

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 13 January 2010

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

THE HONOURABLE JASPER TSANG YOK-SING, G.B.S., J.P.

THE HONOURABLE ALBERT HO CHUN-YAN

IR DR THE HONOURABLE RAYMOND HO CHUNG-TAI, S.B.S., S.B.ST.J., J.P.

THE HONOURABLE LEE CHEUK-YAN

DR THE HONOURABLE DAVID LI KWOK-PO, G.B.M., G.B.S., J.P.

THE HONOURABLE FRED LI WAH-MING, S.B.S., J.P.

DR THE HONOURABLE MARGARET NG

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

THE HONOURABLE CHAN KAM-LAM, S.B.S., J.P.

THE HONOURABLE MRS SOPHIE LEUNG LAU YAU-FUN, G.B.S., J.P.

THE HONOURABLE LEUNG YIU-CHUNG

DR THE HONOURABLE PHILIP WONG YU-HONG, G.B.S.

THE HONOURABLE WONG YUNG-KAN, S.B.S., J.P.

THE HONOURABLE LAU KONG-WAH, J.P.

THE HONOURABLE LAU WONG-FAT, G.B.M., G.B.S., J.P.

THE HONOURABLE MIRIAM LAU KIN-YEE, G.B.S., J.P.

THE HONOURABLE EMILY LAU WAI-HING, J.P.

THE HONOURABLE ANDREW CHENG KAR-FOO

THE HONOURABLE TIMOTHY FOK TSUN-TING, G.B.S., J.P.

THE HONOURABLE TAM YIU-CHUNG, G.B.S., J.P.

THE HONOURABLE ABRAHAM SHEK LAI-HIM, S.B.S., J.P.

THE HONOURABLE LI FUNG-YING, B.B.S., J.P.

THE HONOURABLE TOMMY CHEUNG YU-YAN, S.B.S., J.P.

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE FREDERICK FUNG KIN-KEE, S.B.S., J.P.

THE HONOURABLE AUDREY EU YUET-MEE, S.C., J.P.

THE HONOURABLE VINCENT FANG KANG, S.B.S., J.P.

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

DR THE HONOURABLE JOSEPH LEE KOK-LONG, S.B.S., J.P.

THE HONOURABLE JEFFREY LAM KIN-FUNG, S.B.S., J.P.

THE HONOURABLE ANDREW LEUNG KWAN-YUEN, S.B.S., J.P.

THE HONOURABLE ALAN LEONG KAH-KIT, S.C.

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE CHEUNG HOK-MING, G.B.S., J.P.

THE HONOURABLE WONG TING-KWONG, B.B.S., J.P.

THE HONOURABLE RONNY TONG KA-WAH, S.C.

THE HONOURABLE CHIM PUI-CHUNG

PROF THE HONOURABLE PATRICK LAU SAU-SHING, S.B.S., J.P.

THE HONOURABLE KAM NAI-WAI, M.H.

THE HONOURABLE CYD HO SAU-LAN

THE HONOURABLE STARRY LEE WAI-KING

DR THE HONOURABLE LAM TAI-FAI, B.B.S., J.P.

THE HONOURABLE CHAN HAK-KAN

THE HONOURABLE PAUL CHAN MO-PO, M.H., J.P.

THE HONOURABLE CHAN KIN-POR, J.P.

THE HONOURABLE TANYA CHAN

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

THE HONOURABLE WONG KWOK-KIN, B.B.S.

THE HONOURABLE WONG YUK-MAN

THE HONOURABLE IP WAI-MING, M.H.

THE HONOURABLE IP KWOK-HIM, G.B.S., J.P.

THE HONOURABLE MRS REGINA IP LAU SUK-YEE, G.B.S., J.P.

DR THE HONOURABLE PAN PEY-CHYOU

THE HONOURABLE PAUL TSE WAI-CHUN

DR THE HONOURABLE SAMSON TAM WAI-HO, J.P.

PUBLIC OFFICERS ATTENDING:

THE HONOURABLE JOHN TSANG CHUN-WAH, J.P.

THE FINANCIAL SECRETARY

THE HONOURABLE AMBROSE LEE SIU-KWONG, G.B.S., I.D.S.M., J.P.
SECRETARY FOR SECURITY

THE HONOURABLE TSANG TAK-SING, J.P.

SECRETARY FOR HOME AFFAIRS

THE HONOURABLE MATTHEW CHEUNG KIN-CHUNG, G.B.S., J.P.
SECRETARY FOR LABOUR AND WELFARE

THE HONOURABLE EDWARD YAU TANG-WAH, J.P.

SECRETARY FOR THE ENVIRONMENT

CLERKS IN ATTENDANCE:

MS PAULINE NG MAN-WAH, SECRETARY GENERAL

MRS VIVIAN KAM NG LAI-MAN, ASSISTANT SECRETARY GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

PRESIDENT (in Cantonese): Clerk, please ring the bell.

(After the summoning bell had been rung, a number of Members entered the Chamber)

TABLING OF PAPERS

The following paper was laid on the table pursuant to Rule 21(2) of the Rules of Procedure:

Report No. 3/09-10 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Measures to Alleviate Economic Pressure on Members of the Public

1. **MR CHEUNG HOK-MING** (in Cantonese): *President, according to the latest information published by the Census and Statistics Department, the Composite Consumer Price Index had risen for three consecutive months to 110.6 in November 2009 and many economists expect the inflation rate in 2010 to reach 2% to 3%. Yet, the nominal wage index for September 2009 fell over a year earlier and the unemployment rate reached 5%. In this connection, will the Government inform this Council:*

- (a) *whether or not it has studied why the wage increase rate in Hong Kong has moderated; under the situation that the growth in the earnings of members of the public cannot catch up with the rise in prices, what new specific measures will be put in place by the Government to alleviate the burden on the livelihood of low-income earners;*
- (b) *given that quite a number of public utilities and public transport operators (including power companies, franchisees of cross-harbour tunnels, ferry operators, green minibus operators and so on) have*

recently applied for increase in fares, tariffs and tolls one after another, whether or not the Government will reconsider at this stage further expanding the territorial coverage of the Transport Support Scheme (TSS); if so, of the details; if not, the reasons for that; and

- (c) *under the present situation of persistently high unemployment rate and travelling expenses, what new measures will be taken by the authorities to assist the unemployed in finding jobs and alleviate their financial burden (particularly in respect of travelling expenses) when they start working after finding jobs?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, my reply to Mr CHEUNG Hok-ming's question is as follows:

- (a) As a small and open economy, Hong Kong has inevitably been hard hit by the global financial crisis and the ensuing severe recession. Weakening economic activities have depressed labour demand, with the labour market adjusting to such depressed demand through downsizing and wage reductions. Although wages began to fall towards the end of 2008, the economy rebounded strongly in the second quarter of 2009 and has subsequently witnessed continuous improvements. The labour market likewise stabilized progressively, with the seasonally-adjusted unemployment rate falling from a period-high of 5.4% for the period from June to August 2009 to 5.1% for that from September to November 2009. Despite the fact that the latest nominal wage index continued to register a year-on-year decline, on a period-to-period basis, nominal wages actually increased by 0.6% and 0.3% in June and September 2009 respectively, while in real terms (deflating the nominal wage index by the Consumer Price Index (A) in netting out price changes), the increases were 1.0% and 3.8% respectively. Labour earnings (including elements covered by wage rate, as well as other irregular payments to workers, such as discretionary bonuses and overtime allowances), as measured in terms of nominal and real payroll per person engaged in the private sector, both recorded appreciable year-on-year increases of 2.1% and 3.0% respectively in the third quarter of 2009.

The Government always cares about the standard of living of the grassroots and low-income earners. The Comprehensive Social Security Assistance (CSSA) Scheme provides financial assistance to families and individuals (including low-income earners) who cannot support themselves financially to help them meet their basic needs.

In the light of the economic situation, the Government has also introduced a number of relief measures over the past two years to help the grassroots and low-income earners ease their economic burden amidst inflation and the global financial crisis. Apart from one-off payments and subsidies, there are also measures which are ongoing (for example, increasing retraining resources, introducing short-term food assistance services projects, expanding the employment programmes of the Labour Department (LD) and so on) to provide assistance to families and individuals in need.

The Government will continue to monitor the economic situation and consider other relief measures where necessary. The Financial Secretary will consider all the relevant factors in preparing the upcoming Budget and the pre-Budget consultation is now well underway.

- (b) The public transport policy of the Government is to ensure that public transport operators maintain efficient and proper public transport services for members of the public, as well as regulating fares of major public transport services through well-established mechanisms to ensure that the fare levels are reasonable.

Moreover, the Government has been encouraging public transport operators all along to introduce fare reductions and concessions as far as possible to help reduce passengers' travelling expenses, taking into account the operators' respective operating and financial conditions, overall economic environment and passengers' needs.

The existing TSS provides a time-limited transport subsidy as an incentive to encourage needy job-seekers and low-income employees living in the four designated remote districts (namely, Yuen Long, Tuen Mun, North and Islands), where job opportunities are fewer and transport costs are relatively higher, to "go out" and seek jobs or work across districts.

The LD implemented a series of relaxation measures for the TSS in July 2008. At that time, the Government undertook to conduct a review after the relaxed TSS had run for at least one year. We are now conducting an overall review of the TSS. The Panel on Manpower of this Council will hold a special meeting tomorrow afternoon to receive views from deputations on the TSS. The Government will take into account the views expressed by the deputations when mapping out the way forward of the TSS. We will brief the Panel on Manpower of this Council as soon as possible after the review has been completed.

- (c) The LD adopts a variety of measures to promote the efficiency of the labour market and the dissemination of job vacancy information, with a view to facilitating job-seekers in finding jobs more expeditiously and in a more user-friendly manner.

The LD will continue to provide a full range of comprehensive and free employment services to job-seekers through its network of the 12 Job Centres, the Telephone Employment Service Centre, the Recruitment Centre for the Catering Industry (RCCI) and the Interactive Employment Service website.

In view of the difficulties faced by young people, the middle-aged and persons with disabilities in their job search, the LD has enhanced and integrated its various employment programmes, including the Youth Pre-employment Training Programme (YPTP), the Youth Work Experience and Training Scheme (YWETS), the Employment Programme for the Middle-aged (EPM) and the Work Orientation and Placement Scheme (WOPS), with a view to further enhancing their employability and helping them enter or re-enter the labour market as soon as possible.

As announced in the Chief Executive's 2009-2010 policy address, the LD will embark on the following new initiatives to provide further support to job-seekers:

- (i) setting up a pioneer one-stop employment and training centre in Tin Shui Wai to streamline, integrate and enhance existing employment and training/retraining services offered by the

LD, the Social Welfare Department and the Employees Retraining Board (ERB);

- (ii) setting up a recruitment centre for the retail industry, which is characterized by frequent personnel changes and constant demands for workers, to provide more tailor-made employment support, including targeted job-matching service and on-the-spot interview arrangements, and bridge more effectively and expeditiously the recruitment and employment needs of the industry;
- (iii) expanding the LD's employer network to enrich its job vacancy database and piloting the provision of vacancy search terminals to non-governmental organizations and other stakeholders to help the residents in remote districts find jobs; and
- (iv) enhancing the user-friendliness and efficiency of the LD's employment services through a wider use of messaging technology, such as the Short Message Service, for disseminating information on job vacancies and recruitment activities to job-seekers.

Depending on the circumstances, anyone who just starts working but encounters financial difficulties and cannot make ends meet can obtain financial assistance through the CSSA Scheme.

MR CHEUNG HOK-MING (in Cantonese): *President, although the unemployment rate has moderated, the increase in transport fares has imposed a heavy burden on members of the public amidst the pressure of inflation, and this brings to the fore the importance of cross-district transport allowance. I ask the Government in part (b) of the main question about whether or not it would reconsider a further relaxation of the TSS at this stage. I hope that it can give Honourable Members an answer, whether it would do so or not. President, evidently, the answer is that the Government will not consider it in the short run. But it has not given any reasons for the refusal. I hope the Secretary can provide additional information here.*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I am grateful to Mr CHEUNG for raising the question. I wish to clarify that a comprehensive review of the TSS is now underway. In fact, the Panel on Manpower of this Council will hold a special public hearing tomorrow afternoon, and deputations from various sectors have been invited to express their views. In conducting the review, we will first listen to the views of these community groups and organizations prior to mapping out the way forward because we attach weight to their voices. I must emphasize that no decision has been made in respect of the TSS, but regardless of when a decision is made, I wish to stress that the current operation of the TSS will not be affected in the meantime. That is to say, the TSS will continue to be implemented in the four districts. This is what I wish to clarify.

DR LAM TAI-FAI (in Cantonese): *President, Mr CHEUNG Hok-ming is right and the data referred to by the Government just now are also correct because there has genuinely been a significant rise in prices. Not only does the growth in wages fail to catch up with that in prices, but the latter has also led to a substantial increase in the costs borne by small and medium enterprises (SMEs). The financial tsunami has resulted in a decline in the number of orders received by SMEs, with customers demanding price reduction. And, because of the increase in costs, even if no deficit is recorded, there will not be any profits. The fact that the property market is thriving does not mean that the business of SMEs also prospers, so the property developers' remark of giving a pay rise this year has landed SMEs in a difficult position because their failure to do the same this year will earn them the name as unscrupulous employers. In order for wages to catch up with climbing prices in real terms, the Government must spare no efforts to support enterprises. I wonder if Secretary Matthew CHEUNG could relay to the authorities my request for extending the application period of the Special Finance Scheme to the end of this year?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): I wish to thank Dr LAM for asking the question. As Honourable Members are aware, the Financial Secretary is now conducting consultation with various sectors and listening to people's views, in the hope of pooling together their wisdom for the purpose of formulating the upcoming Budget. I believe he will certainly take on board the voices of the public and consider various factors in drawing up the Budget.

MS LI FUNG-YING (in Cantonese): *President, regarding the review of the TSS, the Secretary has remarked that the authorities will listen to the views of the deputations on the way forward for the TSS. However, it is evident that a consensus has already been reached. Members of various political parties and groupings in the legislature or representatives of different sectors have put forward their views while a number of groups and organizations in society have also made their demands. Given that the consensus has been clearly expressed to the Secretary, may I ask the Secretary whether or not he will undertake to make further improvements to the future reviews of the TSS on its present basis and extend the TSS to all districts in the territory, so that low-income earners may also be benefited?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I thank Ms LI for raising the question. As I said clearly just now, our review is now in full swing. Certainly, the public hearing tomorrow is also important. After listening to the views of the deputations, we will pool together their wisdom, so as to determine the way forward. As to the questions about the extension of the TSS to the remaining 14 districts in the territory, its actual operation, the need to make amendments to the TSS and its overall future direction, I believe Honourable Members need to give us some more time and allow us to first listen to the views of everybody in the public hearing tomorrow, alright?

MR WONG SING-CHI (in Cantonese): *President, the Secretary has highlighted time and again the need to first listen to the views to be expressed in the public hearing tomorrow prior to determining the extension or otherwise of the TSS. However, after the public hearing tomorrow, what factors will be taken into consideration? As Ms LI Fung-ying and Mr CHEUNG Hok-ming have said, a consensus has been formed in society and even among Honourable Members. Although various political parties and groupings have all along called on the Government to make efforts in this regard, the Secretary has said that the authorities need to first listen to the views advanced in the public hearing tomorrow. If a majority of the deputations express agreement on extending the TSS in tomorrow's public hearing, will the Government expand the TSS accordingly?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): I am grateful to Mr WONG for advancing his views. In the course of the review, we have all along taken an open and objective attitude, basing our consideration on the basis of available data. However, we will certainly take account of public sentiments and the actual situation. That said, as I clarified on a number of occasions, and as Honourable Members are fully aware, the original intent of the TSS is to render assistance to members of the public living in the four remote districts in the New Territories. Honourable Members know very well that there are fewer employment opportunities in Yuen Long, the North District, the Outlying Islands and Tuen Mun, and the transport costs there are comparatively high. We hope to offer an incentive to the unemployed or low-income earners, so that they may "go out" and take up employment. This is the whole rationale.

For these reasons, we have always stressed the need to examine the positioning of the entire policy in the course of the review. We need to analyse the data relating to the operation of the policy after being implemented for two years, its operation after the relaxation measures have been implemented for one year, as well as the people and groups who have benefited. Perhaps, Honourable Members will please give us some time and room because at this stage, we still have no preconceived stance in deciding what should be done. All must depend on the relevant data. If the deputations put forward divergent views tomorrow afternoon, we will be happy to listen up.

MR WONG SING-CHI (in Cantonese): *President, he has not given any answer. My question is: if a majority of the deputations express agreement on extending the TSS in the meeting, will the Government accept their view? It is because he said that the meeting tomorrow is very important. Is this what he meant just now?*

PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I have only stressed that we attach importance to the views of the community and will definitely analyse all the voices with care. In mapping out the future direction, we will factor in the views of various parties. This is our position.

MR LEE CHEUK-YAN (in Cantonese): *President, this question has indeed been raised on a number of occasions. Even in the meetings of the Panel on Manpower, it has been asked for three or four times. In my recollection, the Secretary has given an undertaking of completing the review by the end of December, but it appears that the review is still underway. President, we originally intended to ask him in the previous meeting of the Panel on Manpower to give an account of the results of the review tomorrow (14 January). Will he do so tomorrow? In the light of what the Secretary said just now, Honourable Members really do not know how long they will have to wait before the results of the review are available.*

President, on the one hand, I think that the Secretary has really procrastinated for too long. On the other hand, I feel strange about a point made by the Secretary earlier and that is, he said that the authorities needed to look at data. I do not know what other data still need to be considered because we are seeking an extension of the TSS, so that all the low-income earners in the territory can be benefited. Do the data that need to be taken into account pertain to the question of whether or not transport costs are high? If the answer is in the affirmative, everyone knows that transport costs are high. In that case, what other data still need to be considered? Consequently, I wish to ask the Secretary what data he is talking about. What data will he rely upon in determining the extension of the TSS to all the districts? In my view, this does not relate to any data at all, but rather to the Government's willingness to alleviate the plight of low-income earners. It is a political decision rather than a decision to be made on the basis of data.

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan, are you asking the Secretary in your supplementary question what data he will rely upon when making the decision?

MR LEE CHEUK-YAN (in Cantonese): *That is right.*

PRESIDENT (in Cantonese): I believe your question is very clear. Secretary, please answer.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I thank Mr LEE for advancing his views and asking the question. Data are important because we wish to identify the groups that have benefited over the past period of time since the implementation of relaxation measures and ascertain the amounts of travelling expenses spent by members of the public. Let us not forget that we also allow in-district applications. In this regard, in-district transport expenses may be even higher than outbound transport expenses. For these reasons, data are useful, and their usefulness cannot be gainsaid. We need to examine and review the situation in a comprehensive manner and on all fronts. Honourable Members will please give the Government more time and room because we wish to conduct the review properly rather than doing so in haste. The review will comprise two parts, an account of which had been given in the previous meeting of the Panel on Manpower. One of the parts relates to the review of the relevant data, to be followed, naturally, by a policy decision, and these two parts need to be complementary to each other. Hence, I hope Honourable Members can give us a bit of time, and we hope to handle this matter as soon as possible after the public hearing tomorrow has been held.

MR LEUNG YIU-CHUNG (in Cantonese): *President, insofar as transport allowance is concerned, there has already been a clear consensus in society, only that the Secretary has mentioned the need to wait for data. Consequently, I hope the Secretary can provide Honourable Members with some data tomorrow, and the deputations will likewise give him some, so that the Government can form a consensus as early as possible. However, there exists another consensus, the one on assisting young people, the middle-aged and persons with disabilities in seeking employment. I believe this is also a consensus in society.*

I wish to ask the Secretary this question: In this connection, by mentioning the YPTP, the YWETS, the EPM and the WOPS in the paper in reply to the Honourable Member's question — a majority of these programmes are actually designed for skills upgrading is the Secretary saying that at present, there are a lot of employment opportunities awaiting these people in the market, only that their abilities fall short of the relevant requirements, so the authorities unceasingly concentrate on the area of skills enhancement? Or, is there actually another problem, that is, the problem of insufficient employment

opportunities, which has rendered them unable to secure employment? In this regard, what measures have been formulated by the Government to help them?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I thank Mr LEUNG for putting forward his views and asking the question. On employment, we attach equal weight to the elderly, the middle-aged and young people. Regarding young people, we have not only implemented the YPTP and the YWETS. When it comes to the middle-aged, we have also put in place the EPM. From the Chief Executive's policy address, Honourable Members can notice that we have stepped up our efforts by extending the subsidy period to provide incentive to employers, in addition to introducing a job trial programme. The job trial programme aims to provide employment opportunities, and we encourage employers to give job-seekers with special difficulties an opportunity to take up employment on a trial basis for one month. If their performance is good, they will be given the appointment. All these measures aim to provide employment opportunities and are not simply about training. We are now undertaking work on all fronts and last year, we even sought additional funding. In addition, we have stepped up our efforts in this regard on an ongoing basis before the full economic recovery expected to arrive in the coming two years.

PRESIDENT (in Cantonese): Which part of your supplementary question has not been answered?

MR LEUNG YIU-CHUNG (in Cantonese): *The Secretary has not given any answer to the question of whether the number of employment opportunities in the market is insufficient for these people. Or, is it that their abilities are not on a par with the relevant requirements in the market? He has not answered my question direct. I hope he can do so because these issues relate to the question of what measures are to be implemented.*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, on training talents, we have adopted a two-pronged approach and certainly, we are

talking about grass-roots workers. On the one hand, we will upgrade their skills through the ERB. Simply put, even home helpers can be upgraded to a higher level. For example, they can be trained to become post-natal care workers who can earn high wages and must possess substantial experience. And, we are undertaking work in this direction. That said, mismatch may possibly arise, meaning that while vacancies are left unfilled, workers remain unemployed. The catering industry and retail industry are facing such a scenario, so we have established the designated RCCI. As Honourable Members are aware, in the middle of this year, we will further set up a recruitment centre for the retail industry, which will be situated adjacent to the RCCI located on the 34th floor of the Revenue Tower. The purpose of so doing is precisely to deal with the substantial number of vacancies and the issue of mobility — frequent personnel changes have given rise to a considerable number of vacancies — in a bid to attract more people to join this industry. For these reasons, we have adopted a multi-pronged approach and our work is not only limited to the area of training. There are actually vacancies and I really hope they can be filled, thereby pre-empting the strange scenario in which vacancies are left unfilled, while workers remain unemployed.

PRESIDENT (in Cantonese): We have spent more than 21 minutes on this question. Second question.

Incidents of Objects Being Thrown from a Height

2. **MR LAU KONG-WAH** (in Cantonese): *President, quite a number of cases of objects being thrown from a height occurred recently. There were even cases of corrosive fluid being thrown from a height onto pedestrian precincts. Such acts pose serious threats to the lives and safety of the public. In this connection, will the Government inform this Council:*

- (a) *whether it has specific publicity plans (such as broadcasting Announcements in the Public Interest on the electronic media) to educate the public about the perils of throwing objects from a height; if it has, of the specific plans; if not, the reasons for that; and*
- (b) *whether it will consider launching in residential areas certain award schemes (such as issuing commendations to private and public*

housing estates as well as buildings, in which there is no incident of objects being thrown from a height within a certain period of time, to demonstrate that the lives and safety of the residents have been safeguarded), and whether the authorities will raise the penalties for the relevant offences?

SECRETARY FOR SECURITY (in Cantonese): President,

- (a) The Government attaches great importance to incidents of objects being thrown from height, particularly the recent cases which have put public safety in great peril. The police and District Offices (DOs) have stepped up their publicity and public education campaigns, including joining hands with the District Councils (DCs), owners' and residents' organizations, and property management agents to distribute leaflets educating the general public and local tenants against dropping objects from height. Police School Liaison Officers have also been arranged to advise students of the harm and serious consequences of throwing objects from height. Members of the public and all sectors are urged not to commit such an offence. The police also devoted the modules for December 2009 of their TV programme "Police Magazine" to explaining the harm of throwing objects from height and the legislation in this regard.

In 2009, the District Fight Crime Committees (DFCCs) organized a total of four publicity campaigns against throwing objects from height, which included distributing publicity leaflets and posters, as well as displaying banners, urging the public not to throw objects from height and to enhance building security. A number of DFCCs also plan to discuss the issue thoroughly and keep up publicity efforts in their districts in 2010.

To step up action against throwing objects from height in public rental housing (PRH) estates, the Housing Department has recently launched a series of publicity activities on the latest combat and preventive measures, as well as the serious consequences of throwing objects from height, to remind tenants of the importance of

civic-mindedness and encourage them to report incidents of objects being thrown from height through telephone hotlines. The activities include a seminar cum kick-off ceremony for some 400 members of the Estate Management Advisory Committees (EMACs) from all PRH estates; dissemination of relevant messages among PRH tenants through the EMACs, the Housing Channel, Announcements in Public Interest (APIs) on public broadcasting radio networks, posters, banners, leaflets and the estate newsletters; and publicity activities organized by the EMACs in collaboration with non-governmental organizations.

It is also very important that building management and security should be enhanced to prevent criminals from entering buildings to commit crimes. As for promotion efforts targeting owners of buildings, the DOs are committed to assisting the owners in their districts to adopt good and effective building management practices and to enhance services in building management including building security. Apart from assisting owners to set up owners' corporations, the DOs encourage owners to form residents' organizations, such as owners' committees and mutual aid committees, and to engage professional management companies or personnel, with the aim to improve building security and promote effective building management. The police urges, advises and assists owners, as well as security and property management agencies, to take measures to strengthen building management and security in accordance with the situation of their own case. The DOs and the police will continue to pursue active co-operation with the DCs and relevant organizations to conduct various building management courses and seminars on the importance of building security and the effective measures for preventing crimes and strengthening building security. Taking into account the need of individual districts, these courses and seminars will focus on the necessary information for the installation of security facilities, such as metal gates or closed circuit television system.

Meanwhile, there are ongoing publicity campaigns and public education efforts targeting residents and business operators. The DOs and the police, in collaboration with the DCs and the DFCCs, have been organizing activities to remind residents and business

operators in their respective districts of the need to remain vigilant and step up building security. During Christmas and the New Year in particular, the police and DOs partnered with the DCs, DFCCs, area committees and trade associations to produce and distribute banners, posters and appeal letters in areas with high pedestrian flow to promote the message of tighter building security.

In addition, the Home Affairs Department has produced a new series of radio APIs to remind the public through electronic media of the need to develop a caring neighbourhood culture, be more vigilant, and pay attention to any suspicious figures entering and leaving the building. Owners are also encouraged to strengthen building security facilities. The radio APIs have been broadcast on radio networks since last Christmas.

- (b) Dropping objects from height, which may cause casualties, is a serious criminal offence. Under Section 4B of the Summary Offences Ordinance (Chapter 228), if anything is dropped from any building to the danger or injury of any person in or near a public place, the person who drops that thing commits an offence and is liable to a fine of \$10,000 and imprisonment for six months. If the incident involves offences of a more serious nature, such as the throwing of corrosive fluid or manslaughter, the police may initiate prosecution according to other ordinances. The maximum penalty for these serious offences is life imprisonment. The police will discuss the gravity of individual cases with the Department of Justice and pass the views to the court to facilitate sentencing.

To encourage the public to give information in helping with the detection of such cases, the police has offered a reward of \$1.7 million in total for the arrest of the culprit(s) for throwing corrosive fluid recently in Mong Kok, Sham Shui Po, Tin Shui Wai, Causeway Bay and Tuen Mun. Moreover, the police organizes the Good Citizen Award Presentation Ceremonies twice a year to commend outstanding citizens who have helped fight crime effectively. Land Regions of the police also organize Best Security Services Awards every year to honour security guards with remarkable performance in their service. These awards also serve to encourage security and property management companies to

improve the quality and effectiveness of property management by strengthening security facilities and improving the professionalism of their staff through training.

The EMACs of individual housing estates may organize activities on various themes with funds provided by the Housing Authority to step up promotion against throwing objects from height and encourage tenants to report such incidents.

MR LAU KONG-WAH (in Cantonese): *President, the "acid bomb" perpetrator played his trick again recently. This culprit committed the crime time and again, yet the police have not yet detected these cases, much to the worrying of the public. Members of the public will of course do something to protect themselves. The vigilante mechanism of "Golden one minute" proposed recently would be, in my opinion, very useful. I wish to ask the Government how it can encourage business operators and residents to conduct and organize emergency drills in high-risk areas, so as to promote effectively the vigilante mechanism? Besides, for buildings with no security guard, no metal gate or even owners' corporation, we can not just sit back. I want to ask the Secretary what substantive and proactive methods does the Government have to help these buildings launch the vigilante mechanism?*

SECRETARY FOR SECURITY (in Cantonese): President, I thank Mr LAU Kong-wah for putting forward his views. As a matter of fact, the police attach very great importance to this kind of serious crimes. However, as Mr LAU Kong-wah just said, the participation of the public and business operators is required. In this regard, the police and DOs will liaise with the various DCs. We have in fact done a lot of work. For instance, we have launched a number of publicity campaigns in collaboration with the DCs and business operators in respective districts. As for the possibility of conducting emergency drills in the so-called high-risk areas, we have to discuss the matter with business operators and residents of relevant districts, so as to find out if it would create any impact and the kind of issues we should pay heed to.

What was your second supplementary question?

MR LAU KONG-WAH (in Cantonese): *What is to be done for those buildings with "three noes"?*

SECRETARY FOR SECURITY (in Cantonese): In this regard, we will liaise with the local community through the relevant DCs and DOs. If these buildings can set up owners' corporations, there will be committees responsible for these matters. Even if there is no owners' corporation, they can also form residents' organizations. If neither of them is in place, we will encourage residents of these old buildings — usually some tenement buildings — to strengthen security facilities at the entrances of their buildings. For instance, metal gates at entrances or rooftops, or closed circuit television systems can be installed. In fact, some DCs have earmarked funding for providing assistance to older tenement buildings. In this regard, the police will continue to join hands with the DOs and DCs concerned to strengthen security facilities for buildings with no owners' corporations.

MR CHEUNG MAN-KWONG (in Cantonese): *President, the urgent task before us is neither the offer of rewards nor the conduct of publicity campaigns, but detection of the cases as soon as possible to allay people's fear. There has been a succession of six "acid-bomb" attacks in busy areas and public housing estates. Though the Chief Executive and the police claimed in a high profile manner after each attack that they would spare no effort to track down the culprits, it seemed that they had not taken the police seriously and simply repeated the crime again and again. As the police fail to detect the cases, with the culprits still at large, the public are really worried. Are the police helpless and at their wits' end? Or are they even awaiting their doom? What measures are the police going to take to ensure that though they may not be able to track down the culprits all at once, they can at least protect the safety of pedestrians and tourists on the streets?*

SECRETARY FOR SECURITY (in Cantonese): President, the police attach very great importance to this kind of serious incidents. Not only the police but also the SAR Government is very concerned. As Mr CHEUNG Man-kwong just said, the Chief Executive himself also attaches very great importance to the matter. The police adopt an all-out approach to their investigation, in the hope of bringing the culprits to justice as soon as possible. However, we can not rule out the difficulties encountered in the investigation. First of all, there are no

witnesses. Second, the victims and attackers in this kind of cases generally have no relationship, so we have limited clues.

There are several aspects to the investigation of the police, namely, the conduct of door-to-door questionnaire surveys among residents and business operators around the crime scenes, reviewing the CCTV tape-recording of nearby buildings, and checking the entry and departure records of visitors at entrances with CCTV cameras, with a view to finding clues. In addition, we would also re-construct the incident at the scene. Police psychologists would carry out inspection at the crime scene to sketch the psychological profile of the perpetrator, so as to analyse his motives. On the other hand, the police have activated the Major Incident Investigation and Disaster Support System — commonly referred to as the super computer system — to analyse and compile the information collected, so as to ascertain the identities of the culprits as soon as possible. I can tell Mr CHEUNG Man-kwong that our investigation is in full steam and we are not helpless. We should give the police a little more time for investigation. I am not in the position to disclose the progress of investigation here. In the meantime, as regards the measures to be taken to safeguard the public when the culprit is still at large, as I just said, publicity and education are effective ways. In other words, it is useful for the DCs, business operators and residents of the districts to remain vigilant.

Furthermore, what the police can do at present is to deploy additional manpower to high-risk areas on high-risk days. Apart from installing CCTV surveillance systems in Mong Kok, we would also step up police patrols to pay attention to any suspicious figures. We hope to contain the number of such cases during this period, to let them know that apart from the deployment of more uniformed officers and plain-clothes officers, we have also police vehicles and other equipment to assist in the surveillance. As the Secretary for Security and also a member of the public, I hope we can bring the culprits to justice as soon as possible.

MR TAM YIU-CHUNG (in Cantonese): *Judging from the scenes of the crimes and various circumstances, one can observe that the perpetrators liked to pick pedestrian precincts, and at certain intervals, they would throw down acids in the afternoon, when there are heavier flows. Speaking of the Secretary's reply just now, I also understand that it would not be easy to uncover these cases. However, there are similarities in the circumstances surrounding these cases.*

For instance, it is obvious that the perpetrators wanted to deal a blow to the authority of the police. They were adept at such attacks. They left no clues to the police. Is it possible that these crimes were committed by "professionals"? Without jeopardizing their investigation, can the police tell us whether they have got any information about the perpetrators, such as their motives, ages and appearances, so that the public, with better knowledge on the suspects, can help the police track down the culprits or keep vigilance when they see strangers entering their buildings? Does the Secretary have any information that can enable him to make an appeal to the public to help the police detect the cases?

