

# **PART ONE**

## **PROLOGUE**



## CHAPTER 1

### INTRODUCTION

#### Section 1 – Historical Background

1.1 The rural community in the New Territories has all the time had its own elections, among which are the village representative (“VR”) elections. The previous system of electing a VR for a village or a group of villages came up around the end of World War II. There was at that time no legislation regulating the elections of these VRs. VRs were primarily elected on a clan basis and the elections were basically private elections. There was only one VR elected for each village or group of villages and the candidates as well as electors were all indigenous inhabitants, ie persons who can establish their patrilineal descent from a resident of a village that was in existence in 1898.

1.2 It was not till 1994 that a set of “Model Rules” was drawn up by the Heung Yee Kuk (“HYK”) to deal with the VR elections for some 700 Villages, which were held every four years. Each village had its own way of conducting its election and the role of the Government (the District Officer (“DO”) in this context) was merely advisory. The appointment of the elected VRs had to be approved by the Secretary for Home Affairs (“SHA”) according to section 3 of the HYK Ordinance.

1.3 The above system of electing VRs prevailed till 1999 when two non-indigenous inhabitants challenged the validity of the electoral arrangements for the office of the VRs of their respective villages by judicial review proceedings. They were Messrs CHAN Wah of Po Toi O in Sai Kung and TSE Kwan-sang of Shek Wu Tong in Yuen Long. Mr Chan was denied the right to vote for the VR even though he married an indigenous inhabitant, and Mr Tse was denied the right to stand as a candidate in the election. Both of them were denied their right on the ground that they were not indigenous inhabitants. These cases were eventually heard by the Court of Final Appeal (“CFA”) in 2000, which ruled that the electoral arrangements adopted in these two villages were inconsistent with the Hong Kong Bill of Rights Ordinance and those in Po Toi O were also inconsistent with the Sex Discrimination Ordinance. The CFA also ruled that the SHA, in deciding whether to approve the appointment of an elected VR in the future, should consider whether the VR was elected according to arrangements that were consistent with the two above-mentioned ordinances.

1.4 In view of the CFA’s ruling, there were calls on the Government to bring the VR elections under a statutory framework. The Government then started to review the VR elections and came to the conclusion that these elections should be brought under statutory control to ensure that they are conducted in the same open, fair and honest manner as the other public elections. In designing the statutory framework for regulating these VR elections, the Government adopted a balanced approach to ensure compliance with the CFA’s ruling as well as

safeguarding the lawful traditional rights and interests of indigenous inhabitants as safeguarded by Article 40 of the Basic Law. The Government eventually proposed to elect two types of VRs for each village or a group of villages, one type to be elected by indigenous inhabitants as before and the other by both indigenous and non-indigenous inhabitants. The former type is known as Indigenous Inhabitant Representative (“IIR”). The number of IIRs for each village, following the traditional and existing number of VRs, varies from one to five. The latter type is known as Resident Representatives (“RR”) and there will be only one RR for each village. The Government then proceeded with the law-making procedure.

1.5 On 14 February 2003, the VR Election Ordinance (“VREO”) was enacted for the first time in the history of Hong Kong, and the conduct of the VR elections was to be governed by the law.

## **Section 2 – The Scope of the Report**

1.6 This report describes the preparation work for conducting the 2003 VR Election, depicts how the election was conducted, details how complaints were handled and, after reviewing the effectiveness of the electoral arrangements, makes recommendations for improvement for future elections.

## CHAPTER 2

### REGULATORY FRAMEWORK

#### Section 1 – The Legislation

2.1 The VR elections are governed by the statutory requirements provided in three different ordinances, namely the VREO, the Electoral Affairs Commission Ordinance (“EACO”) and the Elections (Corrupt and Illegal Conduct) Ordinance (“ECICO”).

#### *The VREO*

2.2 The VREO, drafted by the Home Affairs Bureau (“HAB”), was introduced into the Legislative Council (“LegCo”) on 9 October 2002. It principally provides for the establishment of the office of RR for an Existing Village (“EV”) and the office of IIR for an Indigenous Villages (“IV”) or a Composite Indigenous Village (“CIV”), their terms of office and directs how the VR elections should be conducted. The classification of the types of villages and VRs and the voting system are set out in paras. 2.3 – 2.9.

### *Types of Villages*

2.3 Because of the difference in the nature of the existing 707 villages, the VREO classifies them into three types: EVs, IVs and CIVs as follows –

- (a) An EV is a village with physical boundaries shown on a map, rather similar to the District Council constituencies in the District Council election or geographical constituencies in the LegCo election. In the 2003 VR Election there were 693 EVs, listed in Schedule 1 to the VREO.
- (b) An IV is a village shown in the “Index for electing IIRs” kept by the Director of Home Affairs (“DHA”). There were 586 IVs in the 2003 VR Election, listed in Schedule 2 to the VREO.
- (c) A CIV is a group of IVs. There were 15 CIVs in the 2003 VR Election, listed in Schedule 3 to the VREO. These 15 CIVs were composed of 32 villages and they all happened to be also EVs.

A physical village may be both an EV and an IV or an EV and a CIV. A chart illustrating these types of villages is at **Appendix I**.

### *Types of VRs*

2.4 The VREO classifies VRs into two types: the IIRs, representing the indigenous inhabitants of IVs or CIVs and RRs, representing the residents of EVs.

2.5 The IIR's primary functions are to look after lawful traditional rights, the interests and needs of the indigenous inhabitants of the village concerned and reflect their views to the authorities. The RR's primary function is to take care of the general interests and needs of the residents of his village, eg improvements to the living environment, the adequacy of public facilities, etc. The RR should not deal with the lawful traditional rights and interests and traditional way of life of the indigenous inhabitants.

2.6 The term of office of a VR is 4 years, except that the term of office of a VR returned at the election in 2003 is 3 years and 6 months.

### *Voting System*

2.7 The voting system adopted for the VR elections is the simple majority or relative majority, commonly known as the "first-past-the-post", system. A registered elector for:

- (a) an EV may vote for one candidate as the RR for that EV;
- (b) a CIV may vote for one candidate as the IIR for that CIV;



- (c) an IV may vote for as many candidates as the number of IIRs, ranging from one to five, to be returned at the election for that IV.

The candidate who obtains the greatest number of votes will be elected. In the case of an IV, the next vacancy will be filled by the next candidate who gets the next greatest number of votes, and so on, until all vacancies are filled.

2.8 The number of VRs to be returned for each EV, IV and CIV is specified in Schedules 1-3 to the VREO. The total number to be returned in the 2003 VR Election is 1,480, of which 693 are RRs and 787 are IIRs.

2.9 A breakdown by district of the number of EVs, IVs/CIVs, RRs and IIRs to be returned is shown in **Appendix II**.

### *The EACO*

2.10 The EACO provides for the establishment of the Electoral Affairs Commission (“EAC”) to be responsible for the conduct and supervision of elections. With the enactment of the VREO, the scope of the EACO has been expanded to empower the EAC to supervise the conduct of the VR elections and to perform its functions through the DHA, where appropriate, and to submit to the Chief Executive a report on a VR election.

