

**立法會**  
**Legislative Council**

LC Paper No. CB(2)513/02-03  
(These minutes have been seen  
by the Administration)

Ref : CB2/BC/1/02

**Bills Committee on  
Village Representative Election Bill**

**Minutes of meeting  
held on Saturday, 16 November 2002 at 9:00 am  
in the Chamber of the Legislative Council Building**

**Members Present** : Hon IP Kwok-him, JP (Chairman)  
Dr Hon David CHU Yu-lin, JP  
Hon CHAN Kwok-keung  
Hon Andrew WONG Wang-fat, JP  
Hon WONG Yung-kan  
Hon Andrew CHENG Kar-foo  
Hon TAM Yiu-chung, GBS, JP  
Dr Hon TANG Siu-tong, JP  
Hon Tommy CHEUNG Yu-yan, JP  
Hon Albert CHAN Wai-yip

**Members Absent** : Hon LAU Wong-fat, GBS, JP  
Hon WONG Sing-chi

**Public Officers Attending** : Mr Stephen FISHER  
Deputy Secretary for Home Affairs (2)  
  
Ms Janet WONG  
Acting Director of Home Affairs

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Mr Y C CHAN  
Principal Assistant Secretary for Home Affairs (Special  
Duties)

Ms Monica CHEN  
Assistant Director of Home Affairs (1)

**Attendance by  
Invitation** : Heung Yee Kuk, New Territories

Mr LAM Wai-keung  
Vice-Chairman

Mr Almon POON Chin-hung  
Ex-officio Executive Councillor

Association of New Territories Indigenous Residents

Mr Brian KAN Ping-chee  
Chairman

Mr LEUNG Fuk-yuen  
Vice-Chairman

Ping Shan Rural Committee

Mr TANG Sik-hung  
Chairman

Mr WONG Man-wai  
Village Representative

Hang Hau District Rural Committee

Mr LAU Wai-cheung  
Vice-Chairman

South Lantao Rural Committee

Mr CHEUNG Fu  
Vice-Chairman

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Residents of Yuen Long San Tin Ha Wan Village

Mr TO Kam-sing  
Representative

Mr TO Yiu-wai  
Representative

*Individuals*

Ms LIAO Shu-lan  
Co-opted Councillor, Heung Yee Kuk, New Territories

Dr LO Shiu-hing  
Associate Professor of Department of Politics and Public  
Administration, the University of Hong Kong

Mr Benson WONG Wai-kwok  
Senior Research Assistant of Department of Politics and  
Public Administration, the University of Hong Kong

Mr CHEUNG Yat-fung  
Course Tutor of Department of Politics and Public  
Administration, the University of Hong Kong

Mr KWONG Kam-kwan  
Course Tutor of Department of Politics and Public  
Administration, the University of Hong Kong

Mr CHOI Yuet-wing  
Vice Chairman of Pat Heung Rural Committee

Mr MAN Fu-wan  
Village Representative of Yuen Long Wing Ping Tsuen

Mr MAN Chi-sheung  
Village Representative of Yuen Long Tsing Lung Tsuen

Mr FUNG Ying-cheung  
Village Representative of Yuen Long Pok Wai Village

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Mr TANG On-tong  
Village Representative of Tsuen Wan Shek Wai Kok  
Village

Mr YAU Wai-kwan  
Village Representative of Fanling Hung Leng Village

Mr YAU Fook-ping  
Village Representative of Tai Po Cheung Shu Tan Village

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

**Staff in Attendance** : Mr Stephen LAM  
Assistant Legal Adviser 4

Miss Lolita SHEK  
Senior Assistant Secretary (2)7

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**I. Confirmation of minutes**

[LC Paper No. CB(2)366/02-03]

The minutes of the meeting held on 22 October 2002 were confirmed.

