

立法會
Legislative Council

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Panel on Administration of Justice and Legal Services

Minutes of meeting
held on Monday, 1 March 2021, at 4:30 pm
in Conference Room 1 of the Legislative Council Complex

Members present : Hon CHEUNG Kwok-kwan, JP (Chairman)
Hon Martin LIAO Cheung-kong, GBS, JP (Deputy Chairman)
Hon Starry LEE Wai-king, SBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon LEUNG Che-cheung, SBS, MH, JP
Hon Elizabeth QUAT, BBS, JP
Hon CHUNG Kwok-pan
Hon Jimmy NG Wing-ka, BBS, JP
Dr Hon Junius HO Kwan-yiu, JP
Hon Holden CHOW Ho-ding
Hon YUNG Hoi-yan, JP

Member absent : Hon Paul TSE Wai-chun, JP

Public Officers attending : **Agenda item III**

Legal Aid Department

Mr Thomas Edward KWONG, JP
Director of Legal Aid

Mr Chris CHONG, JP
Deputy Director of Legal Aid (Policy and
Administration)

Mr Steve WONG
Assistant Director of Legal Aid (Policy and
Development)

Ms Christina HADIWIBAWA
Assistant Principal Legal Aid Counsel (Legal
Management and Support Section)

Mr Johnson JONG
Senior System Manager (Information Technology
Management Unit)

Administration Wing, Chief Secretary for
Administration's Office

Mr Nicholas CHAN
Assistant Director of Administration 2

Agenda item IV

Department of Justice

Dr James DING
Commissioner
Inclusive Dispute Avoidance and Resolution Office

Miss Venus CHEUNG
Assistant Principal Government Counsel (Acting)
Inclusive Dispute Avoidance and Resolution Office

Miss Queenie WU
Senior Government Counsel (Acting)
Inclusive Dispute Avoidance and Resolution Office

Agenda item V

Department of Justice

Dr James DING
Commissioner
Inclusive Dispute Avoidance and Resolution Office

Ms Selene TSOI
Deputy Director (Support and Development)
Administration and Development Division

Miss Michelle FUNG
Deputy Principal Government Counsel (Acting)
Inclusive Dispute Avoidance and Resolution Office

**Attendance by
invitation**

: Agenda item III

Hong Kong Bar Association

Mr Azan Aziz MARWAH

Agenda item IV

The Law Society of Hong Kong

Mr Roden TONG
Chairman of Standing Committee on Member
Services

Mr Calvin CHENG
Chairman of Young Solicitors' Group and Member
of Standing Committee on Member Services

Ms Careen WONG
Chairperson of the Standing Committee on
Standards and Development

Ms Vivian LEE
Director of Standards and Development

Hong Kong Bar Association

Ms Isabel TAM

Clerk in attendance : Mr Lemuel WOO
Chief Council Secretary (4)6

Staff in attendance : Ms Clara TAM
Senior Assistant Legal Adviser 2

Mr Raymond SZETO
Senior Council Secretary (4)6

Miss Janice HO
Council Secretary (4)6

Ms Emily LIU
Legislative Assistant (4)6

Action

I. Information paper(s) issued since the last meeting

(LC Paper No. CB(4)515/20-21(01) - Information paper on Annual Reviews of Financial Eligibility Limits of Legal Aid Applicants and Director of Legal Aid's First Charge provided by the Chief Secretary for Administration's Office and Legal Aid Department

LC Paper No. CB(4)515/20-21(02) - Information paper on Biennial Review of Criminal Legal Aid Fees, Prosecution Fees and Duty Lawyer Fees provided by the Chief Secretary for Administration's Office and Legal Aid Department)

Members noted the information papers circulated since the last meeting.

II. Items for discussion at the next meeting

(LC Paper No. CB(4)517/20-21(01) - List of outstanding items for discussion)

2. Members noted that the following items would be discussed at the next regular meeting of the Panel on Administration of Justice and Legal Services ("the Panel") to be held on 22 March 2021:-

- (a) Public consultation on the proposed application of the United Nations Convention on Contracts for the International Sale of Goods to the Hong Kong Special Administrative Region; and
- (b) Recent developments on Hong Kong's legal and dispute resolution services in the Greater Bay Area ("GBA"), including the GBA Legal Professional Examination and other initiatives.