*The ECICO*

2.11 The scope of the ECICO was also extended to govern the conduct of VR elections.

**Section 2 – Electoral Regulations**

2.12 Under section 7(1)(a) and (b) of the EACO, the EAC is empowered to make regulations to govern the registration of electors and the electoral procedures of the elections under its purview. To ensure that the VR elections are conducted in an open, fair and honest manner, the EAC made two pieces of subsidiary legislation to govern the conduct of the VR elections, ie the EAC (Registration of Electors) (VR Election) Regulation (“EAC (ROE) (VRE) Regulation”) and the Electoral Procedure (VR Election) Regulation (“EP (VRE) Regulation”). These regulations came into operation on 15 February and 1 June 2003 respectively.

*EAC (Registration of Electors) (Village Representative Election) Regulation*

2.13 The EAC (ROE) (VRE) Regulation sets out the procedures for registering eligible persons as electors for elections held under the VREO.

2.14 The Regulation basically models on the EAC (Registration of Electors) (LegCo Geographical Constituencies) (District Council

Constituencies) Regulation, relating to the registration of electors and compilation of provisional and final electoral registers in LegCo Election and District Council Election. It contains similar provisions on application for registration as electors, compilation and publication of the provisional register (“PR”), arrangements for making claims and objections in respect of the PR, correction of the PR, compilation and publication of an omissions list and the final register (“FR”) as well as offences and other miscellaneous related matters.

*Electoral Procedure (Village Representative Election) Regulation*

2.15 The EP (VRE) Regulation provides detailed procedures governing the conduct of the VR elections.

2.16 To ensure consistency in conducting public elections, the Regulation basically models on the Electoral Procedure (Chief Executive Election) Regulation. Where appropriate, it also includes provisions similar to those in the EAC (Electoral Procedure) (LegCo) Regulation. It contains similar provisions on nomination of candidates, appointment of election agents, polling arrangements, voting procedures and counting of votes.

2.17 Where appropriate, the Regulation has made suitable adaptations, deletions or additions to take into account requirements in the VREO that are different from other public elections. The Regulation

was gazetted on 28 March 2003 and passed by the LegCo on 2 April 2003 without amendment.

### **Section 3 – Guidelines on Election-Related Activities**

2.18 In accordance with section 6(1) of the EACO, a set of Guidelines on Election-related Activities in respect of the VR elections was drawn up by the Commission.

2.19 The proposed Guidelines basically models on both the Guidelines on Election-related Activities in respect of the 1999 District Council Election and the Election Committee Subsector Elections, with suitable and necessary amendments to reflect the unique features of the VR elections.

2.20 The proposed Guidelines were published on 14 February 2003, when the Commission hosted a press conference to announce the start of the public consultation period, which was to last for 30 days and end on 15 March, during which members of the public might put forth their representations on the guidelines.

2.21 A public forum was held on 10 March 2003 when only a few members of the public turned up to voice their representations in the presence of the Commission.

2.22 At the close of the public consultation period the Commission received only four written representations. While one of them was in support of the guidelines, the subject matters of the other three were primarily outside the jurisdiction of the Commission. There was one point that the Commission took. It suggested that the number of days before the polling day when the polling notices should reach the electors should be increased from five to ten days. Both the guidelines and the EP (VRE) Regulation were subsequently amended in this light.

2.23 The final Guidelines came into operation on 22 May 2003. Printed and produced in loose-leaf format, these Guidelines will apply to all ordinary elections and by-elections of the VR to be held after that date. In the event that future amendments to the Guidelines are necessary loose-leaf amendment sheets will be issued.

## CHAPTER 3

### DEFINING STATUS OF VILLAGES

#### Section 1 – Demarcation of Boundaries of EVs

3.1 The boundaries of the EVs in each district were demarcated by the respective DO in accordance with a set of general guidelines drawn up by the Home Affairs Department (“HAD”). In drawing up the boundaries, the DOs were also aided by village environ maps and their own archives, taking into consideration such factors as the physical features of individual villages, and the affiliation of the residents with the village concerned. In general only rural type settlements were included within delineated village boundaries.

3.2 The proposed boundary maps were open for public consultation during the period from 23 July to 12 August 2002. They were displayed at the HAD headquarters, in the respective District Offices and on notice boards in the villages, and disseminated to the HYK and the relevant rural committees. At the end of this period a total of 175 objections, concerning 145 villages, was received. Seven of these were later withdrawn. The DOs of the districts concerned examined these objections, accepted 117 of them, and rejected the remaining 51.

3.3 A set of all of the finalised boundary maps was kept in the custody of the DHA and each DO kept the boundary maps relating to his own district in his office for public inspection.

## **Section 2 – Index of IVs and CIVs**

3.4 According to sections 2 and 4 of the VREO, the information relating to all IVs and CIVs is contained in an Index kept by the DHA. Villages, the names of which appear in this Index, are IVs/CIVs.





## **PART TWO**

### **BEFORE THE POLLS**



## CHAPTER 4

### REGISTRATION OF ELECTORS

#### Section 1 – Eligibility for Registration as an Elector

4.1 The criteria of eligibility for registration as an elector are stated in section 15 of the VREO. In sum, a person is eligible for registration as an elector for an EV if he –

- (a) is a permanent Hong Kong resident;
- (b) is aged 18 or above; and
- (c) has been a resident of the EV for the 3 years immediately preceding his application for registration as an elector.

4.2 A person is eligible for registration as an elector for an IV or a CIV if he is –

- (a) an indigenous inhabitant of that village or the spouse of an indigenous inhabitant of that village;
- (b) aged 18 or above; and
- (c) in possession of an acceptable identity document.

He is however not required to reside in Hong Kong or the village.

## **Section 2 – The Registration Period**

4.3 The period for registration of electors was from 1 March to 21 March 2003, as stipulated in section 8(1) of the EAC (ROE) (VRE) Regulation. During this period the HAD received a total of 162,903 applications (83,045 for the RR election and 79,858 for the IIR election).

## **Section 3 – Publication of Provisional Register and Objections and Claims**

4.4 After the end of the registration period, a PR for the EVs and the IVs/CIVs, recording the personal particulars of 81,019 electors of EVs and 78,667 electors of IVs/CIVs, was published on 22 April 2003 for public inspection until 5 May 2003. For this purpose, a full copy of the PR was kept in the office of the DHA (who is the Electoral Registration Officer (“ERO”) for VR elections) and the relevant “section” of the PR (ie, the part of the PR relating to the district concerned), kept in the respective District Offices. Details were announced in a notice in the Gazette Extraordinary published by the ERO on 22 April 2003.