**II. Meeting with deputations**

[LC Paper Nos. CB(2)149/02-03(04) to (05), CB(2)115/02-03(04) to (05),  
CB(2)346/02-03(01) to (16), and CB(2)382/02-03(01) to (07)]

Meeting with deputations

2. The Bills Committee received views from 6 deputations and 12 individuals on the Bill (index of proceedings attached at **Annex**).
3. Members noted the following comments from the majority of the deputations -

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- (a) the Village Representative (VR) election system proposed in the Bill might lead to a lot of problems and conflicts in the villages. The Bill should be withdrawn by the Government;
- (b) the judgment delivered by the Court of Final Appeal (CFA) on 22 December 2000 should only apply to the two villages involved in the court cases. Moreover, the judgment had not advocated the implementation of a dual representation system as proposed in the Bill. The Government should respect the traditional rights of the indigenous inhabitants and maintain the existing system of VR elections which were clansmen's elections in the New Territories (NT) and part of the traditions of the indigenous inhabitants;
- (c) Indigenous Inhabitant Representative should represent not only the indigenous inhabitants but also all other residents of the village and reflect their views on the affairs of the village; and
- (d) public officers should be allowed to run for and hold VR offices.

4. Members also noted that some deputations had suggested that the Heung Yee Kuk Ordinance (Cap. 1097) should be amended so that Heung Yee Kuk would represent indigenous inhabitants of NT only, and elections for representatives of indigenous inhabitants would remain as clansmen's elections, and be separated from those for representatives of all residents of NT which would adopt the "one person, one vote" model.

5. Mr Albert CHAN was of the view that different electoral arrangements to be governed by different pieces of legislation should be made to elect representatives for handling village affairs, the lawful traditional rights and interests of indigenous inhabitants, and district administration in the representative government respectively. Representatives of deputations who were Councillors of Heung Yee Kuk had divided views on Mr CHAN's proposal which might result in the deletion of the seats of members of Rural Committees in the District Councils as well as the seat of Heung Yee Kuk as a functional constituency in the Legislative Council (LegCo). Some indicated support of his proposal while others considered that the status quo should be maintained.

6. At the suggestion of Mr Albert CHAN, the Chairman invited Heung Yee Kuk and the Association of New Territories Indigenous Residents to provide written response to Mr CHAN's proposal that VR elections should not be conducted for indigenous villages which did not exist on the ground.

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Meeting with the Administration

7. The Bills Committee deliberated on the views and concerns of the deputations, as well as the Administration's response to the concerns raised by members and the deputations at the meeting (index of proceedings attached at **Annex**).

8. Both Dr TANG Siu-tong and Mr Albert CHAN agreed with the majority of the deputations that public officers should be allowed to run for and hold VR offices. They pointed out that clauses 9(1)(a)(ii) and 23(1)(a)(ii) of the Bill, which disqualified a prescribed public officer from holding office as a VR and from being nominated as a candidate and elected as a VR, were not consistent with the Bill of Rights. Dr David CHU, however, expressed support for the provisions. In response to members' concerns, Deputy Secretary for Home Affairs (2) (DS(HA)2) explained that the provisions were consistent with other laws in Hong Kong which prohibited civil servants from running for or holding an elected public office. He said that the purpose of this restriction was to ensure that a person holding the office of VR was not subject or deemed to be subject to role conflict, divided loyalties or conflict of interests. He added that this was also the normal practice in other jurisdictions. Acting Director of Home Affairs informed members that the Administration was collecting information on civil servants serving as VRs and would liaise with the Civil Service Bureau and Constitutional Affairs Bureau to examine the provisions. She undertook to provide relevant information to the Bills Committee in due course.

9. Mr Andrew WONG suggested that in case no candidate was validly nominated for a VR election in a village, or the number of candidates validly nominated for the VR election for the village was less than the number of VRs to be returned for the village at the election, the VR office should be left vacant and there was no need to hold village by-election. DS(HA)2 clarified that under the proposed electoral arrangements, there was a mechanism to review the necessity for a VR office which was unable to be filled despite repeated village by-elections. Consideration might be given to delete the village from the respective lists of villages. Mr Andrew WONG, however, remained of the view that a VR office that was unable to be filled in a VR election should be left vacant until the next election and that it should not be deleted from the respective list. The Administration undertook to consider Mr WONG's suggestion.

