

立法會
Legislative Council

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**LegCo Panel on Constitutional Affairs and
LegCo Panel on Home Affairs**

**Minutes of Joint Meeting
held on Thursday, 4 October 2001 at 8:30 am
in the Conference Room A of the Legislative Council Building**

Members Present : Members of Panel on Constitutional Affairs

- * Hon Andrew WONG Wang-fat, JP (Chairman)
- * Hon Emily LAU Wai-hing, JP (Deputy Chairman)
- Hon James TIEN Pei-chun, GBS, JP
- Hon Margaret NG
- Hon CHEUNG Man-kwong
- Hon HUI Cheung-ching, JP
- Hon Jasper TSANG Yok-sing, JP
- Hon YEUNG Yiu-chung, BBS
- Hon SZETO Wah

Members of Panel on Home Affairs

Hon Andrew CHENG Kar-foo (Chairman)
Hon CHOY So-yuk (Deputy Chairman)
Hon Cyd HO Sau-lan
Hon James TO Kun-sun
Hon Henry WU King-cheong, BBS
Hon Albert CHAN Wai-yip
Hon IP Kwok-him, JP

* Also a member of Panel on Home Affairs

Members : Members of Panel on Constitutional Affairs
Absent

Hon Howard YOUNG, JP
Dr Hon YEUNG Sum
Hon Audrey EU Yuet-mee, SC, JP

Members of Panel on Home Affairs

Hon Albert HO Chun-yan
Hon LAU Wong-fat, GBS, JP
Hon Timothy FOK Tsun-ting, SBS, JP
Dr Hon TANG Siu-tong, JP
Hon WONG Sing-chi

Public Officers : Mr W K LAM, GBS, JP
Attending Secretary for Home Affairs

Ms Shelley LEE, JP
Director of Home Affairs

Mrs Betty FUNG
Deputy Secretary for Home Affairs (2)

Mr Robin IP
Deputy Secretary for Constitutional Affairs (1)

By invitation : District Councils

Mr WU Chor-nam
Chairman
Central & Western

Mr CHAN Tak-chor
Vice Chairman
Central & Western

Mr CHUNG Shu-kun, Christopher
Vice Chairman
Eastern

Mr LAU Wai-wing
Vice Chairman
Kowloon City

Mr CHAN Yuek-sut, Joseph
Chairman
Southern

Mr WAI Kwok-hung
Chairman
Sha Tin

Clerk in Attendance : Mrs Percy MA
Chief Assistant Secretary (2)3

Staff in Attendance : Miss Flora TAI
Chief Assistant Secretary (2)2

Miss Irene MAN
Senior Assistant Secretary (2)9

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I. Election of Chairman

Mr Andrew WONG was elected Chairman of the joint meeting.

II. Meeting with the Administration

(LC Paper No. CB(2)2350/00-01(01) and Report of the Working Group on Review of the Roles and Functions of the District Councils)

2. Secretary for Home Affairs (SHA) advised members that the "Report of the Working Group on the Review of the Roles and Functions of the District Councils" (the Report) was published in July 2001 for consultation. The Administration was considering the comments and suggestions received. Although the period for consultation expired on 10 September 2001, the Administration would take into account the views of LegCo Members before finalising its recommendations.

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Enhancing the functions and powers of District Councils (DCs)

3. The Chairman said that during the Second Reading debate of the Provision of Municipal Services (Reorganization) Bill in December 1999, the Secretary for Constitutional Affairs had undertaken to review and enhance the roles and functions of DCs. Apart from advisory role, the Chairman considered that DCs should be empowered to make decisions in respect of district affairs. However, he was disappointed that the Report was not moving in that direction. He asked whether Article 97 of the Basic Law (BL 97) precluded DCs from having decision-making powers in district affairs or whether the Administration had no intention to delegate such powers to DCs.

4. SHA advised that in the consultation exercise on the review of district organisations conducted in 1998, the majority of the views received were in support of maintaining the current number and structure of DCs. In fact, the recommendations made in the Report sought to enhance the roles and functions of DCs in monitoring the provision, delivery and management of district services and facilities, and to improve the communication between the Government and the DCs. Since the new DCs had only been established for less than two years, it was not appropriate to introduce drastic changes, such as giving DCs the power to make executive decisions on district affairs. The devolution of specific executive functions to 18 district administrative regions in a compact city like Hong Kong would run the risk of fragmenting responsibilities and diminishing efficiency. As regards the interpretation of BL 97, he referred members to the legal advice provided by the Constitutional Affairs Bureau earlier.