SECRETARY FOR SECURITY (in Cantonese): As Mr TAM Yiu-chung said, we are not certain whether the attacks were carried out by one single culprit or several persons, or whether copycat perpetrators were involved. However, even if the perpetrators did not mean to challenge the authority of the police, the incidents could all the same be described as a contest of wits. The culprit threw down a bottle of acid in Mong Kok for the first time a year ago. On the high-risk days a year later, we deployed many officers at Mong Kok, but on the same day a year later, the culprit caught us unaware and threw an "acid bomb" in Causeway Bay instead. If the crime was committed by the same person, then he must be very smart. As at today, if any member of the public can provide effective clues for the police to track down the perpetrators, he or she will be offered an increased reward of \$1.7 million. I want to make an appeal here. If anyone has information in this regard, please contact the police.

As regards how the public can assist the police, in the course of meetings and publicity campaigns with DCs, residents' organizations and business operators, we urged residents to be more alert to suspicious strangers. If they are suspected of committing any crime, residents should report to the police as soon as possible, so that the police can arrive at the spot as fast as practicable. I am appealing to residents here. It is vital for them to act in collaboration to prevent the recurrence of such incidents.

DR PRISCILLA LEUNG (in Cantonese): *I want to follow up on Mr LAU Kong-wah's supplementary question just now. Those "four noes" old buildings are obviously "loopholes" for committing such crimes. Has the Secretary considered discussing with the Financial Secretary (FS) to allocate funding to owners of those buildings, so that they can have more resources to hire security*

guards or install CCTV cameras? As most owners of these buildings are elderly persons, they do not have the means to pay for these expenses. I also know that the community would seek financing on their own, but this would not be effective. Will the Government make reference to the maintenance programme of old buildings and systematically provide assistance to high-risk buildings which would be the target of perpetrators?

SECRETARY FOR SECURITY (in Cantonese): I thank Dr Priscilla LEUNG for her suggestion. We can have discussion on the issue of funding or providing assistance. She asked the FS to allocate funding, but we need to consider which bureau or department is to be given such funding. We will look into the feasibility of this approach and the need for the FS to earmark the funding in the next Budget. I will reflect the situation to the FS.

PRESIDENT (in Cantonese): Five Members are still waiting to raise supplementary questions. However, as this Council has spent more than 20 minutes on this question, I will now allow a Member to ask the last supplementary question.

MR CHAN KIN-POR (in Cantonese): *I feel that even if the culprits can be tracked down, there can be no long-term solution as it would be difficult to prevent others from doing the same. I want to know if the Government will adopt any long-term measures, such as installing canopy at pedestrian precincts, so that the safety of pedestrians can be completely protected.*

SECRETARY FOR SECURITY (in Cantonese): In response to Mr CHAN Kin-por's supplementary question, I believe our long-term solution to the problem must be publicity and education, as it is mainly a matter of ethics. Every year, incidents of objects being thrown from a height — the throwing of acid bombs is indeed glaring — totals to a few hundreds. The harm done by "acid bombs" is no doubt serious, but even if it is a small hammer or other objects, given its speed when falling from a height, it may also be fatal if pedestrians are hit. Therefore, firstly, we must step up publicity and education. Secondly, on the suggestion of providing canopy to pedestrian precincts, it would involve various problems, such as structural and fire safety, as well as the possible environmental hygiene

problem of such canopies turning into garbage dump. These are issues that we should not overlook. As such, we must discuss with affected business operators and residents in the districts and come up with a consensus before considering implementing the proposal.

PRESIDENT (in Cantonese): Third question.

Monitoring System of NGOs

3. **MR WONG SING-CHI** (in Cantonese): *President, quite a number of organizations have relayed to me and expressed concern that the Government has not established a stringent system of management and governance in respect of the structure and fiscal reserves of the 162 non-governmental organizations (NGOs) receiving lump sum grants (LSG) for providing welfare services. In this connection, will the executive authorities inform this Council:*

- (a) *whether they have looked into information relating to the formation methods of the Boards of the various NGOs receiving LSG, the background and terms of office of their Board members, and so on; if so, of the details; if not, the reasons for that;*
- (b) *of the NGOs at present having Board members who are representatives appointed by the Government, the number of NGOs involved, the number of government representatives on each NGO Board, as well as what their roles are; and*
- (c) *whether they will formulate a code of practice to require the aforesaid NGOs to enhance their transparency, promote pluralism in participation and increase their level of public accountability; if so, of the details; if not, the reasons for that?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, my reply to the three parts of Mr WONG Sing-chi's main question is set out below:

- (a) NGOs that receive subvention from the Social Welfare Department (SWD) are required to hold valid company/society registration

certificates in accordance with the relevant ordinances in Hong Kong and obtain tax exemption status under section 88 of the Inland Revenue Ordinance (Chapter 112) as charitable institutions. Since these NGOs are not established by the Government but are independent and autonomous companies/societies/charitable institutions registered under the relevant ordinances, the formation methods of their boards or the background and terms of office of board members fall outside the purview of the SWD. The SWD therefore does not have the information in question.

- (b) The focus of the SWD's monitoring of NGOs is on their subvented services. Since the 1999-2000 financial year, the SWD has implemented the Service Performance Monitoring System to ensure that subvented services comply with the requirements under the Funding and Service Agreements (FSAs) and the criteria of the Service Quality Standards. As NGOs are independent and autonomous entities and responsible for their own governance, the Administration's current policy is that no representative would normally be appointed to NGOs' management committees or boards or be involved in the management of NGOs. In fact, the scope of services run by many NGOs goes beyond social welfare services, and some NGOs are operating self-financing services at the same time. These services do not fall within the confines of the FSAs nor do they fall under the SWD's purview. It is therefore inappropriate for the SWD to appoint representatives to participate in NGOs' management.
- (c) The boards and management of NGOs which receive LSG and other welfare subventions are responsible for the proper management of LSG/subventions. They should ensure that the use of LSG and subventions meets the requirements and objectives stipulated in the FSAs and complies with the provisions set out in the LSG Manual, in order to ensure proper and prudent use of public resources.

On the corporate governance of subvented NGOs, the Administration has been performing the role of a facilitator. Specifically, our job includes highlighting the importance of good corporate governance in the LSG Manual, strengthening NGOs' management capacity through seminars and publications, and

promoting good practices. The SWD will continue to play this role and in a more focused manner through helping the social welfare sector develop a Best Practice Manual and setting up a Social Welfare Development Fund to support NGOs' training and capacity building initiatives. The Lump Sum Grant Steering Committee, chaired by the Director of Social Welfare and comprising representatives from NGOs' management, front-line staff and service users and independent members, will help the welfare sector develop a Best Practice Manual on various management issues such as human resources policies and so on. Corporate governance and accountability issues will be addressed in the manual.

MR WONG SING-CHI (in Cantonese): *President, it has been the established practice of the Government not to appoint any officials to welfare organizations as directors, but it was only until recently that a complete withdrawal was achieved. In fact, the Government has all along been playing this role. Now, all government officials have been removed from the boards; they will no longer serve as board members; and, there is only the Best Practice Manual left — this is merely a guideline. As far as I understand it, while the numerous social service organizations have currently accumulated a total reserve of billions of dollars, they are still trying to suppress the salaries of their staff. Is the existing practice adopted by the Government sufficient to ensure that these organizations will use the subvention to meet the interests of their staff and the general public? Is it sufficient to rely on some guidelines alone in the absence of government officials in the boards?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): I wish to make a clarification. First of all, it is our established practice not to appoint any officials to these boards. Even if there are any, they are only nominal, or honorary or advisory members who will not advise on the actual operation. We will not do so.

Secondly, the reserve mentioned by Mr WONG earlier is of grave concern to Members. In fact, we have given an account of it on many different occasions. The reason is the reserve helped to safeguard the financial stability of those organizations during the implementation of the LSG Subvention System, and enabled Snapshot staff to rest assure with the future expenditure.

Nonetheless, regulations have also been established. In fact, insofar as reserve is concerned, a measure has been re-introduced in these two years, whereby approval from the Director must be obtained when the reserve exceeds 25% of the operating expenditure, except with special reasons. Otherwise, the money cannot be kept as reserve and should be surrendered to the SWD. Furthermore, the reserve cannot be used for purposes other than those subventions and subvented services as specified in the FSAs. In other words, the reserve cannot be used arbitrarily and is subject to strict regulations. It is therefore very clear in this regard.

Furthermore, just as I have elaborated clearly in part (b) of the main reply, a clear mechanism has been put in place to require these organizations to be held accountable. Besides, we would examine their financial reports, carry out on-site inspections and require them to undergo self-assessment. The whole mechanism has been operating very satisfactorily, and the boards are accountable for the public money spent. Therefore, insofar as accountability is concerned, a clear mechanism has been put in place to ensure that it can be accomplished.

MR WONG SING-CHI (in Cantonese): *President, I wish to seek an elucidation.*

PRESIDENT (in Cantonese): Which part of your supplementary question has not been answered?

MR WONG SING-CHI (in Cantonese): *No, I just want the Secretary to clarify one of his points. He said that the past involvement of government officials in these affairs was merely nominal, but I am aware that they have joined these social service organizations as paid directors. With respect to what the Secretary just said, did he mean that officials had wasted resources and time to hold these nominal posts in the past?*

PRESIDENT (in Cantonese): You have asked the Secretary to elucidate his earlier reply. Secretary, please answer.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, just as I have clearly explained in the main reply, it is generally our established practice not to appoint officials to the boards to undertake substantive work.

MR CHEUNG KWOK-CHE (in Cantonese): *Since the introduction of the LSG subvention system in 2000, NGO boards have become very powerful. Very often, board members come from different sectors and are not well versed in social services, so this has created conflicts between front-line staff and the boards.*

May I ask if the Government will make reference to the school-based management framework adopted by existing primary and secondary schools, and introduce it to NGOs, so as to develop a corporate governance framework under which both staff and service users can be involved, with a view to enhancing the transparency of their governance?.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I would like to thank Mr CHEUNG for his supplementary question. In fact, we are very concerned about corporate governance. The LSG subvention system has been implemented for some time, and as we all know, a comprehensive review has been conducted and 36 recommendations have been made.

Today, I am very glad that Mr WONG raised this oral question because it is a very important day. The Director of Social Welfare is going to receive the heads of 171 subvented organizations this afternoon and explain to them the final and most important recommendation namely, the establishment of a Social Welfare Development Fund. Originally, 162 organizations joined the LSG subvention system, but there are now 171 after the addition of nine organizations. In other words, this system is welcomed but not opposed by the organizations, which is a very important point. (Appendix 1)

A \$1 billion fund is officially established today to provide enhanced training to the directors of these organizations. The training is not only applicable to social workers, but also non-social workers, such as board members, covering governance, finance management and manpower, especially resource management. Very often, training on resource management needs to be further enhanced.

Mr CHEUNG, we are now working on it in a holistic manner. For example, we will provide at least \$2 million to one organization. For example, this year, that is, 2008-2009 (Appendix 1), the highest subvention is 9% or \$2 million (whichever is the higher). If the amount of subvention for a small-scale organization is \$100,000, it may receive up to 20 times of it, that is, \$2 million, whereas if the subvention for an organization of the largest scale is some \$600 million, it may get \$60 million. How will the money be used? Apart from providing training to board members, staff and social workers can also use it for further education, thereby changing the whole picture.

That is why today is an important day, and thanks to Mr WONG for taking this opportunity to raise such a meaningful oral question.

PRESIDENT (in Cantonese): Has your supplementary question not been answered?

MR CHEUNG KWOK-CHE (in Cantonese): *President, the Secretary has not answered my supplementary question. I actually asked if he would introduce a framework similar to school-based management, so that both the staff and service users of those organizations can take part in governance.*

PRESIDENT (in Cantonese): Secretary, the Member has asked about the involvement of staff and service users.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, when I was reply I was so excited that I forgot this part. This is a very important part, and we have already been examined it. The problem, however, is that many subvented organizations do not only provide welfare services. While some may provide medical services, for example, others may provide self-financing services or education services. As a result, the board concerned is not only required to discuss welfare issues. I think that the imposition of rigid requirements may not be feasible in this respect. Schools have a different environment for they have a clear aim of providing education, yet some organizations do provide a great variety of services, and this makes the situation

very difficult. I nonetheless consider it of vital importance to get to the root, that is, the provision of training which I mentioned earlier, with a view to enhancing governance. This is the most important.

MR PAUL TSE (in Cantonese): *President, we certainly wish to encourage more organizations or individuals to take the initiatives to participate in charitable services as far as possible, but many organizations in the community have given us an impression that they mainly engage in fund-raising activities. Certain organizations or individuals are often seen playing various tricks in some more popular tourist spots, and it seems to us that they are trying to cheat people of their money, and tourists are very susceptible. In this connection, I am also concerned that, as the Secretary has just said, the authorities merely emphasize the supervision over subvented services, and fund-raising activities or the actual use of the money are neglected. I would like to know if there are ways to step up control. For example, is it possible to introduce a Q-mark service scheme, under which members of the public and tourists can distinguish which charity organizations are authorized, legal and subject to appropriate supervision.*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, thanks to Mr TSE for his supplementary question. Despite the fact that his supplementary question has slightly deviated from the main question, I am pleased to give a reply. Mr TSE has brought out a number of questions relating to fund-raising activities; these are precisely the issues being considered by the Law Reform Commission (LRC). It intends to examine the way forward and see if supervision can be stepped up through the amendment of laws. However, they are not totally unchecked at present. Rather, supervision has been executed and such organizations are required to make an application for each of their fund-raising activities. When the applications are processed, we will certainly look at their background to see if they are charitable bodies governed by section 88 of the Inland Revenue Ordinance. Afterwards, audit reports must be submitted and information should be published on newspapers. So, all such activities must be reported. Insofar as the long-term policy is concerned, the LRC is considering the possibility of tightening up the law as suggested by Mr TSE, but we should better wait for the conclusion of the LRC.

DR PAN PEY-CHYOU (in Cantonese): *President, I should first declare that I am the Vice-Chairman of the Executive Committee of the Mental Health Association of Hong Kong and Chairman of the Council of the Hong Kong Federation of Trade Unions Hong Ling Foundation for the Well-being of the Elderly Limited. While the former receives government funding, the latter does not. I think that the approval of tenders for services and the decision of which organization would be selected lack transparency, and contracts are very often offered to the lowest bidder. This will result in the exploitation of both the organizations and staff.*

Furthermore, as Mr WONG Sing-chi has said, I recall that government representatives did attend meetings convened by the council of, say, a subvented body. In my opinion, that person did play a very important role, serving as a bridge of communication with the boards. But this practice no longer exists. May I ask the Secretary if he will consider reviving the system in the past and appointing representatives to attend the meetings of such organization?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Thanks to Dr PAN for his supplementary question. The supplementary question raised by Mr WONG Sing-chi earlier asked if the Government would appoint some officials to the boards, which is distinctly different from attending a meeting. If government officials merely attend a meeting without holding any title, they can only observe the meeting and give views. In fact, officers at the district level, that is, Social Welfare Officers, are presently maintaining close liaison with various organizations. We also have frequent communications with their senior management, but their right of governance must be respected. Following the implementation of the LSG subvention system, their autonomy and right of governance must be respected. We should exercise supervision through service input and output, especially in respect of service quality. Their day-to-day administration and internal operation, however, should be vested with the boards. This is the general direction, which ties in with the flexibility intended under the LSG subvention system. Such was not the situation in the past, so this present decision is made in response to the new development and environment. But this does not mean that there is no communication at all with such organizations. We do communicate with them.

PRESIDENT (in Cantonese): Which part of your supplementary question has not been answered?

DR PAN PEY-CHYOU (in Cantonese): *My supplementary question asked if the Government would consider appointing officials again, like*

PRESIDENT (in Cantonese): I believe the Secretary has already given an answer.

MR ALBERT CHAN (in Cantonese): *President, the Secretary is well aware of my stance on the LSG, as the Panel on Welfare Services has discussed the issue for quite some time. In the main reply, the Secretary also mentions the Best Practice Manual, which is a very crucial part of the reform of the LSG. Regarding this Manual, many front-line social workers have expressed their requests and concerns about how their remunerations should be determined, because what has been most severely criticized is that the top management of such organizations has sought to "fatten themselves while starving lower-rank staff". While the salaries of the lower-rank staff are subject to suppression, the upper-rank staff enjoy such benefits as education allowance and leave passages. May I ask the Secretary when a comprehensive guideline and provision for pay and allowances will be formulated, so as to give assurance front-line staff and prevent the upper-rank administrative staff from using the LSG to benefit themselves at the expense of the lower-rank staff?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Thanks to Mr CHAN for his views and supplementary question. The Best Practice Manual is actually a key area of our reform, and I personally have very high hopes about it. It is because the introduction of the relevant guidelines may enable such organizations to exchange successful experience in operation and governance. According to our workflow, a consultancy firm will be officially appointed in the middle of this year. Professional consultants will formulate the relevant guideline, with an emphasis on human resources — Members were actually talking about issues relating to human resources earlier on — as well as finance management and governance. We hope that the workflow can be activated in the middle of this year, and once the set of guidelines is introduced, it can be followed and serve as a reference.

PRESIDENT (in Cantonese): Which part of your supplementary question has not been answered?

MR ALBERT CHAN (in Cantonese): *When will it be ready? He said that the workflow will be activated in the middle of this year, but when will it be completed?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, we hope to complete it as early as possible. However, sufficient time must be given to the consultancy firm. As this is a very important job, I hope that the consultancy firm can work with extra care.

MR LEE CHEUK-YAN (in Cantonese): *Regarding the Secretary's response to Mr CHEUNG Kwok-che's question about allowing staff and service users to enter the board by electing representatives from among themselves, I think that there is something wrong with the Secretary's logic. He said that as some organizations may provide other services, the proposal seems infeasible. An organization may provide other services if it wishes to, but it may also allow service users and staff representatives to enter the board. If the board considers that the inclusion of such representatives may have an impact on the provision of other services, it may consider a split-up, forming a body like the Community Services Committee of the Tung Wah Group of Hospitals. The problem can then be resolved without affecting other services. It is actually a technical problem that can be resolved.*

So, I wish to ask the Secretary one question. Earlier on, he said that a consultancy firm would be engaged in the middle of this year to formulate a set of guidelines. When the consultancy firm comes to the issue of governance, will it consider the option of allowing service users and staff representatives to elect representatives from among themselves? Or, has the Government ruled out this possibility and asked the consultancy firm not to take it into consideration in the first place? Or, will the Government provide some room for the consultant to consider such an option? Furthermore, if the Secretary was right in saying that, training alone is already enough, the problem concerned would not have arisen. I am talking about the problem that some organizations can maintain a "small gold vault" of some \$2 billion at present, not knowing what to do with the money. But the process of accumulating this sum of money is rather exploitative, with the

result that contract staff now account for 58% of the social welfare sector, and their salaries are so low that no one is willing to join and the turnover rates are high. Therefore, I

PRESIDENT (in Cantonese): Mr LEE, you have already stated your supplementary question.

MR LEE CHEUK-YAN (in Cantonese): *But I still have some background information to provide. Why do I attach so much importance to governance? It is because existing organizations have gone too far. Can the Secretary answer me if the abovementioned case can be ruled out?*

PRESIDENT (in Cantonese): Secretary, please give an answer.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Thank you, Mr LEE. We also attach importance to governance, and that is why one part of the future guidelines will be on corporate governance. Why do we think that there are difficulties in including staff representatives or service users in the Boards? Just as I have clearly explained, as such organizations also provide environmental protection, education, welfare and medical services, what should we do? The situation is a rather difficult one. Nonetheless, I do agree with Mr LEE that we should relay such view to the consultancy firm to see if it can be taken into consideration.

PRESIDENT (in Cantonese): We have spent more than 21 minutes on this question. We now proceed to the fourth question.

Disposal of Food Waste in Hong Kong

4. **MR ANDREW LEUNG** (in Cantonese): *President, it has been reported earlier that a person in Hong Kong generates on average half kilogramme of food waste each day, which is more than that in Singapore, Korea and Taiwan. Moreover, Hong Kong needs to dispose of 3 310 tonnes of food waste each day,*

putting immense pressure on landfills. In this connection, will the Government inform this Council:

- (a) *apart from the plan to develop the Siu Ho Wan Organic Waste Treatment and Recovery Facility (OWTF) in North Lantau Island, whether the Government has formulated other new policies and measures to tackle the current problem of a large amount of food waste being generated each day;*
- (b) *given that the technologies of handling food waste being developed by the environmental industry and the Hong Kong Productivity Council (HKPC) respectively are maturing each day, whether the Government will consider adopting the technologies concerned, and conduct promotional activities in various public housing estates and shopping centres; and*
- (c) *whether it will strengthen the education policy or organize more activities to educate the public to treasure food, so as to alleviate the problem of food waste?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I have to thank Mr Andrew LEUNG for putting this question.

- (a) At present, some 2 995 tonnes of food waste are disposed of at landfills each day. The figure shows a decrease as compared with 3 300 tonnes in 2007. Of this, about 70% are originated from households whilst the other 30% are originated from commercial and industrial sectors. To tackle the food waste problem in Hong Kong effectively, a multi-pronged approach should be adopted. For example, the awareness of the public and the business sectors about food waste avoidance and reduction is raised through education and publicity. Apart from this, the Government is actively planning the development of a modern OWTF at Siu Ho Wan of North Lantau for food waste treatment. By employing biological treatment technology, source-separated food waste could be turned into useful resources including compost and biogas. This OWTF, which could handle about 200 tonnes of food waste everyday, is expected to be commissioned between 2013 and 2014.

To comprehensively or completely tackle the issue of food waste recycling in Hong Kong, apart from developing the OWTF which I have mentioned just now, we have to work with the commercial and industrial sectors. We have introduced a Food Waste Recycling Partnership Scheme with the commercial and industrial sectors to promote good food waste management practices. We will jointly produce a Code of Practice on the Management of Food Waste with the commercial and industrial sectors to assist them in avoiding and reducing food waste, and to separate food waste at source. The experience of the participants joining the scheme on food waste separation and management will be consolidated and shared among the sectors, and such information will be disseminated to the commercial and industrial sectors through channels such as the Internet, pamphlets, workshops and seminars.

- (b) Currently, there are different types of food waste treatment equipment with various sizes available in the market for food waste reduction or conversion into useful materials such as soil conditioner or fertilizer which I have mentioned just now. The Government welcomes the commercial and industrial sectors or other organizations (including the professional organizations mentioned by Mr LEUNG) to install or develop such food waste treatment equipment according to their own conditions in order to reduce food waste disposal. Since 2006, the Hong Kong Trade Development Council, with the Environment Bureau as the co-organizer, has held the Eco Expo Asia annually in which international exhibitors (including those from the Mainland) would show their environmental products and technologies, including food waste treatment equipment, to the public. The Eco Expo Asia provides opportunities to the local commercial and industrial sectors and individual organizations to acquire new food waste treatment equipment. The Government is prepared to provide technical advice to the commercial and industrial sectors interested in using such equipment, such as experience on source separation of food waste and the requirements of relevant environmental legislation. Moreover, through the Environment and Conservation Fund (ECF), the Government has supported the procurement and installation of food waste treatment equipment by schools and charitable organizations. In the past two years, about 30 organizations have

been approved with funding support from the ECF to procure 42 pieces of food waste treatment equipment.

- (c) To encourage participation of the public in protecting the environment and reducing food waste, the Environmental Protection Department (EPD) has, over the years, been actively carrying out various education and publicity activities such as exhibitions and workshops. For example, a series of workshops for the restaurant trade were held between May and July 2009 in which speakers from the trade associations and related organizations shared their successful experience with their fellow members in implementing environmental management and green practices.

The EPD also makes use of the ECF which I have mentioned just now to support public education and promotion programmes for food waste reduction. For example, in 2008, the ECF supported the Greeners Action to organize the "Save Food Day" activities to promote good eating culture and habit, and to encourage the public to reduce the portion of their food should they wish to eat less so as to avoid wastage. In 2009, the ECF supported the Kadoorie Farm and Botanic Garden (KFBG) to conduct a project titled "Waste To Food — Community Trial Project of Kitchen Waste Recovery with Vermi-composting". The project produced 60 vermi-composting boxes for testing vermi-composting at the community level so as to educate the public on the benefits of recycling of food waste.

On further reduction of food waste and disposable lunch boxes, Members may remember that as mentioned in the policy address, the Education Bureau and Environment Bureau would invite all schools to sign a Green Lunch Charter this year. This is to encourage schools to stop using disposable containers and adopt the central portioning approach where possible, so as to reduce food waste and protect the environment. The ECF has reserved \$50 million to support existing schools to conduct retrofitting works and install facilities necessary for implementing "on-site meal portioning". Each school will be subsidized for the actual expenditure incurred. We have now already started receiving applications for such subsidies. Apart from this, new school premises would be designed

to facilitate the implementation of "on-site meal portioning" at school.

We will continue our education and promotion programmes so as to encourage the public and the related trades to reduce food waste, to understand the importance of food waste reduction, and to encourage change in life style and keeping of good environmental habits.

MR ANDREW LEUNG (in Cantonese): *Taiwan has done a better job in handling food waste. Different styles of food waste treatment equipment are available in the market and all food waste in Taipei is now recovered for treatment. However, the Siu Ho Wan OWTF to be commissioned in 2013 or 2014 can only treat 200 tonnes of food waste every day, still lagging considerably behind Taipei, where all food waste is now recovered. May I ask the Secretary, in addition to the measures he have mentioned, whether the Government has any plans to expedite the process, for instance, by entrusting the Leisure and Cultural Services Department (LCSD) with the immediate adoption of measures, so as to expedite the implementation and set an example?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): Just as Mr Andrew LEUNG has said, I believe efforts can be made in several respects. First of all, regarding integrated treatment of food waste, as a large amount of food waste is generated every day in Hong Kong, it is worthwhile to construct an integrated treatment centre; and this is also the main function of the Siu Ho Wan OWTF on Lantau Island. Depending on future development and needs, we will examine whether a further extension of such facility is necessary to cope with needs. Secondly, as there are restaurants in some shopping arcades, some environmentally-conscious developers or designers will install food waste treatment equipment in the shopping arcades. We think this is a good development. I know that the HKPC which Mr LEUNG has mentioned also regularly liaises with the management of shopping arcades to promote this mode of waste treatment; and, government departments, such as the LCSD, have also used such food waste treatment equipment.

At the household level, the use of small food waste treatment equipment is still uncommon in Hong Kong. My Bureau procured a piece of small food

waste treatment equipment at the recent Eco Expo Asia. Since colleagues having lunch at the office may generate a small amount of food waste, we are trying out this equipment. Some habits certainly need to be changed and some management problems may arise in the beginning, but I agree with Mr LEUNG that it will be good if extra and concerted efforts can be made at the levels of households, offices and shopping arcades.

MR WONG YUNG-KAN (in Cantonese): *Members know that in the early agricultural days, food waste was used for farming or as poultry feed. The authorities are now implementing a vermi-composting project in the KFBG, but may I ask the Secretary whether the project has been extended to the farmers? Regarding this practice, the environmental industry and the recycling trade have told us that food waste in Hong Kong is rather salty, and it may affect the farmland when added to the latter. It thus has to be sold to other places at a very low price. Is the Government not duty-bound to discuss with the industry how to improve the food waste so that such waste can be promoted to other places at a better price? If market response is good, this can become a viable trade.*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): I have to thank Mr Wong Yung-kan for his question. In preparation for the OWTF in Siu Ho Wan, a pilot scheme was implemented at Kowloon Bay where in-vessel composting technology was employed to convert food waste into soil conditioner. To date, the pilot scheme has generated about 100 tonnes of fertilizer. For the purpose of promotion, these recycled products have been distributed to farmers through the Agriculture, Fisheries and Conservation Department for trial use because some farmers may not have confidence in using them. Thus, these products are now given out free to farmers for trial use. We hope that if the scheme can be successfully promoted to farmers in the future, the soil conditioner generated from composting can be marketed.

PRESIDENT (in Cantonese): Which part of your supplementary question has not been answered?

MR WONG YUNG-KAN (in Cantonese): *My question is about the components in the food waste because if the food waste is too salty, as told by the farmers, the food waste may make the farmland unsuitable for farming. Can the Government try to do something to improve food waste?*

SECRETARY FOR THE ENVIRONMENT (in Cantonese): I remember that the last time when I visited Kowloon Bay, I raised the same question; and according to my colleague's reply, at present this type of food waste has received good response and its quality is not so bad. Nevertheless, in the beginning, we have to evaluate the users' response step by step.

MR TOMMY CHEUNG (in Cantonese): *We in the catering trade will definitely support this environmentally-friendly concept of treating food waste, and I believe the main task for the Secretary is education. I believe, if the people in Hong Kong in general do not complain to restaurants about diminishing dish sizes (despite the fact that they may not be able to finish the food) So, in this regard, I will definitely support the Secretary's work, and so will the catering trade.*

However, President, the last part of the Secretary's reply mentions schools. I believe both you and I have some experience on this. The amount of money the Secretary mentioned just now is so small. How can he expect others to invest a large sum of money if he himself only gives so little? Let me tell you one thing. If you want to promote environmental protection, stop using disposable containers, and adopt on-site meal portioning, the biggest problem will be wages because all these procedures have to be handled manually. Just imagine how many people will be required if all the students of the several-hundred schools in the territory stop using disposable lunch boxes and wash everything for reuse. Hence, as this project is also mentioned in the policy address (but only a very small amount of money has been allocated by the Government), may I ask the Secretary whether he will examine the issue of lack of manpower in schools with the Secretary for Education to see how it can be solved and provide the manpower required? I hold that this can ultimately help small children learn what environmental protection is all about and teach them not to waste food. Will the Secretary consider this practice and examine the cost involved and then allocate funding to schools for implementing this practice?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I have to thank Mr CHEUNG for his supplementary question. The suggestion of less rice and lower prices has been proposed by green groups, and the Government has also funded publicity of this kind. With the help of the catering trade, I believe work in this regard can be continued. Regarding schools, I remember I already gave a reply to a question put at a Council meeting in the past. At present, many schools in Hong Kong have gradually changed to providing green lunch, that is, they stop using disposable eating utensils. And, many schools also wish to implement on-site meal portioning; in other words, by centralizing meal portioning, food will be apportioned according to the capacity of individual children, so as to reduce food wastage. But the biggest hindrance to on-site meal portioning is that the facilities of schools built in the early days cannot cope with this practice; for instance, these schools may not have sufficient space for setting up a cafeteria, thus making it difficult for them to implement on-site meal portioning. We mentioned just now that the ECF has reserved \$50 million to support schools which cannot provide a place for student to eat together because of the design of school buildings, so that they can install facilities for reheating food, cooking vegetable and washing eating utensils on-site. We thank that such subsidies should be provided by the ECF and schools are welcomed to submit applications. If the ECF considers that it is worthwhile to do so, it will provide the resources.

Regarding manpower, we have sent staff to visit schools which have adopted on-site meal portioning or green lunch, and we find that the suppliers often provide staff to do the washing on-site. Moreover, in schools which have built up a good parent-school relationship, parents will work as volunteers to do the washing, or in some cases, students may take up a small part of the work. In this regard, I think some schools which have adopted this practice are doing very well and we will work on that basis. We will further promote this project and examine whether more facilities can be procured. Because of the experience we have obtained, we are delighted to discuss and co-operate with schools and the Education Bureau to enhance the project.

PRESIDENT (in Cantonese): Which part of your supplementary question has not been answered?

MR TOMMY CHEUNG (in Cantonese): *The Secretary has not answered part of my question. I hope that the Secretary can examine how much more manpower is required because the lack of manpower has prevented many schools from portioning meal in a more environmentally-friendly manner. But the Secretary has not answered whether he will examine this issue with the Education Bureau.*

PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): I will be delighted to look into it, but what I have mentioned just now are the major issues we noticed in schools in the past year, that is, the limitations which I have mentioned just now. We thus wish to deal with these limitations by providing the resources.

MS MIRIAM LAU (in Cantonese): *Regarding the OWTF at Siu Ho Wan, the Liberal Party has also proposed that apart from establishing the OWTF, the Government must also establish a systematic recovery procedure, in particular, waste separation at source, so as to enhance the recovery and treatment procedure. The Secretary answered just now that he will discuss with the catering trade and assist them in separating food waste at source where possible. The Government has indeed done so, but it has not done enough. We hope the Government can do more.*

President, my supplementary question is about the fact that, under the present scheme, the recovery of food waste mainly focuses on organic waste, but there is another important component in food waste — used cooking oil. Used cooking oil can be converted into biodiesel for use as motor vehicle fuel. This is a very common practice abroad and has been widely adopted. It is more environmentally friendly, but it is still not so common in Hong Kong. Admittedly, biodiesel can now be added to motor vehicle fuel, but only a 5% blend is allowed, which is too little. There are now a few companies specializing in collecting used cooking oil from fast food restaurants for conversion into biodiesel, but they are unable to collect all used cooking oil for central treatment, thus resulting in a lot of used food oil being wasted. May I

ask the Secretary whether he has any plans to examine the feasibility of specifically collecting used cooking oil in addition to collecting organic food waste? If he has such a plan, what are the details; if not, what are the reasons for that?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, I have to thank Ms Miriam LAU for her supplementary question. The first part of the supplementary question stated the present condition of the restaurant trade. As a matter of fact, this is precisely why extra efforts have to be made in this regard. The statistics show that the food waste generated by the commercial and industrial sectors (basically restaurants or food establishments) has multiplied in the past few years. This may be related to the increase in tourists and economic activities and this is why we have to tackle this problem. Ms LAU is correct in saying that other than food waste, used oil is also generated. There now seems to be a solution to the treatment of used oil because a piece of legislation is about to be introduced to allow the use of biodiesel, or to set down standards on the use of such oil as fuel so as to pave the way for its other application in the future, such as for use by motor vehicles. Industrial estates or the sectors concerned have also made efforts. For example, in the EcoPark, a treatment plant has been established for treatment of used cooking oil. In this regard, we are more than happy to see if there is anything more we can do in the future. As I have mentioned just now, at the workshops held in conjunction with the catering trade on the treatment of food waste, we will also consider the issue Ms LAU have raised just now, that is, apart from treating food waste, whether efforts can be made in the treatment of used cooking oil. Just as we have said just now, as the environment has now improved, we will see if we can do more.