10. Members noted that under clause 22(4), a person was not eligible to be nominated as a candidate at an election for a village if the person was currently nominated as a candidate at an election for another village. Mr Andrew WONG asked why it was necessary to differentiate three different kinds of villages, namely Indigenous Village, Composite Indigenous Village and Existing Village in

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the Bill. He pointed out that in reality, they might refer to the same village and therefore should not be interpreted as separate villages. Mr WONG considered that many problems and conflicts could be resolved if an existing village settlement would not be interpreted as an Indigenous Village or Composite Indigenous Village and an Existing Village so that a person would be eligible to run for offices of both Indigenous Inhabitant Representative and Resident Representative in the same village.

11. In reply, DS(HA)2 explained that for the effective operation of the Ordinance to be enacted, it was necessary to define the three different kinds of villages without any grey areas so that different VR elections would be held for these different kinds of villages.

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12. The Administration was requested to provide written response to the following issues -

*Eligibility of civil servants to run for and hold VR offices*

- (a) information on civil servants serving as VRs;
- (b) amending the Bill to the effect that civil servants would be eligible to be nominated as candidates for VR elections and hold the offices when elected;

*Vacancies in VR offices*

- (c) amending the Bill to the effect that a VR office that was unable to be filled in a VR election should be left vacant until the next election and that it should not be deleted from the respective list(s) of villages; and

*Boundary delineation*

- (d) reviewing the boundary delineation of Ha Wan Village

**III. Any other business**

13. Members agreed that in addition to the one scheduled for Friday, 22 November 2002 at 8:30 am, the Bills Committee would hold another meeting on Wednesday, 4 December 2002 at 8:30 am to discuss the Administration's response to the outstanding issues in respect of the Bill.

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14. There being no other business, the meeting ended at 12:30 pm.

Council Business Division 2  
Legislative Council Secretariat  
3 December 2002



## Annex

### Proceedings of the meeting of the Bills Committee on Village Representative Election Bill on Saturday, 16 November 2002 at 9:00 am in the Chamber of the Legislative Council Building

Time marker	Speaker	Subject(s)	Action required
0000 - 0656	Chairman	Confirmation of minutes and welcoming remarks	
0657 - 0939	Heung Yee Kuk, New Territories	Oral representation	
0940 - 1409	Association of New Territories Indigenous Residents	Oral representation	
1410 - 2038	Ping Shan Rural Committee	Oral representation	
2039 - 2514	Hang Hau District Rural Committee	Oral representation	
2515 - 2750	South Lantao Rural Committee	Oral representation	
2751 - 2934	Residents of Yuen Long San Tin Ha Wan Village	Oral representation	
2935 - 3012	Mr Andrew WONG Residents of Yuen Long San Tin Ha Wan Village	Clarification on the oral representation of the deputation	
3013 - 3723	Ms LIAO Shu-lan	Oral representation	
3724 - 3937	Mr Benson WONG Wai-kwok	Oral representation	
3938 - 4045	Mr Andrew WONG Chairman Mr Benson WONG Wai-kwok	Clarification on the oral representation of Mr Benson WONG	
4046 - 4646	Dr LO Shiu-hing	Oral representation	
4647 - 5441	Mr CHEUNG Yat-fung	Oral representation	
5442 - 010417	Mr KWONG Kam-kwan	Oral representation	
010418 - 010507	Mr Andrew WONG Mr KWONG Kam-kwan Chairman	Clarification on the oral representation of Mr KWONG	
01 0508 - 01 1221	Mr CHOI Yuet-wing	Oral representation	
01 1222 - 01 1853	Mr MAN Fu-wan	Oral representation	
01 1854 - 01 2009	Mr MAN Chi-sheung	Oral representation	
01 2010 - 01 2015	Mr Andrew WONG Mr MAN Chi-sheung	Clarification on the oral representation of Mr MAN	
01 2016 - 01 2722	Mr FUNG Ying-cheung	Oral representation	
01 2723 - 01 3231	Mr TANG On-tong	Oral representation	
01 3232 - 01 3439	Mr YAU Wai-kwan	Oral representation	
01 3440 - 01 3736	Mr YAU Fook-ping	Oral representation	

