

立法會
Legislative Council

LC Paper No. CB(2)2551/01-02
(These minutes have been seen
by the Administration)

Ref : CB2/PL/HA

LegCo Panel on Home Affairs

Minutes of meeting
held on Friday, 14 June 2002 at 10:45 am
in the Chamber of the Legislative Council Building

- Members Present** :
- Hon IP Kwok-him, JP (Chairman)
 - Hon Andrew CHENG Kar-foo (Deputy Chairman)
 - Dr Hon David CHU Yu-lin, JP
 - Hon Albert HO Chun-yan
 - Hon NG Leung-sing, JP
 - Hon James TO Kun-sun
 - Hon Andrew WONG Wang-fat, JP
 - Hon LAU Wong-fat, GBS, JP
 - Hon CHOY So-yuk
 - Dr Hon TANG Siu-tong, JP
 - Hon Henry WU King-cheong, BBS
 - Hon Tommy CHEUNG Yu-yan, JP
 - Hon Michael MAK Kwok-fung
 - Hon Albert CHAN Wai-yip
 - Hon WONG Sing-chi
- Members Absent** :
- Hon Cyd HO Sau-lan
 - Hon Emily LAU Wai-hing, JP
 - Hon Timothy FOK Tsun-ting, SBS, JP
 - Hon MA Fung-kwok

**Public Officers:
Attending**

Item V

Mr Stephen FISHER
Deputy Secretary for Home Affairs (2)

Mr Kevin YEUNG
Principal Assistant Secretary for Home Affairs (4)

Ms Janet WONG
Deputy Director of Home Affairs (1)

Ms Monica CHEN
Assistant Director of Home Affairs (1)

Item VI

Mr Leo KWAN Wing-wah, JP
Deputy Secretary for Home Affairs (1)

Mr Charles CHAN Kwai-chun
Principal Assistant Secretary for Home Affairs (3)

**Attendance by
Invitation**

: Item V

Heung Yee Kuk

Mr LAM Wai-keung
Vice-Chairman

Mr PANG Hang-yin
Vice-Chairman

Mr Brian KAN Ping-chee
Ex-officio Executive Councillor

Mr CHUNG Wai-ping
Ex-officio Executive Councillor

**Clerk in
Attendance**

: Miss Flora TAI
Chief Assistant Secretary (2)2

Staff in Attendance : Mr Stephen LAM
Assistant Legal Adviser 4
(Item V only)

Miss Lolita SHEK
Senior Assistant Secretary (2)7

I. Confirmation of minutes
[LC Paper No. CB(2)2252/01-02]

The minutes of the meeting held on 23 May 2002 were confirmed.

II. Endorsement of draft report of the Panel to the Legislative Council
[LC Paper No. CB(2)2250/01-02(01)]

2. Members endorsed the draft report.

III. Information paper issued since the last meeting

3. Members noted that no information paper had been issued since the last meeting.

IV. Items for discussion at the next meeting
[Appendices I and II to LC Paper No. CB(2)2250/01-02]

4. Members agreed to discuss the following items at the next regular meeting scheduled for Friday, 12 July 2002 at 10:45 am -

- (a) Review of the regulatory framework under the Amusement Game Centres Ordinance and the way forward for internet computer services centres; and
- (b) Protection of press freedom: the Police's guidelines on media coverage.

The Chairman suggested and members agreed that deputations and academics should be invited to present their views on (b) above at the next meeting.

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5. Mr Andrew CHENG suggested that the Administration should be requested to advise when the consultancy study on the future development of the public libraries would be completed and its report submitted to the Panel for consideration. Members agreed that the issue would be put on the list of discussion items for future meetings.

V. Rural elections

[LC Paper Nos. CB(2)2250/01-02(02) to (04)]

6. Members noted that a submission from Mr Kevin Sinclair on the proposed arrangements for the conduct of Village Representative elections was tabled at the meeting.

(Post-meeting note: the submission from Mr Sinclair was circulated to members vide LC Paper No. CB(2)2317/01-02(01) on 17 June 2002.)