5. The Chairman remarked that since the establishment of 18 District Boards (DBs) in 1982, there had been discussions on the question of giving decision-making powers to DBs in district affairs. He expressed dissatisfaction that DCs still remained as advisory bodies after 20 years, despite the fact that the two Municipal Councils were dissolved. He sought comments from the Constitutional Affairs Bureau on its position in the matter.

6. Deputy Secretary for Constitutional Affairs (1) advised that during the Second Reading debate of the Provision of Municipal Services (Reorganization) Bill in December 1999, in response to the request of Members, the Secretary for Constitutional Affairs (SCA) undertook that after the commencement of the first term of DCs in January 2000, the Administration would work in the direction to promote the development of district organisations and consider ways to enhance the roles of District Councils in district affairs and to strengthen their functions. He believed that the recommendations made in the Report were in line with the undertaking given by SCA at that time.

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7. Ms Emily LAU shared the Chairman's view that DCs, being organisations representing the general public, should be vested with substantive power in district administration. According to BL 97, DCs could be established to be consulted by the Government or to be responsible for providing services in such fields as culture, recreation and environmental sanitation. She considered that vesting DCs with substantive power in providing these services was permitted under the Basic Law.

8. SHA said that ever since the establishment of DBs, their roles and functions had been progressively expanded. The recommendations in the Report would further enhance their role in monitoring the provision and delivery of municipal services and facilities. For example, the departments would have to consult DCs in advance on proposed initiatives, measures or projects and their priority. So long as the DCs' views in respect of the design and layout were broadly within the approved budget and did not depart from the territory-wide policies, the departments would take them on board.

9. SHA reiterated that it was not appropriate to introduce fundamental changes to the constitutional role and structure of DCs, since the DCs had only been established for less than two years. The Administration was prepared to enhance the roles and functions of DCs in district affairs progressively and would conduct a further review when it was opportune to do so.

10. Ms Emily LAU asked whether the public had expressed dissatisfaction with the current DCs in the opinion survey conducted by the Administration and the areas with which they were not satisfied. Ms LAU also enquired about the timetable for the future review. SHA said that the issue of the roles and functions of DCs was not covered in the bi-monthly opinion survey conducted by the Home Affairs Bureau (HAB). However, on the basis of the findings of other surveys, the voting rate of past DC elections and public views, the Administration considered that the work of DCs was generally supported by the public.

11. Mr IP Kwok-him said that he had personally visited 13 out of the 18 DCs to consult DC members on the Report. Many DC members considered that the Administration should delegate to DCs the power to provide services in the fields of culture, recreation and environmental sanitation in accordance with BL 97. DC members also emphasised that they had no intention to take over the full range of responsibilities and functions of the former Municipal Councils.

12. SHA advised that the Administration had considered DC members' views in detail during the consultation process. He pointed out that executive functions had to come hand in hand with other administrative and funding arrangements, for example, the former Municipal Councils were established as statutory bodies and

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financially autonomous. They enjoyed a high degree of autonomy in setting policies and utilising resources in the provision of municipal services and facilities. In addition, given the small size of Hong Kong, it might be unacceptable to the public if different policies and practices in district management were adopted by the 18 DCs.

13. Mr James TIEN said that according to his understanding, following the dissolution of the two Municipal Councils, DCs would remain as advisory bodies albeit their scope of functions would be enhanced. However, it was not envisaged that DCs would take over all the functions of the former Municipal Councils.

Recommendations of the Report

14. Mr James TIEN expressed concern as to whether the recommendations in paragraph 2.10(a) to (e) of the Report could be put into full implementation. He made the following comments -

- (a) although additional funding would be allocated to DCs for organising district activities, many of these activities were in fact not organised by DCs at present. For example, the Central & Western DC was mostly responsible for allocation of funding to non-government organisations and other community organisations in organising the activities. If DCs were given sufficient resources, they should organise large-scale activities on their own instead of acting as an agent to distribute the funding;
- (b) it was unsatisfactory that the Policy Secretaries and Head of Departments would only meet DC members at least once within the four-year DC term. He pointed out that the government officials attending DC meetings were often not aware of policy decisions. Sometimes, representatives from different government departments gave contradictory advice; and
- (c) to enhance DC members' participation in the policy-making process, the Administration should consult DCs on any proposed policy initiatives at an early stage.

