

**Individual Submission to the Bills Committee on
Village Representative Election Bill,
The Legislative Council (LegCo)**

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The Attitude of Village Representatives (VRs) Toward the “Double Village Heads (DVH)” system

Two territory-wide surveys of all Village Representatives (VRs) in the New Territories (N.T.) were conducted during the summer of 2001 and 2002. With the assistance of the Heung Yee Kuk and twenty-seven Rural Committees, the full list of Village Representatives in the session 1999-2003 was collected. According to the information from the Home Affairs Bureau (HAB), there were 1001 posts for the office of Village Representatives before the enactment of the Village Representative Election Bill. And the total number of Village Representatives in the session 1999-2003 was 971. The questionnaires were sent to all 971 VRs in August 2001 and August 2002 respectively. The total number of respondents of the survey in 2001 is 236, and that of the survey in 2002 is 339. The response rates in 2001 and 2002 are 24.3 percent (rounded off to 24%) and 34.9 percent (rounded off to 35%) respectively. Ranges of errors at 95% confidence level in these surveys are not more than +/- 5.6 percentage points (rounded off to +/- 6%) in 2001 and not more than +/- 4.3 percentage points (rounded off to +/- 4%) in 2002.

A bare majority of respondents did not support the new electoral arrangements of VRs, literally the “Double Village Heads (DVH)” system. In 2001 survey, of 236 respondents, 53 percent replied that they did not support the new electoral arrangements, 32 percent said they did support and 15 percent said they were neutral. In 2002 survey, of 339 respondents, 62 percent replied that they did not support, 27 percent support and 11 percent neutral.

The relationship between those respondents who belonged to different rural administrative districts and who supported or unsupported the new electoral arrangements is statistically significant. A bare majority of respondents who belonged to Southern District (including Tsuen Wan) supported the DVH system (50 percent in 2001, 56 percent in 2002), whereas an overwhelming majority of respondents who belonged to Yuen Long District did not support the DVH system (75 percent in 2001, 86 percent in 2002). The cross-tabulation illustrated that there are great discrepancies between “Tsuen Wan faction” and “Yuen Long faction” in the issue of the DVH system, thus causing serious dispute to the DVH system in addition to intra-elite conflicts.

When asked their opinions about the necessities to amend the original electoral arrangements of VRs in 2001 survey, an overwhelming majority of respondents (80 percent) believed that there was no need to amend the arrangements, 17 percent said that there was necessary to have minor amendments and 3 percent replied that there

was necessary to have major amendments. In 2002 survey, when asked their optimal solutions of the electoral arrangements of VR election since 2003, an overwhelming majority (72 percent) replied that the optimal arrangement was to retain the original electoral arrangements.

When asked whether there should be limitations for non-indigenous villagers to vote and become a candidate in the villages, a bare majority of respondents (52 percent) agreed that a villager lived in a specific village at least 5 years can vote, and at least 7 years can become a candidate. 32 percent of respondents thought at least 7 years to vote and at least 10 years to become a candidate, whereas 7 percent of respondents thought at least 3 years to vote and at least 5 years to become a candidate. In addition, there is only extreme minority of respondents (1 percent) replied that there should be no limitations, while the rest of respondents (8 percent) suggested other views on the issue of limitations.

When asked whether there was harmony between indigenous and non-indigenous villagers, an overwhelming majority of respondents (78 percent in 2001, 83 percent in 2002) agreed, and only extreme minority of respondents (3 percent in both 2001 and 2002) replied that there was discord between indigenous and non-indigenous villagers, while the others (19 percent in 2001, 14 percent in 2002) neutral.

Nevertheless, the majorities of respondents concurred that (1) the DVH system will accelerate disunion between indigenous villagers and non-indigenous villagers (70 percent in 2001, 86 percent in 2002), (2) the DVH system will speed up the penetration of political parties (79 percent in 2001, 87 percent in 2002), (3) the DVH system will accelerate people who have great influences to penetrate into the villages (80 percent), (4) the implementation of the DVH system will initiate another legal dispute and court cases because of the deprivation of the lawful traditional rights and interests of the indigenous inhabitants of the N.T. protected by the Basic Law (82 percent), and (5) the implementation of the DVH system will initiate another legal dispute and court cases because there will be two votes for indigenous villagers whereas only one vote for non-indigenous villagers (60 percent).