PRESIDENT (in Cantonese): Which part of your supplementary question has not been answered?

MS MIRIAM LAU (in Cantonese): *I certainly know that used cooking oil is now collected for treatment, but my supplementary question is whether the Government has any plans to collect all used cooking oil for central treatment systematically. The question is not whether there is any party willing to do so; indeed, some companies are now doing this and the Government already has a*

plan to permit a 5% blend of biodiesel into existing motor vehicle fuel. We understand that the Government already has a plan in place, but does it have a plan to collect all used cooking oil for central treatment in the long run?

SECRETARY FOR THE ENVIRONMENT (in Cantonese): President, if Member's question is about establishing an integrated facility for treating used cooking oil, similar to the one for treating food waste, I must say that we do not have such a plan now because the quantity of used cooking oil generated is less than that of food waste. Moreover, there are already a few treatment plants for used cooking oil, like the one newly established in the EcoPark which I have mentioned just now. However, I agree with Ms Miriam LAU in saying that if there is any spare capacity in the market, we can discuss what other work can be done.

PRESIDENT (in Cantonese): We have spent more than 21 minutes on this question. Fifth question.

Assistance for Elderly People who Suffer from Dementia

5. **DR PAN PEY-CHYOU** (in Cantonese): *As the population is ageing, the number of elderly people in Hong Kong keeps increasing and many of them suffer from chronic illnesses, with dementia (also known as "Alzheimer's Disease") being one of the diseases suffered by an increasing number of patients. In this connection, will the Government inform this Council:*

- (a) *whether the authorities have compiled statistics on the number of dementia patients in Hong Kong and their age distribution in the past 10 years; and whether they have projected changes in the number of such patients in the next decade; if they have, of the outcome; if not, the reasons for that; whether the authorities will establish a database of dementia patients to facilitate more in-depth studies on the conditions of such patients and to enable them to receive assistance more expeditiously when they encounter accidents;*

- (b) *of the respective average waiting time at present for elderly people suffering from dementia to be admitted to subsidized residential care homes for the elderly and day care centres as well as to receive government or subsidized outreach services; whether the authorities will draw up a waiting list specifically for them in order to minimize their waiting time as far as possible; and*
- (c) *what support is provided at present to carers of dementia patients by the authorities to reduce their mental and financial burden, and whether they will consider granting a "carer allowance" to those taking care of their family members who suffer from dementia, so as to alleviate their financial pressure?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Like other developed economies, Hong Kong is facing the challenges of an ageing population. Hence, the Government has been allocating additional resources in recent years to enhance the care services for elderly persons, including the support for demented elderly persons and their carers. The Government's expenditure on elderly services has also increased from \$1.62 billion in 1997 to \$3.98 billion in this financial year (that is, 2009-2010), representing a rise of 145%.

My reply to individual parts of Dr the Honourable PAN Pey-chyou's question is as follows:

- (a) According to a study conducted jointly by the Department of Health (DH) and the Department of Psychiatry of The Chinese University of Hong Kong (CUHK) in 2006, around 9.3% of elderly persons aged 70 or above living in the community suffered from dementia. Based on the elderly population (aged 70 or above) of about 678 000 in mid-2009, it is estimated that some 63 000 demented elderly persons are living in the community at present.

According to the projection of the Census and Statistics Department, our elderly population aged 70 or above will reach 830 000 in 2019. Based on the current incidence rate of dementia, it is projected that 77 000 demented elderly persons aged 70 or above will be living in the community by 2019.

For dementia patients who receive treatment at the service units of the Hospital Authority (HA), their information (including their conditions and treatment progress) will be captured in HA's Clinical Management System, and the health care practitioners concerned can retrieve the information for reference for medical purposes.

- (b) Since 2000, the Social Welfare Department (SWD) has been implementing the Standardized Care Need Assessment Mechanism for Elderly Services (the Mechanism). Under the Mechanism, SWD adopts an internationally recognized assessment tool for assessing elderly persons' abilities in looking after themselves, their physical functioning, memory, communication skills, behaviour and emotion, health conditions, living environment and abilities in coping with their daily activities, and so on, and recommends appropriate care services to match the elderly persons' needs. Since this set of tools is effective in assessing the actual conditions and care needs of people suffering from dementia, we do not see the need for creating a separate waiting list for demented elderly persons.

At present, the Government provides a range of subsidized care services for dementia patients with long-term care needs. These services include residential care services, day care services and home-based care services. The waiting time is about 24 months, seven months and two months respectively.

The symptoms of dementia patients actually vary according to their conditions, and the differences can be substantial. Therefore, it is more important to provide the patients with a continuum of care services that suit their needs at different stages. At present, the subsidized elderly service units will draw up individual care plans for service users having regard to their health conditions and needs. The plans will be reviewed and updated regularly to cater for their changing health conditions.

In addition, we have made special arrangements for services frequently used by demented elderly persons. On residential care services, the Government provides a Dementia Supplement (DS) to all subvented residential care homes for the elderly (RCHEs) and private RCHEs participating in the Enhanced Bought Place Scheme. RCHEs can use it to employ additional professional staff to provide

care services and arrange training activities for demented elderly persons. The allocation for DS amounts to \$42.5 million a year.

At the same time, subsidized RCHEs and day care centres for the elderly will provide disease-specific training for demented elderly persons, including cognitive training, memory training, reality orientation and reminiscence therapy, and so on. These institutions will also provide a suitable environment so as to avoid exerting pressure (caused by noise or lighting, for instance) on demented elderly persons and offer a suitable level of stimulation (for example, using directional signs).

In addition to providing direct services to dementia patients, the Government has allocated resources to various service providers in recent years for improving the facilities of subsidized RCHEs and day care centres, such as installing anti-wandering systems and multi-sensory facilities, and so on. The Government also provides regularly a series of training programmes on caring for demented elderly persons for the staff of elderly service units (including social workers, nurses, occupational therapists, physiotherapists, care workers and home helpers, and so on), so as to enhance their knowledge of dementia and strengthen their skills in caring for demented elderly persons, with a view to providing better care for demented elderly persons.

- (c) Cherishing the family is one of the core values of our society. The Government has therefore been promoting mutual family support, and we value contribution made by carers to their elderly family members. The Government has put in place a wide range of support services and measures for carers of elderly persons, which aim at helping them discharge their family responsibilities and easing their stress. For example, the District-based Scheme on Carer Training (the Scheme) is to equip participants with basic knowledge of elderly care, including the skills in caring for demented elderly persons. Our aim is to enhance carers' capability through training so as to ease their stress in caring for the elderly persons. The Scheme has been well received since its implementation and the first round of training was completed with 750 carers trained. The second round of training commenced in March last year and it is expected that another 1 500 carers will be

trained in a year's time. SWD will further extend the Scheme to Neighbourhood Elderly Centres in April this year.

In addition, the 158 elderly centres, 58 day care centres and 85 home care service teams throughout the territory provide support services for carers, including the provision of information, training and counselling, assistance in forming carers' mutual-assistance groups, setting up of resource centres, and provision and loan of rehabilitation equipment, and so on. At present, all subsidized RCHEs and day care centres also provide relief for carers through their respite services, so that carers can take a break or attend to other businesses.

At the same time, the current social security and welfare systems can offer different forms of protection and support for elderly persons and their carers who are not engaged in employment. At present, people in financial difficulties can apply for financial assistance under the Comprehensive Social Security Assistance Scheme (CSSA). Moreover, the Government has provided a wide range of subsidized services such as public housing, medical services and social welfare services for those in need. On top of that, the Inland Revenue Ordinance (IRO) allows for tax deduction in respect of Elderly Residential Care Expenses up to a maximum of \$60,000 per year. Dependent Parent/Grandparent Allowance are also granted under the IRO and taxpayers who reside with the dependants throughout the year are entitled to a \$60,000 allowance. These measures can encourage fellow family members to help look after their elderly persons, and can provide additional support to the carers.

While we fully recognize the importance of carers in taking care of the elderly, we also understand that demented elderly persons require different kinds of care, many of which involve professional knowledge and skills. Family members or individuals may not be able to fully address these care needs. We believe that, compared to providing cash subsidies to the carers, the range of support services subsidized by the Government can better address their needs.

DR PAN PEY-CHYOU (in Cantonese): *President, the Secretary's reply reminds me of what my neighbour in this Chamber, Honourable IP Wai-ming, has referred to because the Secretary has even counted the Dependent Parent Allowance in.*

First, I want to point out that the statistics cited by the Secretary do not give a complete picture because as the Secretary has said, these statistics only cover elderly persons living in the community. Elderly persons who live in RCHEs or are being hospitalized are not included. Moreover, the statistics are collected for elderly persons aged 70 or above but in fact, many patients have their first instance of dementia when they were under this age.

Moreover, I want to point out that we now receive frequent complaints about applications for services made by demented elderly persons under the Mechanism being denied on the grounds that they are independent in terms of mobility. However, as these elderly persons cannot really take care of themselves, they have a genuine need for these services. But their applications have been rejected. Furthermore, elderly services provided in the community, such as those by day care centres, cannot really meet the needs of demented elderly persons because such services are primarily designed for elderly persons with sickness or impaired mobility. Such services are not suitable for demented elderly persons who are independent in terms of mobility but suffer from brain degeneration and cannot control their emotions and behaviour. In this connection, I want to know whether the Government is aware of the difference in service requirements? Both the assessment mechanism and the service itself are focused on elderly persons with physical disabilities and have not paid enough attention to elderly persons with mental disabilities. If the Government understands that there is such a shortfall, does it have any plan to improve both these aspects?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Thanks to Dr PAN for his question. First, he mentioned that some elderly persons possibly suffering from dementia cannot enjoy elderly services because they failed to pass the assessment under the Mechanism. In fact, even if these elderly persons fail to pass the assessment, they can still enjoy certain integrated home care services which are non-assessment-based. There are two different situations: some services are provided subject to assessment and other services are non-assessment-based. There are two types of cases. The latter are ordinary cases where the elderly persons concerned can perhaps move around by themselves, that is, elderly persons with relatively more mobility but are suffering

from early-stage dementia. What kinds of services are available to them? They can receive relatively simple personal care services including feeding, bathing, measuring body temperature and blood pressure, and even home cleaning, meal services as well as transportation to day care centres. All these services can be enjoyed by such elderly persons and we can also provide counselling services when necessary. Hence, elderly persons who have not been assessed may not necessarily be deprived of any services. This is the first point I want to make.

The second point relates to what I have said in the main reply just now. We have allocated some \$40 million to some organizations including day care centres and subvented RCHEs to employ additional staff. The objective is precisely to better serve demented elderly persons so that tailor-made services can be provided by physiotherapists, occupational therapists and care workers to them. The elderly persons concerned can come into contact with more people and talk to them. In particular, some elderly persons like to talk about the past. If there is someone to talk to them about the past, their cognitive functions may recover gradually. As a doctor, Dr PAN should know very clearly about this and he is an expert. Hence, we have already allocated additional resources for the care of demented elders. Moreover, this year's funding provision is also made available to RCHEs participating in the Bought Place Scheme. The fact is that we are improving our elderly services and we are going in a better direction.

PRESIDENT (in Cantonese): Which part of your supplementary question has not been answered?

DR PAN PEY-CHYOU (in Cantonese): *My question is about those services to be provided under the Mechanism and not those non-assessment-based services that the Secretary just talked about because if those services, that is, the latter ones can meet the needs of demented elderly persons, it will not be necessary for them to make applications under the Mechanism*

PRESIDENT (in Cantonese): Members should avoid making lengthy remarks when asking supplementary question to the extent of making a question unclear. Please put your follow-up questions in a simple and concise way.

DR PAN PEY-CHYOU (in Cantonese): *Here is my follow-up question: I want to know whether the Government is aware that some demented elderly persons who are in genuine need of such services are often excluded under the Mechanism?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, thanks to Dr PAN for his question. In fact, I conducted a visit with my colleagues on New Year's Eve to observe the assessment process myself. We paid a home visit a demented elderly person aged 79 years. I had a long chat with him and observed the whole assessment process. If he is found to be qualified after the assessment, we will certainly provide the services he requires, either home care or residential home services. But if he is not qualified, of course we cannot provide the said services to him. For elderly persons who are not qualified, as I have mentioned in my reply just now, if they are assessed to be not eligible for the services or to have no need for such services, they can still enjoy ordinary integrated home care services. The most important thing is that these services are available to them. The Honourable Member said just now that no service was available to these elders. But that is not true. We will never do nothing to help them. I want to clarify this because Members may have some misunderstanding on what I have just said about this point.

MR LAU WONG-FAT (in Cantonese): *President, many demented patients suffer from mood fluctuations, depressions, temper tantrums, and so on, and have to receive psychological and behavioural therapy. Ordinary RCHEs or day care centres may have difficulty in handling these cases. Will the Government inform this Council whether consideration will be given to setting up specialized residential care homes for demented elders so as to provide better care and treatment to such unfortunate elderly persons and to alleviate the stress of family members of the patients?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Thanks to Mr LAU for his question. In fact, a couple of years ago, we tried to deal with the issue from the angle of dedicated service, that is, to provide specialist service, the so-called dementia care service. But the result was unsatisfactory. Hence, having experimented with an alternative approach but without good results, our direction now is to revert to an integrated all-round approach because our ultimate goal is to provide all-round services and support to the elderly. Bringing all demented elderly persons together may even have an undesirable effect on them.

If there is another setting where they can talk to and interact with normal people, it will be more beneficial to their health. Having tried and tested different approaches, we find that the present method and model are better. Hence, we will not revert to the course of setting up a special care centre for demented elderly persons.

In fact, Mr LAU, all-round and total services have already been provided in the RCHEs. As I said just now in the main reply, the manpower of all these centres has been enhanced. The most important improvement is about manpower. Moreover, other equipment such as sensory rooms and reminiscent corners has been added so that the elderly persons can be reminded of things in the past and this can in turn help prevent rapid deterioration of their cognitive functions and memories. Therefore, throughout the process, we have replicated elements from our past experiences of single service under the present mode of integrated services.

MS CYD HO (in Cantonese): *President, the reply given by the Secretary has hidden some facts and down-played the problem because their calculations only include elderly persons aged 70 or above. Even so, there are 63 000 demented elderly persons living in the community. For the families of these 63 000 elderly persons who could only be cared for in the community, they have to face enormous psychological, physical and financial pressures. However, when these elderly persons want to obtain residential care services, when they want to be cared for in institutions, the waiting time is as long as 24 months. The situation is in fact very difficult for these families. Does the Secretary have a policy objective to shorten the waiting time from 24 months to three months? And does he have any information about these 63 000 families? How many of them can afford to hire helpers to care for the patients? How many families have members who have to take leave from work to take care of these elders, or have a family member who resigns from work and becomes a full-time carer for the elderly? How many families are in fact living from hand to mouth and cannot afford to have members stop working to care for the elders, and the financial burden of these families is way beyond that covered under the CSSA? The Secretary must answer all these questions so that we can see the extent of the problem, and the authorities should shorten the waiting period accordingly.*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Thank you Ms HO for her questions. Your concerns are shared by me. What is the method we are using to deal with the problem now? First, you mentioned the elderly persons aged 70 or above. What about those of a younger age? According to expert opinion, the incidence rate of dementia for elderly persons aged below 65 is generally not high. Of course, there are cases of such but the incidence rate is not high. The threshold of 70 is set after the joint study conducted by the DH and CUHK. For elderly persons not living in RCHEs and those living in the community, if there is a need, we can in fact provide as I have just said, we can provide them with home care services. There are two different situations where some services are provided subject to assessment and other services which are non-assessment-based and to be provided for ordinary cases. Certain elderly services are provided to these elderly persons and the waiting time is generally two months.

As regards the provision of RCHEs, we have just discussed the findings of a consultancy study conducted by the University of Hong Kong (HKU) at the meeting of the Panel on Welfare Services this Monday. The consultancy study was commissioned by the Elderly Commission on problems brought by the ageing population. Of course, demented elderly persons is one of the issues we have to deal with but the big picture is about the ageing population. How can we deal with the related issues in terms of the provision of elderly services and residential care services? Three recommendations have been made in the HKU's report. First, the most important thing is to enhance home care services because if that can be achieved, the pressure for providing RCHEs would be minimized. Second, in terms of residential care services, the situation of early or unwarranted admission of the elderly to RCHEs should be avoided. This is also an important consideration. For elderly persons who are given dual options of either residential or home care services after assessment under the Mechanism, they should be encouraged to use home care services first. This is the general direction to follow. Of course, the consultancy study has also recommended that before admission to RCHEs, elderly persons should be subject to a means test. This is the consultancy's view and this recommendation is to be implemented last. The most important thing is to enhance home care services and that is exactly the direction in which we are working.

PRESIDENT (in Cantonese): Has your supplementary question not been answered? Has the Secretary not answered your question about shortening the waiting time?

MS CYD HO (in Cantonese): *In fact, he is not interested in shortening the waiting time. Now, I know that not letting elderly persons stay in RCHEs is for their own good. But the Secretary must at least tell us how many of the families concerned are living from hand to mouth and it is practically not possible for a family member to take care of the demented patient full time? Has he done any assessment on that?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): It is not easy to conduct such an assessment. Members can see that the figures from CUHK's study are about incidence rates only. If each family has to be interviewed, the survey will be a mammoth task. Nonetheless, I think the most important message is that we are most willing to render assistance to the needy families as long as they ask for our help when needed. We will definitely provide them with assistance.

PRESIDENT (in Cantonese): This Council has spent more than 22 minutes on this question. Last oral question.

MR LEUNG KWOK-HUNG (in Cantonese): *President, I heard the Secretary talk about something like being sentimental and reminiscent of the old regime just now.*

PRESIDENT (in Cantonese): Mr LEUNG, please put your question according to the original version of the main question.

MR LEUNG KWOK-HUNG (in Cantonese): *The Government should in fact have these services because it has been 12 years after reunification and the Elderly Commission*

PRESIDENT (in Cantonese): Please ask your main question.

MR LEUNG KWOK-HUNG (in Cantonese): *Yes, I will ask my questions later. I do have my own wisdom of asking questions.*

Elder Abuse Cases

6. **MR LEUNG KWOK-HUNG** (in Cantonese): President, it has been reported earlier that a staff member of a private residential care home for the elderly (RCHE) in Sheung Shui, which participated in the Enhanced Bought Place Scheme of the Social Welfare Department (SWD), was sentenced to six months' imprisonment for assaulting an elderly female resident and forcing her to eat faeces. Moreover, an elderly man was recently found abandoned in Guangzhou with his travel documents and luggage being taken away by his son intentionally, and he finally returned to Hong Kong with the assistance of the Government. Quite a number of elderly groups and elderly people have relayed to me that they are dissatisfied that there is no dedicated legislation at present for combating elder abuse behaviour and protecting the legal rights of elderly people. In this connection, will the Government inform this Council:

- (a) whether the SWD has prosecuted the RCHE involved in the aforesaid elder abuse case under the Residential Care Homes (Elderly Persons) Ordinance; if it has, when the prosecution was made and of its outcome; if not, whether the RCHE has not been instituted prosecution because the SWD considers that the RCHE's act involved in the aforesaid incident is reasonable and has not breached the Ordinance; and
- (b) given that children and juveniles are at present protected under the Protection of Children and Juveniles Ordinance, but there is no dedicated legislation for protecting elderly people, and since the Government had advised in its reply to the question raised by a Member of this Council on 11 November 2009 that "at present, Hong Kong has sound legislation to protect all citizens (including elders) from abuse", whether it will repeal the Protection of Children and Juveniles Ordinance immediately, so that the public will not have the impression that the Government has only enacted dedicated

legislation for protecting children and juveniles but not elderly people; if it will, when the Ordinance will be repealed; if not, whether it will re-assess if there is a need to enact dedicated legislation for protecting elderly people from being abused?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President,

- (a) Elder abuse is a grave and intolerable crime, and must be dealt with seriously. We are very concerned about the case mentioned in the question, in which a care worker of a RCHE was convicted by the court because of elder abuse. After several months of investigation, interviews with the management and relevant staff of the RCHE concerned, and taking into account the court verdict, the SWD has decided to deduct 40 bought places from the RCHE. This is because months after receiving the complaint, the management of the RCHE still failed to take every reasonable step to prevent the abuse of elderly residents in accordance with the Service Quality Standards as set out in the service agreement for the Enhanced Bought Place Scheme. Mindful of the needs of the elderly residents who are living in the RCHE concerned, the SWD will gradually deduct the bought places when elderly residents leave the RCHE for various reasons. The SWD has also requested the RCHE to pay particular attention to the professional ethics of its staff and provide them with better training. The SWD is seeking legal advice on whether to prosecute the RCHE under the Residential Care Homes (Elderly Persons) Ordinance (Cap. 459).

Apart from punitive measures, proactive prevention and monitoring measures are also very important in stemming elder abuse in RCHEs. The Residential Care Homes (Elderly Persons) Ordinance and its subsidiary legislation provide for the regulation of RCHEs through a licensing system administered by the Director of Social Welfare. The licensing requirements cover such aspects as health, sanitation, staffing, safety, location, premises design, structure, equipment, fire precautions and size of RCHEs. All RCHEs have to be licensed and the Licensing Office of the Residential Care Homes for the Elderly (LORCHE) will inspect RCHEs from time to time to ensure compliance with the licensing requirements. RCHEs concurrently registered under the Hospitals, Nursing Homes and

Maternity Homes Registration Ordinance (Cap. 165) are also subject to monitoring by the Department of Health. Furthermore, the SWD has been providing support to RCHEs, such as providing training and information to their staff, in order to enhance their service quality.

Besides, we encourage elderly residents and their family members or carers to play an active monitoring role. If they are not satisfied with the services of RCHEs, they may call LORCHE or SWD's 24-hour hotline. The SWD will take immediate follow-up actions, including inspecting the RCHEs concerned, supervising their remedial actions, as well as issuing guidelines on topical issues, with a view to helping the whole RCHE sector enhance its service quality.

- (b) At present, Hong Kong has sound legislation to protect all citizens, including elderly persons, from abuse. Specifically, abused elderly persons are protected by legislation for criminal offences, including the Crimes Ordinance (Cap. 200), the Offences Against the Person Ordinance (Cap. 212) and the Theft Ordinance (Cap. 210). They may also apply under the Domestic and Cohabitation Relationships Violence Ordinance (Cap. 189) to the court for an injunction order against molestation by their spouses, children or other relatives as specified in that Ordinance.

Besides, according to the Mental Health Ordinance (Cap. 136), the Guardianship Board has the power to issue a guardianship order to appoint a guardian for making decisions on behalf of a mentally incapacitated person (including an elderly person) in respect of his personal or health care matters, or to hold, receive or pay a specified monthly sum on behalf of such person.

In view of the above, we do not see the need to enact a dedicated legislation against elder abuse.

Apart from legal protection, we have been promoting public awareness of the problem of elder abuse through publicity and education. We have also adopted various preventive and intervention measures and provided training to front-line staff, so as to provide appropriate support to abused elderly persons.

As regards the Protection of Children and Juvenile Ordinance (Cap. 213) mentioned by Mr LEUNG, it aims at protecting the children and juveniles as specified in the Ordinance who are mainly those having been assaulted, ill-treated or sexually abused, or whose health, development or welfare has been neglected. Exercising the power conferred by the Ordinance, the Juvenile Court may make decisions in relation to the guardianship, custody and control of these children and juveniles. As this arrangement is not applicable to adults, including elderly persons, in general, it should not be used as a reference for dealing with elder abuse. There is a genuine need to retain the Protection of Children and Juvenile Ordinance. The Ordinance is also not incompatible with the other pieces of legislation mentioned above for protecting our citizens, including elderly persons, from abuse.

MR LEUNG KWOK-HUNG (in Cantonese): *I really have to ask a further question. My main question put to the Secretary is about an unscrupulous person who has forced an elder to eat faeces. To put it vulgarly, he has forced her to "eat shit". The Government remarked in its reply to my main question that as relevant ordinances are already in place, there is no need to enact other dedicated legislation for the elderly.*

I would like to seek advice from the Secretary. Your main reply is very simple, in the sense that it is exactly the same as the situation where "while I have not intended to harm anybody, somebody would be hurt because of me". You yourself have neither killed the elderly person nor forced them to eat faeces, but this system has given rise to such a situation. You and I have all along been opponents to each other for a long time. I will leave this Council for a period of time and come back. However, I still have to use the term "bu gai" (meaning "should not") to criticize you. It is because at present, more than 7 000 elderly persons, who are assessed to be qualified for admission to RCHEs, have passed away with regrets before being admitted. In our society, many elderly persons are being forced to rely on their limited Comprehensive Social Security Assistance payments to live in RCHEs, but they are ill-treated after being admitted. The elderly person who has been forced to eat faeces is one of the victims.

Secretary, I wish to ask you, in case there is no legislation to regulate elderly abuse, how can the Government enable me to sue it in court for abusing the elderly in Hong Kong, including letting them pass away with regrets? You

may have failed to get my point here. The legislation in my mind is the one which can be invoked to sue the Government, not those unscrupulous RCHEs. I wish to seek your advice. As there is no legislation at present, the Government can stay away from it. However, if such legislation is enacted, the Government can no longer do so. I would like to put this question to you. What do you think?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I have stated my views clearly in the main reply. At present, regarding the elderly, sufficient protection is already provided in our legislation. Under the legislation, they are fully protected.

Secondly, I wish to make a clarification here. Mr LEUNG mentioned just now that more than 7 000 elders have passed away while waiting without using any service at all. I wish to clarify that as what I have remarked time and again, of those elderly persons who are waiting for admission to RCHEs, more than 50% are in fact using some home care services or receiving subsidies from the Government. We do provide some sort of assistance to them. Of course, some elderly persons are living in private RCHEs. However, if they do not have any preference, or if they do not specify any RCHE, they only have to wait for seven months through our Enhanced Bought Place Scheme at present. Therefore, I would like to appeal to elderly persons and their family members that if there is an urgent need for them to get subsidized RCHE places, they should not specify any RCHE, especially those so-called subsidized ones. If they can accept flexibility, they can be allocated with RCHE places within seven months. In this regard, such message is very important, President.

PRESIDENT (in Cantonese): Which part of your supplementary question has not been answered?

MR LEUNG KWOK-HUNG (in Cantonese): *If no legislation is enacted, the Government can stay away from it. In response to me, he said that sufficient legislation was already in place. Now, my question is: if there is a dedicated legislation for elderly abuse, any elderly persons — you and I will become elderly persons very soon*

PRESIDENT (in Cantonese): Are you asking the Secretary how you can sue the Government if no legislation is enacted?

MR LEUNG KWOK-HUNG (in Cantonese): Yes.

PRESIDENT (in Cantonese): Let me see if the Secretary has anything to add on this part.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, the SAR Government attaches great importance to the well-being of the elderly. We keep on injecting more resources for helping the elderly. We will certainly make every effort to improve their well-being. We have all along been doing well on our part, including the consultancy report released by the Panel on Welfare Services on this Monday. It has outlined our planning in future. As you can see, we do have a vision, and this has also fully reflected our commitment, President.

MR LEUNG KWOK-HUNG (in Cantonese): *Fine, his reply is excellent.*

MS CYD HO (in Cantonese): *President, the population in Hong Kong is ageing rapidly. However, from the question raised just now and the one being asked at present, we can see the inadequacies of the Government's elderly policy both quantitatively and qualitatively.*

President, what I wish to say is that the court has handed down a heavy sentence on the elder abuse case this time. In fact, this is not an individual incident. However, the circumstances of this incident are particularly outrageous. As a matter of fact, many families have complained that the elderly who are living in RCHEs are tied up in bed by their carers for the sake of convenience. Moreover, with the lack of cleaning services, skin ulcer is common. However, regarding the penalty imposed this time, the authorities only said that as the RCHE concerned did not act in compliance with the Enhanced Bought Place Scheme, the number of bought places was deducted.

However, such penalty can in no way punish it as it has private places as well. As we can see, it takes 24 months to wait for a RCHE place. Even though no subsidies are provided by the Government, we must still apply desperately for private RCHEs for the elderly. Therefore, to the RCHE concerned, such penalty is not sufficient at all.

In view of this, President, I wish to ask the Government, firstly, whether it will review the penalty mechanism. It cannot merely rely on the reduction of bought places, thinking that sufficient deterrent effect will be achieved on that RCHE. Will it consider suspending its licence or simply prohibiting it from admitting too many elderly persons, so as to cut down its operation? In this way, sufficient punishment or penalties can then be imposed. How many complaints have it received so far? How many inspections have been conducted as a result? And what penalties

PRESIDENT (in Cantonese): Please state your supplementary question concisely.

MS CYD HO (in Cantonese): *Fine, President. Over the past year, how many complaints about the elderly services provided by RCHEs have actually been received by the SWD? How many inspections have been conducted and what penalties have been imposed as a result? And among them, does it include licence suspension or reduction of the number of elders to be admitted by the RCHE concerned?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, Ms HO has raised two supplementary questions. The first one is about this individual case. As for this case, I have made it very clear in my main reply that we will deal with it seriously. First of all, we have gradually deducted 40 bought places from the RCHE concerned. This will produce a substantial impact on it as such number is not small but quite considerable. Secondly, as I have also mentioned just now, pending the advice of the Department of Justice, we will consider if prosecution should be instituted against this case. We will deal with this incident seriously without partiality.

The second supplementary question is about the number of complaints received by us. As for general complaints, there are about 280 cases each year, which are usually reported to us by their relatives and those living in RCHEs. That is to say, in general, we have to rely on their reports. However, we have also conducted inspections. Our colleagues will at least inspect each RCHE for more than seven times per year. Once we receive any phone-in complaints, such as those made by the public through our 24-hour hotline, 2343 2255, we will conduct an inspection in the morning the next day or immediately. Sometimes, we will even conduct an inspection on that night, so as to prevent it from destroying evidence. We will take immediate actions. Very often, our colleagues are performing their duties round the clock. Therefore, in this regard, we attach much importance to the integrity of RCHEs and their operation.

MS CYD HO (in Cantonese): *The Secretary has not answered me on what penalties have been imposed, and among them, whether reduction of the number of elderly persons to be admitted by RCHEs is included.*

PRESIDENT (in Cantonese): Ms HO's follow-up question includes many parts. Secretary, please reply.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Generally speaking, regarding penalties As a matter of fact, the Ordinance has been in force for over a decade. Since the Residential Care Homes (Elderly Persons) Ordinance was formally enacted in 1996, of the 65 complaints of such kind received so far, we have successfully prosecuted and convicted 57 RCHEs in total. According to the Ordinance, the maximum penalty is a fine of \$100,000 and an imprisonment of two years. In a certain case, the penalty is as heavy as a fine of \$80,000. Therefore, as shown in the past records, we did impose penalties on them.

MR ALAN LEONG (in Cantonese): *President, the Secretary mentioned in his oral reply just now that, among the elderly who are waiting to be admitted to RCHEs, half of them are receiving support services for ageing at home. President, this reply can be interpreted differently. That is to say, those elderly persons who have obtained support for ageing at home still have to wait. Does it mean that the complementary services and facilities for ageing at home are*

inadequate? I wish to ask the Secretary whether the Government has ever analysed why so many elderly persons still prefer waiting for RCHEs to ageing at home?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Mr LEONG's supplementary question is very good, for it addresses the crux of the problem. This is exactly the subject being examined by the consultancy commissioned by the University of Hong Kong — if you have time, you should take a look at its research report. It is worthwhile for us to leaf through it as this report is excellent, which has dully incorporated overseas experiences into the situation in Hong Kong.

In fact, your question is about giving more choices to the elderly. None of them prefers living in RCHEs. Most of them will opt for ageing at home. Why? It is because they have their neighbours and relatives if they age at home. As the saying goes, there is no home as good as one's own messy home. We all know it, right? Even though it is a luxurious home, they will not like it. Therefore, under such a situation, to many elderly persons, they really do not wish to live in RCHEs if they have a choice.

However, it may be necessary for some elderly persons to live in RCHEs for health reasons or because of their living environment. Therefore, this is what we are tackling now. If the complementary services are good enough to allow the elderly to age at home, it can greatly relieve the pressure on RCHEs. Therefore, as proposed by the consultancy report — we are now seeking and listening to advice — we are exactly moving in this direction, aiming at enhancing the ancillary services for ageing at home. I admit that at present, there is still room for improvement as such services have yet to develop to a mature stage. That is to say, if there is a market in future with sound development, we can even set up a "social enterprise", so as to provide more choices to the middle-class families. Under such a situation, their demand for RCHEs will not be so great definitely. If the services for ageing at home can include health care workers and physiotherapists, whilst the elderly can be visited and taken care of by their posterity and family members, every one of us can then foster harmonious families. We would be only too glad to do it! This is not a Utopia. In fact, this can be achieved, only that it takes time. We are now seeking your views in this regard and examining if there is a need to re-position the policy, so as to provide some home care services to enhance our services.

MR CHEUNG KWOK-CHE (in Cantonese): *In my opinion, as there are basically so many people working in private RCHEs, elderly abuse cases may easily occur. I think the incident revealed recently is already a case which allows us to identify such situation. Some cases can hardly be identified, such as insulting the elderly verbally. This has fully reflected the work pressure on those working in RCHEs, or how poor their salaries and benefits are. And this has made them put their grievances on service users.*

In fact, the Residential Care Homes (Elderly Persons) Ordinance has been enacted for over a decade since 1994. I think the requirement such as the manning ratio is already outdated. May I ask the Secretary whether the Government has considered commencing any amendment to the Residential Care Homes (Elderly Persons) Ordinance today?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, regarding the question raised by Mr CHEUNG, I think his focus is on manpower, right? As far as the Ordinance is concerned, we will review it from time to time. If necessary, we will not rule out the possibility of making amendments to it or perfecting it. However, regarding manpower, the manning ratio of RCHEs has been stated clearly in the Schedule — the ratio of all management staff, whether health care workers or carers, have been stipulated clearly. This is the minimum ratio. As a matter of fact, the manpower of many RCHEs has far exceeded such ratio now. This is only the minimum ratio. That is to say, it is not the case that such ratio should not be exceeded. Rather, they are absolutely allowed to recruit more staff. In fact, as shown in our information, the manpower of many RCHEs has already exceeded such ratio.