7. At the invitation of the Chairman, the Deputy Secretary for Home Affairs (2) (DS(HA)2) introduced the paper provided by the Administration (LC Paper No. CB(2) 2250/01-02(03)) on the proposed arrangements for the conduct of Village Representative (VR) elections to be held in 2003 and thereafter. He advised that the Administration had drawn up the proposal in accordance with two principles, namely compliance with the requirements of the judgment of the Court of Final Appeal (CFA) delivered on 22 December 2000, as well as protection of the lawful traditional rights and interests of indigenous inhabitants of New Territories (NT).

8. DS(HA)2 informed members that there would be two types of VRs in each village constituency in NT, one or more Indigenous Inhabitants Representatives representing indigenous inhabitants of an indigenous village, and a Residents Representative representing all residents of a village. For the elections for Residents Representatives, the Home Affairs Department (HAD) was drawing up the boundaries for constituencies based on previous elections. The Administration would consult the villagers concerned on the preliminary constituency boundaries in July 2002.

9. DS(HA)2 explained that elections for the Indigenous Inhabitants Representatives were basically elections of the clansmen concerned. A person was not required to reside in the indigenous village concerned to be eligible to be registered as a voter or nominated as a candidate as long as he/she had satisfied the eligibility criteria. There would be registers of voters but no physical boundaries for constituencies. He added that the number of seats for Indigenous Inhabitants Representatives would be determined by the population of indigenous inhabitants in the indigenous village concerned. It was estimated that there were 2 VRs in

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17% of these villages, 3 VRs in 5%, and more than 3 VRs in 1% of the villages. The rest of the villages only had one VR. There would be a total of about 680 Residents Representatives and 780 Indigenous Inhabitants Representatives.

10. DS(HA)2 further advised that the Administration was seeking legal advice on whether the proposal of the arrangements for the conduct of VR elections complied with the requirements of the CFA judgment and the laws of Hong Kong. After the views of the Panel on Home Affairs were sought, the public would be consulted on the preliminary constituency boundaries for the elections in July 2002. A VR Elections Bill would then be introduced into the Legislative Council (LegCo) to provide for the conduct of the elections after the summer recess in 2002.

Meeting with the Heung Yee Kuk (HYK)

11. The Chairman invited views from representatives from HYK on the proposed electoral arrangements. As Chairman of HYK, Mr LAU Wong-fat informed members that HYK had been both shocked and regretful about the judgment of CFA, worrying that it would seriously affect the interests of indigenous inhabitants of NT. Since then, HYK had been liaising with HAD in devising an election system that would, on one hand, protect the traditional rights and interests of indigenous inhabitants, and on the other hand, comply with the CFA judgment. A meeting was held between HAD and chairmen of the Rural Committees (RCs) on 18 May 2001 during which the principles of the election system proposed by the Administration were generally agreed upon. At a meeting on 4 June 2002, HAD consulted the chairmen of RCs on the details of the proposed VR electoral arrangements. There was consensus on the proposals except for several controversial issues. A majority of the chairmen had suggested that the following revisions should be made to the proposed electoral arrangements -

- (a) a person should be required to reside in the village concerned for at least 5 years and 7 years to be qualified to be registered as a voter and nominated as a candidate respectively for a Residents Representative election;
- (b) non-indigenous wives of indigenous inhabitants should be eligible to be registered as voters and vote in the Indigenous Inhabitants Representative elections in the indigenous villages of their husbands, and
- (c) if no eligible candidates were nominated, the seats for VR should be left vacant until the next elections to be conducted 4 years later.

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12. Mr KAN Ping-chee commented that the Administration had been too bureaucratic in handling this issue. He considered that the Administration should visit every village and consult all RC members before drawing up the electoral proposals instead of just meeting with chairmen of RCs. He said that all VRs were volunteers who had been serving villagers in NT without remuneration. Villagers in NT districts such as Sheung Shui had been living in harmony all along under the existing VR system and there was no need for the Government to intervene or regulate VR elections. He accused the Government of pressurising the villagers and the serving VRs, and causing segregation and conflicts among the villagers by introducing non-indigenous Residents Representatives to manage the affairs of indigenous inhabitants under the new election system.

13. Mr KAN Ping-chee further pointed out that the proposed election system would give rise to conflicts in families of indigenous inhabitants if their non-indigenous wives would no longer be eligible to vote in the elections for Indigenous Inhabitants Representatives in their husbands' villages. He criticised such an arrangement as extremely unreasonable.

