mr Paul CHAN	Discussions on the need to invite views from relevant organizations on the proposed judicial appointments and the procedure for considering judicial appointments	
002722 - 003037	Chairman Ms Emily LAU Admin	The Judiciary Administration was requested to provide information on major publications of and judgments made by the recommended appointees.	<b>Jud Admin</b>
003038 - 003137	Chairman	Date of reporting to the House Committee	