

立法會
Legislative Council

LC Paper No. CB(2)1968/14-15
(These minutes have been seen
by the Administration)

Ref : CB2/PL/HA

Panel on Home Affairs

Minutes of special meeting
held on Tuesday, 5 May 2015, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex

- Members present** : Hon Starry LEE Wai-king, JP (Chairman)
Hon YIU Si-wing (Deputy Chairman)
Dr Hon LAM Tai-fai, SBS, JP
Hon IP Kwok-him, GBS, JP
Hon Claudia MO
Hon NG Leung-sing, SBS, JP
Hon Steven HO Chun-yin
Hon Frankie YICK Chi-ming
Hon MA Fung-kwok, SBS, JP
Hon CHAN Chi-chuen
Dr Hon Kenneth CHAN Ka-lok
Hon LEUNG Che-cheung, BBS, MH, JP
Dr Hon Helena WONG Pik-wan
Hon TANG Ka-piu, JP
Dr Hon CHIANG Lai-wan, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen, BBS
- Members absent** : Hon Cyd HO Sau-lan, JP
Hon CHEUNG Kwok-che
Hon WU Chi-wai, MH
Hon IP Kin-yuen

**Public Officers : Item I
attending**

The Administration

Mr Laurie LO Chi-hong, JP
Deputy Secretary for Home Affairs (1)

Mrs Susanne WONG HO Wing-sze
Principal Assistant Secretary for Home Affairs (Civic Affairs) 3

Chinese Temples Committee

Mr Matthew WONG Wai-man
Secretary

**Attendance : Item I
by invitation**

The Hong Kong Buddhist Association

Venerable Kuan Yun
Executive Vice President

Lo Hon Monastery

Venerable Yin Chi
Abbess

Hong Kong Buddhist Cemetery Management Committee

Mr HO Tak-sum
Chairman

The Hong Kong Buddhist Association Tung Chun Centre

Mr LEE Ka-cheung
Managing Director

Hong Kong Theravada Buddhist Society Limited

Mr Nelson LAM
Chairman

The Hong Kong Buddhist Association Sha Tin Centre

Mr Martin CHEUNG
Chief Executive Officer

Fung Ying Seen Koon

Mr Raymond HO Shu-kwong
Chief Executive Officer

Individual

Mr KWOK Chung-man

The Confucian Academy

Ms LEUNG Chau-wan
Secretary General

The Hong Kong Taoist Association

Mr LEUNG Tak-wah
Chairman

Individual

Ms LAU Yuet-kuen

Wanhok Taoist Association

Mr YEUNG Sin-ping
Deputy Abbot

Individual

Mr Pius YUM Kwok-tung
Kowloon City District Council member

International Buddhist Progress Society (Hong Kong) Limited

Venerable Jue Fan
Representative

Fo Guang Vihara Hong Kong

Miss Candy TONG ka-ning
Representative

Buddha's Light International Association of Hong Kong Limited

Mr William FAN Wai-lim
Representative

Shun Shin Chee Kit Yin Koon

Ms Pauline CHENG
Director

The Yuen Yuen Institute

Mr TANG Kam-hung
Vice Chairman

Heung Hoi Ching Kok Lin Association

Ms HO Ka-ling
Chief Executive Officer

Individual

Mr HAU Wing-cheong

Buddhi Organization, Western Monastery

Mr NGAN Siu-lun
Director

Civic Party

Miss Sunshine CHIU Sin-har
District Developer

Hung Hom Resident Service Organization

Mr LAM Tak-shing
Chairman

Individual

Mr WONG Kwong-hon

Alliance for the Concern Over Columbarium Policy

Mr TSE Sai-kit
Convenor

Individual

Mr TONG Wai-ki

Clerk in attendance : Ms Alice LEUNG
Chief Council Secretary (2) 2

Staff in attendance : Miss Josephine SO
Senior Council Secretary (2) 6

Miss Emma CHEUNG
Legislative Assistant (2) 2

Action

I. Review of the Chinese Temples Ordinance

(Consultation document on "Review on the Chinese Temples Ordinance" issued by the Home Affairs Bureau and the Chinese Temples Committee, and LC Paper Nos. CB(2)1346/14-15(01) & (02))

Presentation of views by deputations/individuals

The Chairman reminded the deputations attending the meeting that they were not covered by the protection and immunity provided under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) when addressing the Panel.