15. Mr IP Kwok-him expressed concern about the actual implementation of some of the recommendations, for example, consultation with DC members by the Government prior to approving major capital work projects affecting the district. While DC members generally supported the proposal of “one-stop” services, he

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said that they were concerned about the rank of the designated officer providing such services.

16. SHA assured members that the Administration would try its best to implement the recommendations made in the Report. He said that to improve the communication between the Government and DCs, it was proposed that each department should assign a senior officer to provide "one-stop" services for DC members. He also agreed that the Administration would, in the light of past experience, take necessary steps to enhance DC members' participation in the policy-making process.

17. Mr James TIEN considered that the allocation of \$12 million to strengthen support for the 18 DC secretariats insufficient. Director of Home Affairs (DHA) advised that additional funding had been provided to employ extra staff to strengthen support for DCs in the past few years. Subject to LegCo's approval, additional funding had been set aside for HAD/DOs to recruit more staff in 2001-02. In fact, community assistants had been employed on contract basis in recent years to provide additional support to DCs where necessary.

Establishment of consultative committees

18. Mr IP Kwok-him said that most DC members raised objection to the proposal of setting up a consultative committee with DC members appointed as members in each of the 18 districts. SHA said that the Administration would reconsider the proposal in the light of DC members' views.

19. Mr Albert CHAN said that it was totally unacceptable and absurd that the proposal could be regarded as a measure to enhance DCs' role in management of district-based municipal facilities, as the membership and terms of reference of the consultative committees was decided by the Government. Mr CHAN also remarked that civil servants who performed well were usually posted out of the DC secretariats in 1-2 years' time, leaving behind those with less satisfactory performance. Having been a DC member for 16 years, Mr CHAN expressed disappointment at the Administration's increasing disrespect towards DCs and considered that the proposal to set up consultative committees was an insult to DCs.

20. DHA said that she could not agree to Mr Albert CHAN's remark about HAD staff. She emphasised that all staff had done their best to serve DCs irrespective of their years of service in the department.

21. SHA said that most of the recommendations contained in the Report came from DC members and not the Administration, including the proposal to establish

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a consultative committee in each district. The thrust of the recommendations was to enhance the role of DCs and to increase their ability to influence the work of departments at district levels. SHA further said that Mr CHAN's remark might be an insult to DC members.

22. Miss Margaret NG requested SHA to explain in what way had Mr CHAN insulted DC members. She said that according to SHA, Mr Albert CHAN's opposing view to the recommendation made by DC members was considered to be an insult to the DC members. Miss NG asked whether LegCo Members' criticism on or disagreement to any recommendations of the Report would also be regarded as an insult to DC members making the recommendations.

23. Mr CHEUNG Man-kwong said that Mr CHAN had merely stated his view that the Administration's proposal to establish a consultative committee in each district would undermine the roles and functions of DCs and was therefore an insult to DC members. The remark of SHA was unfair to Mr CHAN.

24. SHA explained that Mr Albert CHAN's view on the establishment of the consultative committees was similar to that of Mr IP Kwok-him and some other DC members, and he had already indicated that the Administration would reconsider the matter. His earlier comment was made on the basis of his impression that Mr CHAN considered the recommendations in the Report, which were drawn up in response to DC members' suggestions, not acceptable and not worthy of discussion. However, he admitted that he could have been wrong.

25. In response to further comments made by Mr CHEUNG Man-kwong, SHA said that he was willing to retract the word "insult" and to apologise to Mr Albert CHAN for his earlier remark.

26. In conclusion, the Chairman commented that the development of district administration was a retrogression in democracy. When DBs were established in 1982, one-third of the membership was government officials, one-third was appointed members and one-third elected members. Later in 1985, all official members were withdrawn. In 1994, all DB members were elected members. However, the DCs now had both appointed and elected members. As DBs/DCs had been in operation for over 20 years, he could not agree with the Administration's view that it was inopportune to introduce changes because DCs had only been established for two years.

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III. Meeting with District Council Chairmen and Vice Chairmen

Views of the DC Chairmen and Vice Chairmen on the Report

General

27. DC Chairmen and Deputy Chairmen were of the view that the Report had incorporated most of the suggestions made by DC members in the District Administration Seminar organised by HAD in November 2000. It was undesirable for the consultation period of the Report to be further extended. As over \$100 million had been earmarked for DCs in 2001-02 to enhance the roles and functions of DCs and to strengthen the support for DC members, they hoped that LegCo Members would support early implementation of the recommendations made in the Report.

