

立法會

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Panel on Home Affairs
Background brief prepared by the Legislative Council Secretariat
for the meeting on 8 April 2011

Village Representative elections

Purpose

This paper provides background information on the Village Representative ("VR") elections, and highlights the main concerns of Legislative Council ("LegCo") Members about the subject.

Background

2. In February 2003, the Village Representative Election Ordinance ("VREO") (Cap. 576) was enacted to bring the conduct of VR elections under statutory control to ensure compliance with the Hong Kong Bill of Rights Ordinance (Cap. 383) and the Sex Discrimination Ordinance (Cap. 480). In October 2009, the Village Representative Election Legislation (Miscellaneous Amendments) Ordinance 2009 was enacted to improve the arrangements for rural elections (including the 2011 VR elections), including extending the time limits for lodging and handling claims, objections and reviews in relation to voter registration, revising the time frames concerning the registration of electors for VR elections and the compilation of registers of electors, and increasing the maximum penalty for offences concerning order at polling stations and secrecy of votes. Under VREO, VR elections are conducted every four years. Since 2003, three rounds of such elections, including the latest 2011 VR elections concluded on 23 January 2011, have been held.

3. Under VREO, VR elections are held for indigenous villages (comprising Indigenous Villages and Composite Indigenous Villages¹) already in existence in 1898, and existing village settlements (i.e. Existing Villages)

¹ Composite Indigenous Villages are villages that comprise more than one indigenous village where the indigenous inhabitants jointly elect their Indigenous Inhabitant Representatives.

already included in the village representation system in the New Territories in 1999 when the last round of VR elections was held before the enactment of VREO.

4. There are two types of VRs, viz. Indigenous Inhabitant Representatives ("IIRs") for indigenous villages, and Resident Representatives ("RRs") for Existing Villages. The role of an IIR is to reflect views on the affairs of an indigenous village on behalf of the indigenous inhabitants of that village, and to deal with all affairs relating to the lawful traditional rights and interests, and the traditional way of life, of those indigenous inhabitants. The role of an RR is to reflect views on the affairs of an Existing Village on behalf of the residents of that Village. An RR does not deal with any affairs relating to the lawful traditional rights and interests of indigenous inhabitants.

2011 VR elections

5. As shown in **Appendix I**, there were a total of 1 484 VR seats in 709 villages in the 2011 VR elections. The eligibility requirements for electors, candidates and proposers, the operation procedures for the elections, and the major outcomes of 2003, 2007 and 2011 VR elections are in **Appendixes II to IV**.

6. The 2011 VR elections allowed for the first time prisoners or remanded unconvicted persons, who had registered as electors, to vote at dedicated polling stations. A total of 42 such prisoners and persons casted their votes.

Members' concerns

7. The concerns expressed by LegCo Members at various forums, including the Panel and the Bills Committee on Village Representative Election Legislation (Miscellaneous Amendments) Bill 2009 ("the Bills Committee"), are summarized in the ensuing paragraphs.

Women participation

8. Noting that only 28 (i.e. 2%) of the 1 320 VRs in 2007 were women, members of the Panel considered the low representation rate as a proof of women being ignored in rural public affairs. They enquired about the specific measures to boost women participation in the 2011 VR elections, and whether the Administration had studied the factors hindering female participation in rural elections. The Administration advised that it would conduct a publicity campaign to encourage eligible persons of both genders to register as electors. It would also closely monitor the rate of women participation in voter

registration, candidate nomination and voter turn-out, as well as the number of female VRs elected in the 2011 VR elections.

False claims in voter registration

9. There was a view that the mechanism for monitoring false claims in voter registration for VR elections was ineffective in deterring persons from making such claims, as it was mainly based on public objection to the provisional registers and carried no penalty unless the person making a false claim had voted in the election. The Administration was urged to take stringent measures to plug the loopholes of the registration system. Complaints against false claims should be handled before and not after the elections.

10. The Administration advised that under the existing mechanism, the relevant provisional registers of VR elections would be displayed for inspection by members of the public, who could make an objection to the registration. The fact that many members of the public made such objections in the 2007 VR elections indicated that the existing mechanism could serve its purpose. Under the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), any person who engaged in corrupt conduct at an election would have committed an offence and could be liable to a fine of \$200,000 and imprisonment for three years.

11. The Administration also advised that similar to the practices in LegCo and District Council (DC) elections, the voter registration for VR elections operated on the basis of an "honour" system. Any person who considered a person whose name appeared on the provisional registers ineligible for registration could make an objection. The Revising Officers (RO), who were Magistrates, would make rulings allowing or dismissing such objections. The Village Representative Election (Registration of Electors) (Appeals) Regulation (Cap. 576 Sub. Leg. A) provided that the person who had lodged a claim or objection, or the person in respect of whom the claim or objection was made, might apply for a review of RO's ruling. A person who voted at an election knowing that he was not entitled to do so, or after having recklessly given to an electoral officer information that was materially false or misleading, would have committed an offence under the Elections (Corrupt and Illegal Conduct) Ordinance.