Obviously, the DVH system, a government policy initiated by the Home Affairs Bureau (HAB) brought endless dispute, including political conflicts between the state and elites, conflicts between pro-government rural elites and anti-government rural elites, as well as conflicts between indigenous village elders and non-indigenous villagers.

Implications of the DVH System

After two-year debate on the new electoral arrangements of VRs since the judgment of the Court of Final Appeal (CFA), the government of the Hong Kong Special Administrative Region (HKSAR) ultimately put the Village Representative Election Bill into the Government Gazette on October 4, 2002, and conducted the first reading of the Bill in LegCo meeting on October 9, 2002. The clear fact is that the Home Affairs Bureau (HAB) tried to use the DVH system for the implementation of CFA's judgment in December 2000, thus legitimating the electoral rights of non-indigenous villagers in VR election. However, according to my survey findings and participant

observations, the enforcement of the DVH system indeed ignored the majority views of the N.T. indigenous residents. The N.T. will be highly politicized and the VR election thereafter will accelerate the rural conflicts.

The actual fact is that the CFA's judgment pinpointed that every non-indigenous villager should be eligible to participate in the VR election, including as a candidate and as a voter. Nevertheless, the judgment never requested to implement the DVH system. The HKSAR government held the whole responsibilities to investigate and decide how to implement the final judgment of the court. Sadness to say, rural political conflicts will be incandescence after the implementation of the DVH system proposed by the government.

There are some implications after the implementation of DVH system. Firstly, some of the functions for two types of VRs under the DVH system, i.e. Indigenous Representatives (IRs) and Resident Representatives (RRs), will be inevitably overlapping. Mr. Stephen Fisher, the Deputy Secretary of HAB, also recognized the possibilities of overlapping functions for two types of VRs in some of public forums during the consultation period. If the RR in an indigenous village will be a non-indigenous villager, the interests of two representatives (i.e. RR and IR) may not be in unanimity, and the relationship of two representatives will also be full of variations. When two different indigenous residents will be returned after the election of IR and RR in a specific indigenous village, the new electoral arrangements cannot guarantee the protection of the interests of non-indigenous villagers in that particular village. Conversely, besides the conflicts of interests between indigenous and non-indigenous villagers including *fungshui* and land development, intra-elite conflicts between different factions of indigenous villagers will be accelerated in case the IR and RR are two different indigenous residents.

Secondly, just like the predictions from most of respondents in the questionnaires, political parties will accelerate to immerse into different N.T. villages after the implementation of DVH system. The clear fact is that different political parties already planned to expand their influences in the N.T. villages in order to grasp more votes in the coming District Council and Legislative Council (LegCo) elections.

The DVH system therefore created a chance for the parties to penetrate into the villages through the non-indigenous villagers' participation in the election of RRs. If the IR and the RR in a specific village represented different political parties, political struggle between the parties will increase the complexities of rural affairs, and the N.T. villages will unavoidably become highly politicized.

Thirdly, clan interests and small villages will face great impacts from the DVH system. According to the information provided by the government, before the implementation of the DVH system, 77% of existing villages have only one representative, whereas 17% have two representatives, 5% have three, and 1% have four or five. The reason for the villages that have more than one VR was based on an official document in 1948 issued by the N.T. District Office. The document was laid down that there was one representative for a village with less than 50 households, one representative and one deputy representative for a village with 50-99 households, one representative and two deputy representatives for a village with 100 or more households. One former VR revealed that some of the villages or walled villages with two or more representatives

were that each VR represented a specific clan in the particular village. If a village has three VRs, there is a possibility that three VRs could be come from different clans, supposing one from the Chans, one from the Lees, and one from the Cheungs. Because of this, although quite a lot of villages that the population increased rapidly owing to the N.T. development, the villagers did not want to increase the number of VR seats, thus avoiding further rural struggles. Nevertheless, the implementation of the DVH system in those villages could create the dispute between residents with different clan interests. The DVH system may inevitably create complexities and accelerate conflicts between different clans. In the meanwhile, the new VR electoral arrangement does not permit one person to participate in two different constituencies of representatives as candidates simultaneously, i.e. the IR, a functional constituency, and the RR, a geographical constituency. As a matter of that, even a village with little population must have two representatives, one is the IR and the other one is the RR. Most of the villages that were relatively harmony in the past will therefore become disunion and conflict-ridden.