Other recommendations

28. Mr WU Chor-nam said that certain powers could be delegated to DCs, such as provision of services in culture, recreation and environmental sanitation. However, he was of the view that large-scale programmes should better be co-ordinated by the Government.

29. Mr Joseph CHAN opined that any decision on delegation of decision-making powers to DCs should only be made after an extensive consultation exercise conducted by the Administration and thorough discussion held by LegCo.

30. Mr Christopher CHUNG gave an example to illustrate the difficulties that might be faced by DCs if they were given more powers. He said that although the Government had delegated to DCs the power to approve funding applications made by art bodies, no DC was confident enough to approve the applications because there was no experienced government official in the districts to advise DCs on the subject matter. At present, DCs would normally approve funding applications for small-scale activities. However, he proposed that DCs might be given the power to disapprove certain proposals. For instance, although the Independent Commission Against Corruption had consulted the DC concerned on its intention to construct an office building in North Point, the DC did not have the right to reject the proposal even though the DC was against it. He also pointed out that the Government often consulted DCs on a piecemeal basis instead of giving them the full picture, especially on matters relating to land use and works projects.

31. Mr WAI Kwok-hung pointed out that some DC members had raised objection to the establishment of a consultative committee in each of the 18

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districts and suggested that the committees should be put under the jurisdiction of DCs so as to enhance DCs' role.

32. Mr LAU Wai-wing hoped that the "one-stop" services as proposed could enhance the role of DCs in effective communication between the Government and DCs in various district matters.

33. Mr Christopher CHUNG said that as DC members would like to enhance the functions of DCs, not of individual DC members, establishing the proposed consultative committees outside DCs was undesirable. To enhance the functions of DCs, he suggested that committees such as the ones on fire safety and Clean Hong Kong Campaign should be merged, and DCs could be delegated the power to manage district affairs of the kind.

34. Mr Christopher CHUNG suggested that the Housing Department should consider relaxing the area limit of 35 square metres for DC members' offices in public housing estates. The current limit could not provide privacy for members of the public who approached DC members for assistance in personal and family matters.

Issues raised by members

Joint committee on cultural policies

35. Ms Cyd HO invited views on her proposal of setting up a joint committee of the 18 DC Chairmen on cultural policies.

36. Mr Christopher CHUNG said that the proposal would help processing applications for funding effectively, and save the Administration's time in giving briefings to all 18 DCs. Another way of doing it was to appoint DC members to central committees responsible for approving funding applications.

37. Mr WU Chor-nam said that it would be better for the Government to co-ordinate large-scale activities in major cultural venues such as City Hall and Hong Kong Cultural Centre.

Electoral system for DC election

38. Ms Cyd HO said that under the existing electoral system for the DC election, members of each DC had to serve local interest and to compete for resources. It was difficult for the 18 DCs to reach a consensus on certain issues. She asked whether the proportional representation system should be adopted in

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place of the "single seat, single vote" system for the DC election, since the former would enable DC members to have a macroscopic view in handling district affairs.

39. Mr Christopher CHUNG considered that adopting the proportional representation system might result in DC seats being dominated by political parties with only a small number left for independent members. He was of the view that the issue should be given careful consideration.

40. As a related issue, the Chairman said that if the "single seat, single vote" system was to be retained for the DC election in future, the Administration should consider providing permanent offices in public housing estates for DC members in each district so that any elected members could start work immediately after the election without having to spend time to locate and renovate offices.

Role and structure of DCs

41. Ms Emily LAU asked whether DC members were in support of strengthening the roles and functions of DCs and a reduction in the number of DCs from 18 to a number between three to five.

42. Mr WU Chor-nam indicated that DC members would support measures to enhance the roles and functions of DCs. However, the package of recommendations in the Report should be implemented before any further discussion was held on the matter.

43. Mr Joseph CHAN expressed concern that delegating specific executive functions to the 18 DCs would lead to confusion in district administration. He considered that as a first step, the DCs' functions as advisory bodies should be enhanced. The question of further strengthening the functions and powers of DCs and reducing the number of DCs could be studied at a later stage.

44. Mr LAU Wai-wing concurred with the view of Mr Joseph CHAN and opined that retaining a certain number of appointed seats in DCs was desirable provided the majority of members were returned by direct election. In the light of his past experience in working with the appointed DC members, Mr LAU showed appreciation for their expertise and performance which had contributed a lot to the community.