Verification of the identity of indigenous inhabitants in IIR elections

12. Some members of the Panel and the Bills Committee expressed concern about the problem relating to the verification of the identity of indigenous inhabitants in IIR elections. They urged the Administration to consider working with Heung Yee Kuk and Rural Committees to define and

draw up a list of indigenous inhabitants so as to minimize disputes, the number of which often increased nearer the time of IIR elections. The Administration advised that whether a person was considered as an indigenous inhabitant would be verified with the relevant indigenous village according to the village's ancestral records, relevant historical documents, etc.

Residency requirement in RR elections

13. There was a concern about the requirement for a person to reside in an Existing Village for at least three years immediately preceding the date of application for registration as an elector in RR elections. It was common for many people to have several places of residency simultaneously, and hence it would be difficult, if not impossible, to verify whether they had genuinely met the residency requirement. The residency requirement was in breach of the Basic Law and unfair to non-indigenous residents of an Existing Village, as no similar residency requirements were imposed on voters in LegCo and District Council elections.

14. According to the Administration, the residency requirement was applicable to RR elections only. To satisfy this requirement, a person should be living in a dwelling place in a village which constituted his sole or main home for at least three years immediately before the date of application for registration. This requirement was to safeguard against corruptive practices, such as vote planting, in a small electorate. A person with more than one place of residency would be required, if challenged, to prove that he had used his dwelling in a village as his principal residency for three years prior to his registration as an elector in a RR election. In considering whether a dwelling place constituted that person's principal residential address, the time he spent in that dwelling place was one of the main factors. Various mechanisms were in place to monitor false claims, including making enquiries with registered voters in doubtful cases and verifying the relevant information with the appropriate authorities. The Electoral Registration Officer was empowered by legislation to obtain information from relevant authorities (e.g. the Housing Authority) to ascertain the eligibility of applicants for registration.

Relevant papers

15. A list of the relevant papers with their hyperlinks at the LegCo's website is in **Appendix V**.

Seats of Village Representatives in 2011

Village Representatives	Seats	Constituencies		
		Villages	No.	
Indigenous Inhabitant Representatives	789*	Indigenous Villages	588	603
		Composite Indigenous Villages	15	
Resident Representatives	695	Existing Villages	695	
Total	1 484	Total	709**	

Source: Website of the Home Affairs Department at <http://www.had.gov.hk/vre/>

**There are 789 Indigenous Inhabitant Representatives returning from 603 Indigenous Villages/Composite Indigenous Villages constituencies, as some Villages have more than one seat.*

***There are 603 Indigenous Villages/Composite Indigenous Villages and 695 Existing Villages, but they are not mutually exclusive, i.e. 574 Indigenous Villages and 15 Composite Indigenous Villages are also Existing Villages.*

Village Representative elections in 2011
Requirements for electors, candidates and proposers

Roles	Requirements	
	Indigenous Inhabitant Representative Elections	Resident Representative Elections
Elector	<ul style="list-style-type: none"> ➤ aged 18 or above; ➤ an <i>indigenous inhabitant</i>¹ of the Indigenous/Composite Indigenous Village, or a spouse of an indigenous inhabitant of the Village; and ➤ holds a recognized identity document 	<ul style="list-style-type: none"> ➤ aged 18 or above; ➤ a resident of the Existing Village; ➤ a <i>resident</i>² of the Village for the three years immediately before the date of application for registration; and ➤ a Hong Kong permanent resident
Candidate	<ul style="list-style-type: none"> ➤ an indigenous inhabitant of the Indigenous/ Composite Indigenous Village; ➤ ordinarily resides in Hong Kong; ➤ elector for the Indigenous or Composite Indigenous Village; ➤ aged 21 or above; ➤ a Hong Kong permanent resident; and ➤ nominated by at least five registered electors from that Village 	<ul style="list-style-type: none"> ➤ a resident of the Village for the six years immediately preceding the nomination; ➤ elector for the Existing Village; ➤ aged 21 or above; ➤ a Hong Kong permanent resident; and ➤ nominated by at least five registered electors from that Village
Proposer	<ul style="list-style-type: none"> ➤ be a registered elector of the Village concerned; and ➤ subscribe no more than the number of nomination forms that is equivalent to the number of Village Representatives to be returned for the Village at the election. 	

Source: Website of the Home Affairs Department at <http://www.had.gov.hk/vre/>

¹ Indigenous Inhabitant means, in relation to an Indigenous Village that existed in 1898 (whether or not the name the Village now has is the same name it had in 1898), (i) a person who was in 1898 a resident of the Village, or (ii) a person who is descended through the male line from a person mentioned in (i).

² Resident means, in relation to an Existing Village, a person whose principal residential address is in the Village. A principal residential address means the address of the dwelling place at which a person resides and which constitutes the person's sole or main home.