III. Revamping of the Case Management and Case Accounting System and Knowledge Support System in the Legal Aid Department

(LC Paper No. CB(4)517/20-21(02) - Paper provided by the Administration)

Briefing by the Administration

3. Director of Legal Aid ("DLA") gave a general introduction on the proposed revamp of the Case Management and Case Accounting System and its related Knowledge Support System of the Legal Aid Department ("LAD") ("LAD's systems"). Assistant Principal Legal Aid Counsel (Legal Management and Support Section) ("APLAC(LMS)") then briefed members on the justifications for and the improvements that the proposed revamp of LAD's systems would bring about.

Views of the Hong Kong Bar Association

4. Mr Azan Aziz MARWAH of the Hong Kong Bar Association ("the Bar Association") expressed that the Bar Association fully supported the proposed revamp of LAD's systems. He said that the LAD's systems had been woefully out-of-date and updating was gravely required not just to automate and make improvement, but to maintain the current service quality. Mr MARWAH pointed out that, owing to the outdated systems, assignment of legal aid cases and decision making were considerably delayed which contributed to delays in court proceedings and increasing costs and sufferings to the general public, and the legal profession was suffering from the delays in the preparation of bills of costs and payments. The Bar Association took the view that the proposed revamp of LAD's systems would not only bring about

cost-saving, but also improvement to the lives of the legally aided persons and the litigants, and to the administration of justice in Hong Kong.

Declaration of interest

5. The Chairman and Mr Holden CHOW declared that some other lawyers in their respective law firms handled legal aid cases, but they themselves had no involvement in any of those cases. Ms YUNG Hoi-yan declared that she was a counsel on the Legal Aid Panel ("LA Panel") but was not handling any legal aid assignment at the moment.

Discussion

Distribution of legal aid assignments

6. Ms YUNG Hoi-yan had received complaints about the uneven distribution of legal aid assignments to counsel or solicitors on LA Panel ("the legal aid lawyers"), including those relating to the social events in 2019. She pointed out that while the more experienced legal aid lawyers would normally have a better chance of being assigned with legal aid assignments, the defendants in cases relating to the social events in 2019 might also incline to select lawyers having similar political orientations to theirs. Ms YUNG said that the above had led to the uneven distribution of legal aid assignments and enquired whether LAD's systems could provide information to see whether such a disproportionate distribution of legal assignments did exist.

7. DLA explained that section 13 of the Legal Aid Ordinance (Cap. 91) explicitly provided that DLA might assign counsel or solicitor to be selected by the aided person if he/she so desires, or selected by DLA. However, the nomination of legal aid lawyers by the aided persons were not final and might be overridden if the relevant criteria set down by LAD could not be met. The criteria included, for example, the number of cases handled by the legal aid lawyer selected in the past three years in areas relevant to the legal aid cases to be assigned, whether the lawyer selected had any adverse performance records in handling legal aid assignments, and whether the number of assignments handled had exceeded the limit laid down by LAD.

Admin 8. DLA further explained that in general, the number of cases handled by a legal aid lawyer should not exceed 20 to 25 in a 12-month period unless in exceptional circumstances. In response to Ms YUNG Hoi-yan's request for statistics on the distribution of legal aid assignments to individual counsel or solicitor, DLA undertook to provide the following supplementary information

to the Panel: in each of the past five years, the number of legal aid assignments of each of the top 20 counsel or solicitors who received the greatest number of legal aid assignments from LAD.

Aided persons receiving other financial support

9. Mr Holden CHOW noted that the legal aid applications of some defendants in cases relating to the social events of 2019 had been approved and assigned with legal aid lawyers but, at the same time, they were represented by counsel engaged through other financial support, e.g. the 612 Humanitarian Relief Fund. He enquired whether DLA was aware of the situation and if it was against the legal aid policy.