14. Sharing the views of Mr LAU Wong-fat and Mr KAN Ping-chee, Mr CHUNG Wai-ping remarked that the split of the original indigenous VR post into two types of VRs had remained to be an extremely controversial issue among the NT inhabitants. Equally controversial was the deprivation of the voting right of spouse of the male indigenous inhabitants in the elections for Indigenous Inhabitants Representatives under the proposed system. He pointed out that this contradicted the traditions of the indigenous inhabitants and might have serious implications on the rights of the latter in areas such as inheritance and exemption from government rent. He, however, clarified that consultation was being conducted by the Government in the villages in the Tsuen Wan District on the proposed election system.

15. Mr PANG Hang-yin echoed that although the indigenous inhabitants had considered the CFA judgment as extremely erroneous, they would respect it and had prepared to accept it. However, the electoral arrangements proposed by the Administration were extremely confusing and might give rise to conflicts between indigenous and non-indigenous villagers as well as among the family members of the former. He considered that the elections for VRs should not be perceived as important and be regulated as strictly as such since neither actual power nor remuneration was attached to the posts of VR. He urged that in introducing changes to VR elections, the Government should also take into account the history and traditions of indigenous villages, apart from the Bill of Rights.

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16. In response to the question from Mr Michael MAK on the relationship between indigenous and non-indigenous inhabitants, Mr KAN Ping-chee informed members that the two types of inhabitants had been living very harmoniously together. Mr PANG Hang-yin also confirmed that the six hundred or more families of non-indigenous in his village had integrated into the village community very well. There had never been complaints from them or fights for rights to vote or stand as candidates for VR elections.

17. On the voting right of spouse of indigenous inhabitants, the Chairman sought clarification whether there was same treatment for both sexes according to the traditions in indigenous villages. Mr CHUNG Wai-ping explained that wives of indigenous inhabitants were accepted as members of their husbands' clans even though they were non-indigenous inhabitants. However, non-indigenous husbands of female indigenous inhabitants would not be considered as such unless they had taken up the family name of their wives. As a result, non-indigenous women married to indigenous inhabitants had the right to vote, whereas non-indigenous men married to indigenous inhabitants were excluded from voting in the VR election in their residing village.

Discussion with the Administration

Residency requirements for voters and candidates for Residents Representative elections

18. Mr Andrew CHENG opined that the proposed residency requirements of 3 years and 5 years in the constituencies concerned for voters and candidates respectively were too high and unfair to non-indigenous inhabitants. He cautioned that these requirements might become a cause for complaint and be challenged as contravening the Bill of Rights. While acknowledging that there might be a need to set requirements on the length of residence for voters and candidates to prevent corruptive practices in VR elections, he pointed out that since the elections would be subject to the Corrupt and Illegal Practices Ordinance, the residency requirements could be lowered.

19. DS(HA)2 explained that the residency requirements might help ensure that a Residents Representative had a sense of belonging to the constituency, and thorough knowledge of the village as well as the villagers he/she represented. The requirements would also help to prevent corrupt practices in the elections. DS(HA)2 advised that HYK had, in fact, proposed residency requirements of 5 years and 7 years for voters and candidates respectively. However, the Administration had considered their proposed requirements too harsh as it believed that a resident should at least be eligible to vote in the second election of VRs, if satisfied all other eligibility criteria, after he/she moved in a particular

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village. Three years were therefore considered the appropriate length of residence required of voters in their constituencies. DS(HA)2 stressed that the present proposed requirements had been a considered decision and not a scientific one. He added that from a legal point of view, the proposed eligibility criteria would be considered appropriate and acceptable as long as they were reasonable, fair and applied to both indigenous and non-indigenous inhabitants.

20. Mr Andrew CHENG remained of the view that the proposed residency requirements should be lowered. He considered that as an advanced city experienced in democratic elections, Hong Kong should leave its voters with the discretion whether to vote for candidates who had only resided in their villages for a period of less than 5 years as their VRs.

21. Supporting the views of Mr Andrew CHENG, Mr Albert CHAN pointed out that no similar additional residency requirement had been set for voters in other elections in Hong Kong. He added that members of owners' corporations (OCs) or management committees (MCs) of private buildings, who were entrusted with the power to act on behalf of owners of the buildings on building management matters under the Building Management Ordinance, were not required to actually reside in the buildings concerned. Similarly, no minimum length of residence was required of members of mutual aid committees of public housing estates. Mr CHAN considered that the proposed residency requirements were contradictory to the practices of VR elections which allowed an indigenous inhabitant not residing in the village to vote and be nominated as a candidate there.