4.5 As provided for in sections 23-25 of the EAC (ROE) (VRE) Regulation, any person who considers that a registered person is not eligible to be registered as an elector may serve a notice of objection in a specified form in person at the office of the ERO or the office of the relevant Assistant ERO (ie the DO). Any person whose principal residential address is in Hong Kong and who has applied for registration

as an elector but whose name is not recorded in the PR or who has a claim regarding his particulars in the PR may serve a notice of claim in the specified form in person at the office of the ERO or the office of the relevant Assistant ERO. But for a person whose principal address is not in Hong Kong and who wishes to lodge a claim, he may serve the notice of claim in a specified form in person, by post, facsimile transmission, electronic means (within the meaning of section 2(1) of the Electronic Transactions Ordinance) authenticated by a digital signature within the meaning of that section, or authorising another person in writing to serve the notice on his behalf. Copies of the specified forms can be obtained from the ERO's or relevant Assistant ERO's office, or downloaded from the VR elections website. For the 2003 VR Election, these arrangements were announced by the ERO in the notice in the Gazette Extraordinary published on 22 April 2003. Such objections and claims should be lodged during the public inspection period, ie from 22 April to 5 May 2003.

4.6 By 5:00 pm on 5 May 2003, 2,098 objections and 145 claims had been received by the ERO. These cases were heard in the Fanling Magistrates' Court by a team of four Revising Officers from 2 to 15 May 2003. Thereafter there were appeals against the Revising Officers' ruling. The Revising Officers then reviewed these cases and reheard them on the 19<sup>th</sup> of the same month. The final outcome was that 1,384 objections were allowed and 714 dismissed, while 50 claims were allowed and 95 dismissed. A detailed breakdown is shown in **Appendix III**.

4.7 Under sections 27 and 28 of the EAC (ROE) (VRE) Regulation, the ERO may make corrections to entries in the PR before compiling the FR. Those made under section 27 of the regulation concern requests from electors to alter their personal particulars or the part of the register in which they should be recorded. They need not be approved by the Revising Officer. Those made under section 28 of the regulation concerning the removal, addition or correction of entries require the Revising Officer's approval. A detailed breakdown of the corrections made by the ERO in the 2003 PR under section 28 of the regulation is at **Appendix IV**.

#### **Section 4 – Publication of the FR**

4.8 After the Revising Officers' rulings and the relevant corrections to the entries in the PR had been made, the ERO published the 2003 FR on 3 June 2003. The number of electors of EVs and those of IVs/CIVs shown in the 2003 FR is 79,915 and 78,235 respectively. As in the case of the PR, a full copy of the FR is kept in the ERO's office and the relevant "section" of the FR are kept in the respective District Offices.

## CHAPTER 5

### PUBLICITY

#### Section 1 – An Overview

5.1           Publicity was a particularly important element in the 2003 VR Election, as it was the first time that VR elections were to be conducted in accordance with electoral legislation. The HAD therefore launched a massive publicity campaign to –

- (a)   arouse the attention of the general public to the election;
- (b)   furnish the indigenous villagers and village residents, including those who had emigrated to foreign countries, with detailed information about the election, such as the criteria for registration as electors and standing as candidates in the election, the polling dates of the RR and IIR elections for the various villages, and polling and counting arrangements; and
- (c)   appeal to them to actively participate in the election, ie to be registered as an elector and vote at the election, and to stand as a candidate.

5.2           As not only local villagers but also villagers who have emigrated were involved, the publicity events and measures were carried out both locally and abroad.

## **Section 2 – Local Publicity**

5.3 To start off, the DHA hosted a press conference on 28 February 2003 to announce that the electors registration exercise would commence on 1 March and end on 21 March 2003. The HAD also issued a press release on this event.

5.4 Posters, in both English and Chinese, on the election were distributed through the District Offices, HYK, rural committees and village offices. Banners were put up at spots where the electors registration work was carried out. Advertisements were published in such local newspapers as the Community Star, Ming Pao (NT edition) and South China Morning Post during the electors registration period.

5.5 During the period from February to August 2003, announcements in both Chinese and English were broadcast on the television and the radio to publicise the electoral arrangements, the electors registration exercise, nomination of candidates, etc.

## **Section 3 – Overseas Publicity**

5.6 To keep overseas Chinese communities in the picture, a host of measures were taken. A delegation headed by the SHA and Permanent Secretary for Home Affairs embarked on a promotional tour to London in December 2002 to visit the Chinese communities there. The Hong Kong Special Administrative Region Government's overseas



Economic and Trade Offices helped by displaying and disseminating the publicity materials to the local Chinese communities, and issuing press releases on the VR Election. The HYK and rural committees also rendered their assistance in distributing the publicity materials and other related information to the indigenous villagers living abroad through their own networks. These people could also receive the information about the VR Election on an overseas channel run by the Television Broadcasts Ltd. and from the overseas edition of Hong Kong newspapers, eg the Sing Tao Daily (European edition).

#### **Section 4 – Publicity on the Internet**

5.7 To obtain information and registration/nomination forms for the 2003 VR Election, the public could visit the HAD's website ([www.info.gov.hk/had/vre](http://www.info.gov.hk/had/vre)). The websites of the EAC and Registration and Electoral Office ("REO") ([www.info.gov.hk/eac](http://www.info.gov.hk/eac) and [www.info.gov.hk/reo](http://www.info.gov.hk/reo)) also displayed information about the relevant legislation and guidelines on the VR elections. For information relating to the provisions of the ECICO, the public could visit the website of the Independent Commission Against Corruption ("ICAC") ([www.icac.org.hk](http://www.icac.org.hk)).

#### **Section 5 – Publicity by the ICAC**

5.8 Apart from displaying the necessary information on its website as mentioned in para. 5.7, the ICAC organised 21 talks for the candidates, their agents and campaign assistants to brief them on the

major provisions of the ECICO, and 50 roving exhibitions in the village areas and at main transport exchanges to promote public awareness of the need to keep the VR Election clean.

5.9 The ICAC also published and distributed, with the HAD's assistance, posters on the theme of "Support Clean VR Elections" to the District Offices, village offices and the Government's overseas offices.

5.10 In addition, the ICAC published a handbook titled "2003 VR Election Information Booklet: Abide by the Rules – Support Clean Elections" for distribution to the candidates and their agents. The handbook helped them by highlighting the major provisions of the ECICO. With the HAD's assistance, the ICAC distributed a leaflet on the same theme to the electors.

## CHAPTER 6

### NOMINATION OF CANDIDATES

#### Section 1 – Eligibility of Candidates

6.1 The criteria of eligibility of candidates are stipulated under section 22 of the VREO. For a person who wishes to stand as a candidate in the RR election, he must –

- (a) be a Hong Kong permanent resident;
- (b) be aged 21 or above at the time when he is being nominated as a candidate;
- (c) be a registered elector of the EV concerned;
- (d) have been a resident of that EV for at least six years immediately preceding his nomination; and
- (e) be nominated by at least five registered electors in that EV.

6.2 For a person who wishes to stand as a candidate in the IIR election, he must –

- (a) be a Hong Kong permanent resident;
- (b) be an indigenous inhabitant of the IV/CIV concerned;

- (c) be aged 21 or above at the time when being nominated as a candidate;
- (d) be a registered elector of the IV/CIV concerned;
- (e) have been ordinarily residing in Hong Kong; and
- (f) be nominated by at least five registered electors in the IV/CIV concerned.

