

Legislative Council
Panel on Administration of Justice and Legal Services

**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**

(Supplementary Information)

PURPOSE

The Department of Justice (“DoJ”) proposes to create two supernumerary directorate posts in the Inclusive Dispute Avoidance and Resolution Office of the Secretary for Justice’s Office (“SJO”), for a period of five years, namely, one Deputy Principal Government Counsel (“DPGC”) (DL2) and one Assistant Principal Government Counsel (“APGC”) (DL1), and has sought Members’ views at the Panel’s meeting on 1 March 2021¹. In response to Members’ request, this paper aims to provide supplementary information on the aforesaid proposal.

**NECESSITY FOR CREATION OF TWO SUPERNUMERARY
DIRECTORATE POSTS**

2. In the 2019 Policy Address, the Chief Executive supported the launch of “Vision 2030 for Rule of Law” (“Vision 2030”), a visionary initiative which spans over ten years. In the 2020-21 Budget, the Financial Secretary also earmarked about HK\$450 million for the implementation of Vision 2030.

3. To ensure the proper implementation of the initiative which has high-level policy support, it is necessary to immediately create the aforesaid two supernumerary directorate posts of the SJO to be responsible for cross-divisional coordination, planning, supervision, management and implementation of related work initiatives, in order to assist the Secretary for Justice in handling and promoting high-level legal matters relating to the rule of law. The two directorate-level counsel will also closely monitor and evaluate the effectiveness of individual projects in the next five years² for appropriate follow-up actions.

¹ LC Paper No. CB(4)517/20-21(04) (“the First LC Paper”).

² The key performing indicators of the relevant events would include the social visibility and profile, the number of participants and their comments, feedback from international organisations, reputation of attending guests in legal, political, business or other sectors, and the evaluation of the projects or activities by various sectors of the society etc. (to be assessed by way of, for example, collecting feedback on the capacity building activities from stakeholders and participants through surveys and questionnaires, as well as responses and comments from the target audience of various public education activities and the institutions involved. With regard to the Asia-Pacific Economic Cooperation’s fund for capacity building, the DoJ will have to pay attention to the number of project applications for the fund and collect views towards the fund with a view to evaluating its performance and putting forward suggestions for improvement).

4. Having taken into account of the role, functions and nature of work of the two proposed posts, it is difficult to deploy other DoJ or non-DoJ staff to assume their duties. The reasons include:

(1) High-level leadership and decision-making: Only directorate-level counsel with extensive experience and professional knowledge are qualified to handle high-level legal tasks involving cross-divisional (within DoJ) and inter-departmental (within the Government) coordination of work as described below, as well as formulation of overall strategic planning and monitoring of the team's work.

(2) Complicated and difficult legal research: Guidance and supervision by directorate-level counsel with extensive legal knowledge and vision are necessary for both the study of the Task Force on Vision 2030 ("Task Force") and the analysis and professional judgment relating to the dedicated Rule of Law Database ("RoL Database") and international rule of law rankings. Subject to non-interference with the consistency of overall Government policies and depending on the actual division of work for the relevant studies, DoJ may consider engaging external organisations to undertake part of the regional study work. However, it is not possible to outsource the entire research.

(3) Tasks involving internal Government policies should only be undertaken by DoJ personnel: Many tasks under Vision 2030 involve internal coordination within the Government and confidential information (such as discussions and studies by the Task Force). As the relevant work also involves management of huge Government resources, it should be wholly planned and supervised by DoJ and led by experienced directorate-level counsel, and it is inappropriate to outsource such work.

(4) Important directorate-level contact point: The personnel in charge have to maintain constant contact³ and collaborate on behalf of the HKSAR Government with important stakeholders in the Mainland and overseas, the Task Force's experts and academic members, authoritative representatives from the legal, political and business sectors and organisations etc. Such work should only be undertaken by experienced directorate-level counsel and it is not appropriate for such work to be handled by organisations or people outside DoJ.