PRESIDENT (in Cantonese): Are you claiming that your supplementary question has not been answered?

MR CHEUNG KWOK-CHE (in Cantonese): *He has answered the part on the manning ratio. However, as we all know, regarding the present situation, the minimum manning ratio has become the maximum manning ratio in RCHEs. Therefore, he has not answered my core question, and that is, whether he will amend the Ordinance?*

PRESIDENT (in Cantonese): Your follow-up question is to ask the Secretary whether he will amend

MR CHEUNG KWOK-CHE (in Cantonese): *I just cite an example only.*

PRESIDENT (in Cantonese): You have put a question to the Secretary regarding the amendment to the Ordinance. We should not conduct any debate in the question session. And I think the Secretary has already given an answer. If you are not satisfied, please follow up through other channels.

We have spent more than 21 minutes on this question. Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS

Regulating Level of Alcohol Concentration of Pilots While Discharging Duties

7. **DR RAYMOND HO** (in Chinese): *President, it has been reported that in recent years, incidents involving pilots discharging duties on international civilian passenger aircraft while being drunk happened from time to time, and such behaviour seriously affected the safety of passengers and other crew members. In this connection, will the Government inform this Council:*

- (a) *of the maximum allowable level of alcohol concentration, as prescribed in the relevant legislation of Hong Kong, of civilian passenger aircraft pilots while discharging duties on aircraft; whether such a requirement is the same as those on the Mainland and in other developed countries; what measures the authorities have in place at present to ensure that the level of alcohol concentration of civilian passenger aircraft pilots while they are discharging duties on flights departing from Hong Kong complies with the statutory requirement; and*

- (b) *of the number of civilian passenger aircraft pilots who were prosecuted in each of the past five years for breaching the relevant legislation in Hong Kong because they discharged duties while being drunk, as well as the names of the airline companies to which they belonged?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President,

- (a) To ensure aviation safety, we have adopted various measures to prevent pilots of civil aircraft from performing duties under the influence of alcohol or other psychoactive substances. These include enacting legislation in accordance with international standards to regulate airlines and issuing appropriate guidelines for industry players.

According to Annex 1 to the Convention on International Civil Aviation (the Convention), crew members shall not exercise the privileges of their licences (including pilot licences) while under the influence of any psychoactive substance (including alcohol) which might render them unable to exercise these privileges safely and properly. The Convention has not prescribed a maximum allowable level of alcohol concentration for crew members.

Regarding the laws of Hong Kong, in order to implement the relevant requirements in the Convention, Article 49(2) of the Air Navigation (Hong Kong) Order 1995, Subsidiary Legislation C under the Civil Aviation Ordinance (Cap. 448) (the Order) stipulates that a person shall not, when acting as a crew member, be under the influence of psychoactive substances (including alcohol) to such an extent as to impair his capacity so to act. According to Article 91(6) of the Order, contravention of the provision could lead to a fine and/or imprisonment for a term not exceeding two years.

On airline regulation, the Civil Aviation Department (CAD) requires all airlines holding a Hong Kong Air Operator's Certificate (AOC) to develop a set of detailed and stringent operating requirements in their operations manuals for the purpose of monitoring the safety conduct of their crew members. These include measures to manage

the consumption of alcoholic beverages by the crew members. The CAD will vet the operations manuals for compliance with the relevant international standards and guidelines as well as the requirements of the laws of Hong Kong. Moreover, Articles 102 and 86(1) of the Order require airlines holding AOCs to respectively implement a safety management system and report to the CAD incidents that may affect aviation safety, including any incident in which crew members performed duties while under the influence of psychoactive substances (including alcohol) and affected aviation safety.

On the other hand, having regard to the relevant guidelines of the International Civil Aviation Organization (ICAO), the CAD has also advised all persons performing crew duties in Hong Kong to avoid the influence of alcohol during a certain period of time before and while they are on duty to ensure aviation safety. This is done through the issue of the Aeronautical Information Circular to the crew members.

The above measures fully comply with the ICAO's standards and relevant requirements.

Certain civil aviation authorities (including those of the Mainland, the United States, the United Kingdom and Australia) further prescribe in their local legislation the maximum allowable level of alcohol concentration of crew members, generally ranging from 20 to 40 mg of alcohol per 100 ml of blood.

The CAD will continue to monitor the international safety standards and the effectiveness of the relevant measures, and review our legislation and safety guidelines as necessary.

- (b) In the past five years, the CAD has not received any complaint or incident report about crew members of civil aircraft suspected to have performed duties while under the influence of psychoactive substances (including alcohol), and there has not been any prosecution against any crew member for such reason.

Assistance for Students who were Expelled from Schools

8. **MS CYD HO** (in Chinese): *President, will the Government inform this Council:*

- (a) *whether it knows the respective numbers in each of the past five years, broken down by age, of primary and secondary school students who:*
 - (i) *had been suspended from school as a result of expulsion by their schools, and the reasons for their expulsion;*
 - (ii) *could return to mainstream schools after suspension from school, and the duration of their suspension; and*
 - (iii) *could not return to mainstream schools after suspension from school, and the reasons for that;*
- (b) *of the current procedures for the authorities to follow up cases of expelled students; and*
- (c) *whether it knows which organizations and how they help those students rebuild their self-esteem and family relationships before they resume schooling, and the number of students these organization can help each year, with a breakdown by the nature of services they provide?*

SECRETARY FOR EDUCATION (in Chinese): President, my consolidated reply to the questions is as follows:

According to the Codes of Aid and relevant circulars issued by the Education Bureau, by virtue of students' right to education, schools should not expel students. Schools should neither force their students to leave school nor advise them to leave voluntarily on grounds of poor academic performance, misbehaviour or any other reasons. If students have difficulties in learning or adapting to school life, schools should deploy resources as far as practicable to provide appropriate assistance and counselling services for them.

Schools are required to report to the Education Bureau on student departures together with the reasons. According to the information provided by schools, no students have been suspended as a result of expulsion by their schools in the past five years. Generally speaking, the reported reasons of departures include transferring to other schools, taking up employment, leaving Hong Kong, studying other courses and dropping out of schools. No reports of students being expelled or advised to leave school voluntarily have been received during the period. As for reported cases of non-attendance or suspected student dropout, the Non-attendance Cases Team of the Education Bureau will take follow-up action to arrange for the students to resume schooling at the earliest opportunity.

To protect students' right to education, the Education Bureau monitors the situation through inspections, visits and liaison with schools and reminds schools to take appropriate and effective measures to help students attend school. On receipt of any suspected case of student being expelled from school or the parent being forced to sign a letter of voluntary withdrawal, the Education Bureau will investigate and deal with the case promptly. Appropriate follow-up actions will be taken against those schools that have violated the education principle, including issuing warning letters to the principals concerned. For schools that have repeatedly violated the education principle, the Education Bureau will consider stepping up the measures, including issuing warnings to the school management committees or incorporated management committees and making such information about the school known to the public, in order to further safeguard students' right to education.

Admission of Non-JUPAS Students by Local Universities

9. **MR CHEUNG MAN-KWONG** (in Chinese): *President, regarding public aspirations for higher education and students' aspiration for further education, will the Government inform this Council if it knows:*

- (a) *given that sub-degree graduates of various post-secondary institutions can apply for admission to the undergraduate degree programmes of University Grants Committee (UGC)-funded institutions through non-Joint University Programmes Admissions System (non-JUPAS), on what existing criteria or assessment*

standards such institutions have based in assessing and admitting such students;

- (b) *whether UGC-funded institutions have adopted different assessment standards and methods in assessing admission applications from non-JUPAS graduates of funded and self-financing associate degrees and higher diploma programmes, as well as those from the community colleges of UGC-funded institutions and the colleges of non-UGC-funded institutions; if so, of the details; if not, what monitoring mechanism UGC has currently in place to ensure that admission to the funded institutions is conducted in a fair and open manner;*
- (c) *the respective numbers of admission applications received by the various departments of each UGC-funded institution between the 2006-2007 and 2008-2009 academic years from graduates of funded and self-financing associate degrees and higher diploma programmes offered by post-secondary institutions, as well as the respective numbers of those admitted to the first year and second year of undergraduate degree programmes (set out in the table below);*

<i>Name of the UGC-funded institution applied for:</i>	<i>Name of the post-secondary institution from which the applicant received his associate degree/higher diploma:</i>			
<i>Name of department</i>	<i>Year 1</i>		<i>Year 2</i>	
	<i>Number of applicants</i>	<i>Number of admissions</i>	<i>Number of applicants</i>	<i>Number of admissions</i>
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				

- (d) whether UGC allows advanced admission by funded institutions of those Year 1 students who have not yet completed their two-year sub-degree programme to the first year or second year of their funded undergraduate degree programmes; if so, the numbers of such students who had been offered advanced admission by each institution between the 2006-2007 and 2008-2009 academic years, and the reasons for their admission; if not, what follow-up actions the authorities will take when the complaints concerned are received;
- (e) whether the review on higher education conducted recently by the UGC covers post-secondary and non-UGC-funded institutions, including Hong Kong Institute of Vocational Education, Chu Hoi College, Hong Kong Shue Yan University and The Open University of Hong Kong; if so, the scope and specific contents of the review; if not, the reasons for that; and
- (f) whether UGC will consider formulating a credit accumulation and transfer system for all graduates of sub-degree and higher diploma programmes, with a view to allowing graduates from post-secondary institutions who have completed programmes of different subvention modes and acquired different academic qualifications, when applying for non-JUPAS admission to university, to compete fairly for funded university places through a credit recognition system and assessment criteria that are clear and open; if it will, when such system will be introduced and the details; if not, the reasons for that?

SECRETARY FOR EDUCATION (in Chinese): President,

(a) and (b)

The UGC has all along, in the relevant communication with the institutions, stressed that admission of sub-degree graduates into senior year undergraduate places must be based on merit and be open in nature. Such places must not be used as additional

first-year-first-degree numbers, nor as an additional year for a student to earn a dual/double degree which should be self-financing. Institutions are reminded to avoid any displacement effect of sub-degree graduates which might be caused by inter-institutional transfer of UGC-funded students (that is, student A who has completed year-1 study in institution A may seek to enter institution B to pursue year-2 study). While inter-institutional transfer of UGC-funded students into vacancies in advance years arising from attrition is not restricted, such students must not be admitted to occupy the senior year places allocated. Articulation opportunities for sub-degree graduates to senior year places must be open to all applicants without being confined to graduates of certain institutions.

According to the information provided by the UGC-funded institutions in the selection of students, the aim of institutions is to ensure that students have the necessary educational background that will enable them to successfully complete the programme being applied for. The institutions would in general consider the student's academic performance (for example, examination results in public examinations and academic results in their sub-degree studies), performance in interviews/tests/auditions, non-academic achievements, and interest and preference in the programme being applied for. Some institutions may set additional entrance requirements on certain subjects (for example, language) or consider the relevance of the curriculum of the sub-degree programme to the programme being applied.

Institutions advised us that they adopt the same standards and methods in assessing admission applications from applicants of different background from different programmes and higher education institutions, however funded.

- (c) The respective numbers of admission applications received by the various departments of each UGC-funded institution between the 2006-2007 and 2008-2009 academic years from graduates of funded and self-financing associate degree and higher diploma programmes offered by post-secondary institutions, as well as the respective

numbers of those admitted to the first year and second year of undergraduate degree programmes are set out in Annex 1.

- (d) The numbers of students, who have not yet completed their two-year sub-degree programme, that are offered admission by each UGC-funded institution to their undergraduate degree programmes between the 2006-2007 and 2008-2009 academic years are set out in Annex 2. According to the information provided by the UGC-funded institutions, the admission of these students is based on merit, good academic performance (for example, examination results in public examinations and academic results in their sub-degree studies), good performance in interviews, and other non-academic achievements.
- (e) The UGC has embarked on the Higher Education Review 2010 (HER 2010) which aims to identify new issues facing Hong Kong's higher education sector and to discern world trends, with a view to recommending strategies for the future development of Hong Kong's higher education sector. The terms of reference of the review are at Annex 3. HER 2010 will examine the development of the higher education sector in the context of the entire landscape of the post-secondary education, with particular emphasis on the degree awarding sector. The Review will look at sector-wide issues, and will not review individual institutions.
- (f) The UGC-funded institutions have established an arrangement to admit sub-degree graduates into their undergraduate programmes. In general, sub-degree graduates of various institutions may be directly admitted to Year Two of a three-year programme of a UGC-funded institution, with credit exemption granted for their relevant qualifications.

We understand that the HER 2010 will explore, among other matters, the possibility of developing a credit accumulation and transfer system as one of the possible ways to enhance mobility generally in the post secondary education sector.

Number of applications and admission to University of Hong Kong by faculty and
the institution which the applicant received his/her associate degree/higher diploma

	2006-2007				2007-2008				2008-2009			
	First Year		Senior Year		First Year		Senior Year		First Year		Senior Year	
	Number of applications	Number of admissions										
Faculty of Architecture												
(a) HKU and its extension arm(s)	26	1	—	—	28	1	—	—	15	—	—	—
(b) Other UGC-funded institutions and their extension arm(s)	55	3	—	—	70	7	—	—	65	—	—	—
(c) Other Institutions	2	—	—	—	2	—	—	—	4	—	—	—
Faculty of Arts												
(a) HKU and its extension arm(s)	449	79	202	11	421	59	225	14	435	44	133	9
(b) Other UGC-funded institutions and their extension arm(s)	299	71	338	20	337	71	269	16	335	62	237	21
(c) Other Institutions	2	—	3	—	5	—	—	—	8	—	5	—
Faculty of Business and Economics												
(a) HKU and its extension arm(s)	405	10	—	—	356	15	—	—	287	8	—	—
(b) Other UGC-funded institutions and their extension arm(s)	368	5	—	—	276	5	—	—	300	9	—	—
(c) Other Institutions	15	—	—	—	24	1	—	—	31	—	—	—
Faculty of Dentistry												
(a) HKU and its extension arm(s)	2	—	—	—	1	—	—	—	—	—	—	—
(b) Other UGC-funded institutions and their extension arm(s)	—	—	—	—	5	—	—	—	—	—	—	—
Faculty of Education												
(a) HKU and its extension arm(s)	68	19	48	16	73	14	55	13	61	14	56	10
(b) Other UGC-funded institutions and their extension arm(s)	43	14	37	5	45	12	30	7	62	6	31	11
(c) Other Institutions	8	—	10	—	4	—	3	—	1	—	8	—

	2006-2007				2007-2008				2008-2009			
	First Year		Senior Year		First Year		Senior Year		First Year		Senior Year	
	Number of applications	Number of admissions										
Faculty of Engineering												
(a) HKU and its extension arm(s)	126	19	—	—	105	19	—	—	117	25	—	—
(b) Other UGC-funded institutions and their extension arm(s)	294	88	—	—	306	87	—	—	298	60	—	—
(c) Other Institutions	77	13	—	—	49	5	—	—	64	4	—	—
Faculty of Law												
(a) HKU and its extension arm(s)	6	—	—	—	4	—	—	—	7	—	—	—
(b) Other UGC-funded institutions and their extension arm(s)	10	—	—	—	1	—	—	—	—	—	—	—
(c) Other Institutions	1	—	—	—	—	—	—	—	—	—	—	—
Faculty of Medicine												
(a) HKU and its extension arm(s)	126	45	—	—	172	29	—	—	133	18	—	—
(b) Other UGC-funded institutions and their extension arm(s)	106	26	—	—	168	19	—	—	192	48	—	—
(c) Other Institutions	2	—	—	—	5	—	—	—	9	—	—	—
Faculty of Science												
(a) HKU and its extension arm(s)	216	49	143	29	192	42	124	31	175	36	138	28
(b) Other UGC-funded institutions and their extension arm(s)	31	1	30	1	45	—	27	—	62	1	35	—
(c) Other Institutions	5	—	8	—	7	—	6	—	18	—	27	1
Faculty of Social Sciences												
(a) HKU and its extension arm(s)	121	15	51	9	122	17	54	7	122	11	34	8
(b) Other UGC-funded institutions and their extension arm(s)	152	17	118	5	148	23	113	8	156	12	96	7
(c) Other Institutions	4	—	—	—	2	—	—	—	7	—	—	—

Number of applications and admission to Hong Kong University of Science and Technology by faculty and
the institution which the applicant received his/her associate degree/higher diploma

	2006-2007				2007-2008				2008-2009			
	First Year		Senior Year		First Year		Senior Year		First Year		Senior Year	
	Number of applications	Number of admissions										
School of Engineering												
(a) Other UGC-funded institutions and their extension arm(s)	NA*	22	NA*	37	NA*	53	NA*	33	NA*	31	NA*	14
(b) Other Institutions	NA*	72	NA*	10	NA*	73	NA*	10	NA*	66	NA*	21
School of Science												
(a) Other UGC-funded institutions and their extension arm(s)	NA*	1	NA*	—	NA*	6	NA*	—	NA*	7	NA*	2
(b) Other Institutions	NA*	4	NA*	—	NA*	1	NA*	—	NA*	—	NA*	—

Notes :

* The statistics are not available.

Number of applications and admission to The Hong Kong Polytechnic University by faculty and
the institution which the applicant received his/her associate degree/higher diploma

	2006-2007				2007-2008				2008-2009			
	First Year		Senior Year		First Year		Senior Year		First Year		Senior Year	
	Number of applications	Number of admissions										
School of Design												
(a) PolyU and its extension arm(s)	NA*	31	222	17	NA*	28	170	4	NA*	35	333	16
(b) Other UGC-funded institutions and their extension arm(s)	NA*	2	53	2	NA*	—	54	1	NA*	2	156	6
(c) Other Institutions	NA*	6	95	4	NA*	15	126	4	NA*	12	496	9
School of Hotel and Tourism Management												
(a) PolyU and its extension arm(s)	NA*	—	106	23	NA*	1	88	14	NA*	—	155	27
(b) Other UGC-funded institutions and their extension arm(s)	NA*	3	179	22	NA*	—	183	28	NA*	—	106	26
(c) Other Institutions	NA*	2	76	4	NA*	1	61	7	NA*	3	154	9
Faculty of Applied Science and Textiles												
(a) PolyU and its extension arm(s)	NA*	1	281	48	NA*	3	403	75	NA*	3	389	161
(b) Other UGC-funded institutions and their extension arm(s)	NA*	2	157	—	NA*	1	241	9	NA*	2	271	20
(c) Other Institutions	NA*	6	141	9	NA*	12	134	8	NA*	9	233	16
Faculty of Business												
(a) PolyU and its extension arm(s)	NA*	27	637	8	NA*	18	351	4	NA*	44	451	14
(b) Other UGC-funded institutions and their extension arm(s)	NA*	25	1 009	1	NA*	32	759	3	NA*	14	561	2
(c) Other Institutions	NA*	10	458	—	NA*	10	317	—	NA*	11	466	—
Faculty of Construction and Land Use												
(a) PolyU and its extension arm(s)	NA*	19	315	49	NA*	28	316	43	NA*	11	286	66
(b) Other UGC-funded institutions and their extension arm(s)	NA*	18	277	4	NA*	13	239	2	NA*	18	260	6
(c) Other Institutions	NA*	36	462	19	NA*	29	401	29	NA*	30	417	21

	2006-2007				2007-2008				2008-2009			
	First Year		Senior Year		First Year		Senior Year		First Year		Senior Year	
	Number of applications	Number of admissions										
Faculty of Engineering												
(a) PolyU and its extension arm(s)	NA*	51	500	60	NA*	67	519	86	NA*	46	415	79
(b) Other UGC-funded institutions and their extension arm(s)	NA*	7	287	—	NA*	7	218	4	NA*	8	165	2
(c) Other Institutions	NA*	35	1 073	23	NA*	33	648	19	NA*	37	1 030	40
Faculty of Engineering/Faculty of Business (Double Degree)												
(a) PolyU and its extension arm(s)	NA*	10	412	61	NA*	8	251	69	NA*	12	299	72
(b) Other UGC-funded institutions and their extension arm(s)	NA*	2	254	16	NA*	10	301	12	NA*	4	261	14
(c) Other Institutions	NA*	2	195	7	NA*	—	150	2	NA*	—	180	4
Faculty of Health and Social Sciences												
(a) PolyU and its extension arm(s)	NA*	3	479	42	NA*	3	294	39	NA*	6	382	70
(b) Other UGC-funded institutions and their extension arm(s)	NA*	9	574	3	NA*	8	494	4	NA*	2	458	11
(c) Other Institutions	NA*	—	99	—	NA*	1	77	—	NA*	1	105	3
Faculty of Humanities												
(a) PolyU and its extension arm(s)	NA*	3	201	9	NA*	5	115	19	NA*	7	241	18
(b) Other UGC-funded institutions and their extension arm(s)	NA*	6	310	1	NA*	19	298	—	NA*	14	577	1
(c) Other Institutions	NA*	—	5	—	NA*	—	5	—	NA*	—	18	—

Notes :

* Applicants did not need to specifically apply for first year or second year, departments would determine the admission of students to first year or second year based on their qualifications.

Number of applications and admission to Hong Kong Institute of Education by faculty and
the institution which the applicant received his/her associate degree/higher diploma

2006-2007				2007-2008				2008-2009			
First Year		Senior Year		First Year		Senior Year		First Year		Senior Year	
Number of applications	Number of admissions	Number of applications	Number of admissions	Number of applications	Number of admissions	Number of applications	Number of admissions	Number of applications	Number of admissions	Number of applications	Number of admissions
Faculty of Arts and Sciences											
(a) HKIEd and its extension arm(s)	3	4	42	26	5	9	35	—	12	8	33
(b) Other UGC-funded institutions and their extension arm(s)	56	36	86	10	61	29	143	1	80	24	118
(c) Other Institutions	1	3	15	4	2	2	20	—	7	1	19
Faculty of Education Studies											
(a) Other UGC-funded institutions and their extension arm(s)	9	2	19	1	12	12	27	1	21	9	33
(b) Other Institutions	1	—	2	—	1	—	—	—	—	2	5
Faculty of Languages											
(a) Other UGC-funded institutions and their extension arm(s)	39	47	83	—	69	64	122	—	115	52	191
(b) Other Institutions	1	2	2	—	1	—	3	—	1	—	4

Number of applications and admission to The Chinese University of Hong Kong by faculty and
the institution which the applicant received his/her associate degree/higher diploma

	2006-2007				2007-2008				2008-2009			
	First Year		Senior Year		First Year		Senior Year		First Year		Senior Year	
	Number of applications	Number of admissions										
Faculty of Arts												
(a) CUHK and its extension arm(s)	21	—	94	4	59	—	183	14	101	2	118	11
(b) Other UGC-funded institutions and their extension arm(s)	154	3	446	33	322	7	1 066	27	539	5	678	33
(c) Other Institutions	18	1	17	1	29	—	19	—	79	—	25	1
Faculty of Business Administration												
(a) CUHK and its extension arm(s)	5	—	42	5	35	—	74	8	83	—	71	4
(b) Other UGC-funded institutions and their extension arm(s)	62	—	243	9	117	—	248	4	161	—	209	4
(c) Other Institutions	22	—	32	—	47	—	46	1	75	—	67	2
Faculty of Education												
(a) CUHK and its extension arm(s)	3	—	—	—	13	—	—	—	7	—	—	—
(b) Other UGC-funded institutions and their extension arm(s)	16	—	—	—	51	—	—	—	102	—	—	—
(c) Other Institutions	7	—	—	—	6	—	—	—	18	—	—	—
Faculty of Engineering												
(a) CUHK and its extension arm(s)	6	2	37	5	11	4	78	5	21	5	50	3
(b) Other UGC-funded institutions and their extension arm(s)	54	28	198	8	130	41	307	15	187	28	198	15
(c) Other Institutions	85	21	102	12	220	22	228	5	248	23	151	8

	2006-2007				2007-2008				2008-2009			
	First Year		Senior Year		First Year		Senior Year		First Year		Senior Year	
	Number of applications	Number of admissions										
Faculty of Law												
(a) CUHK and its extension arm(s)	1	—	—	—	—	—	—	—	—	—	—	—
(b) Other UGC-funded institutions and their extension arm(s)	5	—	—	—	5	—	—	—	11	—	—	—
(c) Other Institutions	1	—	—	—	4	—	—	—	5	—	—	—
Faculty of Medicine												
(a) CUHK and its extension arm(s)	—	—	—	—	1	—	—	—	18	1	—	—
(b) Other UGC-funded institutions and their extension arm(s)	35	—	—	—	35	—	—	—	44	—	—	—
(c) Other Institutions	4	—	—	—	13	1	—	—	28	—	—	—
Faculty of Science												
(a) CUHK and its extension arm(s)	—	—	2	—	16	3	10	1	53	5	17	2
(b) Other UGC-funded institutions and their extension arm(s)	66	7	93	6	147	15	156	5	179	15	164	3
(c) Other Institutions	4	1	12	1	39	2	14	—	56	2	23	—
Faculty of Social Science												
(a) CUHK and its extension arm(s)	14	—	31	—	25	—	83	—	68	1	87	1
(b) Other UGC-funded institutions and their extension arm(s)	149	4	277	10	243	9	532	11	346	11	378	8
(c) Other Institutions	14	—	22	1	25	1	23	—	60	—	54	—

Number of applications and admission to Lingnan University by faculty and
the institution which the applicant received his/her associate degree/higher diploma

	2006-2007				2007-2008				2008-2009			
	First Year		Senior Year		First Year		Senior Year		First Year		Senior Year	
	Number of applications	Number of admissions										
Faculty of Arts												
(a) LU and its extension arm(s)	156	8	NA*	22	110	6	NA*	15	101	9	NA*	25
(b) Other UGC-funded institutions and their extension arm(s)	662	31	NA*	3	650	20	NA*	6	598	17	NA*	20
(c) Other Institutions	25	1	NA*	—	7	1	NA*	—	24	—	NA*	—
Faculty of Business												
(a) LU and its extension arm(s)	231	5	NA*	25	195	8	NA*	35	130	8	NA*	38
(b) Other UGC-funded institutions and their extension arm(s)	761	5	NA*	9	611	1	NA*	4	758	—	NA*	13
(c) Other Institutions	109	—	NA*	1	71	—	NA*	—	205	—	NA*	4
Faculty of Social Sciences												
(a) LU and its extension arm(s)	89	—	NA*	19	67	6	NA*	19	38	1	NA*	5
(b) Other UGC-funded institutions and their extension arm(s)	235	3	NA*	3	177	4	NA*	3	209	7	NA*	17
(c) Other Institutions	8	—	NA*	—	4	—	NA*	—	8	—	NA*	—

Notes :

* The statistics are not available.

Number of applications and admission to Hong Kong Baptist University by faculty and
the institution which the applicant received his/her associate degree/higher diploma

	2006-2007				2007-2008				2008-2009			
	First Year		Senior Year		First Year		Senior Year		First Year		Senior Year	
	Number of applications	Number of admissions										
Academy of Visual Arts												
(a) HKBU and its extension arm(s)	3	—	2	—	1	—	1	1	—	—	10	6
(b) Other UGC-funded institutions and their extension arm(s)	33	—	49	18	41	—	56	21	48	1	79	21
(c) Other Institutions	3	1	5	4	10	2	5	1	30	—	15	5
Faculty of Arts												
(a) HKBU and its extension arm(s)	10	—	20	1	8	1	16	1	6	1	11	2
(b) Other UGC-funded institutions and their extension arm(s)	119	2	363	15	165	7	375	22	201	5	286	20
(c) Other Institutions	3	—	1	—	8	—	7	—	15	1	3	—
Faculty of Arts/Faculty of Social Sciences (Double Degree)												
(a) HKBU and its extension arm(s)	—	—	1	—	—	—	—	—	—	—	1	—
(b) Other UGC-funded institutions and their extension arm(s)	9	—	4	—	8	—	8	—	8	—	6	—
(c) Other Institutions	—	—	—	—	1	—	—	—	—	—	1	—
Faculty of Science												
(a) HKBU and its extension arm(s)	4	—	41	13	4	2	42	12	12	—	38	6
(b) Other UGC-funded institutions and their extension arm(s)	106	1	229	14	134	3	263	19	126	4	190	13
(c) Other Institutions	26	—	94	7	61	1	87	3	96	6	106	12

	2006-2007				2007-2008				2008-2009			
	First Year		Senior Year		First Year		Senior Year		First Year		Senior Year	
	Number of applications	Number of admissions										
Faculty of Science/Faculty of Social Sciences (Double Degree)	—	—	—	—	—	—	—	—	—	—	1	—
(a) HKBU and its extension arm(s)	—	—	—	—	—	—	—	—	—	—	—	—
(b) Other UGC-funded institutions and their extension arm(s)	—	—	—	—	—	—	2	—	3	—	—	—
Faculty of Social Sciences	10 174	1 3	50 334	12 3	15 199	3 9	58 311	10 3	22 227	4 8	41 231	24 8
(c) Other Institutions	12	1	13	—	25	—	5	—	37	2	16	—
Faculty of Social Sciences (Double Degree)	—	—	—	—	2	—	1	—	5	—	1	—
(a) Other UGC-funded institutions and their extension arm(s)	—	—	—	—	—	—	—	—	2	—	—	—
(b) Other Institutions	—	—	—	—	—	—	—	—	—	—	—	—
School of Business	18 258	1 2	132 1 168	21 17	13 276	— 2	125 1 124	15 33	3 84	— —	16 351	6 9
(a) HKBU and its extension arm(s)	18	1	132	21	13	—	125	15	3	—	16	6
(b) Other UGC-funded institutions and their extension arm(s)	258	2	1 168	17	276	2	1 124	33	84	—	351	9
(c) Other Institutions	46	1	83	1	94	—	130	2	53	—	67	—
School of Chinese Medicine	1 3	— —	— 1	— —	— 12	— —	— 1	— —	2 14	— —	— 1	— —
(a) HKBU and its extension arm(s)	1	—	—	—	—	—	—	—	2	—	—	—
(b) Other UGC-funded institutions and their extension arm(s)	3	—	1	—	12	—	1	—	14	—	1	—
(c) Other Institutions	1	—	—	—	5	—	2	—	3	—	—	—
School of Communication	7 85	— 3	123 169	25 10	10 109	2 1	74 158	21 13	7 105	2 8	69 163	24 8
(a) HKBU and its extension arm(s)	7	—	123	25	10	2	74	21	7	2	69	24
(b) Other UGC-funded institutions and their extension arm(s)	85	3	169	10	109	1	158	13	105	8	163	8
(c) Other Institutions	15	1	8	1	22	1	14	—	53	1	23	1

Number of applications and admission to City University of Hong Kong by faculty and
the institution which the applicant received his/her associate degree/higher diploma

	2006-2007				2007-2008				2008-2009			
	First Year		Senior Year		First Year		Senior Year		First Year		Senior Year	
	Number of applications	Number of admissions										
School of Creative Media												
(a) CityU and its extension arm(s)	NA*	2	114	37	NA*	1	92	33	NA*	4	141	43
(b) Other UGC-funded institutions and their extension arm(s)	NA*	10	260	—	NA*	6	271	—	NA*	7	320	—
(c) Other Institutions	NA*	7	212	—	NA*	3	123	—	NA*	10	413	26
School of Law												
(a) CityU and its extension arm(s)	—	—	—	—	—	—	—	—	NA#	1	—	—
(b) Other UGC-funded institutions and their extension arm(s)	—	—	—	—	NA#	2	—	—	—	—	—	—
College of Business												
(a) CityU and its extension arm(s)	NA*	45	2 413	130	NA*	22	2 785	141	NA*	19	3 315	175
(b) Other UGC-funded institutions and their extension arm(s)	NA*	25	3 704	60	NA*	31	3 547	56	NA*	20	5 304	114
(c) Other Institutions	NA*	3	770	—	NA*	4	709	—	NA*	12	913	—
College of Humanities and Social Sciences												
(a) CityU and its extension arm(s)	NA*	24	1 498	96	NA*	35	1 796	93	NA*	15	1 767	151
(b) Other UGC-funded institutions and their extension arm(s)	NA*	50	2 011	58	NA*	26	2 610	61	NA*	19	2 625	109
(c) Other Institutions	NA*	2	39	—	NA*	—	79	—	NA*	3	149	1
College of Science and Engineering												
(a) CityU and its extension arm(s)	NA*	70	533	5	NA*	88	849	13	NA*	23	595	12
(b) Other UGC-funded institutions and their extension arm(s)	NA*	46	908	3	NA*	32	1 191	3	NA*	13	1 215	3
(c) Other Institutions	NA*	107	1 288	45	NA*	129	1 489	29	NA*	59	1 703	20

Notes :

* Applicants did not need to specifically apply for first year or second year, departments would determine the admission of students to first year or second year based on their qualifications.

The statistics are not available.