Operation procedures for the 2011 Village Representative elections

Phase	Period	Main procedures
Registration as elector	On or before 16 July 2010 ¹	<ul style="list-style-type: none"> ➤ A person who had been previously registered did not need to register again. However, a registered elector must notify Home Affairs Department if his/her residential address had been changed, so as to ensure he or she is still qualified in the current register. ➤ A person who had not registered as elector must apply for registration before 16 July 2010 in order to participate in the subsequent phases of VR election. ➤ The Final Register of Electors for Village Representative Elections was published in October 2010.
Nomination of candidates	13-26 November 2010	<ul style="list-style-type: none"> ➤ The nomination form must be subscribed by at least five registered electors (other than the candidate) assenting to the nomination. ➤ The subscribing electors must be registered for the Village concerned and may subscribe no more than the number of nomination forms that is equivalent to the number of VRs to be returned for the Village at the election. ➤ After the close of nomination period, the lists of validly nominated candidates, lists of duly elected candidates in uncontested election, and notice of failure of election (lists of villages without valid nomination) were gazetted on 10 December 2010.
Polling	2 -23 January 2011	<ul style="list-style-type: none"> ➤ Four consecutive Sundays for polling on 2-23 January 2011 (i.e. 2, 9, 16, 23 January 2011, from noon to 7 p.m.). ➤ A simple majority or relative majority system, commonly known as the "first past the post" system was adopted. In the case that more than one candidate has the equal highest number of votes, the Returning Officer should determine the result by drawing lots. ➤ The results of election were published in about one week after each polling day, i.e. 7, 14, 21, 28 January 2011.

Source: Website of the Home Affairs Department at <http://www.had.gov.hk/vre/>

¹ A person may register as an elector any time in the year. However, for inclusion of his/her name in the Registers of electors for Village Representative Elections, which are compiled annually, the registration application should be submitted on or before a deadline to be specified under the Electoral Affairs Commission (Registration of Electors) (Village Representative Election) Regulation (Cap. 541K).

Main outcomes of the 2003, 2007 and 2011 Village Representative elections

	2003	2007	2011
No. of villages	707	707	709 ¹
No. of seats	1,480	1,480	1,484 ¹
No. of registered voters	158,000	170,000 (47% were women)	182,702 (47% were women)
No. of candidates	1,638 (of which 29 were women)	1,630 (of which 35 were women)	1,752 (of which 39 were women)
No. of elected Village Representatives	1,291 (of which 17 were women and 931 returned uncontested)	1,320 (of which 28 were women and 994 returned uncontested)	1,358 (of which 944 returned uncontested) (The number of female VRs is not available as at the issuance of this paper)
No. of seats left vacant with no valid nomination	189	160	126
Overall voter turnout rate	73.84%	67.08%	63.56%

Source: Website of the Home Affairs Department at <http://www.had.gov.hk/vre/>

¹ Pursuant to the enactment of the Village Representative Election Legislation (Miscellaneous Amendments) Ordinance 2009 in November 2009, two villages (viz. Lai Pek Shen and Yuen Long Kau Hui) have been included in the Schedules to VREO for the purpose of Village Representative elections, with each being represented by two Village Representatives.

**Relevant papers
on Village Representative Elections**

Committee	Date of meeting	Paper
Panel on Home Affairs	26.2.2001 (Item I)	<u>Agenda</u> <u>Minutes</u>
Panel on Home Affairs	14.6.2002 (Item V)	<u>Agenda</u> <u>Minutes</u>
Panel on Home Affairs	9.7.2002	<u>Minutes</u> <u>CB(2)68/02-03(01)</u>
Council meeting	11.12.2002	<u>Hansard page 64 (Question)</u>
Council meeting	12.2.2003	<u>Report of the Bills Committee on Village Representative Election Bill</u>
Panel on Home Affairs	14.3.2003 (Item II)	<u>Agenda</u>
Panel on Home Affairs	9.1.2004 (Item IV)	<u>Agenda</u>
Panel on Home Affairs	9.1.2004	<u>Minutes</u>
Panel on Home Affairs	9.2.2007	<u>Minutes</u>
Panel on Home Affairs	13.4.2007 (Item II)	<u>Agenda</u>
Panel on Home Affairs	11.10.2007	<u>Minutes</u>
Panel on Home Affairs	14.11.2008 (Item IV)	<u>Agenda</u> <u>Minutes</u> <u>CB(2)1229/09-10(01)</u>

Committee	Date of meeting	Paper
Council meeting	21.10.2009	<u>Report of the Bills Committee on Village Representative Election Legislation (Miscellaneous Amendments) Bill 2009</u>
Council meeting	28.4.2010	<u>Question</u>
Panel on Home Affairs	14.5.2010 (Item IV)	<u>Agenda</u> <u>Minutes</u>
Council meeting	30.3.2011	<u>Question</u>

Council Business Division 2
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