(5) Existing manpower resources are already fully stretched: The workload of the current directorate-level staff of the DoJ is already stretched to the limit. It is not possible to further redeploy existing manpower resources to continuously cope with the huge workload brought about by the new policies and measures under the Vision 2030 initiatives⁴.

³ DoJ plans to work closely with the United Nations (including the United Nations Economic and Social Commission for Asia and the Pacific), to implement and/or coordinate a number of key activities relating to the rule of law, which includes Hong Kong Legal Week and various signature rule of law engagement events (see paragraphs 20 to 23 of the First LC Paper).

⁴ See paragraph 39 of the First LC Paper for relevant information.

WORK PLAN OF THE TWO PROPOSED DIRECTORATE POSTS

5. Following shows the suggested main work plan of the proposed Deputy Principal Government Counsel and Assistant Principal Government Counsel:

Major Duties		Deputy Principal Government Counsel ⁵	Assistant Principal Government Counsel ⁶
(1)	To oversee and support the Secretariat for the Task Force ⁷	<ul style="list-style-type: none"> • To assist the Task Force to complete large-scale and complex studies within a limited period of time⁸ • To guide the Secretariat's work and carry out the relevant planning and coordination 	<ul style="list-style-type: none"> • To assist in the study of rule of law matters at different levels (for example, objective indicators of the rule of law) • To examine and explore the impact on the rule of law brought about by regional legal traditions, and socio-economic and cultural features in different regions and territories • To plan and coordinate meetings and prepare discussion papers for the Task Force • To oversee the preparation of reports by the Secretariat to the Task Force
(2)	To supervise the establishment of the RoL Database (targeted to be	<ul style="list-style-type: none"> • Responsible for planning how to: <ul style="list-style-type: none"> (a) collect and collate a vast amount of data¹⁰; 	Responsible for ensuring the effective and continuous operation of the RoL Database, leading

⁵ See also Enclosure 1 of the First LC Paper.

⁶ Responsible for the management and implementation of the Vision 2030 initiatives and measures relating to the rule of law, as well as advising the Deputy Principal Government Counsel on various measures and legal research. See also Enclosure 2 of the First LC Paper.

⁷ See paragraphs 13 to 15 and paragraphs 19 to 36 of the First LC Paper.

⁸ The Task Force is responsible for studying and discussing on many complex legal issues, including (1) interpretation of the concept of the rule of law, (2) evaluating the practice of the rule of law in various jurisdictions through objective ways, and (3) the impact of the regional legal traditions, socio-economic and cultural features etc on the practice of rule of law in different regions and territories around the world, with an attempt to adopt a fresh way to assist the governments of various territories to evaluate and improve the rule of law standard domestically. This breakthrough study would differ from several existing international rule of law ranking mechanisms, which are mainly in the form of subjective questionnaires and surveys.

Major Duties	Deputy Principal Government Counsel ⁵	Assistant Principal Government Counsel ⁶
launched in 2021), and its continuous update and management ⁹	<p>(b) analyse the use of various data to evaluate the practice of the rule of law and how such data is compatible with rule of law indicators;</p> <p>(c) study how to improve the data relating to the assessment of the rule of law collected by Government bureaux and departments;</p> <p>(d) advise Hong Kong and share with other territories outside Hong Kong on how objective data can be used to evaluate and improve their practices of rule of law; and</p> <p>(e) follow up on the establishment of the RoL Database and collect views and reactions by the community and the international society in order to evaluate the effectiveness of this project</p> <ul style="list-style-type: none"> • The above work is closely related to the study at item (1), and should be undertaken by the same directorate counsel in order to achieve 	<p>the team to:</p> <ul style="list-style-type: none"> • request data from different organisations and make enquiries; • make professional judgment and decisions on the content of the RoL Database; • analyse and study the data; and • continuously update and manage the RoL Database.