Annex 2

Numbers of students who had not yet completed their two-year sub-degree programme and were offered admission by each UGC-funded institution between the 2006-2007 and 2008-2009 academic years

<i>Academic Year</i>	<i>Institution</i>	<i>Number of students</i>
2006-2007	CityU	151
	HKBU	30
	LU	32
	CUHK	15
	HKIEd	38
	PolyU	112
	HKUST	11
	HKU	212
2007-2008	CityU	200
	HKBU	40
	LU	30
	CUHK	12
	HKIEd	31
	PolyU	98
	HKUST	8
	HKU	174
2008-2009	CityU	227
	HKBU	39
	LU	22
	CUHK	24
	HKIEd	35
	PolyU	134
	HKUST	7
	HKU	171

Terms of Reference of the HER 2010

1. To review progress made on the recommendations of the Higher Education Review 2002, having regard to the present higher education landscape in Hong Kong.
2. To identify new issues facing Hong Kong's higher education sector and to discern world trends with a view to recommending strategies for the future development of Hong Kong's higher education sector, with particular emphasis on:
 - a. vision and role of higher education in Hong Kong;
 - b. the demand for and provision of higher education opportunities and the increase in the diversity of higher education;
 - c. quality assurance for higher education;
 - d. research support strategy and research funding mechanism;
 - e. relationships and collaboration among providers of higher education from a system perspective;
 - f. the position of higher education in Hong Kong in the context of globalization and the value of internationalization generally, and the rapid development of higher education in Mainland China and the region specifically; and
 - g. other matters that are relevant to the main purpose of the review.

Disposal of Mileage Earned from Overseas Official Visits

10. **MR PAUL TSE** (in Chinese): *President, at present, Government officials, Executive Council Members, Legislative Council Members, District Council members, as well as employees of public organizations and quasi-government organizations may normally earn mileage when buying air tickets for overseas official visits, and such mileage can be used for the purpose of redeeming air tickets in the future. Regarding the disposal of mileage earned through buying air tickets with public money, will the Government inform this Council whether:*

- (a) *it has any mechanism in place at present to standardize the disposal of mileage earned through buying air tickets with public money; if so, of the details; if not, the reasons for that;*

- (b) *it has assessed if such mileage should be treated as public property; if the assessment result is in the negative, of the reasons and justifications; and*
- (c) *it has compiled statistics on the total mileage earned through buying air tickets with public money in each of the past five years, as well as the value of such mileage?*

SECRETARY FOR THE CIVIL SERVICE (in Chinese): President, my reply to the three parts of the question are given below:

- (a) Government officials include officials appointed under the accountability system and civil servants. For civil servants, air passages in connection with duty visits outside Hong Kong are arranged by the bureau or department concerned in accordance with relevant government regulations. Under existing policy, the Administration does not oblige civil servants on duty travel to claim flight awards. If however such awards are claimed, they will be credited to the civil servant's personal mileage account and it is incumbent on the civil servant concerned to report this to his department to facilitate the use of the flight awards for subsequent duty travel. Some years ago, the Government had proposed to the airlines for setting up a government mileage account for the central administration of flight awards claimed by all civil servants undertaking duty visits. The proposal was however not accepted by the airlines due to their respective commercial considerations.

Flight awards may normally be used only within specified timeframe. As most civil servants are not required to undertake duty visits outside Hong Kong on a frequent basis and the restrictions usually imposed on air tickets redeemed under flight awards scheme may not fit in with the itinerary of the relevant civil servant's subsequent duty visit, it may not be always possible for the accumulated mileage to be utilized for duty travel before expiry. Where individual civil servant's flight awards are not expected to be used for duty travel before their expiry, the departmental management may at its discretion permit the officer concerned to use such awards for private purposes.

Officials appointed under the accountability system are subject to similar requirement as applicable to civil servants for matters related to claiming of flight awards arising from duty travel (if claimed) and how such awards should be used.

Non-official Members of the Executive Council travel at their own expenses in undertaking duty visits outside Hong Kong, without involving the use of government funds.

The arrangements of duty visits for Legislative Council Members outside Hong Kong and the claim of flight awards fall within the Legislative Council's internal administration, and hence are regulated and handled by the Council on its own.

As regards District Councils, currently the Government does not fund the purchase of air tickets for District Council members to conduct duty visits outside Hong Kong in general. In other words, District Council members travel at their own expenses when undertaking such visits and the flight awards so earned would be used by members for their private purposes.

As regards employees of Government-funded organizations undertaking duty visits outside Hong Kong, these organizations are independent of the Government and have the autonomy to manage their own affairs. Drawing up the relevant arrangements are matters of individual organization's day-to-day operation. It is up to these organizations to determine their internal arrangements regarding the disposal of flight awards claimed by their employees.

- (b) Duty passages for government officials are paid from government funds. Under the prevailing mechanism, flight awards so claimed must first be used for duty travel, on the notion that these awards are "public property". Taking into account the considerations that flight awards are credited to an individual's mileage account for use within a specified period, the Government would only permit individual official to utilize such awards for private purposes under the special circumstances where such awards cannot be used for duty travel. The above arrangement seeks to strike a reasonable balance between ensuring proper use of government funds and allowing civil

servants to enjoy commercial offers normally available to non-government employees.

- (c) As mentioned in my reply in part (a) above, the Administration does not oblige civil servants on duty travel to claim flight awards. The Civil Service Bureau does not centrally keep information on the claiming of flight awards by civil servants in various bureaux/departments arising from their duty visits.

Use of a Site Adjacent to Sunny Bay MTR Station

11. **MS AUDREY EU** (in Chinese): *President, the site adjacent to the Sunny Bay MTR Station which was originally designated for use as an "emergency vehicle holding area" has remained unused after it was returned to the Lands Department (LandsD) in February 2007. In this connection, will the Government inform this Council whether:*

- (a) *it has assessed the loss of rental due to the site not being leased out;*
- (b) *it will discuss afresh with various government departments the designation of the site for temporary use; if so, of the details; if not, the reasons for that; and*
- (c) *it will consider allocating the site to Radio Television Hong Kong for holding concerts regularly on weekends, so as to provide a regular performance venue for local jazz players or independent musicians and increase their opportunities of staging live performances?*

SECRETARY FOR DEVELOPMENT (in Chinese): President, the LandsD manages a large number of vacant government sites which are not ready for development. Depending on the actual situations and the period available for short-term use, the LandsD may accept applications for temporary site allocation from other government departments; or, with the support of the relevant bureaux or departments, may let out the site to non-governmental organizations or individuals for use under short-term tenancy at market or nominal rent; or consider letting out the site for short-term commercial uses at market rent by tender.

Regarding the site adjacent to the Sunny Bay MTR Station which was originally designated for use as an "emergency vehicle holding area" mentioned in the question, my reply is as follows:

- (a) As stated above, the LandsD arranges the short-term use of vacant government sites through various means. Upon the return of the site in question, the LandsD allocated part of the site for use by a government department on a short-term basis; and also received applications from some individuals for short-term tenancy though these did not materialize at the end of the day. Given that short-term commercial use is only one of the means in handling vacant government sites depending on the actual circumstances, the Government has not assessed the loss of rental due to the site not being let out.
- (b) After consulting the relevant bureaux and departments, the LandsD proposed to let out the site under a short-term tenancy at market rent for use as a fee-paying car park. The tender was closed on 8 January 2010. The LandsD is now following up the matter.
- (c) It is learnt that Radio Television Hong Kong does not have any plan to apply for use of the site for weekend concerts.

Mr TSANG Tsou-choi's Pieces of Calligraphy

12. **MISS TANYA CHAN** (in Chinese): *President, it has been reported that the pieces of calligraphy painted at various places in the streets on Hong Kong Island and in Kowloon by the late Mr TSANG Tsou-choi, who was known as "the King of Kowloon", have been damaged deliberately by someone recently, and the perpetrator claimed that he had caused the damages because of the authorities' ineffective efforts to conserve such pieces of calligraphy. Given that Mr TSANG's pieces of calligraphy have become part of the collective memory of many Hong Kong people, will the Government inform this Council:*

- (a) *whether it knows the locations of Mr TSANG's pieces of calligraphy at various places in the streets on Hong Kong Island and in Kowloon at present, their latest conditions and the conservation arrangements;*

- (b) given that in its reply dated 30 December last year to my enquiry on the aforesaid matter, the Home Affairs Bureau had described Mr TSANG's pieces of calligraphy as "works" only, how the authorities' choice of this word reflects their attitude to deal with Mr TSANG's pieces of calligraphy;
- (c) whether the Government will reconsider conserving all existing pieces of calligraphy of Mr TSANG in the streets, as well as reviewing and improving the methods for conserving such pieces of calligraphy; if it will, of the details; if not, the reasons for that;
- (d) whether it will consider conducting a study on the artistic, social and cultural values of Mr TSANG's calligraphy or commission an academic institution to conduct the study, so as to establish more objectively the conservation value of his pieces of calligraphy; if it will, of the details; if not, the reasons for that; and
- (e) whether the authorities will consider arranging temporary or permanent display of Mr TSANG's pieces of calligraphy in the cultural and arts venues within their purview; if they will, of the specific arrangements; if not, the reasons for that?

SECRETARY FOR HOME AFFAIRS (in Chinese): President,

- (a) We have found Mr TSANG Tsou-choi's ink writing in the following public places: a fencing wall at Kai Lim Road in Tsui Ping Estate, two electricity boxes at Kwun Tong Road (near Ping Shek Estate), a concrete pillar at Tsim Sha Tsui Star Ferry Pier and a lamp post near Ping Shek Estate. Since the ink writing is mainly left on outdoor walls or metal surfaces and the ink used is not durable, most of the ink writing has faded considerably and is hardly discernible after years of weathering and erosion. The physical condition of these pieces of ink writing is far from satisfactory.

The Leisure and Cultural Services Department (LCSD) has carefully inspected the ink writing at the above locations and examined the feasibility of applying protective films or covers to preserve the two pieces of ink writing left in the latter two places which are comparatively in a better condition. A transparent protective cover has been mounted over the pillar at Tsim Sha Tsui Star Ferry Pier

and a caption provided. For the ink writing left on the lamp post near Ping Shek Estate, the LCSD has attempted to cover it with inert and transparent polyester film, but the result was not satisfactory. The film has hindered the natural air ventilation over the lamp post surface and water moisture was noticed to have trapped or built up between the film and the lamp post, thus causing the iron-made lamp post to rust more rapidly and the ink to peel off. The installation of a detached protective cover similar to the case of the Tsim Sha Tsui Star Ferry Pier pillar is also considered not possible as the pavement where the lamp post is located is too narrow. As such, the LCSD will continue to conduct regular checking and documentation of the ink writing left on the lamp post. The LCSD has already documented and kept a complete photo record of the rest of Mr TSANG's ink writing.

- (b) The general public have diverse views on the ink writing left by Mr TSANG Tsou-choi in public places and use different terms to describe it ranging from graffiti, calligraphic works, Chinese brush-writing, or simply calligraphy. The term "ink writing" is a general description of Chinese brush-writing works. In view of the much divided views on the artistic merits of Mr TSANG's ink writing, we consider "ink writing" an objective description.
- (c) We have carefully inspected Mr TSANG Tsou-choi's ink writing left in known public places. In most cases, the ink writing has faded and the physical condition is far from satisfactory. Only the ink writing on the concrete pillar at Tsim Sha Tsui Star Ferry Pier and the lamp post near Ping Shek Estate is comparatively in a better condition. We have therefore installed a protective cover and a caption for the pillar at Tsim Sha Tsui Star Ferry Pier and will continue to inspect and document the condition of the ink writing on the lamp post near Ping Shek Estate regularly. The LCSD has already documented and kept a complete photo record of the rest of Mr TSANG's ink writing. We have also sought relevant departments' assistance in reminding their contractors or agents not to whitewash or remove Mr TSANG's ink writing left in public places.
- (d) There has been considerable discussion on the artistic merits and socio-cultural significance of Mr TSANG Tsou-choi's ink writing.

The diverse views of the art and cultural community reflect that Hong Kong is a pluralistic and open city. The Government respects different views and perspectives and welcomes interested parties and academic institutions to conduct studies and reviews of the issue.

- (e) Mr TSANG Tsou-choi's ink writing originates in street graffiti. It is considered more desirable to have these pieces of ink writing kept *in situ* in the streets.

Arrangement of Assessing Hong Kong Profits Tax for Enterprises Involving Contract Processing and Import Processing

13. **DR LAM TAI-FAI** (in Chinese): *President, at present, the Inland Revenue Department (IRD) may, on a 50:50 basis of apportionment, assess Hong Kong profits tax payable by Hong Kong enterprises in respect of profits from sale of products processed by Mainland manufacturing units under "contract processing", but this arrangement is not applicable to Hong Kong enterprises engaged in "import processing". In this connection, will the Government inform this Council:*

- (a) *whether it has assessed the negative impact on Hong Kong enterprises engaged in "import processing" of the aforesaid method of assessing Hong Kong profits tax not being applicable to such enterprises; if it has, of the details; if not, the reasons for that;*
- (b) *whether government officials have visited Hong Kong enterprises engaged in "contract processing" and "import processing" on the Mainland and looked into their modes of operation and manufacturing procedures; if they had, of the number of visits made in the past three years, the numbers and types of enterprises visited, as well as the conclusions after the visits; if not, the reasons for that;*
- (c) *whether it has assessed if the aforesaid method of assessing Hong Kong profits tax not being applicable to Hong Kong enterprises engaged in "import processing" is contradictory to the policies of the HKSAR Government and Mainland authorities at various levels of encouraging the upgrading and restructuring of Hong Kong enterprises; if it has, of the details; if not, the reasons for that;*

- (d) whether it will amend the Departmental Interpretation and Practice Notes to allow the aforesaid method of assessing Hong Kong profits tax to apply to Hong Kong enterprises engaged in "import processing", so as to better cater for the needs of enterprises under the current business environment; if it will, of the details; if not, the reasons for that;
- (e) of the number of Hong Kong enterprises originally engaged in "contract processing" but had restructured to engage in "import processing" in each of the past three years, and the total amount of tax recovered from such enterprises by the authorities; and
- (f) whether it has compiled statistics on the number of enterprises engaged in "contract processing" still operating in Hong Kong at present?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Chinese): President,

- (a), (c) and (d)

Hong Kong adopts a territorial source principle of taxation. Under the Inland Revenue Ordinance, only those profits arising in or derived from Hong Kong from any trade, profession or business carried on in Hong Kong will be subject to Hong Kong profits tax. For Hong Kong enterprises with cross-boundary businesses in Hong Kong and the Mainland, no matter whether they engage in "contract processing", "import processing" or any other modes of operation, the IRD assesses the Hong Kong profits tax payable by such enterprises in accordance with the above basic principle.

There are differences between "contract processing" and "import processing" in terms of status of legal person, ratio of domestic and export sales, mode of operation, ownership of goods, mode of payment for raw materials as well as ownership and provision of production equipment. Under "contract processing" arrangements, Hong Kong enterprises have to participate in the production activities in the Mainland in various ways, including providing raw materials, machinery and plant and technical support as well as

assigning technical and managerial staff to the Mainland. At the same time, the Hong Kong enterprises have to conduct part of the business and production activities in Hong Kong. As a result, part of the profits of the Hong Kong enterprises will be regarded as sourced in Hong Kong and taxed accordingly. Based on the same facts, the Mainland authorities may treat the Hong Kong enterprises carrying out the said production activities in the Mainland as permanent establishments, and consider imposing taxes on them for the profits they derive from their subsequent sales of products. To avoid disputes between taxpayers and the IRD on the apportionment of profits, the IRD has all along allowed Hong Kong enterprises engaging in "contract processing" to apportion their profits on a 50:50 basis according to the territorial source principle for assessment of Hong Kong profits tax payable.

However, under the "import processing" mode, Hong Kong enterprises are in effect traders only. They purchase finished products from entities carrying out production activities in the Mainland (foreign invested enterprises) for export. They can claim full tax deductions for the purchase costs in Hong Kong. The purchases made by such Hong Kong enterprises are no different from those that they make from manufacturers in Hong Kong, the Mainland or other countries. Since the trading activities are mainly carried out in Hong Kong, the profits from such trading activities should be fully chargeable to Hong Kong profits tax whereas the foreign invested enterprises in the Mainland bear no tax liabilities in Hong Kong.

Individual enterprises make their own commercial decisions on what mode of business operation is to be adopted. The IRD assesses taxes based on facts and in accordance with the laws. The IRD's Departmental Interpretation and Practice Notes are intended to assist the industry to better understand relevant tax laws and they could in no way serve to revise the laws.

- (b) Government officials of the Hong Kong Special Administrative Region (HKSAR) visit Hong Kong enterprises in the Mainland from time to time to understand their situation, including their experiences gained after relocation of industries and difficulties encountered. Between 2007 and 2009, HKSAR government officials made a total

of 44 visits to the Mainland covering 75 Hong Kong enterprises, including those engaging in "contract processing" and "import processing". However, we have no detailed breakdown of the types of enterprises visited.

(e) and (f)

We do not have information in this regard.

Impact of Use of Natural Gas and Wind Power in Electricity Generation on Electricity Tariff

14. **MR FRED LI** (in Chinese): *President, it has been reported that in order to improve air quality in Hong Kong, the Government plans to require the CLP Power Hong Kong Limited and The Hongkong Electric Company Limited to gradually increase the proportion of electricity generated using natural gas from the present around 30% to 50% by 2015. The two power companies also plan to build wind power plants to generate electricity by wind. As natural gas prices are much higher than coal prices and the two power companies also need to build additional gas-fired generation facilities, the Government has estimated earlier that the increase in the use of natural gas for electricity generation will increase the electricity tariff by at least 20%. In this connection, will the Government inform this Council of:*

- (a) *the respective amounts of investment made by the two power companies in building natural gas and wind power generation facilities, as well as the costs for operating such facilities; and*
- (b) *the impact on the electricity tariff of using wind power to generate electricity by the two power companies?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President,

(a) and (b)

According to the information provided by the Government's independent energy consultant, the capital cost of a new combined cycle gas turbine can be as high as US\$1,000 to US\$1,200 per kilowatt. If a combined cycle gas turbine of 350 MW is taken as an

example, its capital expenditure is about HK\$3 billion. However, this amount has yet to take into account additional capital investments on land formation works, gas supply facilities, emission reduction installations, transmission and distribution facilities, and so on, which might be required. The actual amount of investments will also be affected by other factors including, *inter alia*, the capacity and technical design of the generating unit, the timing for the construction, as well as the then prevailing prices of construction materials and labour costs, and so on. As for the operating costs, it is mainly determined by the then prevailing price of natural gas.

Currently, the two power companies are conducting feasibility studies on their proposed construction of offshore wind farms in Hong Kong, which include technical studies, environmental impact assessment and consultation with stakeholders. The actual amounts of investments and operating costs will depend on the scale of the wind farms and other factors. These Projects are still at a very preliminary stage and the specific arrangements are yet to be finalized.

Pursuant to the Scheme of Control Agreements, the two power companies are required to seek the Government's approval of their investments in wind farms. So far the Environment Bureau has not received their applications. In considering the applications, the Government will critically examine the related projects from various perspectives, including the policy on renewable energy, impact on tariff, economic benefits and technical factors, so as to make a decision to balance the interests of society as a whole.

Predicted Economic Recession in 2010

15. **MR FREDERICK FUNG** (in Chinese): *President, the Chief Executive said earlier in a forum that the Government should exercise prudent financial management and save the surplus, in order to tackle a "double dip recession" in economy which might appear in the middle of this year. In this connection, will the Government inform this Council:*

- (a) *of the detailed reasons and justifications for the aforesaid prediction by the Government on this year's economic situation; whether it had*

made any specific economic analysis and reference to the views of other economists; and

- (b) *whether the Government has formulated any measure to tackle the aforesaid economic recession; of the financial resources required to be set aside; and whether it will affect the Government's Budget in next financial year, including whether it is necessary to suspend the relief measures provided to the middle and lower classes?*

FINANCIAL SECRETARY (in Chinese): President,

- (a) Being a small and open economy, Hong Kong's economic performance will inevitably be affected by the external environment. The Government has mentioned a few times that as the current global economic recovery has yet to be on firm footing, especially with the advanced economies still facing considerable downside risks, Hong Kong's recovery process could still be rather bumpy going forward. In fact, the situation in the United States is of particular concern. Given the sheer size of the United States economy, it would be difficult for the emerging economies in Asia to replace the United States in leading global economic recovery. According to past experience, double dip recessions are not uncommon in the United States. The years 1973-1975 and 1980-1982 are examples of such a scenario. As for the present, the foundation of economic recovery in the United States is still rather weak: the economic rebound remains mostly driven by various fiscal and monetary stimulus measures from the public sector, while the growth momentum within the private sector is not sufficient. Whether the United States economy can sustain its growth after the withdrawal of these stimulus measures is still unknown. Also, the United States financial systems are yet to recover, the housing market has yet to turn around visibly, and the ongoing deleveraging process will continue to weigh on private consumption and credit growth. If the United States economy is to show a renewed relapse, it is very likely that Hong Kong's economic recovery will also be affected. Lately, many world-renowned economists have expressed concern over the United States' economic outlook in 2010. Reportedly, Paul KRUGMAN has recently indicated that the chance of the United States falling back to recession in 2010 can be as high

as 40%, while both Martin FELDSTEIN and Joseph STIGLITZ have opined that the odds of the United States economy seeing a strong recovery in 2010 are small. The International Monetary Fund (IMF) holds a similar view that the global economic recovery will be weak, and that there are downside risks to the global economic outlook.

- (b) Since 2008-2009, we have introduced a series of measures to stabilize the financial markets, ease credit conditions, support enterprises, accelerate public works and create employment. On the fiscal side, several rounds of relief measures amount to some \$87.6 billion, or 5.2% of Gross Domestic Product. These measures have provided a stabilizing effect on the economy. The Government will continue to monitor the economic situation and, if necessary, introduce measures to ensure that the economic recovery is on solid grounds. We are also mindful that an appropriate exit strategy is very important as this will ensure sustainable economic growth.

With the pace of global economic recovery still unclear, the 2010 economic outlook for Hong Kong is unavoidably subject to uncertainties. The Government is now consulting the public on the 2010-2011 Budget. We will consider the latest economic situation, adhere to the three basic principles of pragmatism, commitment to society and sustainability, and prudently formulate the next budget, maintaining a right balance among expenditure, revenue and fiscal reserves.

Art Development in Hong Kong

16. **MR LEE WING-TAT** (in Chinese): *President, regarding the promotion of the development of culture and art in Hong Kong, will the Government inform this Council:*

- (a) *apart from the public art programmes organized by the Leisure and Cultural Services Department (LCSD), of the government properties where spaces are currently allocated for displaying works of art by local artists, the names and locations of the properties as well as the categories and quantities of the works of art so displayed in the past*

three years, and the items and amounts of the resultant expenditure incurred for each property;

- (b) *whether the Government will consider further extending the aforesaid arrangement to provide additional spaces in more government properties for displaying works of art; if it will, of the names and locations of such government properties, the categories and quantities of works of art planned to be displayed, and the items and amounts of annual resultant expenditure estimated to be incurred for each property, with a breakdown by the phase of implementation of such arrangement; if not, the reasons for that; whether it will draw up new policies or internal guidelines to promote public art among government departments; if it will, of the details; if not, the reasons for that; and*
- (c) *given that, at the special meeting of the House Committee of this Council on 22 May 2009, the Chief Secretary for Administration undertook to allocate sites by the end of 2009 in nine District Council districts as trial spots for street performances, but the Government has not announced related arrangements so far, whether the Government can honour such an undertaking; if it cannot, of the reasons for that, and the specific difficulties for not being able to announce the sites of the trial spots; when the Government expects to announce the sites; if it can, of the names of the nine District Council districts where trial spots for street performances will be provided, the sites, their areas, application procedures for staging performances at the trial spots, as well as the estimated capacity of performing units or persons for each trial spot?*

SECRETARY FOR HOME AFFAIRS (in Chinese): President,

- (a) We consider that pluralistic development of public art will provide local artists with opportunities to showcase their talents while the public can have the chance to participate in culture and the arts. The Government has been actively promoting the development of public art and providing support to local artists, through display of their creative works in public space in collaboration with arts groups

or individual artists, non-profit-making bodies, as well as public and private organizations, thus bringing art to the community.

Information available on government properties where works of local artists are displayed (including locations of the properties, categories and quantities of the works displayed over the past three years and the expenditure incurred, but excluding the public art programmes organized by the LCSD) is set out at Annex.

Together with four local universities, the Home Affairs Bureau has recently launched "Budding Winter", a large-scale community arts programme lasting two months from November 2009 to January 2010. Through the series of activities such as "Art in the Park", music and dance performances in parks, as well as free public and school guided tours, the visual and word art installations and performances of local young artists were showcased to the general public in four local parks (Hong Kong Island, Kowloon, Sha Tin and Tuen Mun). The project aims to demonstrate that arts can go beyond the walls of museums and galleries and can closely interact and connect with the community.

- (b) Displaying artworks in government properties can further enhance the promotion of community arts. In this respect, our initial plan is to select at least one government joint-user building (JUB) from Hong Kong Island, Kowloon and the New Territories respectively as trial spots and to commission local young artists and arts/design departments of tertiary institutions to display their artworks (for example, paintings, sculptures and installation arts) in the public space of these buildings. We will launch the scheme as soon as practicable upon finalizing details of the scheme with concerned government departments and engaging the relevant arts groups and institutions. We may consider extending the scheme to other suitable government JUBs after reviewing its effectiveness and the resources required. We do not have the exact figure on the total funding required for the scheme which is subject to the size of the public spaces available in the selected government JUBs and the proposals we will receive from the arts groups or institutions.

If the scheme is implemented smoothly and well-received by the public, we will encourage government departments to display

artworks in suitable public space of their properties so that more spaces can be opened up for local artists to create and display their works.

- (c) We welcome street arts performances to enhance public access to the arts, and enrich the cultural life of the community and the characteristics of the city.

At present, there are no restrictions on street arts performances as long as they are lawfully conducted. Such performances are commonplace in various districts.

In fact, together with different arts groups, we are taking steps to enhance the promotion of outdoor cultural activities and arts performances to widen the audience base and bring arts to the community. For example, the Home Affairs Department, in collaboration with District Councils and community arts groups, organized the Community Arts Festivals in 18 districts during the period from September to December last year. Details are set out as follows:

<i>District</i>	<i>Date</i>	<i>Location</i>	<i>Programme details</i>
Yau Tsim Mong	20 September	near Hong Kong Cultural Centre	<p><i>Grand Parade</i></p> <p>A total of 30 collector's cars and 60 performing groups joined the Grand Parade. The performing groups comprised local organizations, kaifong associations, women's associations, primary and secondary schools, as well as ethnic minority groups. The procession, featuring lion and dragon dance and many fabulous performances, marched along Nathan Road.</p>
	20 September	Canton Road, Tsim Sha Tsui	<p><i>Community Arts Spectacle</i></p> <p>Opera, contemporary dance, children Cantonese opera, youth Wushu performance, artistic roller skating, hip hop dance, collector's car exhibition, arts workshops, and jade exhibition, and so on.</p>
Sham Shui Po	11 October	Lai Chi Kok Garden	<p><i>Community Arts Festival</i></p> <p>School brass band performance, children choir performance, street dance, drama, puppet show, mime, Erhu performance, a cappella performance, ethnic minority group dance and a variety of street arts workshops.</p>

<i>District</i>	<i>Date</i>	<i>Location</i>	<i>Programme details</i>
Southern	17 October	Village Square, Stanley Plaza	<i>Southern District Community Arts Festival</i> Singing and live band performances, Chinese and Western musical instrument performances, hip hop dance, drama, magic and acrobatic show, Wushu and group exercise, and so on.
Eastern	17 October	Central Lawn, Victoria Park, Causeway Bay	<i>Community Arts Day</i> Chinese and Western musical instrument performances, choir singing, dance, Wushu and roller skating, and so on.
Kowloon City	18 October	Shung King Street, Whampoa Garden, Hung Hom	<i>Dance Gala in Kowloon City</i> Over 300 dancers demonstrated various kinds of international standard dance in the street.
Tsuen Wan	24 October	Wo Tik Street, San Tsuen Street and Citywalk	<i>Tsuen Wan Halloween Arts Day</i> Chinese and Western musical instrument performances including orchestra, saxophone, musical saw and Guzheng; magic and acrobatic shows, drama, children lion dance and musical, street performances, a variety of dancing and singing performances; and a host of stalls offering fun activities, handicrafts and Halloween make-up. Ground paintings, antique cars and horses were also on display.
Southern	25 October	Aberdeen Promenade	<i>Southern District Community Arts Festival</i> Singing and live band performances, Chinese and Western musical instrument performances, hip hop dance, drama, magic and acrobatic show, Wushu and group exercise, and so on.
Islands	31 October	Open Arena, Citygate Outlets, Tung Chung	<i>Arts and Crafts Day</i> Lion dance, Chinese folk dances, children social dance, traditional Chinese magic and acrobatics (including shadow puppetry, marionettes/puppet shows, and so on), singing performance of classic Chinese oldies and pop songs, group exercise and martial arts performance. There was also an arts fair with booths featuring traditional crafts (such as paper-cutting, sketching and dough figurine) and "roving artists" giving street performance (such as short drama and talent show).
Wan Chai	31 October	Paterson Street, East Point Road and Great George Street, Causeway Bay	<i>Community Arts Festival</i> Magic, interactive percussion, band show, hip hop dance, aerobic dance, social dance, South Asian ethnic performance and traditional Chinese lion dance, and so on.
Kwai Tsing	1 November	Open space outside Kwai Tsing Theatre	<i>Community Arts Day</i> Ethnic dance performance, street drama, lion dance, <i>Bian Lian</i> and handicraft stalls, and so on.

<i>District</i>	<i>Date</i>	<i>Location</i>	<i>Programme details</i>
Yuen Long	7 November	Kau Yuk Road	<i>The 20th Yuen Long Arts Festival</i> Held from 8 October to 19 November, including nearly 30 activities such as Cantonese opera, music, drama, dance performance, calligraphy and painting exhibition. The highlight was the "Street Performance Carnival" on 7 November featuring on-street performances and stall games.
Sha Tin	8 November	Amphitheatre, Sha Tin Park	<i>Community Arts Festival</i> Drumming (Japanese Taiko, Korean drum, Chinese drum); dance (Korean tea ceremony and dance, Chinese folk dance, Korean dance, modern dance, jazz); music (singing by singers, ballads, folk music, band, choirs, orchestra); martial arts (Japanese Kendo, Karate, Taekwondo, Chinese martial arts); and opera/stage arts (<i>Bian Lian</i> , lion dance, children Cantonese opera, diabolo).
Sai Kung	15 November	Sai Kung Waterfront Park	An open-air variety show comprising music and dance, instrument concert, mime and folk songs, and so on.
Kwun Tong	21 November	Yue Man Square Rest Garden/Car Park of Kwun Tong Government Offices	<i>Community Arts Festival</i> Singing and dance, accordion quintet, mime, African drum, clown show and performance of traditional wedding ceremonies of different regions, and so on.
Tai Po	21 November	Tai Po Hui Sports Centre	<i>Cultural Promotion Series 1</i> A series of sports and arts performances such as drama, dance performance, kung fu and tai chi, as well as Chinese orchestra and folk culture performance. There were also crafts workshop and folk handicraft stalls, and so on.
North District	22 November	Sheung Shui Garden No. 1	Wonderful performances by the Hong Kong City Choir, the Accordion Troupe Hong Kong, the Hong Kong Symphonic Band, the Winning Glove Puppets Art Troupe, and talented performers from primary and secondary schools in the district.
Tai Po	28 November	Central Plaza, Hong Kong Institute of Education	<i>Cultural Promotion Series 2</i> Crafts workshops, folk handicraft stalls, kung fu, tai chi, and Chinese orchestra performances. There were also music, dance and martial arts performances by the students of the Hong Kong Institute of Education.
Tuen Mun	28 November	Tuen Mun Cultural Square	<i>Community Arts Day</i> Traditional cultural performances of various East Asian areas, traditional Chinese snack booths, handicrafts-making and game booths, and so on.

<i>District</i>	<i>Date</i>	<i>Location</i>	<i>Programme details</i>
Wong Tai Sin	29 November	Wong Tai Sin Square, Wong Tai Sin Temple Court and Plaza in front of Lung Cheung Mall	<i>Community Arts Day</i> Drama, group exercise, Oriental/Latin/modern dance, kung fu, artistic cycling and rope skipping, African drum, Capoeira, martial arts, magic, juggling, traditional arts stalls, street performances, arts workshop and stall games, and so on.
Central and Western District	6 December	Sheung Wan Promenade	<i>Community Arts Day</i> Marching band, lion dance, traditional Chinese orchestra performance, folk and street dance, demonstration by tai chi masters, and stalls and booths featuring traditional handicrafts, paper craft, Chinese calligraphy and painting, as well as special handicrafts, and so on.
Tai Po	9 December	Amphitheatre, Tai Po Waterfront Park	<i>Tai Po International Concert</i> Performances by the City Chamber Orchestra of Hong Kong, local artists, ethnic arts groups, student bodies and Ms Takako NISHIZAKI, the internationally-renowned violinist.

We are also planning to provide a street performance venue at the Chai Wan Youth Square, where young people can showcase their creativity and talents in performances for the enjoyment of the public in the neighbourhood. Besides, "Dances Jam", including solo pipa, dance performances and Chinese calligraphy demonstrated by students of the Hong Kong Academy for Performing Arts in Hong Kong Park, Kowloon Park and Tuen Mun Park in the abovementioned large-scale arts programme "Budding Winter" also attracted a significant number of passers-by.

As for major outdoor performances, the "Symphony Under The Stars" concert presented by the Hong Kong Philharmonic Orchestra in Happy Valley Racecourse Recreation Ground in mid-November last year attracted over 20 000 locals and visitors. The Hong Kong Arts Centre also presents "Street Music Series" at its main entrance from time to time for musicians and songwriters to play music of different styles, with interaction between the community and the musicians, thus nurturing a unique street music culture. We will continue to strengthen our efforts in this respect for a more vibrant arts and cultural scene in the community.