22. DS(HA)2 responded that VR elections were not comparable with those of OCs or MCs. He pointed out that unless a person had resided in a particular village for several years, he/she would not be able to possess thorough knowledge of both the village and the villagers to be qualified as a voter or candidate for VR elections. The proposed residency requirements were considered fair and reasonable in that it applied to all inhabitants in the villages.

23. Mr Michael MAK suggested that extensive consultation should be conducted on the proposed residency criteria, especially with non-indigenous inhabitants. He asked how the 3-year residence required of a voter was to be counted and whether voters would be required to actually reside in their constituencies. He pointed out that some indigenous villagers might have moved out of their villages and hence were less concerned about the affairs and developments there than those non-indigenous inhabitants who actually resided in the villages. He also requested for information on the number of indigenous inhabitants of NT.

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24. DS(HA)2 clarified that a person would be eligible to be registered as a voter if he/she had ordinarily resided in a constituency for at least 3 years immediately preceding the date of his/her application to be registered as a voter. In response to a further remark from Mr MAK that the residential address reported on the voter registration form might not be the principal residence of the voter, DS(HA)2 said that a person was required to so declare on the registration form and would be subject to criminal liabilities if he/she was found to have provided false information on the form. He added that the provisional registers of voters would be posted in the villages and villagers might identify and report to the government voters who did not actually reside in the village concerned. DS(HA)2 undertook to provide statistics on indigenous inhabitants after the meeting.

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25. Mr Andrew WONG declared interest as the Ex-officio Executive Councillor of HYK in his capacity as a Justice of the Peace of NT. He requested the Administration to clarify whether "村長" and VR referred to the same post. He also sought clarification whether the principle of ordinarily residence would be adopted in determining the eligibility of voters and candidates for VR elections as in other election ordinances.

26. In response, DS(HA)2 informed members that there was no such post as "村長" which was just a traditional name for VR. Under the proposed system, there would be two types of VRs, the Indigenous Inhabitants Representatives and Residents Representatives. As regards the residence of voters and candidates, DS(HA)2 clarified that the residence reported by a voter or candidate in a VR election had to be his/her principal residence. He further advised that from past experience, temporary absence from Hong Kong would not normally affect the eligibility of voters or candidates but it would be up to the Court to decide.

27. Dr TANG Siu-tong also declared interest as an indigenous inhabitant and Ex-officio Executive Councillor of HYK in his capacity as a Justice of the Peace of NT. He said that he was supportive of setting a requirement on the minimum length of residence in the constituencies for both voters or candidates for VR elections.

Voting right of spouse of indigenous inhabitants

28. On the voting right of spouse of indigenous inhabitants, Mr WONG Sing-chi said that he supported the views of the representatives from HYK. He commented that the proposed electoral arrangements might have an element of sexual discrimination under which non-indigenous wives of indigenous inhabitants would be deprived of the right to vote in the elections for Indigenous Inhabitants Representatives in their husbands' villages whereas their children would be able to enjoy such rights. On the other hand, the proposal also discriminated against

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children of female indigenous inhabitants married to non-indigenous inhabitants by depriving them the right to vote in VR elections.

29. In reply, DS(HA)2 said that it was very clear from the CFA judgment that the existing VR electoral arrangements were inconsistent with the Bill of Rights and the Sex Discrimination Ordinance. CFA had ruled in December 2000 that the Secretary for Home Affairs, in deciding whether to approve an elected VR, had to consider whether the person had been elected in accordance with electoral arrangements that were consistent with these relevant laws. In view of this, the Administration was of the view that equal treatment in voting right should be given to the spouse of both male and female indigenous inhabitants. If wives of indigenous inhabitants had voting right in the election of Indigenous Inhabitants Representative in their residing village, husbands of indigenous inhabitants should enjoy the same right. However, HYK did not agree to this principle.

30. Both Mr Andrew WONG and Dr TANG Siu-tong pointed out that the issue of the rights of spouse of indigenous inhabitants was a very complicated issue and might need a long time to tackle. Mr WONG added that according to the traditions in indigenous villages, wives of indigenous inhabitants would be able to enjoy certain traditional rights such as burial right. He agreed with Mr CHUNG Wai-ping that the proposed electoral arrangements might have implications on these rights. DS(HA)2 reiterated that voting right was not a kind of traditional rights of indigenous inhabitants protected under BL40 and should therefore be subject to the Bill of Rights.