## **Section 2 – The Nomination Period**

6.3 The nomination period started on 3 June and ended on 16 June 2003. Candidates handed in their nomination forms to the relevant Returning Officer (“RO”) in person. At the close of nomination, the ROs received a total of 1,663 nominations.

## **Section 3 – Validly Nominated Candidates**

6.4 After vetting the nominations, the ROs confirmed that, of the 1,663 nominations received, 8 were invalid, 14 had been withdrawn and one had been disqualified by the RO. Of the 1,640 valid nominations, 702 were for the RR elections, and 938 for the IIR elections.

6.5 Having gone through the 1,640 valid nominations, the ROs found and declared that 930 candidates were uncontested (367 for the RR elections and 563 for the IIR elections). The lists of uncontested

candidates were published in the Gazette Extraordinary on 30 June 2003 and are shown at **Appendices V (A) and (B)** respectively.

6.6 The names and relevant particulars (eg principal address, the EV/IV/CIV and affiliation with the relevant rural committee, etc) of the remaining 710 validly nominated but contesting candidates were also published in the Gazette Extraordinary on 30 June 2003.

6.7 The ROs also declared that the elections of 167 EVs and 21 IVs/CIVs involving 189 VR seats (167 RR and 22 IIR) had failed because there was no validly nominated candidate. The lists of EVs and IVs/CIVs where the elections have failed were published in the Gazette Extraordinary also on 30 June 2003 and shown at **Appendices VI (A) and (B)** respectively.

6.8 Two candidates in the Yuen Long District, one contesting an RR election and the other an IIR election, were later disqualified by the RO. Hence the total number of validly nominated candidates became 708. Their disqualification was published in the Gazette on 18 July 2003.

6.9 Because the opponent of the disqualified candidate for the RR election became uncontested, the number of uncontested candidates thus increased to 931 while the total number of contesting candidates was reduced to 707, contesting 360 seats.

6.10 Due to stringent resources, the candidates of the 2003 VR Election and the ROs were not provided with the service of the Nominations Advisory Committees that was available in past general elections of the LegCo and ordinary elections of District Councils. Candidates had to resort to their own legal advisers, and the ROs to the Department of Justice (“D of J”), for legal advice on the nominations.

6.11 There was neither any provision of free postage for the candidates to mail their election advertisements (“EAs”) to the electors. They had to fund such activity from their own purse.

6.12 The candidates were not required to place any election deposit.

6.13 Introductory leaflets containing relevant information about the candidates, their platforms and photographs were kept in a repository in the respective RO’s office and the rural committee office for public inspection.

#### **Section 4 – Civil Servants Standing as Candidates**

6.14 Unlike other public elections, serving civil servants were allowed to participate in the 2003 VR Election as candidates. Those civil servants who wished to stand as a candidate in the VR Election had to seek prior approval from their head of department. However, permission would not normally be given to directorate officers, members

of the Administrative Officer grade, disciplined members of the Police Force and members of the Information Officer grade. Those civil servants who had extensive contact with the villagers by virtue of their official duties (eg the Liaison Officers in the District Offices) and those whose official duties would likely have conflict of interests with the responsibility of the VR's office were also strongly advised not to seek candidature in the VR Election.

6.15 Among the 1,638 candidates, about 100 were serving civil servants.

### **Section 5 – The Briefing for Candidates**

6.16 As in other public elections, the EAC Chairman hosted a briefing for the candidates of the 2003 VR Election. It was held in the Jockey Club Auditorium in the Hong Kong Polytechnic University on 19 June 2003. Also present with the EAC Chairman were the DHA, the Assistant Director of the HAD responsible for matters relating to the 2003 VR Election, the representatives of the ICAC, D of J and the Chief Electoral Officer of the REO.

6.17 The EAC Chairman briefed the candidates on the major provisions of the electoral legislation and guidelines, and on the electoral arrangements. As this was the first time that the conduct of a VR election had ever been brought under the law, he appealed to the candidates for their attention to and compliance with the relevant

legislation so as to ensure that the election would be held in an open, fair and honest manner. He then went through each and every important item which the candidates should pay attention to. He concluded that if all parties concerned abided by the law then they should not find it difficult to comply with the relevant provisions.

6.18 The candidates and their agents eagerly raised questions, which were promptly and clearly answered by the EAC Chairman and representatives of the departments.

6.19 After the briefing session came the session for drawing lots, whereby the candidates were allocated their candidate number and designated spots for displaying their EAs (for certain villages in certain districts where such spots could be identified for the purpose of displaying EAs).

6.20 The occasion was extensively covered by the media.



## **CHAPTER 7**

### **POLLING AND COUNTING ARRANGEMENTS**

#### **Section 1 – Polling Days and Hours**

7.1 Due to financial and manpower constraints, polling was arranged on six consecutive weekends between 12 July and 17 August 2003 instead of on one single day. The opening hours for each polling day were from 12 noon to 7 pm. The polling dates and polling hours were promulgated in the Gazette by the SHA and the DHA on 23 May 2003 and 30 June 2003 respectively.

7.2 By the time of the close of nomination in June 2003 when over 50% of the seats were returned uncontested, the polling arrangements had almost been finalised. Despite the reduced number of required elections, the Commission decided that the six-weekend polling arrangements, which had been widely publicised, should not be condensed lest electors and candidates might be confused by a change in the polling day for their respective villages.

#### **Section 2 – Designated Polling Stations**

7.3 The HAD headquarters and the DOs of the nine districts in the New Territories identified 283 polling stations and 37 counting stations in these districts. Due to manpower constraints and to ensure better

supervision, polling stations were clustered, with each cluster set up on the same premises to serve a number of villages in the same locality. Venues used as polling and counting stations were mainly schools, community halls, village offices and indoor recreation halls. The number of polling stations in each district is tabulated as follows:

<b>District</b>	<b>Number</b>
Islands	35
Kwai Tsing	10
North	20
Sai Kung	3
Sha Tin	18
Tai Po	34
Tsuen Wan	19
Tuen Mun	9
Yuen Long	135
<b>Total</b>	<b>283</b>

7.4 As a contingency measure, an alternative or reserve polling station was designated for the villages belonging to the same rural committee.

7.5 The list of these polling stations and alternative polling stations was published in Gazette notices on 30 June 2003 by the DHA. The list of counting stations was published in another Gazette notice on the same date also by the DHA.

7.6 A Central Command Centre was set up in Tuen Mun Town Hall to monitor the overall polling and counting processes on each polling day. It acted as the central co-ordinating centre to ensure the smooth operation of the polling and counting stations. The District Office in each of the nine districts was to serve as the district command centre on a polling day.

### **Section 3 – Polling and Counting Staff**

7.7 Staff of the nine District Offices were deployed as polling and counting staff and to man the district command centres. Where necessary, staff from the Hong Kong and Kowloon District Offices were also enlisted to render assistance. In fact the DOs in the urban Districts assisted their counterparts in the New Territories by serving as Assistant ROs.