Annex

Works of local artists displayed at properties owned by the Government⁽¹⁾
 (As at 7 January 2010)

<i>Property Name and Location</i>	<i>No. of Artworks</i>	<i>Category of Artworks</i>	<i>Total Expenditure Incurred (HK\$)⁽²⁾</i>
Kowloon Park	23	Sculpture	NA
Queen Elizabeth Hospital	23	Painting	NA
Government House	22	Painting Calligraphy	NA
Hong Kong Economic and Trade Office in Washington, D.C.	22	Painting Sculpture Digital Image	\$118,677
City Art Square	19	Sculpture Ceramic	NA
Hong Kong International Airport (Government VIP Lounge)	15	Sculpture Ceramic	NA
Hong Kong Economic and Trade Office in Geneva	12	Painting	NA
Hong Kong Central Library	10	Sculpture	\$1,400,000
Hong Kong Park	10	Sculpture	NA
Hong Kong Economic and Trade Office in Brussels	9	Painting Photography Graphic Print	\$60,061 ⁽³⁾
Official Residence of the Hong Kong Commissioner for Economic and Trade Affairs in USA	8	Painting Ceramic	NA
Tsim Sha Tsui East Promenade	7	Sculpture	NA
Hong Kong Economic and Trade Office in San Francisco	6	Painting Paper Art	NA
Belilius Public School	6	Ceramic	NA
Hong Kong Cultural Centre (outdoor areas and foyer)	5	Mural Sculpture	NA
Hong Kong Economic and Trade Office in Singapore	4	Calligraphy Photography	NA
Office of the Government of the Hong Kong Special Administrative Region in Beijing	4	Calligraphy Painting	NA

<i>Property Name and Location</i>	<i>No. of Artworks</i>	<i>Category of Artworks</i>	<i>Total Expenditure Incurred (HK\$)⁽²⁾</i>
Memorial Garden and Foyer of Hong Kong City Hall	3	Sculpture	\$350,000 ⁽⁴⁾
Hong Kong Economic and Trade Office in London	3	Calligraphy Painting	\$45,551
Tai Po Waterfront Park	2	Sculpture	NA
Hong Kong Economic and Trade Office in Sydney	2	Calligraphy	NA
Hong Kong Economic and Trade Office in Tokyo	2	Calligraphy	NA
Hong Kong Economic and Trade Office in New York	1	Painting	NA
The roundabout at the junction of Cheong Tung Road South and Hung Lok Road, Hung Hom	1	Sculpture	NA
Yuen Chau Tsai Park, Tai Po	1	Sculpture	NA
Salisbury Garden	1	Sculpture	NA
Chater Garden	1	Sculpture	NA
Hong Kong Coliseum	1	Sculpture	NA
Hong Kong Space Museum	1	Sculpture	\$300,000
<i>Thematic Exhibition</i>			
Budding Winter (Hong Kong Park, Kowloon Park, Sha Tin Park, Tuen Mun Park)	93	Installation	\$1,600,000
Hong Kong-Shenzhen Architecture Bi-city Biennale 2009 (West Kowloon Waterfront Promenade)	51	Installation	\$827,3615

Notes:

- (1) The Public Art Programmes organized by the LCSD are not included.
- (2) "NA" (Not Applicable) refers to those cases where the artworks in question are donated by or on loan for display from museums, artists or private organizations. In other NA cases, the expenditure incurred cannot be traced because the artworks were purchased and installed a long time ago.
- (3) Only the cost of the artworks is included.
- (4) The expenditure accounts for only one of the artworks. For the remaining two items, one is on loan for free from the Hong Kong Museum of Art and the other donated by a local artist.
- (5) The Home Affairs Bureau is the main sponsor of this exhibition.

Environmental Impact of Proposed Off-shore Wind Farm in Southeastern Waters

17. **MRS REGINA IP** (in Chinese): *President, I have learnt that CLP Power Hong Kong Limited (CLP) intends to construct the largest offshore wind farm in the world at about 10 km east of Clearwater Bay, which will involve 67 wind turbines, each about 135 m high. In this connection, will the Government inform this Council:*

- (a) *given that the Chief Executive has announced in his 2009-2010 policy address that the Ministry of Land and Resources has given approval for Hong Kong Geopark (Geopark) to be listed as a national geopark, which involves eight sites, including the Northeast New Territories Sedimentary Rock Region and the Sai Kung Volcanic Rock Region; and it has been reported that the Hong Kong Government will inject resources to manage the geopark and, with reference to UNESCO's guidelines and through the State, will apply to the relevant authority for listing the geopark as a world geopark; yet the said wind farm is only 3 km away from the geopark, whether the Government has studied in-depth the feasibility of having the wind farm constructed at other locations so as to reduce the negative impact on natural scenery and the assessment on the world geopark application to be submitted;*
- (b) *given that it has been reported that the wind farm will be located at the Sai Kung Caldera, which was formed 140 million years ago, and the construction site is also close to the hexagonal rock columns under the sea at Ninepin Group, whether the Government had fully considered the negative impact of the construction of the wind farm on such landscapes when approving the relevant environmental impact assessment (EIA) report, and whether it had prudently examined comprehensive plans to reduce the impact on local residents and the natural ecological environment during the construction of the wind farm; if it had, of the details; and*
- (c) *whether the Government has fully considered the negative impact of the noise and light pollution created during the operation of the wind farm on migratory birds and marine ecology, as well as the solutions; if it has, of the details?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President,

- (a) The EIA of the Hong Kong Offshore Wind Farm (HKOWF) conducted by CLP has taken into account the presence of the nearby Geopark. According to the EIA report, given the location of the HKOWF, with mitigation measures in place and using the existing landforms as far as practicable to shield the wind farm turbines from view, landscape and visual impacts could be reduced.

To further mitigate the landscape and visual impacts of HKOWF, the Environmental Permit stipulates that CLP shall submit the final layout of the wind farm turbines to the Director of Environmental Protection for approval. The final layout should demonstrate that it has minimized the footprint of the project among the possible alternative layouts, and maximized the distance of the turbines from Ninepin Group and Ung Kong Group.

Although developing wind farms can achieve the renewable energy target, the Government will continue examining the potential impacts of HKOWF on seeking the Geopark to be listed as "global geopark". The approval of the HKOWF EIA report reflects that the report fulfils the regulations and requirements laid down in the Environmental Impact Assessment Ordinance (Cap. 499). However, construction works can commence only if it fulfils all relevant laws and obtains the necessary approvals. In accordance with the Scheme of Control Agreement, the HKOWF investment requires approval by the Government. By then the Government will consider the application from various aspects, including renewable energy policy, impact on electricity tariff, economic benefits, technical factors, site location, and so on.

- (b) The proposed HKOWF is located approximately 9 km east of the Clearwater Bay peninsula and 5 km east of South Ninepin Island, over 3 km outside the boundary of the Geopark. The EIA report has recommended suction caissons as foundations of the wind farm turbines. The construction method does not require piling, dredging or drilling into the rock layer of seabed, hence it will not cause adverse impact to the seabed of Ninepin Group and the natural environment of the area. Since the selected HKOWF site is far

away from residential areas, construction of the HKOWF also will not cause nuisance to the residents.

- (c) The EIA study of HKOWF has considered in detail the impact on migratory birds and marine ecology due to sound and light generated during operation of HKOWF. The EIA report points out that the location of HKOWF is not within the travelling path of migratory birds. Operation of wind turbines will therefore not cause adverse impact to birds. Apart from this, the frequency of sound emitted by HKOWF is different from the range capable to be received by most birds; hence the birds will not be affected by the sound. Non-reflective paint will be applied to the mechanic parts of the wind farm turbines to reduce the impact of reflected sunlight to the birds. Regarding marine ecology, the EIA study identifies that in the vicinities of HKOWF, finless porpoises and green turtles are the species deserving more protection. However, the waters of HKOWF are not the main habitat of the finless porpoises and green turtles. It is expected that the sound and light generated by HKOWF will not impose long-term adverse impact to both species.

Problem of Departure of Nurses in Public Hospitals

18. **DR JOSEPH LEE** (in Chinese): *President, regarding the manpower of nurses in the Hospital Authority (HA), will the Government inform this Council whether it knows:*

- (a) *the numbers of nurses who had departed/retired from public hospitals under HA in each of the past three years, with a breakdown by the hospital and specialty to which such nurses belonged, as well as by their rank and length of service, and among such vacancies, the number of those which have been filled at present; if such vacancies have not yet been filled, of the reasons for that, and the expected time for them to be filled;*
- (b) *if HA has adopted new measures to retain nurses, so as to prevent departure of nurses from its public hospitals; if it has, of the details; if not, the reasons for that; and*

- (c) if there were nurses who had reached the retirement age and had applied for deferment of their retirement in the past three years; if so, of the number of such applications and the reasons for deferring retirement, with a breakdown by the rank of the applicant; whether it has assessed if such applications will impede the promotion opportunities of serving nurses?

SECRETARY FOR FOOD AND HEALTH (in Chinese): President,

- (a) In the past few years, the nursing manpower of the HA has been increasing continuously. From 1 April 2007 to 30 November 2009, the number of full-time equivalent nurses in the HA increased from 19 212 to 19 885.

The turnover figures of nurses (including retiring nurses) in the HA Head Office and various hospital clusters in the past three years by rank, specialty and length of service are at Annex. In 2007-2008, the number of departed nurses was 844, including 75 retiring nurses, and the overall turnover rate of nurses for the whole year was 4.5%. In 2008-2009, the number of departed nurses was 877, including 97 retiring nurses, and the overall turnover rate of nurses for the whole year was 4.7%. In 2009-2010 (as at 30 November), the number of departed nurses was 510, including 155 retiring nurses, and the overall turnover rate of nurses for the whole year is estimated at 4.0%. Based on the general circumstances of the nursing profession, a steady turnover rate of around 4%, with continuous replenishment with new recruits, is considered normal.

The HA fills its vacancies of nurses (including turnover vacancies and newly created nurse positions to cope with service and operational needs) through external recruitment and internal promotion. Vacancies of junior nurse posts are generally filled by external recruitment. As for vacancies of promotion posts, the HA would select and promote suitable nurses to fill the vacancies through internal recruitment as far as possible.

In the past three years (that is, from 1 April 2007 to 30 November 2009), the HA has filled 2 392 vacancies of nurses and 1 457 vacancies at the rank of Advanced Practice Nurse or above through external recruitment and internal promotion respectively. On the whole, the number of vacancies filled exceeds the number of turnover.

- (b) To strengthen the retention of nurses, the HA has implemented a number of initiatives to enhance the professional development of nurses and broaden their promotion pathway. These include strengthening clinical and specialist training for nurses, as well as the introduction of a new three-tier nursing career structure by phases from June 2008 to provide nurses with a clinical promotion ladder in addition to the existing nursing management promotion pathway. Under the new structure, the HA has created the post of Nurse Consultant to broaden the clinical career development pathway of nurses; provided higher rate of allowance to Department Operations Managers working in large departments; and established additional Advanced Practice Nurse positions in clinical departments to provide more supervisory support.

At the same time, to strengthen the recruitment of nurses, the HA has implemented in recent years several measures to improve the employment conditions of nurses. These include raising the starting pay of nurses, extending the contract period of Registered Nurses to six years, and providing permanent employment opportunities to eligible full-time contract Registered Nurses. Moreover, the HA has also implemented various measures to improve the working arrangements of nurses, including reducing the non-clinical work handled by nurses, improving the equipments frequently used by nurses to alleviate their workload, as well as increasing the flexibility in recruitment and employing more part-time nurses, and so on.

- (c) In the past few years, only a very small number of nurses in the HA who reached the retirement age had applied for and were approved deferment of retirement. The impact on the promotion prospect of existing nurses is insignificant.

Annex

Turnover of nurses in HA Head Office and various hospital clusters
by rank, specialty and length of service in 2007-2008

Cluster	Rank	Specialty								Length of Service				
		Medicine	Obstetrics & Gynaecology	Orthopaedics & Traumatology	Paediatrics	Psychiatry	Surgery	Others	Total	0-5 years	6-10 years	11-15 years	16 years or above	Total
Hong Kong East Cluster	APN/NS/ NO/WM or above	4			1		1	5	11		1	9	1	11
	RN	29	4	3	8		10	32	86	33	7	39	7	86
	EN/ Midwife/ Others	4						8	12		3	7	2	12
	Total	37	4	3	9		11	45	109	33	11	55	10	109
Hong Kong West Cluster	APN/NS/ NO/WM or above	3	3			1	4	4	15			9	6	15
	RN	25	6	2	7		26	22	88	32	10	41	5	88
	EN/ Midwife/ Others	3		1	1			2	7		2	5		7
	Total	31	9	3	8	1	30	28	110	32	12	55	11	110
Kowloon Central Cluster	APN/NS/ NO/WM or above	5	3			2	1	3	14			5	9	14
	RN	22	1	3	5	1	10	49	91	41	16	32	2	91
	EN/ Midwife/ Others	1						5	6		6			6
	Total	28	4	3	5	3	11	57	111	41	22	37	11	111
Kowloon East Cluster	APN/NS/ NO/WM or above	4	1				1	4	10		1	9		10
	RN	30	3	1	10	1	9	17	71	17	17	31	6	71
	EN/ Midwife/ Others	4			2		1	4	11	2	1	8		11
	Total	38	4	1	12	1	11	25	92	19	19	48	6	92

Cluster	Rank	Specialty							Length of Service					
		Medicine	Obstetrics & Gynaecology	Orthopaedics & Traumatology	Paediatrics	Psychiatry	Surgery	Others	Total	0-5 years	6-10 years	11-15 years	16 years or above	Total
Kowloon West Cluster	APN/NS/ NO/WM or above	5	3	2	5		5	8	28		1	22	5	28
	RN	44	19	2	8		8	61	142	37	18	71	16	142
	EN/ Midwife/ Others	8	1		3		3	9	24	3		13	8	24
	Total	57	23	4	16		16	78	194	40	19	106	29	194
New Territories East Cluster	APN/NS/ NO/WM or above	5			1		3	4	13			9	4	13
	RN	36	6	3	8	8	21	13	95	29	16	48	2	95
	EN/ Midwife/ Others	6				1	1	7	15		2	9	4	15
	Total	47	6	3	9	9	25	24	123	29	18	66	10	123
New Territories West Cluster	APN/NS/ NO/WM or above	2	1		1	1		2	7			5	2	7
	RN	16	7	2	6	3	10	33	77	24	12	32	9	77
	EN/ Midwife/ Others	2				5	1	11	19			13	6	19
	Total	20	8	2	7	9	11	46	103	24	12	50	17	103
Head Office	APN/NS/ NO/WM or above							1	1			1		1
	RN							1	1		1			1
	EN/ Midwife/ Others													
	Total							2	2		1	1		2
Total in 2007-2008		258	58	19	66	23	115	305	844	218	114	418	94	844

Turnover of nurses in HA Head Office and various hospital clusters
by rank, specialty and length of service in 2008-2009

Cluster	Rank	Specialty								Length of Service				
		Medicine	Obstetrics & Gynaecology	Orthopaedics & Traumatology	Paediatrics	Psychiatry	Surgery	Others	Total	0-5 years	6-10 years	11-15 years	16 years or above	Total
Hong Kong East Cluster	APN/NS/NO/WM or above	1		1	1	1	1	5	10		1	3	6	10
	RN	31	3	5	2	3	9	25	78	33	8	28	9	78
	EN/ Midwife/ Others	5		1		1	4	6	17	2	2	7	6	17
	Total	37	3	7	3	5	14	36	105	35	11	38	21	105
Hong Kong West Cluster	APN/NS/NO/WM or above	8			3	2	4	2	19			9	10	19
	RN	30	6	6	14	1	19	5	81	24	10	35	12	81
	EN/ Midwife/ Others	9	2			2	3	2	18	3	2	6	7	18
	Total	47	8	6	17	5	26	9	118	27	12	50	29	118
Kowloon Central Cluster	APN/NS/NO/WM or above	2			3		5	4	14		1	6	7	14
	RN	21	5	1	5	1	17	43	93	38	9	26	20	93
	EN/ Midwife/ Others	5				1	1	5	12	1	5	4	2	12
	Total	28	5	1	8	2	23	52	119	39	15	36	29	119
Kowloon East Cluster	APN/NS/NO/WM or above	1						4	5			1	4	5
	RN	23	3	3	13	3	8	18	71	32	11	18	10	71
	EN/ Midwife/ Others	2					2	2	6		2	2	2	6
	Total	26	3	3	13	3	10	24	82	32	13	21	16	82

Cluster	Rank	Specialty							Length of Service					
		Medicine	Obstetrics & Gynaecology	Orthopaedics & Traumatology	Paediatrics	Psychiatry	Surgery	Others	Total	0-5 years	6-10 years	11-15 years	16 years or above	Total
Kowloon West Cluster	APN/NS/ NO/WM or above	2	2	2			4	14	24			6	18	24
	RN	21	6	3	16		17	78	141	46	19	42	34	141
	EN/ Midwife/ Others	12	1				2	14	29	9	2	4	14	29
	Total	35	9	5	16		23	106	194	55	21	52	66	194
New Territories East Cluster	APN/NS/ NO/WM or above	4	5				6	3	18			11	7	18
	RN	47	6	9	11	3	25	17	118	43	15	44	16	118
	EN/ Midwife/ Others	8					2	3	3	16		10	6	16
	Total	59	11	9	11	5	34	23	152	43	15	65	29	152
New Territories West Cluster	APN/NS/ NO/WM or above	4	1	1	2	1	1	3	13			4	9	13
	RN	29	6	2	4	1	10	27	79	32	10	24	13	79
	EN/ Midwife/ Others	6	2				1	1	4	14		3	6	14
	Total	39	9	3	6	3	12	34	106	32	13	34	27	106
Head Office	APN/NS/ NO/WM or above							1	1			1		1
	RN													
	EN/ Midwife/ Others													
	Total							1	1			1		1
Total in 2008-2009		271	48	34	74	23	142	285	877	263	100	297	217	877

Turnover of nurses in HA Head Office and various hospital clusters
by rank, specialty and length of service in 2009-2010 (as at end of November)

Cluster	Rank	Specialty							Length of Service					
		Medicine	Obstetrics & Gynaecology	Orthopaedics & Traumatology	Paediatrics	Psychiatry	Surgery	Others	Total	0-5 years	6-10 years	11-15 years	16 years or above	Total
Hong Kong East Cluster	APN/NS/ NO/WM or above	1	1			1		1	4			1	3	4
	RN	19		1		3	8	36	67	32	1	23	11	67
	EN/ Midwife/ Others	4				1		5	10	2		3	5	10
	Total	24	1	1		5	8	42	81	34	1	27	19	81
Hong Kong West Cluster	APN/NS/ NO/WM or above	3					2	7	12	1		3	8	12
	RN	9	1	3	7		11	9	40	21	1	12	6	40
	EN/ Midwife/ Others	6		1	1		1	5	14	5		2	7	14
	Total	18	1	4	8		14	21	66	27	1	17	21	66
Kowloon Central Cluster	APN/NS/ NO/WM or above	2	2		1	1	1	7	14			5	9	14
	RN	12	2	1	5		4	16	40	20	1	13	6	40
	EN/ Midwife/ Others	2					1	4	7	2	1	4		7
	Total	16	4	1	6	1	6	27	61	22	2	22	15	61
Kowloon East Cluster	APN/NS/ NO/WM or above	1		2		1			4			1	3	4
	RN	16	3	1	4	2	7	6	39	22	4	7	6	39
	EN/ Midwife/ Others					1		4	5	1		2	2	5
	Total	17	3	3	4	4	7	10	48	23	4	10	11	48
Kowloon West Cluster	APN/NS/ NO/WM or above	2	1		1		4	5	13			5	8	13
	RN	10	6		4		6	53	79	42	5	17	15	79
	EN/ Midwife/ Others	2	4		1	1	2	8	18		1	4	13	18
	Total	14	11		6	1	12	66	110	42	6	26	36	110

Cluster	Rank	Specialty								Length of Service				
		Medicine	Obstetrics & Gynaecology	Orthopaedics & Traumatology	Paediatrics	Psychiatry	Surgery	Others	Total	0-5 years	6-10 years	11-15 years	16 years or above	Total
New Territories East	APN/NS/NO/WM or above	5	1		1	1	1	9			3	6	9	
Cluster	RN	23	4	1	11	4	16	4	63	31	8	17	7	63
	EN/ Midwife/ Others	4			1	2		1	8	1		3	4	8
	Total	32	5	1	12	7	17	6	80	32	8	23	17	80
	APN/NS/NO/WM or above	4			1		1	1	7			3	4	7
New Territories West Cluster	RN	14	4	1	6	1	7	18	51	21	8	13	9	51
	EN/ Midwife/ Others	2				2		2	6	1	1	2	2	6
	Total	20	4	1	7	3	8	21	64	22	9	18	15	64
	APN/NS/NO/WM or above													
Head Office	RN													
	EN/ Midwife/ Others													
	Total								0					0
Total in 2009-2010 (as at end of November)		141	29	11	43	21	72	193	510	202	31	143	134	510

Notes:

APN – Advanced Practice Nurse

NS – Nurse Specialist

NO – Nursing Officer

WM – Ward Manager

RN – Registered Nurse

EN – Enrolled Nurse

Use of Vacant School Premises

19. **MR ALBERT CHAN** (in Chinese): *President, I have learnt that at present, many non-profit-making organizations have applied to the Government for using vacant school premises but in vain, resulting in many vacant school premises not being put to good use. In this connection, will the Government inform this Council:*

- (a) *of the numbers and gross floor areas (in table form) of vacant primary school premises and secondary school premises as at December of this school year, with a breakdown by District Council district; how the authorities plan to deal with such vacant school premises;*
- (b) *of the names of the non-profit-making organizations now applying for using such vacant school premises, the purposes involved and the names of the schools to which such school premises belonged before becoming vacant;*
- (c) *of the number of vacant school premises which had been approved for use by non-profit-making organizations in each of the past three school years, the locations of such school premises and names of the schools to which such school premises belonged before becoming vacant, as well as the names of the organizations which were given approval for using those premises, the purposes and years of use of such school premises; and*
- (d) *whether the authorities will consider expediting the feasibility study on converting suitable vacant school premises into care-and-attention homes, so as to alleviate the problem of short supply of residential care places; if they will, of the details; if not, the reasons for that?*

SECRETARY FOR EDUCATION (in Chinese): President,

- (a) From 2003-2004 to 2009-2010 school years (up to December 2009), 77 primary schools have ceased operation as a result of under-enrolment of Primary One students under the arrangements for

school consolidation implemented since the 2003-2004 school year. Separately, 15 secondary schools have ceased operation during the same period. A breakdown of the 92 premises by district is at Annex A. It is noteworthy that the gross floor areas of the school buildings vary depending on the year of construction, type of school use, size of the site, and so on. We do not possess the information of the gross floor areas of all the school premises.

The Education Bureau has a mechanism for handling vacant school premises. We will consider if the size, location and physical conditions of the premises would render it suitable for re-allocation for school or other educational uses. For premises which are considered suitable to be so recycled, we will consult relevant bureaux/departments as appropriate to see if re-allocation of these premises for further school or other educational uses is possible. Among the 92 premises concerned, 19 have already been deployed for further educational uses while 30 have been re-allocated/provisionally earmarked for such uses. The Education Bureau and the relevant users (where confirmed) have been taking forward plans to re-use the premises in the short term.

Given their limited size and remote locations, the remaining 43 premises are considered not suitable/required for further educational uses and may be available for other uses according to the established arrangement where applicable. Should individual bureaux/departments indicate interest in any of these premises/sites that are on Government land⁽¹⁾ in support of the initiatives under their purview, the departments concerned including Government Property Agency and Lands Department would check whether there are any designated or competing uses and process bureaux/departments' requests.

- (b) Among the 43 returned premises, we understand that 15 applications for use of such premises as listed in Annex B are being considered by departments concerned. Since the applications for use of the premises are being processed and involve submissions by individual

(1) For premises falling within private land, the land would have to be surrendered by the landowner or re-entered by the Government before it can be put to alternative uses.

organizations/members of the public, the Administration is not in a position to disclose details at this stage.

- (c) Over the past three school years, three premises have been approved by the Lands Department for use by non-profit-making organizations for other uses. The use of two premises was approved in 2008-2009 school year while that of one premises was approved in 2007-2008 school year. Details are set out in Annex C.
- (d) In view of the growing demand for subsidized residential care places for the elderly, the Social Welfare Department (SWD) has been in close liaison with relevant government departments to explore the feasibility of constructing residential care homes for the elderly (RCHEs) in new development projects or re-development projects (for example, public housing estates) under their purview, or converting vacant government buildings (for example, school premises which have ceased operation) into RCHEs.

In exploring the suitability of a particular site or premises for development as an RCHE, the SWD will look into various factors, including whether the size of the concerned site or premises allows the construction or re-modelling of an RCHE of a certain scale so as to achieve cost-effectiveness, and the accessibility of the site or premises by public transport to facilitate visits by family members of the elders. Besides, places with bad air quality or those affected by noise pollution may not be suitable for elders to reside in. The SWD therefore also has to consider the facilities and development projects in the vicinity during the site searching process.

In the past few years, the SWD has identified several vacant school premises and explored the feasibility of converting them into RCHEs. Nevertheless, most of the school premises were found in the end not suitable for the purpose owing to their relatively small size or other constraints (for example, lifts or ramps could not be installed or constructed to facilitate access by frail elders because of structural limitations). The SWD will continue to identify sites and vacant buildings for development of RCHEs through different means.

Annex A

Number of Primary Schools Closed under the Consolidation Policy
and Number of Secondary Schools Ceased Operation

District	<i>School year in which the relevant schools ceased operation</i>													
	2003-2004		2004-2005		2005-2006		2006-2007		2007-2008		2008-2009		2009-2010	
	PS	SS	PS	SS	PS	SS	PS	SS	PS	SS	PS	SS	PS	SS
Central and Western	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Hong Kong East	0	0	0	0	0	0	0	0	1	0	0	0	1	0
Islands	0	0	0	0	1	0	2	0	0	2	1	0	1	0
Kowloon City	0	0	0	1	0	0	1	0	1	0	2	0	1	0
Kwai Tsing	0	0	0	1	1	0	2	0	0	0	1	0	0	2
Kwun Tong	0	0	0	0	0	0	0	0	1	0	2	0	0	0
North	0	0	1	1	2	0	5	2	1	0	1	0	0	0
Sai Kung	0	0	1	0	0	0	0	0	2	0	2	1	0	0
Sham Shui Po	0	0	0	0	0	0	1	0	2	0	0	0	0	0
Sha Tin	0	0	0	0	0	0	1	0	1	0	2	1	4	1
Southern	0	0	0	0	0	0	0	0	0	1	2	0	0	0
Tai Po	0	0	3	0	0	0	1	0	1	0	0	0	0	0
Tsuen Wan	0	0	0	0	0	0	0	0	1	0	0	0	0	0
Tuen Mun	0	0	0	0	1	0	3	0	0	0	0	0	0	0
Wan Chai	0	0	0	0	0	0	1	0	0	1	0	1	0	0
Wong Tai Sin	0	0	0	0	0	0	0	0	0	0	1	0	0	0
Yau Tsim Mong	0	0	0	0	0	0	1	0	0	0	1	0	0	0
Yuen Long	0	0	0	0	3	0	8	0	3	0	2	0	0	0
Total	0	0	5	3	8	0	26	2	14	4	17	3	7	3

Notes:

"PS" denotes primary schools which have ceased operation as a result of under-enrolment of Primary One students under the arrangements for school consolidation implemented since the 2003-2004 school year.

"SS" denotes secondary schools which have ceased operation.

Annex B

**Status of 15 Vacant School Premises not Suitable/Required for Educational Uses
with Applications being Considered by Relevant Government Departments**

<i>No.</i>	<i>District</i>	<i>School</i>	<i>Address</i>
1	Kwai Tsing	Tsing Yi Public School (Cheung Hong)	Estate Primary School No. 3, Cheung Hong Estate Area 4, Tsing Yi Island, New Territories
2	Kwun Tong	Hoi Bun School	45 Hoi Pong Road Central, Lei Yue Mun, Kowloon
3	Sai Kung	Leung Shuen Bay School	Leung Shuen Bay, Sai Kung, New Territories
4	Sai Kung	Sai Kung Central Primary School	Ho Chung, Sai Kung, New Territories
5	Sha Tin	Sir Ellis Kadoorie Secondary School (Shatin)	Area 92 Yiu On Estate, Ma On Shan, Sha Tin, New Territories
6	Tai Po	Tai Hang Public School	Chung Sum Wai, Char Hang, Tai Po, New Territories
7	Tai Po	Yuk Yin School (Tai Po)	Kau Lung Hang Village, Tai Po, New Territories
8	Tai Po	Sung Tak School	9-11 Shung Tak Street Tai Po, Tai Po Market, New Territories
9	Tsuen Wan	Kwai Chung Public School	570 Castle Peak Road, Kwai Chung, New Territories
10	Yuen Long	Chi Ching School	Fraser Village, Tai Tong Road, New Territories
11	Yuen Long	Ng Wo Public Primary School	Tai Wai Village, Shap Pat Heung, Yuen Long, New Territories
12	Yuen Long	Koon Ying School	Mai Po Village, San Tin, Yuen Long, New Territories
13	Yuen Long	Shung Tak Catholic Primary School	Nam Pin Wai, Yuen Long, New Territories
14	Yuen Long	Wai Kwan Primary School	Tong Yan San Tsuen, Ping Shan, Yuen Long, New Territories
15	Yuen Long	Ying Yin Catholic Primary School	Tan Kwai Tsuen, Hung Shui Kiu, Yuen Long, New Territories

Annex C

Vacant School Premises not Suitable/Required for Educational Uses and Approved for Use by Non-profit-making Organizations for Other Uses

No.	District	School	Address	<i>The premises have been approved for use by non-profit-making organizations for other uses, with details as follows:</i> 1. Name of organization; 2. Use; 3. Term	Approval Year (School Year)
1	Tai Po	Lam Tsuen Public School	Lam Tsuen, Tai Po, New Territories	1. Lam Tsuen Wishing Square Development Limited 2. Non-profit-making public open square 3. Three-year Short-term Tenancy	2008-2009
2	Yuen Long	Wing On School	Shung Ching San Tsuen, Tai Shu Ha West Road, Yuen Long, New Territories	1. Yuen Long District Sports Association Limited 2. Sports, Culture and Recreational Activities Centre 3. One-year Short-term Tenancy	2008-2009
3	Yuen Long	Luen Kwong Public School	1 Tai Tong Tsuen, Yuen Long, New Territories	1. Scout Association of Hong Kong 2. Activity Centre 3. Three-year Short-term Tenancy	2007-2008

The Hong Kong Academy for Gifted Education

20. **MS EMILY LAU** (in Chinese): *President, the Hong Kong Academy for Gifted Education (the Academy), which was formally established in 2008, received a grant and donation each of \$100 million from the Government and Sir Joseph Hotung respectively as start-up funding to support its development. In this connection, will the Government inform this Council whether it knows:*

- (a) *its annual enrolment since the Academy's establishment in 2008, as well as the numbers of and the areas covered by the programmes, workshops, master classes, weekend courses, exchange programmes and mentorship programmes provided to the students;*
- (b) *the number of and the areas covered by the training courses, seminars and talks provided by the Academy to teachers to date;*
- (c) *the number of and the areas covered by the activities such as seminars and workshops provided by the Academy to parents to date, and the number of support groups set up with the assistance of the Academy;*
- (d) *the expenditure, income and budget of the Academy for the 2008-2009 and 2009-2010 financial years;*
- (e) *the highlights of the work and plans of the Academy for the coming three years; and*
- (f) *the amount used and balance of the start-up funding at present, when the balance of the funding is expected to be exhausted, and whether the Government will arrange for further funding allocation?*

SECRETARY FOR EDUCATION (in Chinese): President,

- (a) The Hong Kong Academy for Gifted Education (HKAGE) started to operate in the school year of 2008-2009. Within this school year, despite the fact that the HKAGE was in the process of establishing the infrastructure for a new organization, including identifying the most appropriate service delivery model, staffing requirements and governance procedures, the HKAGE took over from the Education Bureau in phases the "Support Measures for the Exceptionally Gifted Students Scheme" and continued to provide services to 2 370 students under this Scheme. The domains of training programmes include Humanities, Leadership, Mathematics, Sciences, Multi-disciplinary and Personal Growth. In addition to the cohort of 2 370 students, 1 357 new students were admitted during the year 2008-2009.

In the year 2008-2009, the HKAGE held 41 programmes for students including four seminars, four workshops, 31 courses, one learning camp and one exchange programme.

In the year 2009-2010, as of December 2009, the HKAGE has admitted 1 385 new students. The second round of student nomination by schools will be launched in the next school term.

For the year 2009-2010, the HKAGE plans to organize 75 programmes including 16 seminars, 14 workshops, 43 courses, one exchange programme and one mentorship programme, and will set up online courses. As of December 2009, the HKAGE has held 13 programmes: three seminars, three workshops and seven courses. The target number of students to be served for the year is expected to reach 3 500.

- (b) In the year 2008-2009, the HKAGE took over in phases the work of teacher training from the Education Bureau. During the period, 18 professional development programmes were held for teachers and educators. They included two mass lectures, four seminars, five workshops, one introductory course, four foundation courses, one intermediate course and one learning circle. Three outreach talks were held for schools. The number of teacher participants in these programmes totalled 1 081.

For the year 2009-2010, the HKAGE plans to organize 28 teacher professional development programmes including one mass lecture, 13 thematic seminars/workshops, six introductory courses, three foundation courses, three intermediate/advanced courses and two learning circles. As of December 2009, the HKAGE has held nine training programmes: one mass lecture, four thematic seminars/workshops, two introductory courses, one foundation course and one intermediate course. The target number of teachers to be served is around 1 900.

From the year 2008, the HKAGE has been providing programmes related to the following strands: curriculum and instruction, affective education, and generic topics on gifted education such as identification of gifted children and talent development.