10. In response, DLA explained on the situations where an aided person might be represented by more than one counsel. In accordance with section 13(2) of Cap. 91, DLA might decide whether two counsel should be assigned to an aided person depending on the difficulties or importance of the proceedings. On the other hand, it was a longstanding practice whereby practicing barristers might, at their own expenses, dispatch the junior counsel from their chambers to assist them with a view to enriching the junior counsel's experience in criminal litigation, which was acceptable as it would contribute to the training and development of legal professionals. The junior counsel was not assigned by LAD and would not receive any payment from LAD, and their involvement in the case in this manner would require the Court's approval.

11. Ms Elizabeth QUAT enquired whether the financial provision received by the aided person for hiring additional counsel would be counted towards the financial resources available to him/her so that it might affect his financial eligibility for legal aid, and whether the LAD's systems could keep track of the financial resources available to the legal aid applicants. DLA said that any monetary donation received by the legal aid applicants, whether it was for the engagement of legal representatives or for other purposes, would be taken into account by LAD in assessing whether the financial eligibility limit for legal aid had been exceeded.

Legal aid for judicial review cases

12. Ms Elizabeth QUAT said that according to the merits test conducted by LAD on legal aid applications, an application would only be approved if the case had a reasonable chance of success. However, she noted that some legal aid applications were made for challenging government's decisions regarding public works projects by way of judicial review ("JR"), and these JR cases had a low success rates. Ms QUAT queried why, notwithstanding the above, LAD

had approved so many legal aid applications for JR. In reply, DLA said that it was a rather common misconception that LAD had approved many JR-related legal aid applications while, in fact, only about 5% of such applications had been approved and the annual costs incurred only accounted for about 4% of LAD's annual expenditure, i.e. around \$30 million on average for each of the past 5 years.

13. Mrs Regina IP quoted two JR cases dismissed by the courts and the courts' comments that these cases were not arguable and without merits. She urged that LAD should be more stringent in screening legal aid applications. In response, DLA said that the first example quoted by Mrs IP had not received any legal aid and, in fact, the applicant had been banned from applying for legal aid for three years on the ground of his abuse of the legal aid system. For the second example quoted, DLA confirmed that the case was first rejected by LAD but was granted legal aid after the applicant's successful appeal. He also stressed that LAD would keep on assessing every legal aid application thoroughly to ensure the prudent use of legal aid resources.

14. Ms Elizabeth QUAT expressed concerns about the legal aid granted to non-refoulement ("NR") claimants seeking to challenge decisions over their claims by way of JR. She said that there were complaints alleging that some lawyers, who previously provided pro bono legal services to certain NR claimants, had solicited the NR claimants to seek legal aid. After the legal aid was granted, such lawyers who were also legal aid lawyers on the LA Panel had, by their advantageous relationship with the aided persons, been selected by the latter as their legal representatives. Ms QUAT enquired whether LAD was aware of such situation.

15. In response, DLA said that legal aid applications relating to JR cases raised by NR claimants were rare, and the applications approved were even rarer. He said that in 2017 and 2018, only 10 out of 841 cases and 37 out of 1 380 cases were granted legal aid respectively. Also, only 63 cases were approved in 2019. Meanwhile, the effectiveness of LAD's merits test was also demonstrated by the fact that in the past few years, the success rates of JR cases receiving legal aid were ranged between 40% and 70%. As regards members' concerns about champerty, DLA said that LAD would endeavour to safeguard against champerty by screening legal aid applications to ensure that legal aid was granted only when the application passed the means test and merits test, and independent legal advice by outside counsel would be sought. Upon being granted with legal aid, the applicant would also be required to confirm in writing that the legal aid lawyer was chosen on free will. DLA stressed that if any conflict of interest was observed after the legal aid assignment was made, LAD would reassign the case to another legal aid lawyer.

16. In concluding the discussion, the Chairman said that the Panel supported the submission of the financial proposal to the Finance Committee.

