

For discussion
on 9 January 2009

Legislative Council Panel on Home Affairs

Cheung Chau

Purpose

This paper sets out matters related to Cheung Chau Rural Committee (CCRC).

Background

2. According to the Xinan Gazetteer (《新安縣志》) compiled by Wang Chong-xi (王崇熙) of the Qing Dynasty, Cheung Chau was an island some ten miles long lying outside Ji Shui Men (急水門) (now known as Kap Shui Mun) and south of Da Xi Shan (大奚山) (now known as Lantau Island) and a gathering place for merchants. During the reign of the Qing Emperor Qianlong, the Cheung Chau Market (墟) was established and became a centre of sea salt trade. By the mid-19th century, there were no fewer than 200 shops on the island, showing its flourishing business at that time.

3. After 1898, while a small number of Cheung Chau residents were still engaged in farming, most had turned to business of various kinds such as the sale of food, firewood, groceries, rock salt, fishing tools; ship building and maintenance; and loan services.

4. In 1941, Cheung Chau was occupied by the Japanese troops who used the Cheung Chau Government Secondary School as their headquarters. The Kaifong Association (街坊會) which had been handling residents' affairs was dismissed and replaced by the Cheung Chau Peace-keeping Association (長洲維持會). After the war, residents who had previously fled gradually returned to Cheung Chau. The Cheung Chau Peace-keeping Association was abolished and local matters were handed over to the Residents' Association (居民協會) and later the Association of Chinese Merchants (華商會). The CCRC was established in early 1960s.

5. Cheung Chau Market Town is included in the List of Established Villages in the New Territories compiled in 1991 by Heung Yee Kuk (HYK) and the former Planning, Environment and Lands Branch. According to the Lands Department, the List is compiled mainly to define whether the properties or lands owned by villagers in the established villages in the New Territories are eligible for rent concession. It does not mean that all villages on the List are indigenous villages. In addition, under the New Territories Small House Policy, only those indigenous villagers of the villages on the New Territories Small House Policy List of Recognised Villages compiled by the Lands Department are eligible to apply for Small House Grant. The List does not include Cheung Chau.

6. As a matter of fact, Cheung Chau has been a market town for a long period of time and there has never been any village representative (VR). The CCRC is a rural committee acknowledged by the Secretary for Home Affairs under the Societies Ordinance (Cap. 151). Since CCRC's establishment, all its members, past and present, are Kaifong Representatives. According to Clause (5a) of the Constitution of the CCRC, 39 Kaifong Representatives shall be elected by secret ballot on a one-person-one-vote basis to the CCRC under the supervision of the District Officer (Islands) as the Returning Officer and with the assistance of the staff of the Islands District Office.

Cheung Chau and the Village Representative Election Ordinance

7. Extensive consultation covering the HYK and the rural committees was conducted in formulating the Village Representative Election Ordinance (VREO). The policy then was for the VREO to cover those indigenous villages and existing village settlements included in the village representation system in the New Territories then (i.e. in 1999 when the last round of village election before the enactment of the VREO was held) and to retain the number of Indigenous Inhabitant Representatives for Indigenous Villages. The policy and the legislative intent were reflected in the primary legislation passed by the Legislative Council in 2003 and only those villages stated above were listed in the Schedules to the VREO. Based on this policy and legislative intent, Cheung Chau has not been included in the Schedules to the VREO.

Requests by Resident of Cheung Chau

8. Since 2001, a resident of Cheung Chau has made various requests and complaints direct to the Government or through other channels. The key requests and complaints are as follows:

- (i) he requested that Cheung Chau be included in the Schedules to the VREO and village representative election should be conducted in Cheung Chau;
- (ii) he alleged that the 7-year residency requirement for Cheung Chau residents to be registered as candidates and voters for the CCRC election violated the law. He demanded for a re-election of the CCRC;
- (iii) he alleged that the CCRC election violated sections 60 and 61 of the VREO. He requested that a re-election be held. He also requested that Cheung Chau be divided into a certain number of districts and a VR be elected for each district who would become members of the executive committee of the CCRC; and
- (iv) he complained against District Officer (Islands)'s allowing the CCRC not to follow the requirements under sections 60 and 61 of the VREO and let Kaifong Representatives, but not VRs, form the CCRC. He considered this maladministration.