- (c) In the year 2008-2009, the HKAGE took over in phases parent education and established parent support measures including consultation services. During the period, seven training programmes including four seminars and three workshops attended by 467 families were held. The topics include "the affective needs of gifted children", "higher order thinking skills" and "nurturing optimistic children". The number of parents being served is 1 241. In addition, the Executive Director and the Associate Directors offer talks to parent groups/parent-teacher associations by invitation.

For the year 2009-2010, the HKAGE plans to organize 29 parent programmes including one annual conference, five seminars, seven workshops and 16 parent-child programmes and will form three parent learning groups (for parents of twice-exceptional gifted children). As of December 2009, the HKAGE has held eight training programmes for parents: five seminars and three outreach talks. The topics of the seminars include "Nurturing the Gifted: Be a Parent Advocate" and "Developing EQ in Gifted Children". The target number of parents to be served is around 5 000 for the whole year.

The HKAGE set up the Consultation Centre in September 2008 which includes a phone hotline and an email service where parents (and others) can access if they have issues that require information and support. It is a free service, manned by an Education Advisor and supported by an Educational Psychologist. The HKAGE website <<http://www.hkage.org.hk>> has a wealth of information for all stakeholder groups and is updated regularly.

- (d) The audited accounts for 2008-2009 show income of \$3.2 million (deposit interests) and expenses of \$9.2 million. Due to the fact that the programmes were held during the transitional period, part of the programme costs was shouldered by the Education Bureau. From April to November 2009, interest income, amounting to \$0.25 million, has significantly been reduced due to the economic environment. Unrealized gains on the investment as at November 2009 were \$5 million. The budget for 2009-2010 allows for expenditure is \$25.1 million.

(e) Summary of Proposed Key Operational Priorities in 2010-2013:

	<i>Training Programmes</i>	<i>Services/Research</i>	<i>Online Support</i>
Student Division	To expand programmes of different learning domains	To promote diversified student services	to develop online learning community
Teacher Division	To expand systematic and phase-in training programmes for teachers	Research projects and professional exchange enhancing teachers' expertise in GE	to develop online teachers' learning community
Parent Division	To extend diversified parent education	Research projects and parent seminars enhancing parents' level of understanding on GE	to develop online parents' learning community
Research Division	Given the accommodation restrictions at present, there is no proposal to increase staffing for in-house research. Instead, it is proposed to use outsourcing of research as an alternative delivery model. It is hoped to start this division in 2010.		

(f) As of November 2009 the net assets of the Academy stood at \$196.2 million. This is made up of equipment, cash deposited in bank accounts and funds invested with a fund manager. The rate of capital draw down will depend on the way in which the HKAGE expands and the number of programmes offered in the coming years. Because of the need for future expansion, and in view of the present operations, further funding arrangements, for example, further injection by the government, sponsorships, and so on, are expected after several years.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Two motions with no legislative effect. I have accepted the recommendations of the House Committee: that is, the movers of these motions each may speak, including reply, for up to 15 minutes; the mover of the second motion may have another five minutes to speak on the amendment; the mover of amendment may speak for up to 10 minutes; and other Members each may speak for up to seven minutes. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

First motion: Releasing LIU Xiaobo.

Members who wish to speak in the debate on the motion will please press the "Request to speak" button.

PRESIDENT (in Cantonese): I now call upon Mr Fred LI to speak and move his motion.

(A number of Members of the democratic camp each donned a mask)

RELEASING LIU XIAOBO

MR FRED LI (in Cantonese): President, let me quote the remarks of a scholar, he said, "China is a big country abound with literary inquisition, from the First Emperor of Qin's burning the books and burying alive the Confucian scholars, to MAO Zedong's Anti-Rightist Movement and Cultural Revolution, there were countless victims of literary persecution in the different dynasties, and numerous innocent people were involved. Even in China today, after 30 years of reform and opening up, there are still at least 80 journalists and Internet writers held in prison."

This is just an extract of the remarks made by LIU Xiaobo in an article published in 2008, but in less than a year after he made such remarks, he became one of the inmates. LIU spent years in and out of prison for many times in his life. So long as China finds it hard to tolerate the existence of dissidents, I believe this is not the last time that he is sent to jail. In China, it is not easy to be an intellectual of conscience, he has to have the courage to face imprisonment any time, because in past dynasties, those who were in power would pronounce such intellectuals guilty for a single word they expressed (including speeches and articles) and send them to prison. In our country, we have a legal system but no rule of law, the Court is nothing more than a political tool to serve those who are in power, the evidences for the Court to sentence LIU Xiaobo were only several articles that LIU published to criticize those who were in power, then they were regarded as incitements; the "Charter 08" that he drafted was tantamount to subversion. As long as one has a conscience, one will sympathize with the fate of LIU Xiaobo, one will also admire his fearlessness against autocracy.

Let me quote several paragraphs of the verdict made by the Beijing Municipal First Intermediate People's Court on the imprisonment of LIU Xiaobo,

the Court held that "The defendant, LIU Xiaobo, for a purpose to overthrow the state power and socialist system of the people's democratic dictatorship in our country, by using the Internet's features of fast information transmission, widespread communication, large social impact and high degree of public concerns had slandered and incited others to overthrow the state power and socialist system in our country. His conducts had already formed the offence of inciting subversion of state power." The Court also pointed out that "his crime had lasted for a long time based on large subjective malignancy. His publications had been widespread through links, republications and browses and made adverse influence. He was a criminal of a major offence and must be severely punished according to law LIU's conducts went beyond the scope of freedom of expression to have formed a crime. Therefore, none of the defence arguments presented by LIU Xiaobo and his defense counsels could be established to be accepted by the Court" Therefore LIU Xiaobo was guilty of the crime of inciting subversion of state power, and was sentenced to eleven years imprisonment. This is the verdict of the Court.

If everybody still remembers, DENG Xiaoping once made a famous remark before his death

(Mr LEE Cheuk-yan raised his hand to indicate his wish)

PRESIDENT (in Cantonese): Mr LEE Cheuk-yan, is it a point of order?

MR LEE CHEUK-YAN (in Cantonese): President, I think a quorum is not present at the moment.

PRESIDENT (in Cantonese): A quorum is not present now. Clerk, please ring the bell.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): Mr Fred LI, please go on with your speech.

MR FRED LI (in Cantonese): I think Honourable colleagues should hear about the famous saying of DENG Xiaoping, and it would be better if more people would hear about it. DENG Xiaoping said that even condemnation would not cause the collapse of the Communist Party. However, the article written by LIU Xiaobo should not be regarded as condemnations as it has just very critically criticized the acts of the Communist Party. But, as a result, he will not have his personal liberty for a long period of time. Does it mean that people in China today can only talk about harmony but not making criticisms? As it turned out, under the shielding case that it would not collapse even after being condemned, there are still a lot of deadly points all over the body. At the most, modern China is a purse-proud powerful nation and there is still a long way to go before it can become a great civilized power.

Charter 08 has only outlined the vision of a democratic China that upholds the rule of law. The concepts therein are recognized by people in the contemporary age, including guarantee of human rights, respect for equality, republicanism and the pursuit of democracy. These concepts are the common values recognized by civilized societies. The specific proposals include amending the constitution, separation and balance of power, democratizing the lawmaking process, independence of the judiciary, protection of human rights, election of public officials, as well as freedom of expression, freedom of association and freedom of assembly. All these appeals are mild and rational, peaceful but not violent, how inciting would they be? We talk about them every day and these issues are very familiar to Hong Kong people, how can this be regarded as subversion? This incident of imprisoning LIU Xiaobo is in fact ruthlessly trampling on spiritual civilization.

(THE PRESIDENT'S DEPUTY, MS MIRIAM LAU, took the Chair)

Some have said that literary persecution was most commonly seen during the flourishing years of the reign of Kangxi and Qianlong in the Qing Dynasty. The case today is exactly the same as what happened then. Behind the great power, people with conscience have been imprisoned one after another, LIU Xiaobo and TAN Zuoren were but a few of them. Human rights lawyers and Chinese democracy activists like GAO Zhisheng, CHEN Guangcheng and WANG Sen are not tolerated in this flourishing age; among those imprisoned, dozens can be named while there are probably more nameless people. During the feudal times, monarchs had supreme power and dissidents were not allowed

to challenge the authority of the rulers. In the past, there was no alternative in the feudal dynasty and this part of history was inglorious. Nevertheless, modern China is superficially referred to *prima facie* as the People's Republic; the nation should belong to all nationals and it should not be the private property of any person or political party. It is not possible for any ruling party to place the party's interests above the interests of nationals, or to trample on the personal rights of nationals.

Eight other Legislative Council Members from the Democratic Party, I and many Honourable colleagues present, as well as a lot of Hong Kong people signed Charter 08 last year without any regret. Just like what LIU Xiaobo had done, we similarly expressed in the mildest way to the Central Government our expectations for the democratization of China. If we are not in Hong Kong today, I believe that we should likewise be in prison instead of peacefully and reasonably expressing our political views in this Chamber. During the procession on 1 January, I noticed that many people had taken the initiative to put on "I signed Charter 08" stickers. In fact, so long as the freedom of expression is upheld

(Mr WONG Ting-kwong raised his hand to indicate his intention to speak)

DEPUTY PRESIDENT (in Cantonese): Mr WONG Ting-kwong, do you have a point of order?

MR WONG TING-KWONG (in Cantonese): Yes, Deputy President. I have just entered this Chamber and I see many unfamiliar faces. Who are they? Are they passing off as Legislative Council Members in this Chamber? (*Laughter*)

DEPUTY PRESIDENT (in Cantonese): I believe that behind the masks we will see genuine Legislative Council Members. If you have any doubts, you may ask these Members to show their identity.

MR WONG TING-KWONG (in Cantonese): These Members are not familiar to me and I do not know who they are.

DEPUTY PRESIDENT (in Cantonese): Mr WONG Ting-kwong, it is not specified in the Rules of Procedure that Members cannot wear masks in the Chamber. Mr Fred LI, please continue your speech.

MR FRED LI (in Cantonese): Deputy President, we signed Charter 08 long ago and I should also wear a mask, but I did not do so as I have to speak. I believe Honourable colleagues who have put on masks are expressing their respect and concern for LIU Xiaobo, and they are asking all of us for our understanding. Charter 08 advocated the path that China should move along in the future. As stated in the Preamble: "After experiencing a prolonged period of human rights disasters and a tortuous struggle and resistance, the awakening Chinese citizens are increasingly and more clearly recognizing that freedom, equality, and human rights are universal common values shared by all human kind, and that democracy, a republic, and constitutionalism constitute the basic structural framework of modern governance. A "modernization" bereft of these universal values and this basic political framework is a disastrous process that deprives humans of their rights, corrodes human nature, and destroys human dignity. Where will China head for in the 21st century? Continue a "modernization" under this kind of authoritarian rule? Or recognize universal values, assimilate into the mainstream civilization, and build a democratic political system? This is a major decision that cannot be avoided."

The democracy in Hong Kong likewise leaves people with regret; the Hong Kong Government frequently said it is sincere in implementing universal suffrage, but the definition of universal suffrage has caused endless arguments. We are even more worried that the SAR Government would ask the Central Government to define universal suffrage for us again. If that is the case, universal suffrage with Chinese characteristics will emerge in Hong Kong, which is completely contrary to the universal and equal principles under the International Covenant on Civil and Political Rights.

Many people in Hong Kong have pointed out, provided that the election methods of functional constituencies are changed, the definition of universal suffrage can be conformed to. However, even those with a little knowledge of political science know, the definition of "universal and equal" cannot be thus conformed to no matter how the election methods of functional constituencies are improved, fine-tuned or substantially adjusted. It is a pity for the Central

Government has said that universal suffrage elections of the entire Legislative Council can be achieved in 2020, it will be 10 years from now, but comments confusing right and wrong have been made one after another. Will there be fake universal suffrage rather than genuine universal suffrage 10 years later? It is really hard to forecast.

The appeals of the Democratic Party and most people who have a genuine pursuit for democracy are very simple. We go after universal values, and universal suffrage that is genuinely universal and equal. It is a great pity that many seats for the officials are empty today. Certainly, they want to evade discussions about the LIU Xiaobo incident.

Nonetheless, it is stated in the last paragraph of my motion that the SAR Government should also expeditiously implement dual universal suffrage in Hong Kong according to the concepts and principles of Charter 08. In this connection, I think that the Government should give a response but it has not arranged for any official to attend this meeting at all. For all matters involving the Central Government, the SAR Government has kept its silence out of fear and it dares not express its views. It even remains silent when dual universal suffrage in Hong Kong is involved.

I propose this motion today, but I believe it will not be passed as the royalists and the pro-establishment camp will abstain or raise objections. Many reporters have also asked me why I am still proposing this motion. I would like to bring out a very important message that we recognize what Mr LIU Xiaobo has done and this is something we cannot evade. It is utterly unacceptable for him to be sentenced to 11 years of imprisonment. Otherwise, we should feel ashamed to be Hong Kong citizens with the Chinese blood flowing in our body. All of us are Chinese, if we remain silent and adopt a tolerant attitude mutely in the face of unfair and unreasonable happenings in China, where has "one country, two systems" gone? Will there be an even longer way for China to go?

With these remarks, I propose the motion.

Mr Fred LI moved the following motion: (Translation)

"That this Council seriously regrets that the Central Government has imposed a heavy sentence on LIU Xiaobo for inciting to subvert state power, and demands that the Central Government should immediately

release LIU Xiaobo and other dissidents; this Council appeals to the Central Government to recognize that Charter 08 advocated by LIU Xiaobo and others is a manifestation of the common values recognized by civilized societies and to positively affirm the concepts and principles of Charter 08, and the SAR Government should also expeditiously implement dual universal suffrage in Hong Kong according to those concepts and principles."

DEPUTY PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Fred LI be passed.

MR ALAN LEONG (in Cantonese): Deputy President, the Central Government has put Mr LIU Xiaobo behind bars but it cannot put the spirit of Charter 08 behind bars. I would like to put on record what Mr LIU Xiaobo advocated within this institution through the Official Records of Proceedings. Miss Tanya CHAN and I will read out the contents of Charter 08:

"Our Fundamental Concepts

At this historical juncture of the future destiny of China, it is necessary to rethink the last 100 years of modernization and reaffirm the following concepts:

Freedom: Freedom is at the core of universal values. The rights of speech, publication, belief, assembly, association, movement, and to demonstrate are all the concrete realizations of freedom. If freedom is not flourishing, then there is no modern civilization of which to speak.

Human Rights: Human rights are not bestowed by the state, but are rights that each person is born with and enjoys. To ensure human rights must be the foundation of the first objective of government and lawful public authority, and is also the inherent demand of "putting people first". The past political calamities of China are all closely related to the disregard of human rights by the ruling authorities.

Equality: Each individual, regardless of social status, occupation, gender, economic situation, ethnic group, skin color, religion, or political belief, is equal in human dignity and freedom. The principle of equality before the law and a

citizen's society must be implemented; the principle of equality of economic, cultural, and political rights must be implemented.

Republicanism: Republicanism is "governing together; living peacefully together", that is, the decentralization of power and balancing of interests, that is comprised diverse interests, different social groups, pluralistic culture and groups seeking religious belief, on the foundation of equal participation, peaceful competition, public discussion, and peaceful handling of public affairs.

Democracy: The most basic meaning is that sovereignty resides in the people and the people elect government. Democracy has the following basic characteristics: (1) the legitimacy of government comes from the people, the source of government power is the people; (2) government must be chosen by the people; (3) citizens enjoy the right to vote, important civil servants and officials of all levels should be produced through elections at fixed times; (4) the decisions of the majority must be respected while protecting the basic rights of the minority. In a word, democracy will become the modern tool for making government one "from the people, by the people, and for the people."

Constitutionalism: Constitutionalism is the principle of protecting basic constitutionally-guaranteed freedoms and rights of citizens through law and a rule of law, delimiting the boundaries of government power and actions, and providing corresponding systemic capacity.

In China, the era of imperial power has long passed and will not return; in the world, authoritarian systems are approaching the dusk of their endings. The only fundamental way out for China: citizens should become the true masters of the nation, throw off the consciousness of reliance on a wise ruler or honest and upright official, make widely public civic consciousness of the centrality of rights and the responsibility of participation, and practice freedom, democracy, and respect for law.

Our basic standpoints

In line with a responsible and constructive citizens' spirit towards the country's political system, civil rights and various aspects of social development, we put forward the following specific standpoints:

1. Amend the Constitution: Based on the aforementioned values and concepts in amending the Constitution, abolishing the provisions in the current

Constitution that are not in conformity with the principle that sovereignty resides in the people so that the Constitution can truly become a document for guaranteeing human rights and [appropriate use of] public power. The Constitution should be the implementable supreme law that any individual, group or party shall not violate, and lay the legal foundation for the democratization of China.

2. Separation and balance of power: A modern government that separates, checks and keeps balance among powers guarantees the separation of legislative, judicial, and administrative power. The principle of governing by laws and being a responsible Government shall be established. Over-expansion of executive power shall be prevented; the Government shall be responsible to the taxpayers; the separation, checking and keeping balance of powers between the central and local governments shall be set up; the central power authority shall be clearly defined and mandated by the Constitution, and the local governments shall be fully autonomous.

3. Democratize the lawmaking process: All levels of the legislative bodies shall be directly elected. Maintain the principles of fairness and justice in making law, and democratize the lawmaking process.

4. Independence of the judiciary: The judiciary shall be nonpartisan, free from any interference. Ensure judicial independence, and guarantee judicial fairness. Establish a Constitutional Court and a system of judicial review; maintain the authority of the Constitution. Abolish as soon as possible the Party's Committees of Political and Legislative affairs at all levels that seriously endanger the country's rule of law. Avoid using public tools for private objectives.

5. Public institutions should be used for the public: Realize the nationalization of the armed forces. The military shall be loyal to the Constitution and to the country. The political party organizations in the armed forces should be withdrawn. The level of military professionalism should be raised. All civil servants including the police shall remain politically neutral. Discrimination in employment of civil servants based on party preference should be eliminated and equal employment without any party preference should be adopted."

MISS TANYA CHAN (in Cantonese):

"6. Protect human rights: Protection of human rights should be effectively implemented and human dignity should be safeguarded. A Commission on Human Rights shall be established that is responsible to the highest level of authority representing public opinion. [This Commission] will prevent government abuse of public power and violation of human rights, and especially protect the personal freedom of citizens. All persons should be free from unlawful arrest, detention, summons, interrogation, and punishment. The system of Re-education-Through-Labor should be abolished.

7. Election of public officials: The democratic electoral system should be fully implemented, with the realization of the equal voting right of one person one vote. Direct election of all levels of administrative heads should be institutionalized step by step. Free competition in the elections on a regular basis and citizen participation in the election of public officials are inalienable basic human rights.

8. Urban and rural equality: The current urban-rural household registration system should be repealed. The equal rights for all citizens guaranteed by the Constitution should be implemented. The freedom of movement for citizens should be protected.

9. Freedom of association: Citizens' right to freedom of association shall be safeguarded. The current system for registration and examination before approval for civil society organizations should be changed to a registration and recording system. The ban on freely organizing political parties should be lifted. All activities of parties should be regulated by the Constitution and law. One-party monopolization of ruling privileges should be abolished. The principle of freedom of activities of political parties and fair competition should be established. The normalization of party politics and a rule by law should be realized.

10. Freedom of assembly: Peaceful assembly, protest, demonstration and freedom of expression are fundamental rights guaranteed by the Constitution. They should not be subject to unlawful interference and unconstitutional restrictions by the ruling party and the government.

11. Freedom of expression: The freedom of speech, freedom of the press and academic freedom should be implemented. Citizens' right to know and to monitor supervise should be protected. A press and publication law should be promulgated. The ban on freely publishing newspapers should be lifted. The current provision of "inciting subversion of state power" in the Criminal Law should be repealed and criminal punishment for speech should be eliminated.

12. Freedom of religion: Freedom of religion and freedom of belief should be protected. Religion and politics should be separated. Religious activities should be free from government interference. All administrative regulations, administrative rules and local regulations and rules that restrict or deprive citizens' freedom of religion should be reviewed and repealed. Management of religious activities by administrative legislature should be prohibited. The current prior approval system in which religious groups (including places of worship) must be registered before obtaining legal status should be abolished, and instead, a new record-keeping system for religious groups and their worship places should replace the current one.

13. Citizen Education: Abolish political education and examinations that are deeply ideological and serve one-party rule. Promote citizen education that encompasses universal values and civil rights, establishes civil consciousness, and promotes the civil virtue of serving society.

14. Property Protection: Establish and protect private property rights, implement a free and open market economy, protect the freedom of entrepreneurship, and eliminate administrative monopoly; set up a state-owned property management committee that is responsible to the highest legislative agency, initiate property rights reforms legally and orderly, make clear the property rights of owners and obligors, initiate a new land movement, advance land privatization, and strictly protect citizens', in particular, farmers' land rights.

15. Fiscal Reforms: Firmly establish democracy in finance and protect taxpayers' rights. Build a public finance system and operational mechanisms in which powers and obligations are clear, and create a reasonable and effective division of power in finance among all levels of government; implement major reforms in the tax system to reduce the tax rate, simplify the tax system, and achieve tax equity. The administrative departments should not be allowed to increase tax or create new tax arbitrarily without a social public choice and resolutions of the legislative agencies. Pass reforms on property rights,

introduce diverse market subjects and competition mechanisms, lower the market-entry threshold in banking, and create conditions for the development of privately-owned banking to energize the financial system.

16. Social Security: Build a social security system that covers all of the citizens, and provide them with fundamental protections for education, medical care, elderly care and employment.

17. Environmental Protection: Protect the ecological environment, promote sustainable development, and take up responsibility to future generations and humanity; enforce the respective responsibilities of the state and government officials of all levels; perform the function of participation and supervision by civil organizations on environmental protection.

18. Federal Republic: Participate in and maintain regional peace and development with an equal and fair attitude, and create an image of a responsible great country. Protect the free systems of Hong Kong and Macao. Under the precondition of freedom and democracy, seek a settlement resolution on cross-strait relations by way of equal negotiation and cooperative interaction. Explore possible ways and an institutional design to promote the mutual prospects of all ethnicities with great wisdom, and to establish China's federal republic under the structure of democracy and constitutionalism.

19. Transitional Justice: Rehabilitate the reputation of and give state compensation to the victims who suffered political persecution during past political movements as well as their families; release all political prisoners, prisoners of conscience, and people who are convicted because of their beliefs; establish a truth commission to restore historical truth, to pursue accountability and to fulfill justice; seek a settlement of the society on this foundation."

DR RAYMOND HO (in Cantonese): Deputy President, just as in the past, the sentencing of well-known dissidents on the Mainland would produce reverberation in Hong Kong, and the LIU Xiaobo case is no exception. Supporters who sympathize with these people will express dissatisfaction with the verdicts while others hold opposing views; this is exactly a reflection on the freedom of expression that we enjoy in Hong Kong. The freedom of expression in Hong Kong is protected under the Basic Law. According to Article 27 of the Basic Law, Hong Kong residents shall have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to

strike. Hong Kong residents have the right to express different views as encompassed within the framework of "one country, two systems" and "Hong Kong people ruling Hong Kong".

Now, as the "one country, two systems" principle is observed on the Mainland and in Hong Kong, we should then respect the dissimilar system, culture, way of life and the way that matters are dealt with by the other party. In the past, when Mainland officials expressed their views and opinions about certain aspects in Hong Kong, they would immediately be blamed or criticized by some Hong Kong people or the media for the intention to intervene in the domestic affairs of Hong Kong and damage the implementation of "one country, two systems". In the same grain of thinking, if the Legislative Council, as an assembly that represents Hong Kong people, passes this motion to raise objection to the sentencing of LIU Xiaobo, asking for this immediate release from the Central Government, should this, regardless of the angle from which it is viewed, be regarded as a form of intervention in the domestic affairs of Hong Kong?

The successful implementation of "one country, two systems" actually relies on mutual tolerance. It is regrettable that some people in Hong Kong have always interpreted the Mainland situation with a "great Hong Kong" mentality. They consider Hong Kong as superior to the Mainland in respect of legal, economic and social systems. Habitually, they would try to understand Mainland matters from their angles and viewpoints, lavishing on them their criticisms and even accusations. Frankly speaking, such behaviour is imposing their own viewpoints upon others and such attitude is actually in itself some kind of dictatorial and overbearing mentality. To acquire mutual tolerance, we should have the understanding that every place has its unique historical development. This is precisely the reason why places have different political, legal, economic and social systems, and we must respect such differences. Taking the sentencing and verdict of LIU Xiaobo as example, definitely we must not interpret this case merely from the perspective of our judicial system. Moreover, we must be aware of a fact, that is, the judicial systems in Hong Kong and the Mainland are completely different.

In the past 10 years, the Mainland has always handled Hong Kong matters in a tolerant manner. In spite of the fact that some Hong Kong people are still prejudiced against and hostile towards the Mainland, whenever Hong Kong encounter difficulties, the Mainland, especially the Central Government, will make the best efforts to offer us assistance in different areas and under different circumstances, particularly in respect of policies that are economically favourable to Hong Kong. Yet, as far as I can recall, this Council has never passed any

motion expressing thanks to the Central Government. On the contrary, from time to time, some Honourable colleagues would make use of undecided issues and propose motions that would embarrass the Central Government. Certainly, the Central Government presumably does not want to be repaid for all it did for Hong Kong in the past, but the acts of hostility shown by some Honourable colleagues may not only affect the relationship between Hong Kong and the Mainland, but also damage the "one country, two systems" principle, which will cause more harm than good to the long-term development of Hong Kong.

With these remarks, Deputy President, I oppose the motion.

MS EMILY LAU (in Cantonese): Deputy President, I speak on behalf of the Democratic Party to support the motion proposed by Mr Fred LI on the release of LIU Xiaobo.

National People's Congress (NPC) deputy Dr Raymond HO has said just now that we have the freedom of expression. We have the freedom because this is the state of affairs under the "one country, two systems" principle. Deputy President, LIU Xiaobo on the Mainland does not have this freedom that we now enjoy. We have not been arrested and sentenced to 11 years of imprisonment so far. However, we are not intervening in Mainland affairs, there are no national boundaries insofar as human rights are concerned, Deputy President. Thus, wherever incidents violating human rights occur, we should express our views, whether NPC deputies Deputy President, you are also a NPC deputy; thus, to me, I think that for things that we should express our views, we should do so right now and also in the future, and we will face up to the consequences.

Dr Raymond HO said Hong Kong people have a sense of superiority and so consider Hong Kong as better than the Mainland. Deputy President, have you read this book? The title of this book is *What else has ZHAO Ziyang said?* I am sure you have read it — I hope that you have read about the course he had taken for his reforms. This book is a compilation of the recordings taken by some old cadres of what he had said. One of them is DU Daozheng, the first Director of the General Administration of Press and Publications since the establishment of New China and he is now the publisher of the very influential publication *Yanhuang Chunqiu* on the Mainland. He related what ZHAO Ziyang had said. So, NPC deputy Dr Raymond HO should listen to what he had to say; perhaps he thinks that now ZHAO Ziyang did not have any more standing.

Deputy President, this is what DU Daozheng said: ZHAO Ziyang had given him a call on 6 January 1993 asking him to discuss the corrupt dealings within the party. As he has recorded, ZHAO Ziyang said: "In my opinion, the mode of political ruling in Hong Kong deserved our careful consideration. The political power of Hong Kong has all along been in the hands of the British and other people are not allowed to challenge this political power. However, the British Hong Kong Government has given considerable democracy and freedom to Hong Kong residents. The people have the right to watch over the officials of the British Hong Kong Government through political parties, the legislature, the judiciary and the tool of public opinion, and they can inform against and report on the misdemeanor of officials so as to reveal to the public their notorious conduct. As the residents watch over government officials, these officials have no way to engage in lawless activities." That was said in 1993, Deputy President, by ZHAO Ziyang. It is not only in this year that Hong Kong people think that there is something in Hong Kong that fares better, nor do they have any special sense of superiority. Deputy President, there are things which have been regarded as universal values, and they have been set down, no matter they are in Charter 08, the Universal Declaration of Human Rights or the Constitution of China, only that they are not available to Mainland people, Deputy President.

What offence has LIU Xiaobo actually committed? Mr Fred LI has said it just now, perhaps I can talk about it again. Let us look at the charges against him in the verdict. As stated in the verdict, (the defendant) has, due to his dissatisfaction with the people's democratic dictatorship state power system and socialist system of our country, since 2005, through various Internet web sites such as "Observe China" and the "BBC Chinese Net" published six articles. What had he published? He published articles such as "The Dictatorial Patriotism of the Chinese Communist Party", "Can it be that Only Party-Guided Democracy is Suitable for the Chinese People?", "Change the Political Regime by a Changing Society" and "The Many Faces of the Chinese Communist Dictatorship".

Deputy President, these are just articles of writing. What has he been accused of? He was accused of spreading rumours and libel. He said, "Since (What has LIU Xiaobo said? In fact, many of us very much agree with what he said, so let us all be arrested then.) Since the Communist Party took power, the top priority of Communist dictators throughout the generations has been the power in their hands and what they care the least about is human life"; he also said, "The official patriotism promoted by Chinese communist dictatorial

state power is an absurd theory which advocates a party to take the place of the state. The essence of this patriotism is in effect a call on the people to love the dictatorial government power, to love the dictatorial party, and to love the dictator. This is simply usurping the name of patriotism to bring in real terms calamity to the country and to the people."; and said, "All the means employed by the Chinese communists are plans of expediency to maintain the ultimate rule and interests of the dictators, but there is simply no way to support this edifice of their dictatorship for long since countless cracks have already appeared therein."

It is also stated in the verdict that LIU Xiaobo's conduct constitutes the crime of incitement. So, what has LIU Xiaobo written? He has written such things as "Change the Regime Through a Changing Society", and "For a free China to appear, the hope is far less likely to be realized by the 'new forces' of the rulers than hoping for it to come through the steady expansion of 'new forces' among the people." Deputy President, what happened afterwards? It is also stated in the verdict that "the defendant colluded with others to draft and concoct Charter 08." What did he propose? He proposed such views as "eliminating the monopoly of the exercise of political power by one party" and "creating a Chinese federal state under the framework of democratic constitutional system of governance", and such actions have sought to incite the overthrow of state power.

What did LIU Xiaobo do after that? He collected the signatures of over 300 people and sent Charter 08 together with the signatures in an e-mail to websites beyond the borders of Mainland China such as "Democratic China" and "The Independent Chinese PEN Association". Wow! He was then sentenced to 11 years of imprisonment for this. If similar cases in Hong Kong are handled in that way, I believe millions of people would be arrested, Deputy President.

Hence, do you think that is terrible and shameful? Why should the Legislative Council refrain from discussing the matter, Deputy President? Why should we not have discussions? I believe all Chinese people with a conscience and a sense of shame, or even just anybody with a sense of shame, should regard the way in which the matter was handled as bitterly disappointing.

For this reason, I hope the Chinese Government would release LIU Xiaobo without delay, and I also hope that the international community would continue to stand up together and call for the release of LIU Xiaobo by the Chinese Government.

MR CHEUNG KWOK-CHE (in Cantonese): Deputy President, after LIU Xiaobo was heavily sentenced to 11 years of imprisonment for inciting subversion of state power on Christmas Day, a 20-year-old Hong Kong student studying at the Chongqing Southwest University of Political Science and Law put up big-character posters within the campus and expressed support for Charter 08. This student had great expectation of China and he thought that, under the leadership of the Chinese Communist Party, our country would become powerful and prosperous, and would make progress. Therefore, he pursued university study on the Mainland and studied law subjects there in the hope of making contributions to our country.

However, this student has already discovered after living on the Mainland for a few months that there is a big difference between his ideal and the reality. On the campus, news has been blocked and the truth distorted. His schoolmates have very little knowledge about reactionary information. Finally, this student made up his mind to enlighten them and put up big-character posters within the campus to enable all students to understand what Charter 08 is about, so as to better understand the social reality.

At a time when all people in the world, or just a 20-year-old young man on the Mainland, courageously pursue such universal values as freedom, equality and human rights without fear of being arrested, can we Chinese people in Hong Kong pretend not to see or not to hear? I think all of us present would like China to become powerful, but, while China is growing strong, it is also expected that the 1.3 billion Chinese people in the country would be able to enjoy basic human rights and live in a society that genuinely upholds the rule of law and that need not always be on tenterhooks.

Let us take a look at Charter 08 drafted by LIU Xiaobo. The whole piece contains around 4 000 words and the Preamble is about history and criticisms about the current political situation after the establishment of New China. Only the two succeeding chapters elaborate on universal values such as human rights, equality and democracy. After that, some basic standpoints are put forward including that the Chinese government should maintain the separation and balance of power, that public institutions should be used for the public, and that there should be freedom of assembly, freedom of expression and freedom of religion, and so on. In terms of either wordings or arguments, Charter 08 is not only pertinent, but also very mild and without any element of violence at all.

More importantly, as people from the outside have commented, the basic standpoints that Charter 08 put forward can also be found in the Universal Declaration of Human Rights and some are even specified in the Constitution of the People's Republic of China. The basic standpoints put forward in Charter 08 seek to request the Government to act according to the Constitution. What offence does this constitute? So, it is baffling to learn that the court has given a judgment on the basis that the contents of the Charter are inciting subversion of state power.

Actually, besides Charter 08, I have also read a few other articles written by Mr LIU Xiaobo which were similarly being accused of inciting subversion of state power. The main content of these articles merely criticize people currently in authority, but they are words from the bottom of the heart of a writer who is concerned about the fate of the nation. If a patriot has made strong criticisms out of his deep love for his country, but was sentenced for inciting subversion of state power because of this, how unfair and miserable it is?