Fourthly, as the N.T. villages and rural elections emphasized on the neighborhood relations and *guanxi* in the past. In some villages, villagers also divided into two or more factions that the factions sometimes have struggles, especially for the village elections. Pat Heung Shek Wu Tong Village is a very good example that there are two factions, one is mainly composed of the indigenous residents and the other one is mainly composed of non-indigenous residents. Two factions generated wide ranges of disputes focusing on village affairs including the use of the roads, the village facilities, and etc. Another example of village differentiations is in Yuen Long Wang Chau. In 1999 village elections, hundreds of people from two different factions wearing different colours of jackets in front of the polling stations, thus showing the influences in the villages from the respective factions. As a result, the implementation of the DVH system will accidentally induce new powers to immerse into the villages, and the situation of rural elections since 2003 should be full of complexities.

Fifthly, the implementation of the DVH system seems to be redundant to those non-indigenous villages that had Mutual Aid Committees (MACs) or Resident Committees. The actual fact is that there are already some Mutual Aid Committees (MACs) that established to represent the villages populated with non-indigenous villagers in the N.T. instead of building-based (in the private housing sector) or block-based (in the public housing sector) organizations. For instance, Shatin Tau Sixth District Village with some 200 households established a MAC in 1992.

Lastly, the N.T. governing strategy of British Hong Kong government is to adopt a *lazzie-faire* policy, thus permitting the N.T. residents enjoyed high degree of autonomy. The autonomous rural election was one of the characteristics under the colonial governance. However, the HKSAR government nowadays tried to centralize the district power through the reform of VR electoral arrangements after the abolition of two municipal councils.

Alternative Solutions of VR Electoral Arrangements

Certainly, the intention to introduce the Village Representative Election Bill by the government could bring a positive message to the public, as the VR elections will be

institutionalized through the introduction of the Bill, similar to the District Councils and LegCo Elections. Nonetheless, it is not a must to enforce all villages in the N.T. to implement the DVH system in the process of drafting the Bill. There could be other alternative solutions to conform the CFA judgment, including: (1) to adopt a Single Village Head system that all existing villagers (no matter indigenous or non-indigenous) lived in a particular village elect one VR, and set up a new consultative council for indigenous inhabitants to deal with indigenous affairs; (2) to adopt a Pure Indigenous Representative system that all indigenous inhabitants defined by the law in a particular indigenous village elect the VR(s), and set up a new consultative council for all N.T. villagers to deal with ordinary affairs of the villages; (3) to adopt a Mixed-mode Village Heads system that all existing villagers lived in a particular villages plus all indigenous inhabitants defined by the government jointly elect the VR(s), and the existing numbers of VRs in all villages remain unchanged.

Even the government does not intend to alter the fundamental VR electoral arrangements in the Bill for the session 2003-2007, and desires to further review the arrangements after the commencement of that session, some amendments in the Bill are still necessary to be made in order to alleviate some of rural political conflicts. It is recommended that the section 22(4) of the Bill should be amended, thus allowing a person who is nominated as a candidate at an election for an Indigenous Village (or a Composite Indigenous Village) can be simultaneously nominated as a candidate at an election for an Existing Village with the same name as the Indigenous Village (or a Composite Indigenous Village). Such amendments could alleviate some of conflicts within the villages, as each village is not obligatory to have at least two representatives (i.e. one RR and at least one IR) when the villagers thought that a person in the village could represent both indigenous inhabitants and existing villagers.

Over intervening the VR elections by the HKSAR government are supererogatory. For example, some LegCo members criticized some of the arbitrary provisions in the VR electoral arrangements, such as the eligibility of the voters for the post of RRs must be a resident lived in the specific village at least 3 years, whereas the eligibility of becoming the candidate for the post of RR must be a resident lived in the specific village at least 5 years (thereafter the government altered to at least 6 years). Such arbitrary provisions in the Bill will also accidentally increase the possibilities to initiate another legal dispute and court cases. To respect the views from the VRs for the session 1999-2003, I suggests that it is better to amend the requirements of the RRs in a village that a resident lived in the specific village at least 5 years can vote, and the eligibility of becoming the candidate for the post of RR must be a resident lived in the specific village at least 7 years. In short, the “political wisdom” of the colonial government was to adopt a *lazzie-faire* policy towards rural elections, while the HKSAR government’s DVH system deprived the high degree of autonomy for the N.T. villages.

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