2. At the invitation of the Chairman, a total of 26 deputations/individuals presented their views on the proposed amendments to the Chinese Temples Ordinance (Cap. 153) ("CTO") put forward by the Home Affairs Bureau ("HAB") and the Chinese Temples Committee ("CTC"), as set out in the consultation document. A summary of the deputations' views is in the **Appendix**. Members also noted a written submission from an organization which did not attend the meeting.

Administration's response to deputations' views

3. At the invitation of the Chairman, Deputy Secretary for Home Affairs (1) ("DSHA(1)") gave a consolidated response to the views and concerns raised by the deputations as follows -

- (a) CTO was enacted in 1928 against the rampant activities of deceitful pseudo-religious establishments. The main purpose of CTO was to suppress and prevent any mismanagement and abuses of the funds of Chinese temples. With the passage of time, some provisions of CTO appeared to be outdated. Members of the public were now much more aware of the risks associated with pseudo-religious establishments and various legislation were in place to provide protection and remedies against frauds, malpractices or misuses of funds by temples;
- (b) after a comprehensive review with CTC, HAB recommended that CTO be amended with a view to better serving prevailing social needs having regard to present circumstances. It should be noted that particular attention had been paid to striking a balance between respecting the freedom of religion and safeguarding public interest during the review;
- (c) alongside with the proposal of removing from CTO the outdated provisions imposed on Chinese temples, new measures were recommended for enhancing the existing system in view of public expectations on the proper handling of public donations and management of Chinese temples. Among others, it was suggested that CTC would implement a voluntary registration scheme to replace the mandatory registration requirement;
- (d) a Chinese temple that wished to be registered under the voluntary registration scheme should submit to CTC relevant information including its assets that came from public donations and how it used or managed public donations. The full list of temples registered with CTC, with major information of the temples, would be published on CTC's website for public access and inspection. In case there were major changes to the information submitted, the registered temples should report the changes to CTC. The latter would conduct random checks on the information submitted by the registered temples, and in case of any false claims or concealment, CTC might consider cancelling the registration. One of the merits of the voluntary registration scheme was that the enhanced transparency of

Action

registered Chinese temples would provide useful reference to the public in their consideration of making donations to Chinese temples, hence strengthening public confidence in them;

- (e) the purpose of CTO was not to regulate the operation of private columbaria and CTO did not have any provisions addressing issues in this regard. The Food and Health Bureau ("FHB") had formulated a licensing scheme for regulating the operation of private columbaria and introduced into the Legislative Council the Private Columbaria Bill which was being scrutinized by the relevant Bills Committee. After the enactment of the Bill, all private columbaria, irrespective of whether they were operated by religious or non-religious bodies, must comply with the licensing requirements, including those relating to land leases or other land instruments as well as statutory town planning requirements etc.; and
- (f) CTC was established in accordance with CTO. It was mainly responsible for administering temples on lands possessed by the Secretary for Home Affairs Incorporated ("SHAI"). CTC also took up other important roles in supporting the maintenance of temples, promoting traditional culture and sponsoring charitable activities. The proposed amendments outlined in the consultation document, in particular the proposal of merging the existing Chinese Temples Fund and the General Chinese Charities Fund into a single Chinese Temples Charities Fund ("CTCF") to be continued to be managed by CTC with a broader scope to provide grants to meet the needs of the relevant services of the community, could further strengthen the work of CTC, thereby promoting the development of Chinese temples.

Discussion

Laws regulating religious bodies and their activities

4. Mr Christopher CHUNG agreed that some of the provisions in CTO appeared to be outdated and inapplicable in present-day context and hence needed to be improved. Noting that CTO was made to regulate Chinese temples belonging to the schools of Confucianism, Buddhism and Taoism whereas other religious bodies were not subject to similar restraints as imposed on Chinese temples by the relevant provisions in CTO, he expressed concern about the fairness of applying different standards to Chinese temples and other religions facilities. He and the Chairman were concerned whether activities of other religious bodies were presently subject to regulation under existing legislation.

Action

5. In response, DSHA(1) advised that there was currently no legislation in Hong Kong regulating specifically the operation and activities of religious facilities other than Chinese temples. Reiterating the background and purposes of CTO, he explained that compared with the situation in the 1920s, members of the public were now much more aware of the risks associated with pseudo-religious establishments. As various legislation were readily in place to provide protection and remedies against frauds, malpractices, misuses of funds as well as environmental and safety problems that were associated with organizations and their facilities, HAB and CTC proposed to amend CTO with a view to better serving prevailing social needs having regard to present circumstances. DSHA(1) stressed that the proposed registration scheme was voluntary in nature, aiming at enhancing the standard and transparency of the management of temples, including how they used/managed public donations.