IV. Advancing the rule of law: Empowering youths and enriching young legal practitioners

(LC Paper No. CB(4)517/20-21(03) - Paper provided by the Administration)

Briefing by the Administration

17. Commissioner, Inclusive Dispute Avoidance and Resolution Office of the Department of Justice ("C/IDAR") briefed members on the range of work and programmes to empower youths in advancing the rule of law and enriching young legal and dispute resolution practitioners for professional development.

Views of The Hong Kong Law Society

18. Mr Roden TONG of The Law Society of Hong Kong ("the Law Society") briefed members on the Law Society's initiatives in promoting rule of law to the youths of Hong Kong over the last decade, including the "Teen Talk" held every year since 2009 and the arrangement for students to attend the Moot Court Competition at the Court of First Instance in 2016 and 2017. The Law Society had also facilitated a mock council debate at the Legislative Council Complex in 2018, organized seminars on the Constitution of the People's Republic of China ("the Constitution") and the Basic Law in 2017, 2018 and 2020; and for this year was planning to hold guided tours to the seven disciplined services of the Government with a view to cultivating a right concept of rule of law.

19. Mr Calvin CHENG of the Law Society briefed members on the work of the Law Society's Young Solicitors' Group ("YSG") whose mission was to promote communications between junior and veteran solicitors and between the legal profession and other professions. YSG had launched a pilot committee sit-in programme for junior solicitors to participate in the Law Society's affairs, and was organizing an annual programme named "Connected" to facilitate in-depth exchange between solicitors of different generations.

20. Ms Careen WONG of the Law Society followed by saying that the Law Society had been offering a variety of training programmes and courses to address the career development needs of solicitors. There were core courses for trainee solicitors, Continuing Professional Development courses for of all solicitors especially the junior ones, and risk management courses which were

required by all practising solicitors. Ms WONG said that the Law Society looked forward to collaborating with the Department of Justice ("DoJ") in providing new training initiatives to empower young solicitors.

Views of the Bar Association

21. On behalf of the Bar Association, Ms Isabel TAM expressed its views on the enhanced Understudy Programme and the Pilot Professional Exchange Programme ("PPE Programme") launched by DoJ. She said that, in the interest of transparency, more information should be released about the programmes including the number of counsel and solicitors who had been selected to participate, the criteria for selecting the participants and how the selection processes were handled. The Administration should also recruit across different law firms and chambers in order to ensure diversity of participants in these programmes. As regards the Understudy Programme, the Bar Association considered it important for a fair fee structure be adopted with a review mechanism to ensure that the fees paid to the participants was reasonable, commensurate with the efforts put in by them, and reflective of their professional endeavours.

Discussion

Advancing the rule of law among students

22. Ms Elizabeth QUAT and Dr Junius HO expressed support for the school programmes initiated by the Administration, and enquired how the effectiveness of such programmes would be evaluated.

23. In response, C/IDAR said that one way of reviewing the effectiveness of these programmes was by looking at the relevant indicators such as the number of schools and students participating as well as the feedbacks from them. For the Pilot Scheme on Rule of Law Education for Secondary School Students which was developed in collaboration with the Hong Kong Policy Research Institute ("HKPRI") ("the Pilot Scheme"), a systematic mechanism for evaluation had been built into the scheme. Under the Pilot Scheme, rule of law activities would be conducted to all Form 1 and Form 4 students in the participating secondary schools. The information collected before and after the Pilot Scheme would facilitate to assess whether these students' understanding of rule-of-law had been enhanced.

24. Ms Elizabeth QUAT enquired why university students were not included in any programme to enhance the understanding of the rule of law. In response, C/IDAR explained that while the programmes were not

specifically designed for university students, who were usually busy and may not have time to participate, there were activities that they could join to enhance their understanding about the rule of law, such as exchange programme for participation in international courts.

25. Ms Elizabeth QUAT was concerned about the progress of rolling out the "Rule of law through drama" to primary schools while Ms YUNG Hoi-yan expressed concerns about the effectiveness of such a programme which was unidirectional with little interaction with the audiences.