### **Section 4 – Polling Notices to Electors**

7.8 Ten days before the relevant polling day, a polling notice was sent to the elector concerned, notifying him of the date, time and location of the polling station in connection with the election of candidates for his village. Notices were also sent to the electors in cases where the candidate was uncontested or where the election had been declared as having failed. In these cases the electors concerned were notified vide the notice that they needed not go to the polling station to cast their vote.

## **Section 5 – Appointment of ROs, Assistant ROs and Assistant ROs(Legal)**

7.9 The EAC appointed the DOs of the nine New Territories Districts as ROs, and 32 Assistant ROs from among their staff and urban DOs on 23 May 2003, and 10 Assistant ROs (Legal) (all legal professionals from the D of J) on 11 June 2003. The appointment of the ROs was published in the Gazette on 30 May 2003. A list of the ROs and AROs is shown at **Appendix VII**.

## CHAPTER 8

### MOCKS AND TRIALS

8.1 To assess the practicability and effectiveness of what had been prepared, to train the staff involved and to have a preview of the relevant working procedures and processes, the HAD conducted several mock exercises.

#### *Mock polling and counting stations and command centre*

8.2 On 17 December 2002 the HAD set up a mock polling station in the Cheung Wah Community Hall in Fanling, a mock counting station in the Tai Wo Neighbourhood Community Centre in Tai Po and a mock command centre in the Lek Yuen Community Hall in Shatin. The EAC visited these places to have a preview of how the poll and the count would be conducted and how the command centre would operate.

8.3 At the mock polling station, which served two villages, the EAC observed the entire polling process, including the issue of ballot papers, and the elector's marking the ballot paper and casting it into the ballot box.

8.4 At the mock counting station the EAC had a general view of how the count was conducted. Each integral part of the counting procedure was demonstrated, ie opening the ballot boxes, counting the

ballot papers, verifying ballot paper accounts, sorting votes cast for individual candidates, vocal counting, determining questionable ballot papers, and declaring the election result.

8.5 At the mock command centre the EAC saw the setting up and operation of the logistical support facilities, including the press enquiry counter, help desks, enquiry hotline, complaints centre and statistics corner.

8.6 The Commission found the mock arrangements generally satisfactory.

#### *Training session for polling and counting staff*

8.7 A training session was organised on 8 July 2003 for all staff to be engaged in polling and counting duties and manning the command centres. It aimed at helping the staff to familiarise themselves with the rules and operational procedures and their respective roles. In addition to briefings, mock exercises were conducted to enable them to gain hands-on experience.

#### *Trial run at the Central Command Centre*

8.8 A trial run was conducted on 7 July 2003 at the Central Command Centre in the Tuen Mun Town Hall by the staff concerned to test the effectiveness of the operation of the various units in the centre.

## **PART THREE**

# **THE ELECTIONS**





## **CHAPTER 9**

### **THE POLLS**

#### **Section 1 – Polling Dates and Polling Hours**

9.1 The polls for the 283 villages, involving 360 VR seats, were held on six consecutive weekends from July to August 2003, ie 12-13, 19-20, 26-27 July and 2-3, 9-10, 16-17 August. The polling hours were from 12 noon to 7 pm on each polling day.

#### **Section 2 – Logistical Support**

9.2 On each of the 12 polling days all the designated polling stations were open for operation as scheduled. The weather was fine on these days and there was no unexpected incident to impede the conduct of the elections; so it was not necessary to open any of the alternative polling station. Also operating were the Central Command Centre at the Tuen Mun Town Hall and the district command centres in the districts where elections were held.

9.3 In the REO headquarters in Harbour Centre a complaints centre, manned by the staff of the Complaints Unit of the EAC secretariat, was set up on each of the polling days to receive complaints from members of the public during the polling hours.

9.4 The ICAC and Police teamed up for the purposes of combating triad influence and forestalling triad intrusion into electoral activities. A task force was formed and senior officers from both sides met on a regular basis to exchange information and map out strategies to fight crime and corruption.

### **Section 3 – Polling Arrangements**

9.5 The set up of a polling station was modelled on that in the District Council election or the LegCo election. There were a number of voting compartments and ballot paper issuing desks. In a cluster of polling stations, accommodated under the same roof and serving two or more villages, polling stations were partitioned off or situated in separate rooms, each serving one village.

9.6 For a polling station serving a village where both RR and IIR elections were held, two sets of ballot papers printed in different colours, pink for the IIR electors and white for the RR electors, were provided. Separate coloured ballot boxes, red for IIR ballot papers and white for the RR ballot papers were used. Electors with different voting entitlements were given cardboards in different colours, red for those entitled to vote in both RR and IIR elections and white for those entitled to vote in either one of the two types of elections. There were two sets of registers for marking those who had been issued ballot papers, one for the RR electors and the other for the IIR electors. Cross references were made in these

registers to ensure that those entitled to have two ballot papers would be issued the correct number of ballot papers.

9.7 In line with the practice adopted for the District Council elections and LegCo geographical elections, the chop with the “✓” was used. No other means of marking the ballot paper was allowed.

9.8 For the RR election, the voting system adopted was the simple majority system or relatively majority system, more commonly known as the “first past the post” system. For the IIR election, the same voting system was stipulated. The only difference was that there could be multiple seats in an IIR election, with the candidate who obtained the largest number of votes winning the first seat, and the one with the second largest number of votes winning the second seat, so on and so forth, till all the seats were filled.

9.9 A no canvassing zone and a no staying zone were specified by the ROs concerned outside each polling station or each cluster of polling stations. The order inside the station as well as within the no canvassing zone and no staying zone was satisfactorily maintained generally. The only incident disrupting the orderliness and peacefulness of the elections was that a gang of persons, suspected to be triad members, assembled near the polling station for the Hung Uk Tsuen in the Yuen Long District, reportedly causing nuisance to the electors. Police was called in to maintain law and order. The case was under investigation.

9.10 The Commission was impressed by the ample presence of police officers in the vicinity of polling stations during the polling hours. This went a long way in ensuring that no serious incident, apart from the one mentioned above, took place throughout the entire Election.

#### **Section 4 – Voter Turnout Rates**

9.11 The total number of registered electors of all the contested elections at the 2003 VR Election was 72,114. Of these, 39,330 were electors of RR elections and 32,784 were electors of IIR elections. A total of 29,344 RR electors (ie about 74.61%) and 23,904 IIR electors (ie about 72.91%) cast their votes on the polling days representing an overall average of 73.84% turnout rate. The Commission found these relatively high turnout rates encouraging. A detailed breakdown of the overall daily turnout rates for both the RR and IIR elections is shown in **Appendix VIII (A) and (B)**.

9.12 The statistics shows that the turnout rates on Sundays were comparatively higher than those on Saturdays. This could be attributed to the fact that some electors had to work in the afternoon on Saturdays and might not be able to reach the polling stations (most of which were located in the New Territories near the village concerned) before the close of poll at 7 pm.