45. Mr CHAN Tak-chor made two points. First, he said that a reduction in the number of DCs was a controversial issue which required detailed discussion for it would also reduce the number of seats for DC members. Secondly, he said that both LegCo Members and DC members considered that the DCs' roles and functions should be further strengthened, especially in areas like culture,

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recreation and environmental sanitation. However, he was of the view that further enhancement of their roles and functions was difficult to come about if DCs were still labelled as advisory bodies by the Government. Nevertheless, he reiterated that resources support as recommended in the Report should be provided for DCs before further consideration was given to the status of DCs in the entire constitutional framework.

46. Miss Margaret NG said that on the basis of the comments made by the DC Chairmen and Deputy Chairmen, it would appear they were not interested in increasing the roles and functions of DCs, except for early implementation of the recommendations in the Report. In addition, as DCs preferred to rely on the Government in co-ordination of certain district activities, this would also go against the demand of LegCo for the Administration to give more responsibilities and powers to DCs. Miss Margaret NG added that in reviewing the roles and functions of DCs, the Administration should not confine its consideration to the views of DC members, it should also consider the matter from a broader perspective, i.e. what would be the best structure of local representative government for the community.

47. Mr WAI Kwok-hung clarified that DC members were not uninterested in enhancing their district administrative powers. In fact, they had suggested that the proposed consultative committees should be set up within DCs. In addition, to entrust DCs with decision-making powers to provide certain public facilities would also be agreeable to them. However, it would be better for LegCo to follow up the matter with the Administration after implementation of the recommendations in the Report.

48. Mr Christopher CHUNG cautioned that given the small size of the city of Hong Kong, any suggestion to delegate executive functions to DCs could result in different operational modes in the 18 DCs and should be carefully considered. However, the earlier suggestion made by Ms Cyd HO on setting up a joint committee by the 18 DCs was a step forward and could be considered.

49. Miss Margaret NG considered the proposal of setting up a joint committee by the 18 DC Chairmen to discuss issues of mutual interest a workable option and encouraged DCs to follow up. The Chairman pointed out that the joint committee was a co-ordinating body, not an entity with decision-making powers.

50. Mr WU Chor-nam stressed that DCs adopted an open mind on any suggestions to further enhance their roles and functions. However, they were of the view that any concrete proposals could not be arrived at without a constitutional review.

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51. SHA said that the Report had already incorporated a lot of the suggestions made by DC members. For example, to ensure that the views of DCs would be duly considered by the relevant authorities, it was proposed that in respect of major capital projects affecting the district, the bureaux and departments should include DCs as one of their consultation targets and report their views in their submissions to the approving authority. As regards a constitutional review on the roles and functions of DCs, SHA said that this was a complicated matter which warranted further consideration.

Conclusion

52. Mr IP Kwok-him said that in view of the unanimous view expressed by the DC Chairmen and Deputy Chairmen at the meeting, the recommendations in the Report should be implemented as soon as possible. Other relevant issues could be followed up by the relevant Panels as a separate exercise. Mr Albert CHAN suggested that the recommendations not involving legislative amendments could be implemented first, while those relating to legislative amendments or constitutional changes could be further discussed by the relevant Panels.

53. The Chairman thanked the DC Chairmen and Deputy Chairmen for attending the meeting and giving views on the Report. He said that although members considered that the DC review was not comprehensive and that the role of DCs in the constitutional framework should be reviewed, members had no intention to hold up the implementation of the recommendations in the Report.

54. In response to the Chairman's questions, Deputy Secretary for Home Affairs (2) advised that the independent commission established to review the remuneration for DC members had been invited to make recommendations in Autumn. As regards the timetable for implementing the proposed measures in the Report, she advised that subject to the approval of the Finance Committee, the Administration aimed at implementing the recommendations made in the Report, including those to be made by the independent commission, by the end of 2001.

55. Ms Emily LAU requested the Administration to provide information on the terms of reference and membership of the independent commission. Miss Margaret NG requested information on the financial subsidy for DCs. The Administration agreed to revert to the Panels in writing

Adm

(Post-meeting note : The information was circulated to the Panels vide LC Paper No. CB(2)2388/00-01 on 8 October 2001).

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IV. Date of next meeting

56. The Chairman said the Panels would consider what follow up action should be taken after the commencement of the new LegCo session 2001-02.

57. The meeting ended at 10:46 a.m.

Legislative Council Secretariat

6 November 2001