26. The Chairman requested the Administration to take note of the various concerns raised by members regarding the school programmes.

Collaboration with the legal professional bodies and other organizations

27. Ms YUNG Hoi-yan said that some local organizations had expressed their wish to provide training to their staff on the Constitution, the Basic Law and the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region ("the National Security Law"), and had requested for assistance in providing such training. While understanding that DoJ might not be able to entertain all such requests on its own, Ms YUNG urged that it should engage the assistance of legal professionals through collaboration with the two legal professional bodies to conduct training to the general public. However, Ms YUNG criticized the Administration for its scanty support rendered to legal professionals, such as the provision of training materials as well as training them as trainers on the relevant subjects.

28. Dr Junius HO commended the Law Society for organizing the "Teen Talk" every year since 2009 to advance the understanding of the rule of law among youngsters. He said that the Bar Association could also contribute more to the promotion of the rule of law if it was not so much occupied by other politically contentious matters. Dr HO suggested that DoJ should collaborate with the two legal professional bodies, rallying support from their large number of legal professionals to carry out those programmes for empowering youths in advancing the rule of law, and concentrated on other equally important tasks.

29. In response, C/IDAR said that the Administration was committed to educating the public for a proper understanding of the Constitution, Basic Law and the National Security Law and had been taking forward the matter through a multi-pronged approach. Besides the two legal professional bodies, DoJ had also collaborated with other non-government organizations, including the

HKPRI in the launching of the Pilot Scheme, the Basic Law Foundation and the Endeavour Education Centre in providing e-resources on the relevant subjects through their websites to the general public.

30. Referring to the remarks made by Mr Paul Harris, SC, Chairman of the Bar Association, which were critical and suspicious towards the National Security Law, Ms Elizabeth QUAT queried whether there could be a genuine collaboration between the Administration and the Bar Association. Ms YUNG Hoi-yan expressed that many barristers cherished opportunities to strengthen mutual exchanges with the Mainland but the Bar Association had not facilitated its members with such opportunities in recent years. The Chairman invited Ms Isabel TAM to take note of members' comments and reflect them to the Bar Association.

Educational materials and resources for advancing the rule of law

31. Mr Holden CHOW enquired how the Administration could ensure the accuracy of the contents of the educational materials and resources, including on-line resources, on the Basic Law, the Constitution and the National Security Law taught and communicated by the legal professional bodies and the above-mentioned organizations. C/IDAR replied that all such educational materials and resources provided by DoJ and other bodies in collaboration with DoJ would be checked by DoJ before publication, and would be subject to amendment where necessary, to ensure that the contents were accurate and positive.

32. Ms YUNG Hoi-yan welcomed DoJ's planned publication of the proceedings of the Basic Law 30th Anniversary Legal Summit ("the Legal Summit") and the drafting materials of the Basic Law collated by DoJ, but considered it too late to publish in 2022. C/IDAR clarified that, while the latter would be published in 2022 with the 25th Anniversary of the establishment of the Hong Kong Special Administration Region ("HKSAR") in view, the proceedings of the Legal Summit was scheduled to be published sooner in 2021.

Roles of the Secretary for Justice and the Department of Justice in defending the rule of law of Hong Kong

33. Whilst supporting DoJ's initiatives proposed to empower youths in advancing the rule of law and enriching young legal practitioners for professional development, Mr Holden CHOW considered that it was a more important duty for the Secretary for Justice ("SJ") and DoJ to defend the reputation of Hong Kong in respect of its rule of law which was under assault

by some foreign governments and politicians. Mr CHOW said that, in response to their smearing of Hong Kong, in particular the National Security Law, DoJ should swiftly counter those false allegations and rebuke their malicious acts of interfering with Hong Kong's judicial process.

34. Ms Elizabeth QUAT pointed out that more than 10 000 arrestees relating to the social events of 2019 were youngsters and the fact had clearly exposed the feeble law-biding awareness among them. She attributed this to the perverted concept about rule of law advocated by some local political figures, including veteran legal professionals, such as "justice law-breaking", "criminal records enrich one's life", "violence might solve problem at times", etc, over the years. Ms QUAT urged the Administration to speak sternly and righteously against such preposterous remarks and rebuff any perverted concepts of the rule of law to protect the youths from being intoxicated.