6. Mr HAU Wing-cheong, Venerable Jue Fan and Mr TANG Kam-hung said that they shared the public concern about the establishment of private columbaria in the vicinity of residential buildings on account of the impact of their operation on the neighbourhood. While they were supportive of the proposed licensing scheme under the Private Columbaria Bill for regulating the operation of private columbaria to enhance the protection of consumer interest, they considered it improper for the Administration to regulate the activities of religious bodies, including Chinese temples, for fear that religious freedom and the social functions of religious bodies would be affected. They supported the current proposal of replacing the mandatory registration requirement with a voluntary registration scheme, and believed that relevant religious bodies and their affiliated temples would join in with self discipline.

Proposed voluntary registration scheme

7. Noting some deputations' grave concern that the Administration's proposal of replacing the mandatory registration requirement with a voluntary registration scheme would create a loophole and result in the proliferation of private columbaria operated in the name of temples but not registered under CTO, Mr TANG Ka-piu suggested that the Administration should, in collaboration with FHB, provide a clear explanation of the matter to the public, so as to allay public concerns about the proposed voluntary registration scheme. Referring to the submission from the Incorporated Owners of Choi Ming Court (LC Paper No. CB(2)1346/14-15(06)), Mr TANG considered it necessary for the Administration to also clarify whether the amendment bill covering the proposed voluntary registration scheme, if enacted, would have overriding effect over deeds of mutual covenant ("DMCs") which contained explicit provisions stipulating that

Action

temples or columbarium facilities were not allowed in the buildings concerned.

Admin

8. DSHA(1) undertook to provide, in consultation with FHB as necessary, a written response on the relationship between the proposed voluntary registration scheme and the Private Columbaria Bill so as to address possible public concerns about private columbaria operated in the names of temples. On the point of whether the registration requirement had any overriding effect on DMCs, DSHA(1) said that a DMC was a private contract, the registration requirement, be it mandatory or voluntary, would not have overriding effect over the rights and obligations of the parties to DMC.

9. While appreciating the need to improve CTO, the Deputy Chairman questioned the effectiveness of the proposed voluntary registration scheme in enhancing the transparency of temples management. Although it was stipulated in CTO that no Chinese temple should be established or maintained unless registered in accordance with the provisions thereof, only 350 out of the approximately 600 Chinese temples in Hong Kong had been registered with CTC at present. Given the great variation in management standards and practices amongst temples, the Deputy Chairman urged the Administration to make reference to the practices adopted by other sectors, such as the "Quality Mark" scheme or the ISO system, to encourage the relevant religious bodies and their affiliated temples to take part in the voluntary registration scheme.

10. Dr Kenneth CHAN said that while he appreciated that there were good reasons to establish a more reasonable regulatory regime for Chinese temples, the Administration should be mindful of the need to balance the interests of the public and the religious sector. As it would take time to scrutinize the Private Columbaria Bill to effect the licensing regime for private columbaria, he opined that the mandatory registration requirement under CTO should be maintained so as to provide a vehicle to address some of the problems associated with private columbaria. The Administration should not relax its control over Chinese temples under the pretext of upholding religious freedom. Noting the Administration's response to issues raised by members at the Panel meeting on 24 March 2015 (LC Paper No. CB(2)1346/14-15(01)) regarding complaints received in respect of the 25 temples directly administered by CTC, he enquired whether similar mechanism would be in place for handling public complaints against temples registered with CTC under the voluntary registration scheme.

11. DSHA(1) responded that -

(a) the Administration was proposing amending CTO to the effect

Action

that CTC would become a body corporate. It was also proposing clear powers and functions of CTC so that CTC might represent SHAI to collect revenues from the Chinese temples owned or held by SHAI as trustee and credit the money into the proposed CTCF, pay for the operation costs of CTC, maintain the temples under its auspices and make appropriate investments; and

- (b) as provided in the above-mentioned Administration's response, a total of 57 complaint cases had been received over the past three years in respect of the 25 temples directly administered by CTC. The complaints mainly involved the work conducted by the organizations responsible for temple operation or that conducted by temple keepers, such as products or services offered by temple keepers as well as the operation, fees charged or opening hours of the temples. Should the proposed voluntary registration scheme for Chinese temples be implemented in future, CTC would continue to handle complaints made by members of the public against the temples. Follow-up action would be taken if the complaint was substantiated.