¹⁰ About 120 entities in Hong Kong (including Government bureaux and departments (such as DoJ and the Legal Aid Department), statutory organisations and authoritative bodies) have in possession statistics, information and objective data relating to the practice of rule of law, for example, average processing time of criminal cases, average yearly number of judicial review cases and ratio of Government funding for legal aid to GDP, etc.

⁹ See paragraph 24 of the First LC Paper.

Major Duties		Deputy Principal Government Counsel ⁵	Assistant Principal Government Counsel ⁶
		comprehensive strategic planning and supervision of the team's relevant work	
(3)	To oversee large-scale local and overseas international legal or capacity building activities	<ul style="list-style-type: none"> • In alignment with the Central Government's policies, to continuously and actively participate at the international level and contribute to the activities of the "United Nations' 2030 Agenda for Sustainable Development"¹¹ • To make strategic planning and guidance on a number of large-scale local and overseas international legal or capacity building activities¹² organised or participated by DoJ • To evaluate the effectiveness of the projects and take appropriate follow-up actions 	<ul style="list-style-type: none"> • To assist the Deputy Principal Government Counsel in overseeing the preparation, promotion, implementation, coordination, evaluation of effectiveness the project and follow-up actions of large-scale international legal or capacity building activities
(4)	To enhance public education initiatives to strengthen understanding and practice of the rule	<ul style="list-style-type: none"> • To achieve high-level strategic planning and supervision of the implementation of a series of Hong Kong territory-wide "3Es" 	<ul style="list-style-type: none"> • To implement and execute the relevant policy measures • To represent DoJ or the HKSAR

¹¹ See paragraphs 6 to 10 of the First LC Paper.

¹² For example, (1) The Hague Private International Law Conference Asia Pacific Week, (2) UNCITRAL Judicial Summit, (3) Investment Law and Investment Mediation Training, (4) organizing anti-corruption and rule of law training for countries along the Belt and Road Initiative, (5) overseas seminars to share Hong Kong's experience in the practice of rule of law, (6) promoting the Asia-Pacific Economic Cooperation's fund for capacity building, (7) Hong Kong Legal Week, (8) Inaugural Rule of Law Congress, (9) regularly organizing various signature rule of law engagement events for stakeholders, and (10) other regular promotional activities (for example, the recent "Policies, Strategies and Opportunities" Webinar on Opportunities for Hong Kong's Legal Industry under the "14th Five-Year Plan", and planned promotional activities of Hong Kong as Greater Bay Area's international legal and dispute resolution service centre, etc.). See paragraphs 20 to 23 and 33 to 35 of the First LC Paper for further details.

Major Duties		Deputy Principal Government Counsel ⁵	Assistant Principal Government Counsel ⁶
	of law (the key statistics after the introduction of the relevant projects are shown in the Annex)	<p>public education projects¹³, including</p> <ul style="list-style-type: none"> ➤ supporting or collaborating with various groups and research institutes¹⁴ to promote the correct understanding of the rule of law, the Constitution of the People's Republic of China and the Basic Law at various levels of society through multiple methods (for example, animated short videos, drama, interactive workshops, talks and exposure to international conferences, etc.¹⁵), in an attempt to promote a positive social atmosphere <ul style="list-style-type: none"> • To evaluate the effectiveness of the activities • To decide appropriate follow-up actions 	<p>Government to communicate, liaise and collaborate with different international organisations, local or foreign government officials, and legal, political and business authoritative representatives</p> <ul style="list-style-type: none"> • To assist in evaluating the effectiveness of the projects and ensure the relevant project initiatives are mutually coordinated with the policies of DoJ and HKSAR Government
(5)	To oversee the analysis of the	<ul style="list-style-type: none"> • To oversee the coordination of 	<ul style="list-style-type: none"> • To study relevant international ranking

¹³ The “3Es” projects represent: (1) “Engagement” projects targeting the general public; (2) “Empowerment” projects targeting youths; and (3) “Enrichment” projects targeting professionals.