35. Dr Junius HO said that the Administration should harness the support of the two legal professional bodies through collaboration with and delegate more tasks to them as they had been promoting the rule of law among the youths. Dr HO urged the Administration, DoJ in particular, to focus its efforts on other core tasks which were also having a pressing need, such as enacting legislation on Article 23 of the Basic Law, educating the public on the National Security Law, legislating against fake news, and conducting proper screening on the conduct of potential barristers and solicitors to be admitted.

Enriching young legal and dispute resolution practitioners for professional development

36. Mr CHUNG Kwok-pan asked the views of the two legal professional bodies regarding how the Administration's initiatives would contribute to Hong Kong lawyers practising in Mainland. Ms Careen WONG said that at present, Hong Kong lawyers might be appointed by Mainland law firms as consultants but could only advise on legal matters related to Hong Kong. By completing the Greater Bay Area Legal Professional Examination and acquiring the requisite knowledge of Mainland laws, Hong Kong lawyers would be able to practise in the Mainland.

37. Mr CHUNG Kwok-pan further enquired about how exchanges and training on Mainland law, in particular the series of seminars titled "Adjudicating with Common Law Concepts", could benefit Hong Kong's law practices. In reply, Ms Careen WONG said that with increasing need for cross-boundary legal and dispute resolution services, the Law Society envisioned that legal professionals well versed in both legal systems would be advantageous and therefore supported the seminars as beneficial to lawyers in

both Hong Kong and Mainland. Ms WONG further said that the Law Society had also organized small-scale forums for collaborating with Mainland lawyers to tackle specific legal issues of concern to both jurisdictions, such as estates and property transactions.

V. Proposed creation of one supernumerary post of Deputy Principal Government Counsel and one supernumerary post of Assistant Principal Government Counsel in the Rule of Law Unit of the Inclusive Dispute Avoidance and Resolution Office of the Department of Justice

(LC Paper No. CB(4)517/20-21(04) - Paper provided by the Administration)

Briefing by the Administration

38. C/IDAR briefed members on the proposal to create one supernumerary post of Deputy Principal Government Counsel ("DPGC") and one supernumerary post of Assistant Principal Government Counsel ("APGC") in the Rule of Law Unit ("ROLU") of the Inclusive Dispute Avoidance and Resolution Office ("IDAR Office") of DoJ ("the Proposal").

Discussion

Justifications and financial implications of the Proposal

39. Dr Junius HO expressed strong reservation on the necessity of the two supernumerary posts as proposed in the Proposal. He remarked that advancing the rule of law should have been a duty of SJ and, under her direct steer, there should be sufficient manpower in DoJ to take forward the measures for promoting the rule of law without the need of creating new posts, which was a waste of public money. Dr HO also reiterated his view that DoJ should delegate the tasks of promoting the rule of law among youngsters to the two legal professional bodies since they, especially the Law Society, had on-going initiatives for the same cause and this would help save the high staff costs required. Therefore, he would not support the Proposal.

40. Mr Holden CHOW shared the views of Dr Junius HO and stated that he would not support the Proposal unless more concrete plans to be carried out by the proposed supernumerary DPGC and APGC posts were provided, and urged for the provision of more details on the planned initiatives.

41. Ms Elizabeth QUAT expressed that the Administration's paper was vague, deficient in a detailed job specifications and work plan for the proposed

supernumerary posts. She considered that the duties for the proposed posts as mentioned in the Administration's paper such as the Hong Kong Legal Week, COVID-19 Online Dispute Resolution Scheme, LawTech Fund and exploration of a Hong Kong Legal Cloud, etc. were either on-going initiatives being undertaken by IDAR Office or those which could be outsourced. In view of the financial hardship facing the community and the Administration's pledge to zero growth in the civil service establishment, Ms QUAT said that she would not support the Proposal unless the Administration could provide supplementary information with more convincing justifications.