Roles of Indigenous Inhabitants Representatives and Residents Representatives

31. Mr Andrew CHENG pointed out that there might be an overlap in the functions of the two types of VRs. He asked how duties and responsibilities could be distributed between VRs properly and legally to minimise possible disputes.

32. Sharing the same concern, Mr Albert HO remarked that since there were different interests in the same village, there would bound to be disputes among the villagers that need to be resolved by VRs. He cited as an example conflicts that might arise between non-indigenous and indigenous inhabitants when the former supported a new development project in the village while the latter believed that the project might be in conflict with the "fung shui" of the village. Mr HO added that more problems would arise if the non-indigenous inhabitants had outnumbered the indigenous inhabitants in the village or when many of the indigenous inhabitants had moved out of the village but still retained their influence over the affairs in the village. The issue would be complicated by the fact that the two types of VRs represented different interests in the village. It was therefore necessary to clarify the duties of VRs before the implementation of the

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new election system to prevent further disputes. He also considered it necessary to define clearly the rights of indigenous inhabitants. His views were echoed by Mr WONG Sing-chi.

33. DS(HA)2 clarified that the primary role of the Indigenous Inhabitants Representative was to represent indigenous inhabitants on matters relating to the lawful traditional rights and interests of indigenous inhabitants and the traditional way of life in indigenous villages. The Residents Representative would represent all residents in the village on matters relating to general village affairs. He said that there would be some overlap between their responsibilities as they were both required to handle matters related to the daily lives and life styles of the villagers. However, since their roles were mainly consultative, conflicts might be reduced if the Government would consult both of them on village affairs to ensure that all interests were duly represented and different voices were heard.

34. Mr Andrew CHENG was of the view that since the proposal had not included many details on the distribution of duties and responsibilities between the VRs, this issue should be clarified before the implementation of the proposed election system. He suggested the Administration to visit the villages and consult the villagers. Mr Albert CHAN remarked that he had received complaints about non-indigenous inhabitants being pressurised by indigenous inhabitants. He hoped that the introduction of the new electoral arrangements would be able to address this problem.

35. In response to a question from Mr WONG Sing-chi, DS(HA)2 clarified that there might be some overlap in the voters for the elections of the two types of VRs. Voters for Indigenous Inhabitants Representative elections would include all indigenous inhabitants of the indigenous villages concerned irrespective of their places of residence, as long as they had registered as voters. Those for Residents Representative elections, on the other hand, would include all inhabitants, indigenous or non-indigenous, who had resided in the villages concerned for a minimum of 3 years.

36. As regards the difference between VRs and District Councillors, DS(HA)2 explained that VRs did not form a council of their own. They were, however, members of RCs. The chairmen of RCs were ex-officio members of the relevant District Councils. The chairmen and vice-chairmen of RCs were Ex-officio Councillors of HYK. If the Village Representative Elections Bill was passed by LegCo and enacted, both types of VRs would become RC members and could vote for chairmen of RCs.

37. Given the complicated and controversial nature of the issue, Dr TANG Siu-tong urged the Government to seek legal advice to ensure that the proposed

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electoral arrangements complied with the CFA judgment and the laws in Hong Kong.

38. DS(HA)2 assured members that the Administration was very concerned about the legality of the proposed system and had been conducting discussion with the Department of Justice (DoJ). It would seek comments from DoJ on the details of the proposal after consulting the Panel on Home Affairs. Dr TANG opined that if the proposed electoral arrangements were implemented after confirmation of their compliance with the CFA judgment and the laws of Hong Kong by DoJ, HYK should not be held responsible in any relevant legal challenge in future.

Consultation

39. Mr Albert HO requested for information on the consultation on the proposed electoral arrangements conducted and its results. DS(HA)2 advised that in the past 2 years, the Administration had consulted RCs and HYK. RC chairmen had discussed the proposal with their own villagers and the 9 NT DCs had also deliberated the proposal. As regards the dissenting views received, DS(HA)2 informed members that some had proposed to set the residency requirements at 1 year and 3 years respectively for voters and candidates while others suggested 7 years and 10 years. Some opined that there should be only one Indigenous Inhabitants Representative and one Residents Representative in each village constituency. Having regard to the traditions and history of indigenous villages of NT, the Administration had decided not to revise the number of Indigenous Inhabitants Representatives. There were also suggestions that non-indigenous women married to indigenous inhabitants should be given the right to vote for Indigenous Inhabitants Representatives in their husbands' villages but spouses of indigenous inhabitants who did not reside in the villages concerned should not be entitled to such voting right.