01 3737 - 01 4135	Chairman Dr TANG Siu-tong	Clarification on deputations' oral representation sought by Dr TANG	
01 4136 - 01 4620	Association of New Territories Indigenous Residents Mr Andrew WONG	Appointment of Justices of the Peace (JPs) as Councillors of Heung Yee Kuk	
01 4621 - 02 0023	Chairman Mr Albert CHAN Heung Yee Kuk, New Territories Association of New Territories Indigenous Residents Ping Shan Rural Committee Mr Andrew WONG	Proposal to make different electoral arrangements for the election of different representatives for handling village affairs, the lawful traditional rights and interests of indigenous inhabitants, and district administration in the representative government	
02 0024 - 02 0810	Chairman Mr Andrew WONG Dr LO Shiu-hing Mr KWONG Kam-kwan Mr CHEUNG Yat-fung	Reasons for the objection from Dr LO, Mr KWONG and Mr CHEUNG to the Bill	
02 0811 - 02 1223	Ping Shan Rural Committee Association of New Territories Indigenous Residents	Representativeness of JPs as Councillors of Heung Yee Kuk	
02 1224 - 02 1456	Chairman Mr WONG Yung-kan Residents of Yuen Long San Tin Ha Wan Village	Boundary delineation of Ha Wan Village	
02 1457 - 02 1629	Dr David CHU Mr MAN Fu-wan	Eligibility of civil servants to run for and hold offices of Village Representative (VR)	
02 1630 - 02 1924	Mr MAN Fu-wan Chairman	Appointment of JPs as Councillors of Heung Yee Kuk  Impact of the residency requirements on voters and candidates for Resident Representative elections on residents in the villages	

02 1925 - 02 3248	Dr TANG Siu-tong Mr CHOI Yuet-wing Mr FUNG Ying-cheung Mr CHEUNG Yat-fung	Composite VR election system proposed by deputations	
02 3249 - 02 4003	Mr Andrew CHENG Association of New Territories Indigenous Residents Mr KWONG Kam-kwan	Clarification on the comments of the Association of New Territories Indigenous Residents  Centralisation of power through the implementation of the electoral system proposed in the Bill	
02 4004 - 02 4940	Chairman Mr Andrew WONG Admin	Vacancies in VR offices  Differentiation of villages and restrictions on the same person being nominated as a candidate for elections for both Indigenous Inhabitant Representative and Resident Representative in the same village	<b>Admin</b> <b>(see para. 12(c) of the minutes)</b>
02 4941 - 02 5521	Mr WONG Yung-kan Admin Dr TANG Siu-tong	Boundary delineation for constituencies for VR elections	<b>Admin</b> <b>(see para. 12(d) of the minutes)</b>
02 5522 - 02 5423	Dr TANG Siu-tong Admin	Eligibility of civil servants to run for and hold VR offices	<b>Admin</b> <b>(see para. 12(a) and (b) of the minutes)</b>
02 5424 - 02 0101	Dr TANG Siu-tong Admin Mr Albert CHAN	Composite election system proposed by the deputations	
03 0102 - 03 1930	Mr Albert CHAN Chairman Admin Mr Andrew WONG ALA4	Eligibility of civil servants to run for and hold VR offices  Lawful traditional rights and interests of indigenous inhabitants  VR elections for villages which did not exist on the ground	
03 1931 - 03 2136	Chairman	Dates of future meetings of the Bills Committee	

03 2137 - 03 2402	Chairman Mr Albert CHAN Mr Andrew WONG	Mr Albert CHAN's proposal for not conducting VR elections for indigenous villages which did not exist on the ground	
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**Note : The audio records of the above proceedings are kept at the LegCo  
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Council Business Division 2  
Legislative Council Secretariat  
3 December 2002