## **Section 5 – Elections which Had Failed and By-elections**

9.13 As mentioned in para. 6.7, at the close of nomination, the ROs declared that the elections for 167 EVs and 21 IVs/CIVs had failed due to the absence of validly nominated candidates. This was either because: (a) nobody in the village concerned was interested in seeking candidature in the relevant election for that village, or (b) the person who wished to stand as a candidate was unable to secure the required number of subscribers for his nomination since there were not enough registered electors in the village concerned.

9.14 As a result, the HAD would need to conduct by-elections for these villages at a later stage.

## CHAPTER 10

### THE COUNTS

#### Section 1 – Counting Stations

10.1 There was one central counting station for the villages covered by the same rural committee in the same district. Each counting station was supervised by the RO.

#### Section 2 – Counting Methods

10.2 In cases where only one seat was contested (eg the RR elections), manual counting (ie sorting the ballot papers into different plastic boxes according to the votes marked thereon and then starting the count) as used in the District Council elections was adopted.

10.3 In cases where relatively small numbers of seats and candidates were involved and the number of permutations was of a manageable size, manual counting was also used. An example showing the various permutations for an election where 5 candidates contested for 3 seats was at **Appendix IX**.

10.4 In cases where the number of permutations was too large to be handled efficiently, vocal counting was used. The votes gained by a candidate were recorded on a white board hung behind the counting table

in the form of a series of five-stroke Chinese character(s) of “正”, with each stroke representing one vote.

### **Section 3 – Counting Arrangements**

10.5 The time for transporting the ballot boxes from the polling stations to the central counting station varied from village to village. For some villages it took a relatively short time while some took as long as a couple of hours. On the arrival of the ballot boxes the RO concerned opened and emptied the ballot boxes for the count to commence.

10.6 The counting tables were placed in such a way that they were neither too far apart nor too close for the sake of avoiding distraction on the one hand and avoiding allegations of vote tinkering on the other.

10.7 Questionable ballot papers were identified, and their validity was determined by the RO in front of candidates or their agents who were present at the counting station. The list of rejected ballot papers with related reasons is at **Appendix X**.

10.8 As regards the time for completing the count, this varied from district to district. For some districts it took about an hour or two to finish the count and declare the election result, while in others it took a much longer time.

## **Section 4 – Declaration of Result**

10.9 The election result was declared at each counting station by the RO after the completion of the count. The results of these contested elections were promulgated in the Gazette Extraordinary notices published on 22 and 29 July 2003, 5, 12, 19 and 26 August 2003 respectively.

10.10 The full lists of successful and unsuccessful candidates including those uncontested and those villages where elections were declared as having failed are shown in **Appendices XI (A) and (B)**. Fifty-four civil servant-candidates won in the elections, 17 as RRs and 37 as IIRs.

## **Section 5 – EAC Visits**

10.11 The EAC Chairman and Members embarked on individual itineraries to visit a couple of polling stations on each of the polling days. They joined together to visit a counting station in the evening. On all of their trips they travelled by car, except for the Chairman's trip to the polling station in Tai O on the Lantau Island, when he took a helicopter flight.

10.12 The Commission met with the media on four occasions during this series of visits. They met the media for the first time after their visit to the polling station in Chung Mei Village in Tsing Yi on Day 1,



12 July 2003. On the same day they met the media in the counting station in the Sai Kung Central Lee Siu Yam Memorial School (in Sai Kung), after having opened the first ballot box with the SHA. They met the media again on Day 2, 13 July 2003 after their visit to the counting station in the Yuen Long Town Hall. On the last polling day on 17 August 2003, they met the media after the count in the Yuen Long Town Hall.

10.13 They generally found the polling and counting arrangements satisfactory and made some recommendations for improvement. (Please see Chapter 12 – Review and Recommendations.)

## **Section 6 – VIP Visits**

10.14 On Day 1 Dr Patrick C P HO, the SHA, visited the counting station in the Sai Kung Central Lee Siu Yam Memorial School and, as mentioned in para. 10.12, opened the first ballot box with the Commission. Ms Shelley LEE, the Permanent Secretary for Home Affairs, joined the EAC Chairman to visit the polling station in Wa Fung School in Yuen Long on the last polling day. Mrs Pamela TAN, the DHA, joined the EAC Chairman's visit to the polling station at Tai Lam Chung Public School in Tai Lam Chung on Day 3, 19 July 2003. The SHA and the DHA also visited the counting station in the Yuen Long Town Hall that evening.



**PART FOUR**

**COMPLAINTS**



## **CHAPTER 11**

### **COMPLAINTS**

#### **Section 1 – Complaints-handling Period**

11.1 The complaints-handling period started on 3 June 2003 (ie the commencement of the nomination period) and ended on 1 October 2003 (ie 45 days after the last polling day, 17 August 2003).

#### **Section 2 – Complaints-handling Parties**

11.2 The parties involved in handling complaints relating to the 2003 VR Election included the Complaints Unit of the EAC secretariat, the ROs, the Police, the ICAC and, on the polling days, the Presiding Officers (“PROs”).

11.3 The Complaints Unit of the EAC secretariat assumed the role of the co-ordinator for collating the complaint-related statistical information from the other parties and compiling a consolidated return for submission to the Commission on a weekly basis during the complaints-handling period.

11.4 Those who had lodged their complaints did so either in person, or sending in their complaints in writing, by phone, by fax or by e-mail.

### **Section 3 – Number and Nature of Complaints**

11.5 The total number of complaints received during the complaints-handling period (including those received on the polling days) was 303. The ROs received the largest number of complaint cases, a total of 117.

11.6 The complaint cases covered a wide spectrum, the majority of which concerned the eligibility of candidates, vote planting and bribery. A list showing the total number of complaint cases received with detailed breakdowns by nature and recipient are shown in **Appendices XII (A) – (F)**.

### **Section 4 – Complaints Received on Polling Days**

11.7 On the 12 polling days a total of 54 complaint cases was received, of which 25 were received by the PROs and were mostly directed at the electors' entitlement to vote and against polling staff. **Appendix XIII** shows the details. Some of these cases, eg those relating to unauthorised displaying of EAs, illegal canvassing in the no canvassing and no staying zones, complaints against polling staff, etc, were solved on the spot. Other complicated cases involving corrupt conduct and bribery, were referred to the authorities concerned for investigation where necessary.

## **Section 5 – Outcome of Investigations**

11.8 Of 303 cases received during the complaints-handling period, 20 were found substantiated, one partially substantiated and 41 not substantiated, while 151 were still under investigation.

11.9 The ROs issued a total of 12 warning letters to the complainees in substantiated cases. The ICAC warned two complainees and cautioned one. **Appendices XIV (A) - (D)** detailed the breakdown.

## **Section 6 – Judicial Review and Election Petition**

11.10 At the conclusion of the 2003 VR Election, there was one case of judicial review and one election petition. The details are set out in the ensuing paragraphs.

11.11 Mr LAI Tak-shing, who claimed himself as an indigenous villager of Tsing Yi Hui, instituted a judicial review on 15 August 2003 on the grounds that an election should be held for that village. The village in question was not included in any of the three Schedules to the VREO on villages for which elections should be held. The legal proceedings are pending.