¹⁴ Such as the Endeavour Education Center Limited, Hong Kong Policy Research Institute, the Basic Law Foundation, and legal professional bodies etc.

¹⁵ See paragraphs 31 to 32 of the First LC Paper. The project also includes the work described in AJLS Panel Paper No. CB(4)517/20-21(03) titled “Advancing the Rule of Law: Empowering youths and enriching young legal practitioners”, and online education resources relating to the rule of law (for example, teaching materials relating to the rule of law, the Constitution of the People's Republic of China and the Basic Law are available at the platforms such as the websites of DoJ, the Endeavour Education Center and the Basic Law Foundation) which target at people from different social stratification (including youths, teachers, professionals, etc.), in order to perform public education work relating to the rule of law in various forms.

Major Duties		Deputy Principal Government Counsel ⁵	Assistant Principal Government Counsel ⁶
	international rule of law rankings of Hong Kong ¹⁶ ; prepare related briefs and analysis reports on the rankings ¹⁷	<p>communication with relevant units of DoJ¹⁸ and other Government bureaux and departments</p> <ul style="list-style-type: none"> To prepare responses of the HKSAR Government / DoJ, and refute any false, distorted or misleading comments on the practice of rule of law in Hong Kong with cogent evidence and objective data¹⁹ 	<p>mechanisms in order to analyse how to improve Hong Kong's relevant policies or systems</p> <ul style="list-style-type: none"> To assist the Deputy Principal Government Counsel to prepare responses or rebuttals for the HKSAR Government / DoJ

6. In view of the large scale of the abovementioned work, its wide scope, the workload involved and the nature of the work, the creation of two supernumerary directorate posts in the DoJ is the only practical way to ensure the Vision 2030 initiative, which spans over a period of ten years, is properly implemented. Otherwise, the capabilities of the HKSAR Government in implementing the policy initiative to enhance Hong Kong's sustainable development of the rule of law and to raise the international profile of Hong Kong will be adversely affected.

ADVICE SOUGHT

7. Subject to Members' views, we will seek endorsement from the Establishment Subcommittee and approval from the Finance Committee accordingly.

Department of Justice
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¹⁶ See paragraphs 28 to 30 of the First LC Paper.

¹⁷ See paragraphs 28 to 30 of the First LC Paper.

¹⁸ For example, the Human Rights Unit of Constitutional and Policy Affairs Division of the DoJ.

¹⁹ The relevant data will derive from the dedicated RoL Database as mentioned above.

DoJ's Public Education Initiatives to
Strengthen the Understanding and Practice of Rule of Law
Key Data of Individual Projects

Projects	Key Data
Teachers: Training sessions relating to the rule of law	It is planned that support will be given for conducting multiple training sessions in the 2021-2022 academic year for about 500 teachers to participate
Secondary and Primary Students: (1) Rule of law education activities and talks (2) Rule of Law through Drama (3) Online Law Quiz Game and Inter-School Law Quiz Competition	(1) It is planned that education activities and talks relating to the rule of law will be organised at around 50 secondary schools, with the number of participating secondary students anticipated to be around 5,000 (2) As there are about 60 participating primary schools currently, it is anticipated that there will be around 100 shows scheduled to take place before March 2022 with around 20,000 participating students (3) The target number of participating students and schools in the 2021-2022 academic year are approximately 3,000 and 50 respectively
e-Resources of the Rule of Law & Basic Law, such as: (1) Studio DoJ (2) Monthly Online Seminars (3) Online resources of teaching materials on rule of law for secondary school students	(1) About 22 episodes of short videos have been uploaded (hit rate of the most viewed episode exceeds 6,000); expect to continue with the production of 60 episodes in the next three years (2) Since February 2021, the number of participating teachers and education workers has been about 200 and the number of participating schools / organisations has been around 40; it is anticipated that there will be around a thousand participants in the 2021-2022 academic year (3) It is anticipated to attract more than a thousand visitors in every quarter