

**立法會**  
**Legislative Council**

Ref : CB4/PL/AJLS

LC Paper No. CB(4)954/12-13  
(These minutes have been  
cleared with the Chairman)

**Panel on Administration of Justice and Legal Services**

**Minutes of special meeting**  
**held on Wednesday, 24 October 2012, at 10:00 am**  
**in Conference Room 3 of the Legislative Council Complex**

**Members present** : Dr Hon Priscilla LEUNG Mei-fun, JP (Chairman)  
Hon Dennis KWOK (Deputy Chairman)  
Hon Albert HO Chun-yan  
Hon LEE Cheuk-yan  
Hon James TO Kun-sun  
Hon CHAN Kam-lam, SBS, JP  
Hon Emily LAU Wai-hing, JP  
Hon TAM Yiu-chung, GBS, JP  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon Cyd HO Sau-lan  
Hon Starry LEE Wai-king, JP  
Hon CHAN Kin-por, BBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung  
Hon WONG Yuk-man  
Hon Claudia MO  
Hon Michael TIEN Puk-sun, BBS, JP  
Hon NG Leung-sing, SBS, JP  
Hon Steven HO Chun-yin  
Hon YIU Si-wing  
Hon MA Fung-kwok, SBS, JP  
Hon Charles Peter MOK  
Dr Hon Kenneth CHAN Ka-lok  
Hon Kenneth LEUNG  
Hon Alice MAK Mei-kuen, JP  
Dr Hon KWOK Ka-ki  
Dr Hon Elizabeth QUAT, JP  
Hon Martin LIAO Cheung-kong, JP

Hon TANG Ka-piu  
Dr Hon CHIANG Lai-wan, JP  
Hon CHUNG Kwok-pan  
Hon Tony TSE Wai-chuen

**Member absent** : Hon Ronny TONG Ka-wah, SC

**Clerk in attendance** : Miss Mary SO  
Chief Council Secretary (4)2

**Staff in attendance** : Mrs Percy MA  
Assistant Secretary General 4

Mr Timothy TSO  
Assistant Legal Adviser 2

Ms Cindy CHAN  
Senior Council Secretary (4)2

Ms Rebecca LEE  
Council Secretary (4)2

Ms Sandy SZETO  
Administrative Assistant I(4)2

Ms Mandy WAN  
Administrative Assistant(4)1

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**I. Proposed schedule of meetings for the 2012-2013 session**

The Chairman invited members to consider three proposed schedules of regular meetings for the 2012-2013 session (namely the first Monday of each month at 4:30 pm, the fourth Tuesday of each month at 4:30 pm and the fourth Friday of each month at 10:45 am). In order to facilitate the attendance of the Hong Kong Bar Association and The Law Society of Hong Kong which had high attendance rates at the Panel meetings in the past, members agreed that except for December 2012, regular meetings of the Panel would be held on the fourth Tuesday of each month at 4:30 pm.

*(Post-meeting note: The meeting schedule for the 2012-2013 session was issued vide LC Paper No. CB(4)62/12-13 on 25 October 2012.)*

## **II. Items for discussion at the next meeting**

(LC Paper No. CB(4)36/12-13(01) List of outstanding items for discussion

LC Paper No. CB(4)36/12-13(02) List of follow-up actions)

2. The Chairman referred members to the "List of issues suggested to be considered" and "List of follow-up actions arising from discussions in previous sessions" issued to members for the last meeting.

3. The Chairman briefed members that the following three additional papers were also distributed to members for consideration and invited members' views.

LC Paper No. CB(4)40/12-13(02) Letter dated 28 September 2012 from the Hong Kong Bar Association enclosing its "Open Statement on the Desirability of an Independent Legal Aid Authority" (English version only)

LC Paper No. CB(4)40/12-13(03) Letter dated 12 October 2012 from the Hong Kong International Arbitration Centre seeking members' views on the draft Arbitration (Appointment of Arbitrators and Mediators and Decision on Number of Arbitrators) Rules (English version only)

LC Paper No. CB(4)40/12-13(04) Letter dated 17 October 2012 from 15 Panel members requesting to hold a special Panel meeting to discuss the recent remarks made by Ms Elsie LEUNG Oi-sie, Deputy Director of the Basis Law Committee of the Hong Kong Special Administrative Region ("HKSAR") of the Standing Committee of the National People's Congress, at a public forum (Chinese version only)

4. Dr Kwok Ka-ki, Ms Emily LAU and Mr Dennis KWOK expressed concerns to the recent remarks made by Ms Elsie LEUNG, Deputy Director of the Basic Law Committee of the HKSAR of the Standing Committee of the National People's Congress at a public forum and wished that a special meeting could be held as soon as possible to look into the matter.

5. Mr TAM Yiu-chung wondered that Ms Elsie LEUNG's remarks were made at a tutorial of a post secondary college and her freedom of speech should be protected. He felt that there was no urgency in discussing the matter at a special meeting as the two legal professional bodies had already issued their open statements in response to Ms LEUNG's remarks. However, he did not object to include it as agenda item at its regular meeting. He said that members should welcome Ms LEUNG's attendance to the Panel meeting by invitation if she was willing to do so. If not, the Panel should also respect Ms LEUNG's

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decision.