11.12 Mr LIU Fu-sau, one of the two candidates of the RR election of Sheung Shui Heung, filed an election petition against Mr LIU Kwok-wah, the other candidate of the election, and Mr WONG Hon-ho,

the RO for the constituency concerned on 23 August 2003. The petitioner alleged that there was material irregularity in the counting process, which led to the missing of one ballot paper after recounts and his defeat in the election by one vote. The case is pending determination by the court.



## **PART FIVE**

# **LOOKING IN RETROSPECT**



## CHAPTER 12

### REVIEW AND RECOMMENDATIONS

#### Section 1 – A General Note

12.1 To ensure that the 2003 VR Elections were conducted in a fair, open and honest manner in accordance with the law, the EAC conducted on-site supervision through a series of visits to 31 polling stations, 12 counting stations and the Central Command Centre to observe the electoral arrangements during the 12 polling days. In the course of these visits, the EAC discussed problems with the ROs concerned and HAB/HAD representatives on the spot and tendered advice for improvement where deficiencies and shortcomings were identified. The EAC was pleased to note that the ROs concerned were receptive to advice and prompt improvements were made throughout the election period.

12.2 In line with the established practice, the Commission also conducted an overall review of the procedural and operational arrangements adopted in the election with a view to putting forth recommendations for improvement for future VR elections. The major aspects identified for improvement and the related recommendations are set out in the following paragraphs.

## Section 2 – Matters Relating to the Preparation Work

### *(A) Registration of electors*

12.3 There were quite a number of complaints directed at the eligibility of electors as well as prospective and validated candidates. Most of the complaints concern the status of the complainees (eg whether they were indigenous inhabitants), or whether they had fulfilled the residency requirement stipulated in the VREO.

**Recommendation:** The HAD should pay more attention to this aspect in future registration exercises. For clarity, an applicant for registration as an elector of an EV should be requested to specify the commencement date of his residence in the village in the electoral registration form, rather than claiming that he has lived there for at least three years. More time should be allowed for the processing of applications, particularly those from overseas, and better training should be provided to HAD staff on vetting and screening of applications.

12.4 The very fact that elections became abortive in 105 EVs and IVs/CIVs because of insufficient registered electors as subscribers suggests that there is much room for improvement in the area of registration of electors.

**Recommendation:** The HAD should step up its efforts, through enhanced publicity both locally and overseas, in appealing to villagers to

get registered if they have not done so. Ample time should also be allowed for conducting voter registration drives.

*(B) Inclusion of candidates' information in polling notices*

12.5 There were several complaints about the unavailability of, or insufficient information materials on the particulars and election platforms of candidates, as unlike other public elections, no introductory leaflet was sent to electors together with the polling notices. It was inconvenient for electors to search for the information on the websites or from the District Offices. There were worries that insufficient knowledge about the candidates would affect the electors' ability in making the right choice. The situation might be even worse for IIR elections, as the electors might only know the candidates by their childhood names.

12.6 During one of the Chairman's visits to the polling stations, a candidate asked him whether it would be lawful for a candidate to talk to an elector or to pay an elector a home visit. He was told by the Chairman that such an act was lawful as long as there was no vote-buying or offering of advantage in the process. The Commission thinks that this misconception might have inhibited candidates from contacting the electors and, without the candidates' introductory leaflets, the electors could have had difficulties in exercising their right to vote because they did not know the candidates well enough.

**Recommendation:** Subject to availability of resources, candidates' introductory leaflets should be produced by the Administration and sent to the electors together with the polling notices.

### **Section 3 – Matters Relating to Polling Arrangements**

#### *(A) Polling hours*

12.7 The starting and closing time of the poll at 12 noon and 7 pm respectively, and the duration of seven hours met with little objection from the electors. There appears to be no need to make any changes in the aspect.

**Recommendation:** The polling hours should remain unchanged unless future circumstances warrant otherwise.

#### *(B) Polling days*

12.8 The overall turnout rates for each of the 12 polling days show that the turnout on Sundays was comparatively better than that on Saturdays. The apparent reason is that some electors had to work in the afternoon on the polling Saturdays in the urban areas, and they were unable to reach the polling stations, which were located near the village concerned, before the close of poll.

12.9 If resources permit, it would be better if the VR elections for all villages could be held on one single Sunday. The readily conceivable advantages are: (a) more electors will be able to vote, (b) there will be no confusion to electors as to which date is the polling day for their village, and (c) the publicity efforts for the elections will be more focused.

12.10 If the future VR elections are subject to the same financial constraints as the 2003 VR Election, at least the villages under the same rural committee should have their elections held on the same Sunday. The mounting of EAs within the boundary of the rural committee would help arouse villagers' awareness towards the election.

**Recommendation:** The HAD should, for future VR elections, consider holding the elections for all villages on one Sunday, or at most several Sundays. Arrangements should be made for villages under the same rural committee to hold elections on the same Sunday in order to avoid confusion. To overcome manpower constraints, the DOs concerned may pool together the staff resources from several DOs to help out on the polling day.

*(C) Polling stations*

12.11 While the locations of polling stations and the layout appeared to be appropriate, except that some were not air-conditioned, there were a few complaints about some stations. Presumably because of the limited space of the venues, two complaints alleged that (a) it was congested

inside the stations (which were school classrooms), and (b) the ballot boxes were placed so near the exit that they were within arm's reach of the on-lookers standing outside the exit or those passing through the no staying zone. Another complaint suggested that the polling station should be situated inside the village concerned.

12.12 The Commission also noted that some of the polling stations were over-manned, particularly those serving a small electorate. There were about six staff manning one small polling station.

**Recommendations:**

- (a) The HAD should try, as far as possible, to avoid designating venues where the area is inappropriately small as polling stations.
- (b) The PROs should make their best endeavours to regulate movement of electors inside the station.
- (c) The ROs should provide sufficient space for the delineation of the no canvassing zone and the no staying zone.
- (d) The ROs should ensure that the polling stations should be adequately but not excessively manned. Consideration should be given to reducing the manning scale for those polling stations serving a small electorate.



*(D) Use of the chop with the “✓”*

12.13 As in the District Council elections and LegCo elections, the chop with the “✓” was used in the 2003 VR Election. This proved to be effective as the choice of the elector could be clearly marked on the ballot paper and largely eliminated dubious markings on ballot papers. Hence, the number of questionable ballot papers was greatly reduced.

**Recommendation:** The use of this chop with the “✓” should continue in future VR elections.

*(E) Communication between polling staff and electors*

12.14 In a complaint during the second polling day on 13 July 2003, the complainant accused a member of the polling staff of misleading some electors to vote only for one candidate whereas they could vote for a maximum of two candidates. The staff concerned told the electors that they were only IIR electors for an IV and were thus entitled to only one ballot paper while the electors thought that they were told by the staff that they could only vote for one candidate in that election. The misunderstanding arose because the terms “ballot paper” and “vote” are both expressed as “票” in Chinese. To prevent recurrence of similar incidents on the remaining polling days, upon the EAC’s advice, the HAD headquarters instantly issued a script on how to advise electors of their different entitlements for all polling staff to follow.