12. Dr Helena WONG said that while Members belonging to the Democratic Party considered it necessary for the Administration to critically review the regulatory regime for Chinese temples and make improvements to CTO to enhance the protection of public interest, it was incumbent upon the Administration to explain clearly to the public the problems encountered by the Administration in enforcing CTO in the past and the reasoning leading to the proposed replacement of the mandatory registration requirement with a voluntary registration scheme. Holding the view that the voluntary registration scheme might affect or lessen the protection afforded to members of the public against unlawful activities of deceitful pseudo-religious establishments and querying the effectiveness of the proposed voluntary registration scheme, the Democratic Party strongly objected to it.

13. DSHA(1) responded with the following points -

- (a) CTO was enacted in 1928 according to the needs at that time. Due to changes in social circumstances since its enactment, some provisions of CTO appeared to be outdated. As a matter of fact, in recent years, CTC had not enforced the outdated provisions under CTO to take actions against those temples operating without registration under CTO or to direct the transfer of property of any Chinese temple to SHAI;
- (b) there had been a number of cases of disputes over the ownership

Action

and revenues of Chinese temples, in which the affected parties opted to resolve the disputes through legal proceedings and follow the rulings of the Court. If CTC handled or followed up on the disputes with the powers conferred by CTO, it might arouse public concern over the protection of private property rights. Since there were already other legislation and legal proceedings in place to protect the public, any attempts to enforce the outdated provisions in CTO that the "absolute control" over the properties of Chinese temples must rest with a committee appointed by the Government would be unjustified; and

- (c) in view of the foregoing, the Administration had been focusing on amending CTO to better serve prevailing social needs having regard to present circumstances.

14. Expressing dissatisfaction with the Administration's response, Dr Helena WONG considered that the Administration should draw up the legislative proposals with detailed analyses, covering information about the financial situation and activities of the Chinese temples presently in Hong Kong, law enforcement actions taken against non-compliant temples (including the 250 Chinese temples which had not been registered with CTC) and the malpractices and irregularities identified (if any) over the years.

Other issues discussed

15. The Chairman said that while she appreciated the sentiments and concerns of relevant religious bodies over the propriety of imposing restraints on Chinese temples by applying the provisions under CTO, there was a need for the Administration to achieve a proper balance between respecting the freedom of religion and safeguarding public interest (especially public donations) in introducing amendments to CTO.

16. In response to the Chairman's enquiry on how complaints against temples could be lodged and handled, Mr TANG Kam-hung and Venerable Kuan Yun said that the Hong Kong Taoist Association and the Hong Kong Buddhist Association would respectively deal with complaints against Kun and To Yuen (觀及道院, Taoist monasteries) and Tsz (寺, Buddhist monasteries) which were affiliated members of the two Associations.

17. Responding to the Chairman's further enquiry about the regulation, such as legislative framework, governing the soliciting and collection of public donations, DSHA(1) advised that religious or charitable corporations exempted from tax under section 88 of the Inland Revenue Ordinance

Action

(Cap. 112) were required to obtain relevant permits or permission from the authorities concerned for soliciting and collecting donations in public places upon obtaining relevant permits/permission from the authorities concerned.

Conclusion

18. In closing, the Chairman called on the Administration to take into account and address the various issues and concerns raised by members and the deputations, when considering amendments to CTO. She also requested the Administration to revert to the Panel on the outcome of the public consultation once available and provide in its future report to be submitted to the Panel more information about the current operation of Chinese temples.

19. DSHA(1) undertook to do so and assured members that HAB and CTC would consider all views and comments put forward by members and the public, including those from deputations during the Panel's discussion, on the consultation document before finalizing the legislative proposals.

20. There being no other business, the meeting ended at 4:30 pm.

Council Business Division 2
Legislative Council Secretariat
27 July 2015

Panel on Home Affairs
Special meeting on Tuesday, 5 May 2015, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex

Meeting to receive views on the public consultation document
on "Review on the Chinese Temples Ordinance"