40. Mr Andrew CHENG considered that the Administration had not conducted sufficient consultation on the proposal, saying that views from non-indigenous inhabitants had not been sought. Referring to Mr CHENG's views, Mr LAU Wong-fat suggested that the implementation of the proposed system should be deferred so that sufficient consultation could be conducted to ensure that the elections would be conducted in a clean, open and fair manner. DS(HA)2 advised that the Home Affairs Bureau would discuss the details of the proposal with RCs and DCs shortly. If invited, the Administration would also attend meetings of DCs to facilitate their discussion. He assured members that the Administration was open to all comments at this initial stage of consultation.

41. Mr Albert CHAN suggested that the Panel should invite deputations to express views on the proposed electoral arrangements as soon as possible so as to

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speed up the vetting process of the proposed Bill. After listening to the views of HYK, he considered that the Panel should also listen to the views of non-indigenous inhabitants as far as possible.

42. Since the majority of the members present at the meeting agreed to Mr CHAN's suggestion, the Panel agreed that a special meeting would be held on 8 July 2002 and that deputations be invited to express their views on the proposed election system.

(Post-meeting note : The special meeting was re-scheduled to Tuesday, 9 July 2002 at 10:45 am.)

VI. Supervision of the Chinese Temples Committee

[LC Paper No. CB(2)2250/01-02(04)]

43. Members noted the information paper provided by the Administration on the operation and supervision of the Chinese Temples Committee (the Committee), and relevant improvement measures to be implemented.

44. The Chairman informed members that a former member of the Committee and some former staff of the Trust Funds, Temples & Cemeteries (TFTC) Section under Home Affairs Bureau (HAB) were under investigation by the Independent Commission Against Corruption (ICAC) for suspected corruption and related offences. He requested members to be cautious in the following discussion to make sure that it would not touch on or implicate the specific cases which might cause prejudice to ICAC's on-going investigation. The Deputy Secretary for Home Affairs (1) (DS(HA)1) also appealed to members' understanding that the Administration would be obliged to be prudent in answering members' questions regarding these cases or related issues so as to avoid causing prejudice to the administration of justice.

Revenue and investment of the Committee

45. Referring to paragraph 4 of the information paper provided by the Administration, Mr Andrew CHENG pointed out that the Committee might, at its own discretion, transfer any surplus of the Chinese Temples Fund to the General Chinese Charities Fund under section 8(2) of the Chinese Temples Ordinance for the purpose of any Chinese charities in Hong Kong and the payment of expenses incurred by the Committee in the exercise of its powers. He asked for more details about this discretion and whether there were objective guidelines governing the amount to be transferred and the usage of funds. He considered that there was obviously not enough supervision of the Committee to prevent abuses of funds as

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HAB only sent representatives to attend meetings of the Committee once in three months. Since the improvement measures to enhance the system and operation of the Secretariat of TFTC Section listed in paragraph 7 of the paper did not cover this aspect, he asked whether the Administration had any intention to tighten their monitoring in this area.

46. In reply, DS(HA)1 clarified that the usage of funds in the General Chinese Charities Funds was not decided by individual members but the whole Committee. The major purpose of the Funds was to provide assistance to Chinese charities in Hong Kong. The Committee would estimate the amount of funds required for the maintenance of temples and other expenses and then decide on the amount available for charities. The Committee would consider the applications from the Chinese charities and decide on the allocation of funds among them. He assured members that ICAC had been requested to review all the relevant procedures.

47. Mr Albert CHAN remarked that the Chinese Temples Committee was quite a mystery to outsiders who had little access to the information on its operation. As the Chinese Temples Fund involved a huge amount of money, the Government should supervise and monitor the Committee closely to prevent any misappropriation of funds. He suggested that in order to increase the transparency of the Committee, its meetings should be open to the public and the minutes of meetings available for public scrutiny. The Chairman shared Mr CHAN's view that the Committee should increase its transparency.