6. Mr TAM's opinion was echoed by Ms Starry LEE who also did not object to include it as the item at its future meeting.

7. Ms Claudia MO, however, indicated that freedom of speech was not equal to everybody and it would vary from persons to persons depending on the person's role and position in the society. She strongly felt that Ms LEUNG as the Deputy Director of the Basis Law Committee of the HKSAR of the Standing Committee of the National People's Congress, her remarks carried a certain weigh as compared to the other persons. She said that there was an urgent need to hold a special Panel meeting as soon as possible to discuss the matter.

8. Dr CHIANG Lai-wan expressed that as Ms Elsie LEUNG's remarks were made at a classroom to a group of students, her freedom of speech should be protected. Unless people were speaking on behalf of the other organizations that they belong to, they could only represent themselves. Dr CHIANG felt that it was not within the Panel's terms of reference to judge on external remarks, therefore, she disagreed of holding a special meeting on this purpose.

9. As Ms Elsie LEUNG's remarks were widely covered by the media, Mr WONG Yuk-man felt that the Panel meeting might provide an opportunity for Ms LEUNG to explain herself. No matter it was a special or regular meeting, Mr WONG supported to place the matter as an item in the agenda for a meeting to be held as soon as possible.

10. In respond to some members' views on freedom of speech, Mr Steven HO said that he was shock to hear that people' right of free speech was not on a fair ground and that was contradictory to his believes.

11. Pointing out that one of the terms of reference of this Panel was to monitor and examine, consistent with maintaining the independence of the Judiciary and the rule of law, policy matters relating to the administration of justice and legal services, including the effectiveness of their implementation by relevant officials and departments, Mr Alan LEONG considered that the most relevant government official to answer members' enquiries on this matter was the Secretary of Justice. Therefore, he suggested that the Secretary of Justice be invited to attend the meeting to respond to the remarks made by Ms Elsie LEUNG.

12. In view of the list of issues suggested to be considered by the Panel, Mr NG Leung-sing expressed concerns on whether there was sufficient time for the Panel to address all the issues, not to mention that this item be added to the

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list. He said that a lot of retired government officials had also made remarks in the past and they had not been invited to explain themselves at the Panel meeting. He said he was conservative on the matter.

13. Mr Albert HO pointed out that Ms Elsie LEUNG was not a retired person as she was currently holding the post of Deputy Director of the Basis Law Committee of the HKSAR of the Standing Committee of the National People's Congress. Mr HO felt that it was of great urgency for the Panel to deal with the matter.

14. Mr CHAN Kam-lam disagreed to hold a meeting to discuss on the matter because he felt that there were lots of social affairs that need members' attention. Mr Paul TSE also disagreed to hold such a meeting as he felt that it was inappropriate to repeat the remarks which somebody believed that they were inappropriate. He was also conservative on the urgency of the matter.

15. Mr LIAO Cheung-kong said he believed that Ms Elsie LEUNG made the remarks on her personal capacity and he wondered that her remarks would have any impact on judges in view of their high standards of professional conduct. He said that some former Basic law members had expressed opinion in the past and even had written articles on their remarks. He questioned whether these persons had been invited to any of the Panel meetings to explain themselves. Although he disagreed to hold a special meeting on the matter, he did not object to put it as an item for future discussion.

16. Mr TSE Wai-chuen said he was open-minded on whether to hold a special meeting on the matter; however, he strongly disagreed with the previous saying that freedom of speech was not equal to everyone.

17. In view of the current post of Ms Elsie LEUNG in the Basis Law Committee of the HKSAR, Mr MA Fung-kwok wondered on what capacity should Ms LEUNG be invited to the meeting. Instead of having a formal meeting on the matter, Mr MA suggested that an informal session be held for members to exchange views with Ms LEUNG.

18. Mr CHAN Kin-por supplemented that Ms Elise LEUNG had already written to The Law Society of Hong Kong and Hong Kong Bar Association respectively in response to their open statements on her remarks. He had no objection to include the matter on the list for future discussion.

19. In support of holding a special meeting, Dr Kenneth Chan commented that in addition to Ms Elsie LEUNG, the other stakeholders such as the two legal organizations should also be invited to discuss the matters in relation to judicial

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independence and relationships between local and central government.

20. In view of the diverted opinion, the Chairman invited members to put vote on whether a special meeting should be held to discuss the matter arising from the remarks made by Ms Elsie LEUNG. Twelve members voted in favour of the proposal while 15 members voted against the proposal. The Chairman declared that 12 members voted for the proposal and 15 members voted against the proposal and no member abstained. The proposal was not supported.

21. The Chairman further invited members to vote on whether to put the matter relating to Ms Elsie LEUNG onto the list for future discussion. Fifteen members voted in favour of the proposal while one member voted against the proposal. The Chairman declared that 15 members voted for the proposal and one member voted against the proposal and no member abstained. The proposal was supported. Members further agreed that Ms Elsie LEUNG, the two professional bodies and Secretary of Justice be invited to attend the meeting.

22. Further to the request of the Administration to discuss the 2012-2013 judicial service pay adjustment and the proposed creation of supernumerary post of Deputy Principal Government Counsel in the Prosecutions Division of the Department of Justice, members agreed that a special meeting be scheduled for 30 October 2012 (Tuesday) to address the two items.

**III. Any other business**

23. There being no other business, the meeting ended at 10:45 am.