**Recommendation:** In future training sessions for polling staff their attention should be drawn to the need for giving clear advice to electors on their voting entitlements. The script mentioned above should be used as training material.

#### **Section 4 – Matters Relating to Counting Arrangements**

##### *(A) Counting stations*

12.15 The counts were conducted at central counting stations. The disadvantages of this practice are that time and resources have to be used for the transportation of ballot boxes from the polling stations to the central counting stations, and that in order to observe the count, the candidates, their agents and the electors need to travel to the counting station, the location of which they may not be familiar with.

12.16 In a few counting stations, the sample of questionable ballot papers were displayed at the entrance of the counting stations or at a far distance from the table for determining the questionable ballot papers.

**Recommendation:** The HAD may consider, as far as practicable, adopting the polling-cum-counting arrangement as used in the coming District Council Election, ie the polling station will be converted into the counting station after the close of poll, so that the candidates and their supporters would not need to travel to the counting stations to observe the count after the poll. Consideration may be given to use the Village

Community Halls, which were easily accessible to villagers, as the venue for polling-cum-counting stations.

12.17 For easy reference of the candidates and their agents, the sample of questionable ballot papers should be displayed closer to the table for determination of questionable ballot papers.

*(B) Counting procedure*

12.18 Both methods of manual counting and vocal counting were used. While they worked generally smoothly, there is still room for improvement to speed up the process.

**Recommendations:**

- (a) Questionable ballot papers can be identified at the same time when the number of ballot papers, as opposed to the number of votes marked on them, is verified against the ballot paper account. This will save one step.
- (b) The RO should be given the discretion not to conduct vocal counting if he is of the view that manual counting can be more efficient or appropriate. For instance, manual counting could be adopted for elections which involve a choice of three candidates out of five by sorting the ballot papers into 25 transparent boxes according to the different permutations of

marking as shown in **Appendix IX**. It can be adopted conveniently for multiple votes that do not involve more than 25 permutations. This method has the added benefit of enabling an immediate easy check to be made to the votes cast for a particular candidate if it is so required. This benefit is not available if vocal counting is used, and all the votes marked on all the ballot papers will need to be checked if there is any doubt.

### **Section 5 – Honorarium for Staff**

12.19 Despite a substantial amount of overtime work involved in conducting the elections over several consecutive weekends, the electoral staff were not given pecuniary recognition as in other public elections.

**Recommendation:** Subject to the availability of resources, consideration should be given to granting honorarium to all electoral staff as in other public elections, although the rate of the honorarium for VR elections might be comparatively lower in view of the shorter polling hours.

## Section 6 – By-elections

12.20 Section 6 of the EP (VRE) Regulation provides that as soon as practicable after a declaration has been made that an election for the Village has failed or has failed to the extent that the number of candidates validly nominated was less than the number of VR to be returned, DHA shall publish in the Gazette for by-elections to be held. The declaration for Villages which election had failed was made on 30 June 2003.

**Recommendation:** Consideration should be given to the following arrangements –

- (i) for villages that had no nomination for the 2003 VR Election, by-elections should be conducted in February/March 2004 to avoid confusion to electors and clashing with the forthcoming District Council Election and the HYK Election in November;
- (ii) for villages with less than six registered electors, by-elections should be conducted after 5 October 2004, when the next round of updating of the voter registers is completed; and
- (iii) for villages where a VR candidate who was elected *ipso-facto* refuses to accept office or where vacancies arise because of resignations, by-elections should also be held in February/March 2004.

In proposing the timing for the by-elections referred to in (i) and (iii) above, the Commission has also taken into account the need to avoid the one month-period before and after the Lunar New Year that is to fall on 22 January 2004, during which traditional activities such as spring receptions will be held and will likely affect electioneering activities if by-elections were to be held earlier than mid February 2004.

## **Section 7 – Matters Relating to the Guidelines**

### *(A) Inclusion of serving VRs in para. 4.3(b) of Part I of Chapter 4 of the Guidelines*

12.21 Para. 4.3(b) of Part I of Chapter 4 of the Guidelines lists the categories of persons whose performance report published or distributed during the election period should be treated as an EA. To be in line with the ECICO (section 33(f)), “a serving village representative” should be added into this paragraph of the Guidelines.

**Recommendation:** Para. 4.3(b) of Part I of Chapter 4 of the Guidelines should be amended accordingly.

### *(B) Clarification of defining performance reports as EAs*

12.22 In response to an enquiry as to whether the publications and the like issued in connection with certain activities by an organization involving a candidate should be considered as EAs, the Commission

advised that if the publication concerned only advertises a particular activity which (a) is organised from time to time either as part of the organisation's normal functions, and/or according to the local tradition; (b) is not related to the election; and (c) does not explicitly or implicitly promote or prejudice the election of a candidate in the election, then the publication concerned should not be regarded as an EA of the candidate concerned.

**Recommendation:** Para. 4.53 of Part VIII of Chapter 4 should be amended to include the advice stated above.

### **Section 8 – Recommendation to Publish the Report**

12.23 The Commission wishes to recommend that this report should go public, at a time the Chief Executive thinks fit, to enable the public to have a transparent picture of how the Commission supervises the conduct of the 2003 VR Election.





## **PART SIX**

## **EPILOGUE**



## **CHAPTER 13**

### **THE WAY AHEAD**

13.1 The 2003 VR Election has been successfully conducted. The Commission is particularly impressed with the relatively higher voter turnout rate as compared with other public elections. The enthusiasm of the electors who participated in the poll has made the 2003 VR Election a meaningful event in our community.

13.2 Although this is the first time the conduct of the VR elections was governed by the law, the various important aspects of the electoral arrangements were satisfactorily implemented and the expected standard of work was achieved. No serious problems have been encountered although there are areas where improvement is desirable.

13.3 The Commission is pleased to have the opportunity to supervise the conduct of the 2003 VR Election, the first of such elections ever conducted under the law. The Commission appreciates the work of the HAB, which drafted and facilitated enactment of the VR Election Bill; the HAD, which attended to all the operational aspects of the election; the Police and the ICAC, the Commission's long-time partners in the handling of complaints; and the D of J for provision of legal advice. The Commission is particularly thankful to the staff of REO for their dedicated and concerted efforts in helping to produce the regulations and

guidelines for the conduct of the VR Elections, as well as their meticulous planning of the EAC visits to the polling and counting stations.

13.4 At the time of finalising this report, the Commission is heavily engaged in the task of preparing for the upcoming District Council ordinary election to be held on 23 November 2003. The Commission will shoulder the responsibility of supervising both the District Council ordinary election and the following series of VR by-elections with equal attention and efforts.

13.5 The Commission will at all times be prepared to discharge its functions as required by the EACO in the capacity of an independent, apolitical and neutral body. It will remain committed to upholding the “open, fair and honest” principle in supervising the conduct of all future elections and continue to make its best endeavours in refining the electoral arrangements for future elections.