48. DS(HA)1 assured members that there had never been cases of misappropriation of funds in the Committee. The recent case under ICAC investigation did not involve such abuse. He appreciated the suggestion from Mr CHAN and undertook to relate them to the Committee for consideration.

49. Dr TANG Siu-tong enquired how investment of the Committee was governed to ensure a reasonable return. Mr Michael MAK requested for information on the results of the investment. The Principal Assistant Secretary for Home Affairs (3) (PAS(HA)3) replied that the Committee would discuss and determine the investment strategy at its annual general meeting. It would normally adopt a prudent investment strategy which would comply with the Trustee Ordinance. He added that investment in stock had been made with the intention of holding the stock for a long period of time. In 2000-2001, there was a surplus of \$20,000,000 and a total asset of \$140 million.

Staff supervision

50. Mr Michael MAK pointed out that some of the temples received direct cash donations from worshippers. The coins used by worshippers in making wishes in

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the temples, especially during Chinese festivals, also added to a large sum. He asked what monitoring measures were available to prevent abuse of funds, ensure that all donations would be directed towards the maintenance of the temples or the revenue account of the Committee, as well as prevent temple staff from accepting advantages such as red pockets from worshippers.

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51. PAS(HA)3 informed members that notices were posted at the temples to remind worshippers not to give red pockets to temple staff and that donations should be put directly into the donation boxes in the temple. Temple keepers should observe the relevant contractual terms which govern the handling of donations and acceptance of advantages. In addition, temple inspectors would inspect temples on a weekly basis. Members of the public might also lodge complaints with the Committee. The temple inspectors would investigate each and every one of them immediately. At the request of Mr MAK, DS(HA)1 undertook to provide statistics on the complaints received by the Committee for members' reference after the meeting. DS(HA)1 added that the accounts of the Committee were audited by the Director of Audit annually to ensure that all accounts, including that of donations, would be in order. The Report of the Director of Audit would also be presented to LegCo. In response to Mr Michael MAK, he also clarified that the financial situation of the Committee had been very sound and did not need to appeal to the public for donations to cover its expenses. The worshippers had contributed to the temples out of their religious faith, instead of providing financial support to the temples.

(Post-meeting note : The information on the complaints provided by the Administration was issued vide LC Paper No. CB(2)2500/01-02 on 4 July 2002.)

52. Dr TANG Siu-tong opined that the guidelines on the proper handling of funds by temple keepers should be reviewed to strengthen the supervision. Noting that the Executive Secretary of the TFTC Section was not a civil servant, Dr TANG suggested that the post should more appropriately be filled by a civil servant, having regard to the large amount of funds handled by the incumbent. The Chairman commented that the existing staffing arrangements in the Committee Secretariat were quite confusing. He agreed with Dr TANG that the employment status of staff in the Secretariat would need to be reviewed. DS(HA)1 clarified that except the seven civil servants on loan from the Government for accounting duties, all staff members of the Secretariat were non-civil servants employed by the Committee. He said that HAB was considering the need to classify the non-civil servants as public servants as a measure to enhance supervision.

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Membership of the Committee

53. Mr Albert CHAN expressed concern whether the Committee was capable of managing the temples as all its members were serving on a voluntary basis. DS(HA)1 explained that similar to company directors, members of the Committee did not serve the Committee on a full-time basis. Daily administration work was performed by staff in TFTC Section under HAB. He assured members that a review on the operation of the Committee Secretariat would be conducted with a view to tightening supervision and monitoring so as to prevent any future abuses. ICAC would also recommend improvement measures upon completion of the review.

54. The Chairman noted that some of the Committee members had served on the Committee for an unduly long period, the longest being over 17 years. He queried why there was not a limit on the length of tenure for Committee members. DS(HA)1 responded that besides Secretary for Home Affairs who was the Chairman of the Committee, there were altogether six Committee members. Four of them had served on the Committee for less than three years. DS(HA)1 added that each member would normally serve a term of not more than six years so that there would be changes in membership over a reasonable period of time. However, in reviewing membership, some factors such as a member's important status in and special knowledge of the Tao religion had to be taken in account.

VII. Any other business

55. There being no other business, the meeting ended at 1 pm.

Council Business Division 2
Legislative Council Secretariat
11 July 2002