

立法會

Legislative Council

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Bills Committee on Village Representative Election Bill

Background brief prepared by Legislative Council Secretariat

Village Representative Election Bill

Purpose

This brief provides a summary of the issues and concerns raised by members of the Panel on Home Affairs and deputations on the Administration's proposed arrangements for Village Representative (VR) elections.

The Administration's proposal in June 2002

Proposed electoral arrangements

2. The Administration briefed the Panel on Home Affairs on 14 June 2002 on the proposed arrangements for VR elections. One of the main elements of the proposed arrangements is that there should be two types of VRs, namely -

- (a) an Indigenous Inhabitant Representative representing indigenous inhabitants of an indigenous village; and
- (b) a Resident Representative representing all residents of a village.

Indigenous Inhabitant Representative

3. According to the Administration's proposal in June 2002, the current number of VRs for individual indigenous villages should be maintained for the 2003 elections. The primary role of the Indigenous Inhabitant Representative is 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.

4. For an Indigenous Inhabitant Representative election, a person is not eligible to be registered as a voter or nominated as a candidate unless, among other things, he is recognised by the Director of Home Affairs as an indigenous inhabitant of that indigenous village.

Resident Representative

5. The Administration also proposed that there should be one Resident Representative for each village constituency. The primary role of the Resident Representative is to represent all residents in the village on matters relating to general village affairs.

6. For a Resident Representative election, a person is eligible to be registered as a voter if, among other things, he has been an ordinarily resident in that constituency for at least three years immediately preceding the date of his application for voter registration. A person is eligible to be nominated as a candidate for a Resident Representative election if, among other things, he has been an ordinarily resident in the constituency for at least five years immediately preceding the nomination.

Voting right of spouses of indigenous inhabitants

7. According to the Administration, as Heung Yee Kuk does not agree to the principle that if wives of indigenous inhabitants have voting right in the election of Indigenous Inhabitant Representative in their residing village, husbands of indigenous inhabitants should enjoy the same right, spouses of indigenous inhabitants therefore do not have voting right in the election of Indigenous Inhabitant Representative under the proposed arrangements for VR elections.

8. The Administration's paper on the proposed arrangements for the conduct of VR elections was issued vide LC Paper No. CB(2)2250/01-02(03) on 11 June 2002.

Issues and concerns raised by members of the Panel on Home Affairs

9. The Panel on Home Affairs was briefed on the proposed arrangements for the conduct of VR elections on 14 June 2002. Legislative Council (LegCo) Secretariat prepared a background paper on VR elections for the meeting which was issued vide LC Paper No. CB(2)2250/01-02(02) on 11 June 2002. Members had divided views on the residency requirements of three years for a voter and five years for a candidate for Resident Representative elections under the proposed arrangements. While some members queried whether such stringent residency requirements were compatible with the Bill of Rights, a member expressed support for setting requirements on the minimum length of residence for a voter and a candidate in Resident Representative elections. Some members considered that the spouses of indigenous inhabitants should be entitled to vote in an Indigenous Inhabitant Representative election in their residing village. They also expressed concern that dispute might arise if the

responsibilities of an Indigenous Inhabitant Representative and those of a Resident Representative were not clearly delineated.

10. Given the complicated and controversial nature of the matter, members were of a strong view that the Administration should conduct extensive public consultation and listen to public views before finalising the arrangements for the conduct of VR elections.

Issues and Concerns raised by deputations

Heung Yee Kuk

11. Hon LAU Wong-fat, who is the Chairman of Heung Yee Kuk, informed members at the Panel meeting on 14 June 2002 that the chairmen of the 27 Rural Committees (RCs) had been consulted and there was consensus on the proposed electoral arrangements except for several controversial issues. A majority of the RC chairmen specifically suggested the following revisions to the proposed arrangements -

- (a) a person should be required to reside in the village concerned for at least five years and seven years to be qualified to be registered as a voter or nominated as a candidate respectively in a Resident Representative election; and
- (b) non-indigenous wives of indigenous inhabitants should be eligible to be registered as voters and vote in the Indigenous Inhabitant Representative elections in the indigenous villages of their husbands.

12. Four representatives of Heung Yee Kuk also attended the Panel meeting on 14 June 2002. The three representatives who spoke at the meeting expressed strong objection to the proposed arrangements for the conduct of VR elections. They considered that the Government had caused segregation and conflicts among the villagers by introducing non-indigenous Resident Representatives to manage the affairs of indigenous inhabitants under the proposed arrangements.

Other deputations

13. The Panel also received views from concern groups and some District Council (DC) members at its special meeting on 9 July 2002. Members noted the strong objection from some concern groups and some DC members to the proposed electoral arrangements. Their views are summarised as follows -

- (a) the Government should respect the traditional rights and interests of indigenous inhabitants of the New Territories (NT) which were protected by Article 40 of the Basic Law (BL);

- (b) a person should be required to reside in the village concerned for at least five years and seven years to be qualified to be registered as a voter and nominated as a candidate respectively for a Resident Representative election;
- (c) wives of indigenous inhabitants should be given the right to vote in the Indigenous Inhabitant Representative elections in their husbands' villages;
- (d) Indigenous Inhabitant Representatives should handle affairs related to both indigenous and non-indigenous villagers; and
- (e) the Government should visit every village and consult the villagers, instead of just consulting Heung Yee Kuk.

14. Members also noted the following views of a non-indigenous residents group -

- (a) only Resident Representatives who were elected by all residents of NT should be eligible to be elected as chairmen of RCs, as they as Councillors of Heung Yee Kuk were in turn eligible to be elected as a LegCo Member;
- (b) the proposed electoral arrangements were unfair to non-indigenous residents since indigenous inhabitants would have two votes, whereas non-indigenous residents would only have one vote; and
- (c) the proposed residency requirements for voters and candidates for Resident Representative elections were too high and unfair to non-indigenous residents.