42. Ms YUNG Hoi-yan said that if the proposed posts were approved, it was very likely that additional posts of support staff would need to be created to support the work of ROLU which would generate additional staff costs not fully reflected in the Proposal. She requested the Administration to provide more detailed information on the manpower arrangement of the ongoing initiatives of IDAR Office.

43. In response to members' views and concerns, C/IDAR explained that the six existing staff at IDAR Office had already been fully occupied by the existing duties in the areas of dispute avoidance and resolution, including those duties mentioned by Ms QUAT. As IDAR Office would have an additional portfolio on rule of law work, such as the Rule of Law Congress, signature rule of law youth engagement events, and research and data collection in relation to the rule of law, notwithstanding that some of the tasks had been commenced with limited resources, there was a genuine and imminent need to create the proposed directorate posts in the long term.

Roles of the Department of Justice and the Secretary for Justice in advancing the rule of law

44. Ms YUNG Hoi-yan said that promoting the development of rule of law in Hong Kong should be a core mission of SJ and DoJ and it was ludicrous that DoJ would consider it necessary to set up a new unit, i.e. ROLU for that purpose, and with just two supernumerary directorate posts to be created. Ms YUNG cast doubt on the connection between the Proposal and advancing the rule of law or elevating the international rule of law rankings of Hong Kong.

45. Ms YUNG Hoi-yan queried whether the probably biased perception held by foreign governments and organizations as reflected in the international rule of law rankings would be rectified by simply setting up a unit on rule of law, and whether a quantitative assessment of the rule of law was really feasible. Ms YUNG also reckoned that the collation of relevant data for the setting up a dedicated database for the assessment of rule of law, which was

also one of ROLU's tasks, should be outsourced to an external agent (e.g. a think tank or research institute) as this approach would be less costly and more cost-effective.

46. Mr Holden CHOW considered that, instead of making effort to collect and analyze data for disputing the probably biased assessment of rule of law ranking on Hong Kong, the Administration should be more vehement in refuting the unfair and unfounded allegations made behind such assessment. Mr CHOW said that such allegations had been made to intentionally undermine and discredit the rule of law and the principle of "One Country, Two Systems" in Hong Kong and could not be simply rejected on rational grounds. Therefore, He expressed doubts about how the Proposal could achieve such purposes.

(At about 6:28 pm, the Chairman directed that the meeting originally scheduled to end at 6:30 pm, be extended for 15 minutes to 6:45 pm.)

47. Dr Junius HO pointed out that matters relating to the smearing of Hong Kong's rule of law or the National Security Law by foreign governments and politicians were foreign affairs of HKSAR for which the Central People's Government shall be responsible for. In this connection, Dr HO strongly urged the Administration to keep in step with the directives or responses of the Ministry of Foreign Affairs of the People's Republic of China on relevant matters with a view to acting more effectively at the international level.

48. Ms Elizabeth QUAT reiterated her criticism made earlier at the meeting against the Administration's passivity and failure to refute the perverted concepts of the rule of law such as "justice law-breaking", "criminal records enrich one's life", "violence might solve problem at times", etc. and the negative commentary of the Chairman of the Bar Association on the National Security Law. Ms QUAT urged that the Administration should review its existing work on upholding the rule of law. Dr Junius HO also called on SJ, as the legal advisor of the HKSAR Government, to attach greater importance to refuting these statements and addressing the issues on "fake news" or "fake reporters".

49. The Chairman concluded that members did not support submission of the Proposal to the Establishment Subcommittee for the time being. He invited the Administration to take note of members' views and concerns regarding the Proposal and provide supplementary information if it wished to obtain the support of the Panel on the Proposal accordingly.

Admin

50. C/IDAR undertook to provide additional justifications with detailed work plans for the two supernumerary posts and the reasons why the duties for the supernumerary posts could not be absorbed by redeploying existing resources.

VI. Any other business

51. There being no other business, the meeting ended at 6:35 pm.

Council Business Division 4
Legislative Council Secretariat
26 July 2021