The Administration's Follow-up Actions and Responses

9. The Home Affairs Bureau, Home Affairs Department (HAD) and Islands District Office have maintained contact with that Cheung Chau resident through telephone, mail and meetings, and also provided written responses to Members of the Legislative Council (LegCo), the LegCo Secretariat and the Ombudsman who forwarded the complaints and enquiries of that Cheung Chau resident. In February and May 2001, HAD explained to the Cheung Chau resident and a Member of the LegCo the eligibility criteria for voters and candidates for Kaifong Representative election of the CCRC and the election procedures. The Government also explained that Cheung Chau had never had any VR election and since the establishment of the CCRC, all its members had been Kaifong Representatives. The CCRC amended its constitution in 2003 to lower the residency requirement for voters and candidates. At present, the

residency requirements for voters and candidates for the CCRC Kaifong Representative election are three years and six years respectively.

10. Between October 2004 and December 2008, HAD and the Islands District Office wrote twenty times to that Cheung Chau resident, his lawyer, the LegCo Secretariat and the Ombudsman, explaining that the CCRC Constitution was formulated with regard to local needs as well as Cheung Chau's background and characteristics, and that the elections of Kaifong Representatives and the Executive Committee of CCRC were conducted according to the CCRC Constitution under the principle of fairness. The staff of the Islands District Office also explained the above to the resident in a meeting on May 2006. Besides, the Government also explained in detail why VREO is not applicable to Cheung Chau and hence the Kaifong Representative election of the CCRC does not violate sections 60 or 61 of the VREO¹.

11. The Islands District Office stated in its reply to the Cheung Chau resident in August 2006 that it had relayed to the CCRC the suggestion of dividing Cheung Chau into a certain number of districts for the election of VRs. Between September 2006 and February 2007, the HAD and the Islands District Office gave the resident and LegCo Secretariat three replies, informing them that a comprehensive review on the electoral arrangements would be conducted in consultation with HYK after the 2007 rural elections. In June 2008, the Islands District Office wrote to the resident inviting him to provide supplementary information and justifications regarding his suggestion for the CCRC to consider and to decide whether it would support the suggestion in the deliberations of the Rural Elections Review Working Group (the Working Group).

Review on Rural Elections

12. The HAD and HYK formed the Working Group in November 2007 to review the arrangements for rural elections. The Working Group has

¹ Section 60 of the VREO stipulates that the constitution of a Rural Committee shall be construed in accordance with Part 8 of the VREO and provides for the definition of "constitution" and "officer holder". Section 61 of the VREO stipulates that Resident Representatives for Existing Villages and Indigenous Inhabitant Representatives for Indigenous Villages or Composite Indigenous Villages are, by virtue of being a Resident Representative or an Indigenous Inhabitant Representative, members of the Rural Committees as shown at the relevant Schedules to the VREO. Section 61 of the VREO is only applicable to the Existing Village, Indigenous Village and Composite Indigenous Village specified in the respective Schedules to the VREO. Since Cheung Chau is not a village specified in the Schedules to the VREO, section 61 of the VREO does not apply to Cheung Chau.

discussed whether Cheung Chau should be included in the Schedules to the VREO. It considered that any proposal to amend the VREO should be justified. As Cheung Chau has been a market town which had never had any VR and the CCRC was of the view that the status quo be maintained, the Working Group agreed that the proposal to include Cheung Chau in the VREO would not be proceeded with in the current review. Subsequently, HAD wrote to that resident explaining why the Working Group had not accepted the proposal to include Cheung Chau in the Schedules to the VREO.

Conclusion

13. After considering the history and background of Cheung Chau and the legislative intent of the VREO, the Government does not intend to add Cheung Chau to the Schedules to the VREO.

Home Affairs Department
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