Response of the Administration

15. In response to the concerns raised by Panel members and deputations, the Administration advised that it had drawn up the proposal in accordance with two principles, namely compliance with the requirements of the judgment of the Court of Final Appeal delivered on 22 December 2000, as well as protection of the lawful traditional rights and interests of indigenous inhabitants of NT. The Administration has confirmed in writing that the Bill is consistent with the human rights provisions of BL and the laws in Hong Kong as well as the International Covenant on Civil and Political Rights. The Administration's letter confirming the consistency of the proposed electoral arrangements with BL and the laws in Hong Kong was issued vide LC Paper No. CB(2)45/02-03(01) on 10 October 2002.

16. According to the Administration, the proposed residency requirements for voters and candidates for Resident Representative elections would help ensure that a Resident Representative had a sense of belonging to the constituency, and thorough knowledge of the village as well as the villagers he represented. The requirements would also help to prevent corrupt practices in the elections. The Administration also considered that a resident should at least be eligible to vote in the second election of VRs, if satisfied all other eligibility criteria, after he moved in a particular village. Three years were therefore considered the appropriate length of residence required of voters in their constituencies.

17. As regards the voting right of spouses of indigenous inhabitants, the Administration pointed out that to be consistent with the Sex Discrimination Ordinance, equal treatment 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.

18. On the roles of the two types of VRs, the Administration explained 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. The Administration also assured members that Home Affairs Bureau (HAB) would discuss the details of the proposal with RCs and DCs, and staff of HAB and the Home Affairs Department would visit and meet with the villagers if requested.

19. In response to the strong views expressed by members and the deputations on the need for conducting extensive public consultation on the proposed electoral arrangements, the Administration advised in writing on 10 October 2002 that it had issued a consultation paper for public comments in August 2002. It had consulted Heung Yee Kuk, DCs in NT and RCs on the proposals. It had also met the Association for the Promotion of the Rights of New Territories Residents and the Association of New Territories Indigenous Residents to discuss the new arrangements. In addition, two open forums had been organised for residents in NT.

20. The Administration reported that the views collected on the proposed arrangements were divided. Heung Yee Kuk supported the proposed arrangements, while the Association of New Territories Indigenous Residents did not. The 27 RCs were divided on the issue. The majority supported the new arrangements, while the others opposed them. Six of the nine NT DCs, including Islands, Kwai Tsing, Sha Tin, Tai Po, Tsuen Wan and Tuen Mun District did not oppose the proposals. Yuen Long DC did not support the new arrangements. North and Sai Kung DCs circulated the consultation paper to their members, but did not discuss the proposals. According to the comments received by the Administration, the public generally supported the proposed arrangements, although a few points (such as the residency

requirement for registration as a voter for the Resident Representative elections) remained controversial.

21. The Administration's letter providing the results of the public consultation on the proposed electoral arrangements was issued vide LC Paper No. CB(2)68/02-03(01) on 11 October 2002.

The Administration's proposal in the Bill

22. The electoral arrangements set out in the Bill are similar to those proposed by the Administration in June 2002 (paragraphs 2 - 8 above refer). The major differences are as follows -

- (a) the residency requirement for a candidate for Resident Representative elections has been raised from five years to six years (paragraph 6 above refers); and
- (b) spouses of indigenous inhabitants will be eligible to be registered as voters for Indigenous Inhabitant Representative elections in their residing villages (paragraph 7 above refers).

Other relevant papers

23. A list of other relevant papers is in the **Appendix** for Members' easy reference. These papers/documents can be retrieved from the Research and Library Information System and the LegCo website at "http://www.legco.gov.hk/yr02-03/english/panels/ha/papers/ha_d1.htm" if their soft copy is available.

Council Business Division 2
Legislative Council Secretariat
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List of other relevant papers

Minutes of meetings

- (a) LC Paper No. CB(2)2551/01-02 - Minutes of meeting on 14 June 2002
(*issued vide LC Paper No.
CB(2)2550/01-02 on 11 July 2002*)
- (b) LC Paper No. CB(2)2874/01-02 - Minutes of meeting on 9 July 2002
(*issued vide LC Paper No.
CB(2)2873/01-02 on 4 October 2002*)

Submissions

- * (c) LC Paper No. CB(2)2488/01-02(01) - Submission from Mr LAU Wan-hei
(*issued vide LC Paper No.
CB(2)2488/01-02 on 4 July 2002*) and Mr CHAN Kwai-sang, members
of Sai Kung District Council (DC)
(Chinese version only)
- * (d) LC Paper No. CB(2)2488/01-02(02) - Submission from Mr HIEW Chin,
(*issued vide LC Paper No.
CB(2)2488/01-02 on 4 July 2002*) member of Sai Kung DC (Chinese
version only)
- * (e) LC Paper No. CB(2)2488/01-02(03) - Submission from Mr LAW King-
(*issued vide LC Paper No.
CB(2)2488/01-02 on 4 July 2002*) shing, member of Kwai Tsing DC
(Chinese version only)
- * (f) LC Paper No. CB(2)2488/01-02(04) - Submission from the Association of
(*issued vide LC Paper No.
CB(2)2512/01-02 on 5 July 2002*) New Territories Indigenous
Residents (Chinese version only)
- * (g) LC Paper No. CB(2)2488/01-02(05) - Submission from the Lantau Island
(*issued vide LC Paper No.
CB(2)2488/01-02 on 4 July 2002*) Association of Societies (Chinese
version only)

* Soft copy is not available.