

DRAFT RESEARCH OUTLINE

Budgetary Arrangements for Overseas Judiciaries

1. Background

1.1 The Panel on Administration of Justice and Legal Services, at its meeting on 27 January 2003, requested the Research and Library Services Division (RLSD) to conduct a research on the budgetary arrangements for overseas judiciaries. The Panel agreed that the research should examine how the budgetary arrangements for the judiciary was handled in overseas jurisdictions in which both judicial independence and public accountability could be assured.

2. Scope

2.1 RLSD proposes to examine the respective role of the executive and the judiciary in the preparation of the judiciary's budget, the allocation of resources for the judiciary, the approval process of the judiciary's budget, the annual pay adjustment of judiciary personnel and the court administration in terms of resources allocation.

3. Proposed judiciaries to be studied

3.1 RLSD proposes to examine the judiciaries of the United Kingdom (UK), the United States of America (US) and Ontario of Canada on the above aspects.

3.2 We will study the judiciary of England and Wales in the UK on which the court system of Hong Kong is modelled. In the UK, the executive prepares the budget for the judiciary and there is no written constitutional provision on judicial independence. In contrast with the UK, the US has a written Constitution guaranteeing the separation of powers and has a committee composed of judges to prepare the judiciary's budget. The US justice system will be examined at the federal level. In addition, the judiciary at the provincial level of Canada will be studied. A number of significant case laws have been built up on the financial aspect of judicial independence of the provincial judiciaries in Canada. Owing to the similarities of the justice systems of Canadian provinces, Ontario is chosen as an example to illustrate the mechanism of budgeting for provincial judiciaries.

4. Proposed Outline

Part 1 — Introduction

- Background
- Scope of research

Part 2 — Concept of judicial independence

- Relationship between the budgetary arrangement for the judiciary and judicial independence

Part 3 — Budgetary arrangements for the selected judiciaries

- Background
- Constitutional guarantee of judicial independence
- Sources of funding for the judiciary
- Mechanism of budgetary arrangements for the judiciary and respective role of the executive and the judiciary in the process:
 1. Preparation of the judiciary's budget;
 2. Allocation of resources for the judiciary;
 3. Process of approval of the budget;
 4. Pay adjustment of judiciary personnel; and
 5. Allocation of resources within the judiciary
- Public accountability of the judiciary

Part 4 — Comparison of the various attributes of the budgetary arrangements for the selected overseas judiciaries and those for Hong Kong

Part 5 — Issues to be considered

5. Completion Date

- 5.1 RLSD proposes to complete the research project in June 2003.