Summary of views and concerns expressed by deputations/individuals

No.	Name of deputation/individual	Submission/Major views and concerns
1.	The Hong Kong Buddhist Association	<ul style="list-style-type: none"> • LC Paper No. CB(2)1376/14-15(01)
2.	Lo Hon Monastery	<ul style="list-style-type: none"> • LC Paper No. CB(2)1376/14-15(01)
3.	Hong Kong Buddhist Cemetery Management Committee	<ul style="list-style-type: none"> • LC Paper No. CB(2)1376/14-15(01)
4.	The Hong Kong Buddhist Association Tung Chung Centre	<ul style="list-style-type: none"> • LC Paper No. CB(2)1376/14-15(01)
5.	Hong Kong Theravada Buddhist Society Limited	<ul style="list-style-type: none"> • LC Paper No. CB(2)1376/14-15(01)
6.	The Hong Kong Buddhist Association Sha Tin Centre	<ul style="list-style-type: none"> • LC Paper No. CB(2)1376/14-15(01)
7.	Fung Ying Seen Koon	<ul style="list-style-type: none"> • LC Paper No. CB(2)1376/14-15(02)
8.	Mr KWOK Chung-man	<ul style="list-style-type: none"> • The Administration should consult the public including residents living in the neighbourhood of Chinese temples. • Expressed dissatisfaction that the public consultation document did not address issues relating to Chinese temples engaging in non-religious and profit-making activities such as the operation of private columbaria. • Expressed reservations about the proposal to replace the mandatory registration requirement with a voluntary registration scheme.
9.	The Confucian Academy	<ul style="list-style-type: none"> • LC Paper No. CB(2)1346/14-15(03)

No.	Name of deputation/individual	Submission/Major views and concerns
10.	The Hong Kong Taoist Association	<ul style="list-style-type: none"> LC Paper No. CB(2)1435/14-15(01)
11.	Ms LAU Yuet-kuen	<ul style="list-style-type: none"> LC Paper No. CB(2)1346/14-15(04)
12.	Wanhok Taoist Association	<ul style="list-style-type: none"> LC Paper No. CB(2)1389/14-15(01)
13.	International Buddhist Progress Society (Hong Kong) Limited	<ul style="list-style-type: none"> Supported the proposed amendments to the Chinese Temples Ordinance (Cap. 153) ("CTO") put forward by the Home Affairs Bureau ("HAB") and the Chinese Temples Committee ("CTC").
14.	Fo Guang Vihara Hong Kong	<ul style="list-style-type: none"> Expressed support for the proposed amendments to CTO.
15.	Buddha's Light International Association of Hong Kong Limited	<ul style="list-style-type: none"> Strongly supported the proposed amendments to CTO put forward by HAB and CTC. Called on the Administration to remove the outdated provisions in CTO which were in contravention of Articles 32 and 141 of the Basic Law that guaranteed freedom of religious belief in Hong Kong.
16.	Shun Shin Chee Kit Yin Koon	<ul style="list-style-type: none"> Expressed support for the proposed amendments to CTO.
17.	The Yuen Yuen Institute	<ul style="list-style-type: none"> LC Paper No. CB(2)1435/14-15(01)
18.	Heung Hoi Ching Kok Lin Association	<ul style="list-style-type: none"> LC Paper No. CB(2)1376/14-15(01)
19.	Mr HAU Wing-cheong	<ul style="list-style-type: none"> LC Paper No. CB(2)1435/14-15(01)
20.	Buddhi Organization, Western Monastery	<ul style="list-style-type: none"> LC Paper No. CB(2)1376/14-15(01)
21.	Civic Party	<ul style="list-style-type: none"> LC Paper No. CB(2)1389/14-15(02)
22.	Hung Hom Resident Service Organization	<ul style="list-style-type: none"> LC Paper No. CB(2)1389/14-15(03)

No.	Name of deputation/individual	Submission/Major views and concerns
23.	Mr WONG Kwong-hon	<ul style="list-style-type: none"> • LC Paper No. CB(2)1346/14-15(05)
24.	Alliance for the Concern Over Columbarium Policy	<ul style="list-style-type: none"> • LC Paper No. CB(2)1601/14-15(01) • Considered that the existing regulatory regime for Chinese temples should be enhanced for prevention of any mismanagement of Chinese temples and abuses of their funds, so as to safeguard public interest. • Expressed concern over the problem of private columbaria operated in the names of temples. • Objected to the proposed replacement of the existing mandatory registration requirement with a voluntary registration scheme.
25.	Mr TONG Wai-ki	<ul style="list-style-type: none"> • LC Paper No. CB(2)1435/14-15(01)
26.	Mr Pius YUM Kwok-tung, Kowloon City District Council member	<ul style="list-style-type: none"> • Strongly objected to the proposed replacement of the existing mandatory registration requirement with a voluntary registration scheme.
<i>Written submission from organization not attending the meeting</i>		
27.	The Incorporated Owners of Choi Ming Court	<ul style="list-style-type: none"> • LC Paper No. CB(2)1346/14-15(06)