Furthermore, the incident makes people worry even more about the enactment of legislation to implement Article 23 of the Basic Law. In my opinion, after the outbreak of the LIU Xiaobo incident, Hong Kong people abhor such draconian legislation all the more, if articles that criticize and admonish are considered to be "inciting subversion of state power", and if such writers could be heavily sentenced to more than 10 years' imprisonment, we are worried that making appeals such as striving for universal suffrage and the abolition of functional constituencies will similarly be regarded as committing the offence of inciting subversion of state power.

If the Hong Kong Government and the Central Government fail to clarify offences such as treason, secession, sedition and theft of state secrets, so that Hong Kong people's worries could be allayed, I believe that it will be likely that the enactment of legislation to implement Article 23 of the Basic Law will again meet with strong objections from Hong Kong people.

The objective for LIU Xiaobo in drafting 08 Charter was to hope that China could become stronger and more democratic and that the people could live better lives. I hope that the SAR officials would truly reflect our appeal for the release of LIU Xiaobo to the Central Government. I also believe that every person in Hong Kong who supports democracy and freedom would be pleased to see his release.

Concerning the concept of human rights, I think LIU Xiaobo has correctly stated in the Charter that "Human rights are not bestowed by the state, but are rights that each person is born with and enjoys. To ensure human rights must be the foundation of the first objective of government and lawful public authority, and is also the inherent demand of 'putting people first'."

Deputy President, I so submit.

MR CHEUNG MAN-KWONG (in Cantonese): Deputy President, LIU Xiaobo drafted 08 Charter and was prosecuted for the offence of inciting subversion of state power. A scholar who engaged in political discussions was convicted because of the political views he expressed, and surprisingly, he was even heavily sentenced to 11 years of imprisonment; this is an unjust case of the century for a Chinese intellectual. When LIU Xiaobo complacently went to jail after the court had given a judgment, he expressed his hope that he would be the last person in China convicted for expressing political views. This is the hope of an intellectual, sober and petty, yet it reflects the darkness and humiliation in modern civilization which really breaks the heart of Chinese people.

In ancient times, there were cases when people were convicted because of the political views they expressed. Literary persecution by the feudal government in imperial times was exactly the same as conviction people for the political views expressed in modern China, and such incidents have never been stopped. For 60 years since the establishment of the People's Republic of China, China has never been civilized. Since the democratic movement in 1989, LIU Xiaobo has been imprisoned four times, and he is the most important prisoner of conscience in China. This time, the offence he has committed was that he had drafted 08 Charter, introducing the universal values of mankind and promoting China's development towards having a democratic constitutional government. He has also written six articles opposing the dictatorial governance by the Chinese Communist Party and pursuing a China of liberty. He expressed his political views by writing these articles, and had not participated in any revolution with bloodshed, but surprisingly, he was prosecuted for subversion and heavily sentenced to 11 years of imprisonment. Such actions taken by China have simply contributed to lawlessness, warranting great indignation from both men and gods. The imprisonment of LIU Xiaobo will not succeed in imprisoning the whole of China and the will of Chinese people.

Before the arrest of LIU Xiaobo, more than 10 000 people have signed 08 Charter. Many of them are still staying in China and none of them have withdrawn his signature after signing or betrayed their conscience. After LIU Xiaobo had been arrested, more than 1 000 people signed the Charter in Hong Kong; the Charter cannot be exterminated even by fire and it grows again with the breeze of democracy. Putting LIU Xiaobo in prison has aroused the indignation of people in China and Hong Kong. Hong Kong people with conscience continuously made protests. Some young people who signed 08 Charter forced their way across the border in support of LIU Xiaobo, and over 10 000 people joined a public procession to the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region on 1 January asking for the release of LIU Xiaobo.

Today, Mr Fred LI from the Democratic Party proposes in the Legislative Council a motion on releasing LIU Xiaobo. I would like to respond to Dr Raymond HO that this is not intervention but the responsibility of Chinese people and patriots. Under whatever judicial system, no people should be convicted because of the political views expressed and dissidents should not be imprisoned. Dr Raymond HO is a Hong Kong deputy to the National People's Congress, and he was originally selected to represent the people. But now he is stepping into the shoes of the authorities concerned and treated LIU Xiaobo in such a cold-blooded manner. He is defending the arbitrary manners of Chinese Government. He is whitewashing it and aiding and abetting the evil-doer, and the way he handled the matter is bitterly disappointing.

Today when the voices of Chinese people and the voices of those in support of LIU Xiaobo are suppressed, and when the dependents and friends of LIU Xiaobo are under close surveillance, only Hong Kong remains to be the conscience of China. The Legislative Council has to represent the will of Chinese people; this is the glory of Hong Kong and the misery of China, but not intervention at all. Chinese people will not remain silent forever. On the date when LIU Xiaobo was sentenced, some supporters, despite a chilling temperature of -7°C, put up fences outside the court and tied yellow ribbons there. They took the initiative to give themselves up to the police and face up to their responsibilities. And, a young person who graduated from De La Salle Secondary School in Sheung Shui in Hong Kong named FAN Chun-long boldly put up a banner in the campus of the Southwest University of Political Science and Law in Chongqing, on which it was written "Support 08 Charter, Solidarity in Support of Mr LIU Xiaobo". As reported, FAN Chun-long was a member of an affiliated body of the Democratic Alliance for the Betterment and Progress of

Hong Kong (DAB) and he criticized the democrats at a forum before. As he wrote in his blog, he cherished illusions about the Mainland before and had thought that our country would become powerful, prosperous and make progress under the leadership of the Communist Party. Nonetheless, after his arrival in Chongqing, he has really experienced the hardship on the Mainland of expressions being suppressed and thoughts being controlled. In respect of politics, it is marking time and has even gone backward. He no longer believes in a reform by the Communist Party, so at this juncture, he explicitly opposes dictatorship, one-party dictatorship and the suppression of human rights.

In fact, patriots certainly understand how FAN Chun-long developed such a mentality. The beauty of young people is that once they felt that they have been on the wrong track, they would become duty-bound and will not turn back in the pursuit of truth. FAN Chun-long initially supported the Communist Party but he later supported LIU Xiaobo, and the course that he moved past had been that taken by many of us when we were young. The April 5 Tiananmen Incident, the Beijing Spring and the June 4 Incident have genuinely awakened us to the fact that only democracy is the salvation for China. I am afraid that same as the motions in the past on the vindication of the June 4 incident, the motion today on releasing LIU Xiaobo may be negated. Yet, I still want to ask friends from the DAB and the pro-government camp: Do they really believe that LIU Xiaobo has committed the offence of inciting subversion of state power? Do they really believe that, as alleged in the verdict, 08 Charter is beyond the scope of freedom of speech? If they agree deep in their heart that the imprisonment of LIU Xiaobo is an unjust verdict, and the charge against 08 Charter is unwarranted, I implore them to leave this Chamber when it is time to vote and refrain from voting so as to allow this motion on releasing LIU Xiaobo to be passed as a gesture of silent support for LIU Xiaobo in prison and his wife LIU Xia.

Deputy President, with these remarks, I support Fred LI's motion asking for the release of LIU Xiaobo — a prisoner of conscience in China.

MR ALBERT HO (in Cantonese): Deputy President, having heard the remarks just made by an Honourable colleague, Dr Raymond HO, who is a National People's Congress deputy, I am shocked and agitated, and I feel ashamed being his colleague. He criticized the motion today, and in doing so, he has not only said that we are intervening in Mainland politics, but has also alleged that we consider our systems as superior and impose our values on the Mainland

Government and the people. In Hong Kong today, I think there are only two reasons for making these remarks: if it is not ignorance, then it would be shamelessness.

Why have I said that it is because of ignorance? 08 Charter and LIU Xiaobo's articles have only advocated universal values and human rights perspectives. These values, concepts and principles are consistent with the Universal Declaration of Human Rights of the United Nations proclaimed more than 60 years ago (as a member of the United Nations, China should recognize these concepts) and the International Covenant on Civil and Political Rights — already initialled by our country in 1998 but not confirmed so far — these are respectively solemn international declaration and convention. These concepts and values have been regarded as a matter of course in civilized regions and many international communities that have made progress. When people in other countries regard this as common sense; will anybody engage in arguments about them? When many of these concepts being advocated have already become a part of daily life and people have got used to them, will anybody still raise doubts? If a government or law enforcer violates these principles and concepts, he will immediately be severely renounced by all members of society. That is why a domineering government would fail to find a foothold in a civilized place or a place where the written text is well-developed.

To me, another reason for him to say so is shamelessness. About shamelessness, as we see today, the Mainland is subject to domineering governance and people's right of expression have been exploited. A year or so ago, 303 famous intellectuals risked losing a life of freedom and even endangering their lives just to express their penetrating views in fairness to the well-being and rights of the people, and for the progress and civilization of our country and our people; that was all they had wanted to do. We in Hong Kong need not pay such prices, yet, some people have aided and abetted the evil-doer in suppressing these intellectuals with conscience who spoke for the people. These people even called themselves representatives of the people and they receive salaries from the country and the Government, should they really feel ashamed?

Deputy President, the fact that LIU Xiaobo is heavily sentenced today humiliates the whole nation. However, this does not mean that our country is hopeless; on the contrary, he is exchanging his freedom for the hope of our nation. This 08 Charter incident carries historical significance for a few eras. First, it reveals that, even in the darkest era and under the most imperious

governance, there are still quite a few intellectual groups in our country who will determinedly stand up, throwing out their chests, keeping their backbones upright, and expressing their views in accordance with their conscience. Such words of conscience they expressed also represent the conscience of the nation and the spirit of not surrendering, not compromising and not giving up. Such spirit is deemed important for they will support the entire in its continual struggle for such values as democracy, freedom and human rights. These forces will not be wiped out and they will continue to grow stronger until the time when these ideals have been realized by our country. Over 300 intellectuals have symbolically signed the Charter, and with tens of thousands of people signing the Charter in the future, this will give expression to the fact that unity is strength.

Second, the 08 Charter campaign also displays a new mode of resistance. In other words, the people do not need to be organized; so long as there are established contacts, mutual trust, support and tolerance among them, they will be able to implement a conscience campaign.

Third, LIU Xiaobo has said in his book written in 2004 that the hope for democracy lies in the people. His articles have also elaborated that such a campaign will put immense pressure of resistance on the domineering political power, and press for the manifestation of such values as democracy and freedom. Do not expect the Government to handle these matters, for they have to be pressed before they could be manifested. This is the awareness he has brought to the civil society, and various sectors, intellectuals, professionals and the masses will again become united and integrated

DEPUTY PRESIDENT (in Cantonese): Your speaking time is up.

MR ALBERT HO (in Cantonese): until these values have yielded positive results.

MR PAUL TSE (in Cantonese): Deputy President, I admire LIU Xiaobo's articles very much and I also greatly appreciate those who courageously express their views and even work or speak for their ideals at the risk of sacrificing themselves.

I cannot possibly be compared to LIU Xiaobo, but, from my perspective as a man, the 10 most precious years in my life — from the time I was 40 years old I am going to turn 51 in a few days; within this period — I have spent a lot of time fighting for interests and ideals that I deemed necessary, including the strive for legal services for common people and the popularization and democratization of legal services. Moreover, I think that the legal profession should no longer be remote from the masses and reality and we should have more contacts with the public. I have paid some prices in performing certain acts that I considered as appropriate which alerted and drew the attention of many people. Nevertheless, some pro-government and more senior fellow lawyers considered such acts inappropriate. What is more, I received a treatment tantamount to imprisonment in my profession, for my legal practice licence was suspended for a year — though many people are still unaware that my legal practice licence has been reissued a year or so ago. Thus, I fully understand how a person feels when he has to make sacrifice and pay a price in resisting strong power, and to make a greater voice against the Establishment with only one person and a lone voice. I do not often cry but whenever I call to mind the time and money I sacrificed in exchange for so much misunderstanding, I cannot help asking if it is worthy of doing so. I also experienced moments of serious frustration.

Deputy President, I am "one thousand percent" supportive of the freedom of expression which is a core value in Hong Kong, and it is an act that all Honourable Members and all people regardless of age and background should be encouraged to perform and perform courageously.

Nonetheless, Deputy President, I often think that, when we do not quite understand how we should move on along this path, should we make reference to other institutional frameworks for inspiration and ideas? No matter whether they are right or wrong, as politics and law are similarly sourced and the political system and the rule of law system have similarities more often than not, they are worthy of mutual references. I am a freshman in the political arena, and this is the first time that I have a chance to express my views on these issues. But, I frequently ask myself one question: for a court of a lower level, for example, a judge in a district court, can he arbitrarily make criticisms in court and find fault with the judgment given by a court of a higher level? Can he even request a court of a higher level to make certain amendments or even admit its mistakes by means of a written judgment?

Outside the court, we can express our views very freely, sincerely and frankly; outside this Council, I am "one thousand percent" supportive of the

expression of personal views and I am absolutely willing to give financial or legal support if necessary. However, when we are a part of the institution — the Legislative Council established in accordance with Article 31 of the Constitution of the People's Republic of China. We are a part of the institution and an organizational structure. Is it appropriate for us to pass an official motion instead of expressing individual opinion of Members, and to criticize, within the institution, another institution surmounting us?

I do not have an answer. Yet, if you ask me — perhaps Dr Margaret NG has already put down an answer and she can advise how I should answer this question — I will only consider the matter from the perspective of court mechanism. I think I will have a lot of reservations and doubts, maybe we will have a more explicit answer one day, and I will be very pleased to accept it. Nonetheless, up to this moment, I am afraid that I will have reservations. As in the case of a branch company, after all, it cannot possibly denounce a decision made by the board of directors of the parent company through a resolution. Even though individual directors have many criticisms and reservations about the strategic decisions made by the head office, its administration and even the attitudes of individuals, after all there will be mechanisms under which they can convey the messages in appropriate ways. But, as a structure within the institution being supervised by the Constitution, I am afraid that, in respect of certain matters, we will be unable to do what we really want to and we must exercise a little self-restraint.

Deputy President, not only individual officials, but even people with distinct Chinese background, if they say something outside the institution, we may not find pleasant to the ear. If a Chinese representative or official, assuming that he criticizes within his institution the judgments of Hong Kong courts, for example, he thinks that the sentence for unlicensed broadcast is not heavy enough and 10 years' imprisonment should be given, what will we think? In my opinion, this is a river water and well water issue. We should understand that all our acts may have opposite results, and the other party may also give responses. I think that, before we have comprehensively considered all consequences, it is absolutely inappropriate for us as a part of the institution to pass any motions, thereby damaging and even jeopardizing our independence and autonomy.

Thank you, Deputy President.

DR MARGARET NG (in Cantonese): Deputy President, I speak to support Mr Fred LI's motion.

Deputy President, in Hong Kong, our freedom of speech is protected. Those who are under such protection should voice out for those who are not. As mentioned by Dr Raymond HO just now, he considers that we should not make a sound because once we do so, it is already regarded as a kind of interference and dictatorship. I really find it hard to subscribe to his views.

(THE PRESIDENT resumed the Chair)

Mr Paul TSE has mentioned in his speech just now that he cherished great hesitation as to whether the Legislative Council should criticize some practices of the Mainland. Although such thinking is similar to that of Dr Raymond HO, his speech is, after all, relatively mild. He has only raised a doubt. Of course, I am not qualified to instruct what other Honourable Members should do. However, in my opinion, Members should be allowed to put forth their views on certain matters of public concern in this Chamber.

As mentioned by Dr Raymond HO just now, the judicial system of Hong Kong is different from that of the Mainland. How on earth can we pass any criticism? Of course, the laws of the two places are different, and their legal systems are not the same, either. However, there are some common values. Is the ruling fair and righteous? Have human rights be safeguarded? Is the judgment made by the court fair? Is the legal system just? I think the whole world is using the same yardstick for measurement.

President, I have humbly viewed the judgment made by the court in the Mainland on LIU Xiaobo. On 26 December, that is, the next day after LIU Xiaobo was sentenced, *Ming Pao* published, in one full page the full text of the judgment made by the court as well as the extract of the paragraphs of LIU Xiaobo's articles which were being challenged. I read it very carefully and view the judgment made by the Mainland without using the yardstick of the laws in Hong Kong. What I wish to say is that, what has the writer done, rendering him conviction of such offence? And what on earth are the justifications held by the court in the Mainland?

President, I have read the whole judgment carefully. What is the accusation in the first part? We can see that the content of the defence is in fact very simple, there is no attempt to deny the fact that LIU Xiaobo has written those articles or uploaded them onto the Internet. It is only stated that LIU Xiaobo has released those articles to exercise his constitutional rights of freedom of speech. It is pointed out that such commentary has not incited to subvert state power. Let us take a second look at the judgment made by the court. What is it mainly about? A conclusion is drawn in details. It is substantiated that those articles have been published and uploaded onto the Internet. In other words, the judgment has talked at great lengths about something which is absolutely irrefutable.

I think all of us would wish to know why publication of such articles renders him commission of the offence of vilifying, slandering, inciting and subverting state power. However, the judgment has not mentioned it at all. It is only stated that such mode of publishing articles is a kind of slandering and inciting others to subvert our country's state power and socialism. Such acts have constituted — have already constituted — the offence of inciting to subvert state power. Therefore, no explanation has been provided to expound why his response is not substantiated. What are the reasons for that? And how has he violated the freedom conferred under the constitutional system? Why those acts have already constituted the offence of inciting to subvert state power? Not a single word has been mentioned in the judgment.

Therefore, President, we think that such judgment has failed to convince us. Putting aside the rule of law in the Mainland, even in the court of Hong Kong, if the judge fails to provide any justification in the judgment, we will not consider that it has realized the requirement of the rule of law. The court should have justifications in making its judgments. Based on such justifications, we will then be able to determine for ourselves whether the judgment made by the court is fair or not.

President, at the end of this month, the University of Hong Kong will organize a seminar, *The Trial of LIU Xiaobo and Beyond*, to discuss whether such trial and judgment are accurate. In fact, the seminar considers that it is not stated specifically in the judgment on what acts of LIU Xiaobo have constituted the offence of inciting to subvert state power. Nor has the court provided any concrete justifications in its judgment to substantiate that his comments have exceeded the scope covered by the freedom of speech. Some people argue that

releasing his articles on the Internet has constituted an offence for they are accessible by many people. However, if his comments have not exceeded the scope covered by the freedom of speech, even they are uploaded onto the Internet, such an act, which have not constituted any offence in itself, should in no way be regarded as an act of offence.

Therefore, President, it is in fact reasonable, a few years ago, for us to find the legislation of Article 23 of the Basic Law so sensitive. As the demarcation of inciting to subvert state power in the Mainland is still so vague and conviction can easily be made, it is really hard for Hong Kong people to have the confidence to follow Macao in endorsing the legislation of Article 23 of the Basic Law.

President, the last thing I wish to say today is that we should not only support the spirit of LIU Xiaobo, but should also take a look at what he has said. I fully support the way that *Ming Pao* has acted, which enables us to read the relevant paragraphs of the judgment and his articles immediately.

Thank you, President.

MR WONG SING-CHI (in Cantonese): President, LIU Xiaobo has been arrested and put in jail. As such, Mr CHAN Kam-lam from the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) should also be arrested and put in jail. It is because Members from the DAB will propose a motion on the thinking of Confucianism later on. To a large extent, Confucianism is in fact more or less the same as the basic concepts put forth by LIU Xiaobo. Let me make some analysis with you here. The basic concepts put forth by LIU Xiaobo in the 08 Charter are, firstly, freedom, which is the core existence of the common values; secondly, human rights, which is not provided by the state but is the endowed rights of each individual by birth; thirdly, equality, meaning that everyone is the same and should be free and equal regardless of one's status, occupation or other matters; fourthly, harmony, the essence of which states that everyone should live together peacefully without any dictatorship and that no one should possess more power than others without reason; and fifthly, democracy, which means that sovereignty should be in the hand of people and the elected government, *inter alia*, respect should be given to the decision made by the majority, so that we can really enjoy the right of election.

The Confucian thinking of "filial piety, brotherly love, loyalty, truthfulness, propriety, righteousness, integrity and shamefulness" is one part. But the most important one is conscience. What has mentioned in the 08 Charter by LIU Xiaobo are some concepts recognized by all of us. But why will he be sentenced to jail? Members from the DAB have not mentioned one single word about this, yet they dare to talk about the philosophical ideas of Confucianism. Where does their conscience lie? Obviously, they fail to differentiate between what is right and what is wrong. Regarding today's motion, we hope each Honourable colleague can discuss with their conscience the offence that LIU Xiaobo has committed, which rendered him the imprisonment sentence to jail. If not, how can these Members face the next generation, saying categorically that we should teach the next generation Confucianism. I wonder how are they able to acquire such an ability.

Confucianism also stresses the thinking of democracy. Xunzi said in *the Wang Zhi*, "The monarch is just like a boat while people are just like water. Water can carry a boat but can topple it as well". That is to say, the monarch is supposed to sail on a boat, once people find his performance unsatisfactory, they can overthrow his regime through the power of the people. Of course, we can now overthrow a regime through a democratic constitutional system. It is not a big deal, is it? The democracy mentioned by LIU Xiaobo is talking about these concepts. When the performance of the government is unsatisfactory, people can propose to amend the constitution, making amendments to some policies to bring about a change of government. Is there anything wrong? Confucianism is simply talking about this. But surprisingly, he was still being arrested.

Among the theories in the western society, the Social Contract of Jean-Jacques ROUSSEAU can also be found in Confucianism. That is to say, if you are the government, you should "ensure that supremacy is in the hand of the populace" in order to "enjoy your decree of fate". As advocated by Mengzi, "the populace comes before the monarch", meaning that the nation and the government are of a lower priority whilst the people are of paramount importance. This is the concept of democracy, public opinion and the public's rights, which has also been mentioned in Confucianism. Why would he be arrested for it? Obviously, LIU Xiaobo has mentioned it in the 08 Charter. One of the chapters in *the Mencius* also mentioned, "When the people all say that this is a man of talents and virtue, then examine into the case; when the people all say that this man will not do, then examine into the case". No matter the

government is right or wrong and whether there are praises or objections from the public, the government and the nation should, in fact, give some thoughts and conduct examination into it again. It should not be the case that "When the people all say that this is a man of talents and virtue, then examine into the case; when the people all say that this man will not do, then 'arrest' him" — and now, the people all say that man will not do, and LIU was arrested as a result. That is to say, as LIU Xiaobo has pointed out the demerits of the government and proposed the amendments it should make, he was arrested as a result. This point is stated very clearly in Confucianism. Why do Members from the DAB refrain from mentioning it at all? When they advocate the philosophical ideas of Confucianism, why do they refrain from talking about these things?

When mentioning the development of democracy in China, many people would stress that we should, first of all, address the people's livelihood. The people's livelihood should of course be addressed, but Confucius mentioned in *the Virtue*, "The filial piety nowadays means the support of one's parents. But dogs and horses likewise are able to do something in the way of support; without reverence, how can we differentiate one from the other?" When we mention support, we have to provide food, no matter whether they are horses, cows, pigs, humans or the elderly. However, there should be reverence, meaning that we should respect that human beings should have human rights. If we do not accord due respect to human rights, does this share any similarity in raising dogs and horses? Therefore, not only the people's livelihood should be addressed, we should, after all, accord respect to our human rights, so that people can survive in society with dignity and humanity. Safeguarding the freedom of speech and listening to public opinion are what state leaders should do, but how come LIU Xiaobo has been arrested for putting forth such ideas?

As mentioned in *the Commonwealth of Great Unity*, "While the perfect order called the Great Dao prevails, the world is like a commonwealth shared by all". A "commonwealth" is a society shared by all, and it is only through such a concept that the democratic system can rival dictatorship. When everyone goes through thick and thin together in the nation, this will become a commonwealth shared by all, but such is not a Party's world. Therefore, there is no big deal for us to criticize the Communist Party, right? Under such circumstances, what is the rationale for arresting LIU Xiaobo? As advocated by Confucianism, "Virtuous and worthy people should be elected and the maxim of living is to foster harmony and trust among all people". We should elect those virtuous and

worthy people, rather than being so casual and perfunctory as to allow those already in power to be our leaders. These are things that should exist in a democratic society, why should he be arrested?

Therefore, President, in this motion, we insist on releasing LIU Xiaobo, otherwise, our Members from the democratic camp should all be arrested, and even Mr CHAN Kam-lam who is going to propose the ideas of Confucianism should also be arrested. If not so, all of us should not be convicted of an offence for putting forth our views. As a matter of fact, what LIU Xiaobo has mentioned is what we have been advocating and granting respect in society nowadays. Thank you, President.

MS CYD HO (in Cantonese): The freedom of expression is an essential element in monitoring the governance of the Government. The media does not have any substantive power, it only informs the public of the facts, the data and the moral judgment of individuals, and then leaves it to the public to decide whether or not they agree with those views. Indeed, the freedom of expression does not have power in its own right. Many views expressed are frivolous, which only makes a mockery of the persons concerned. What makes the freedom of expression an eyesore for dictatorial governments is the recognition of the right from wrong as triggered by the opinions expressed, and the moral force originated from such recognition. These are the reasons that have caused sleeplessness and unrest to dictatorial governments, which have done wrong and bad deeds and opposed the people. As a result, draconian laws are enacted to initiate prosecutions against expressions and thoughts.

A heavy sentence of 11 years of imprisonment has been imposed on LIU Xiaobo. This rightly demonstrates how an intellectual who expresses his opinions in good conscience has to suffer severe penalty. The verdict handed down by the Beijing Municipal Intermediate People's Court No. 1 on 25 December 2009 has clearly revealed to us that the new China is still practising unjust governance in practising literary inquisition as that in the age of monarchy.

The verdict imposed the charges against LIU Xiaobo. Ms Emily LAU has read out some of the articles quoted earlier, I will not repeat. However, in summary, it states that "LIU Xiaobo, due to his dissatisfaction with the political and socialist system of our country's people's democratic dictatorship" has

published inciting articles on the Internet a number of articles. The verdict states that those articles creates "rumours and slanders" and concludes that this is "an attempt to incite the subversion of the current state power".

President, this poor intellectual has only a number of computers and has merely written six articles and the 08 Charter, publishing it through the Internet. Which of his acts has undermined the personal safety of anyone? Which of his acts has caused damage to the property of anyone? The verdict gives no mention of these at all.

What is the final wording of the verdict? It states that "defendant LIU Xiaobo, with the intention of overthrowing the state power and socialist system of our country's people's democratic dictatorship, to slander and incite others to overthrow China's state power and socialist system the crimes were committed over a long period of time, and the subjective malice was immense, exceeded the freedom of speech category and constitute criminal offence."⁽¹⁾

President, I believe that what LIU Xiaobo finds unsatisfactory is not socialism but black society-ism. At present, the State pays full attention to economic development, where GDP becomes the basis for governance. Actually, the State is taking the lead to erode socialism. Under the influence of the enormous corruption network resulted from the collusion between the Government and businessmen, and the practice of influential forces protecting each other, socialism has been turned into black society-ism.

Among the six articles published by LIU Xiaobo, one of them is highly worthy of discussion, which is, "Further Questions about Child Slavery in China's Kilns," (《對黑窯童奴案的繼續追問》). Let me provide some background of the case. Many children were abducted by unscrupulous merchants. The children of about 400 families disappeared from home and they were eventually found in a brick factory that exploited child slavery. When the case was revealed, it caused a tremendous public outcry. However, despite the revelation of the case, no specific effort had been made to follow up the case, nor had findings about the case been released. LIU Xiaobo wrote the above article out of the concern for protecting those children and preventing the break-up of these families. He raised five further questions to the local officials and officials of

(1) Extracted from the translation of the verdict by the Human Rights In China: <<http://www.hrichina.org/public/contents/press?revision%5fid=172717&item%5fid=172713>>

the Central Authorities, asking them why the culprits of these cases on the abduction of children had not yet been identified for such a long time. These questions have in fact sought to exert pressure on unscrupulous businessmen and charging the collusion between the Government and businessmen for the tragedy in causing harm to children and in breaking up families.

In Hong Kong, many Members are occasionally invited by the Hong Kong Committee on Children's Rights to attend certain insignificant photo-taking activities to promote children's rights in Hong Kong and protect the interests of children. I urge those Members who have participated in those photo-taking activities to vote for this motion today, to support the motion and this article written by LIU Xiaobo for the protection of children's rights, and oppose the verdict of the People's Court stating that the article constitutes an incitement to overthrow state power. If those Members who have participated in activities promoting the protection of children's rights vote against the motion today, I would say that they are not eligible to take part in these activities on the protection of children's right in future, for they are hypocrites.

President, actually, unjust situations are still existing in China today. For instance, "nail households", meaning those residents whose houses and land are confiscated by illegal and illicit means employed by unscrupulous businessmen and the government, have come to Hong Kong to seek justice as they think there is no freedom of expression in the Mainland. Hence, it is evident that the freedom of expression in Hong Kong is of extreme importance to both Hong Kong and China. If there is no democracy in China, it will be difficult for democracy to be established in Hong Kong, but if there is no freedom of expression in Hong Kong, that same road in China will be even harder, for remarks expressed by people in good conscience can hardly be shared openly. Hence, President, we are left with no choice but to continue defending the freedom of expression in Hong Kong and China, and demand the release of LIU Xiaobo.

MR LEUNG YIU-CHUNG (in Cantonese): President, the motion today has nothing to do with "well water intruding upon river water", for we are speaking out for justice and human rights. Irrespective of the place where the LIU Xiaobo incident occurred, be it in Mainland China, Taiwan, Macao or even other overseas countries, I think we will speak out all the same, for we have to speak for justice and with our conscience. LIU Xiaobo has only written six articles

and initiated the 08 Charter, and has already been given a fixed-term sentence of 11 years. This practice rightly reflects the tyrannical and uncivilized approach adopted by the Chinese Government in initiating prosecution against expressions. We can establish the link that the incessant self-commendations made by the Chinese Government in the past for its active support of the Universal Declaration of Human Rights are after all whopping great lies. On the contrary, it continues to infringe on human rights to a serious extent. I believe that a vast majority of the people of Hong Kong and the people in Mainland China share my view that LIU Xiaobo is innocent, and LIU Xiaobo is only doing what a Chinese national is entitled to do, that is exercising the right to freedom of expression and freedom of thought. Today, the Chinese Government says that it agrees with certain practices adopted in the international community, but I do not see the respect it accords to human rights. This is particularly so as shown in the verdict on LIU Xiaobo handed down by China. I can see no legal backing in the verdict, on the contrary, it rejects all reasoning, laws and the principle of justice. Such an approach will in no way convincing to the people.

President, I fervently support the release of LIU Xiaobo. More so, I urge the Chinese Government to release all human rights activists and dissents, including the human rights activist HU Jia, the blind human rights activist CHEN Guangcheng, and HUANG Qi and TAN Zuoren, who have uncovered problems related to schools collapsed in the Sichuan earthquake, for they are a group who reflected the conscience of China. Why should we hold back from speaking for them? Surely, we know that the Chinese Government will turn a blind eye to the motion debate today, as well as the voting results on the motion. But still, I think we have to speak up and speak our conscience, for this is a way to continue monitoring the human rights condition in China. Since the people on the Mainland cannot enjoy basic human rights and freedom, if we, being a member of the Chinese nation, do not speak up and monitor the situation, are we being faithful to our conscience? Besides, the human rights condition in Mainland China is closely related to the human rights, freedom and democracy in Hong Kong.

Actually, in recent years, the Chinese Government has restricted the freedom enjoyed by the people on the Mainland and cracked down hard on human rights activists, and the situation is worsening. The LIU Xiaobo incident is absolutely not an isolated case. Members should have sensed that in the past year, on the premise of maintaining stability, the Chinese Government kept tightening its control and surveillance over the civil society and the monitoring on

grass-roots community and streets. At the same time, it took prompt actions to tighten its control of the Internet. All these indicate that the Chinese Government is being troubled by its guilty conscience increasingly. Ironically, President, in recent years, the Chinese Government has been emphasizing that China is going global, and will emerge as a so-called great nation, but if this is really the case, why will it be apprehensive at heart as it grows powerful? If it does not have the courage to listen to the voices of the public, how can it give people the impression that it will grow into a great international nation? All information indicates that the Chinese Government's overwhelming emphasis on stability at present is in actuality a tactic to suppress its people by high-handed, tyrannical and uncivilized approaches, for when even an intellectual like LIU Xiaobo has to face such treatment, all these examples have revealed the actual state very clearly.

Hence, we can tolerate this no more today. For tolerating any of such illegal acts means condoning them. Last month, at the tenth anniversary of the reunification of Macao, HU Jintao has even said that the concept of "one country, two systems" worked extremely well in Macao, implying that the implementation of Article 23 by legislation in Macao could better carry out the constitution of China. Regrettably, such remarks were suggesting that Hong Kong was apparently lagging behind, and told the SAR Government to gather its pace. It is evident that the so-called overriding opinion of one country will be allowed to penetrate Hong Kong gradually. If we do not defend the fundamental rights of the people on the Mainland today, it means that we would not be courageous enough to speak up when the rights of Hong Kong are being threatened, and such a situation will only deteriorate. Hence, I believe the people of Hong Kong can no longer turn a blind eye to this. Today, we should not be fearful of criticizing the Beijing Government. On the contrary, we should open up our chest and come forward to tell the Chinese Government that these are our basic human rights, and we should not and cannot tolerate the continuous infringement on these rights. As long as we can do so, we should use every effort to fulfil this obligation of monitoring the situation and express our deep dissatisfaction, so that the Government understands that the opinions of the people are of utmost importance. We cannot condone the authorities in their continuation with such practices.

President, I so submit.

MR WONG YUK-MAN (in Putonghua): President, the title of my speech today is: "Paying tribute to all Chinese who have not lost their conscience!"

On Christmas day, a festive season sharing the love of Jesus Christ regardless of religion, LIU Xiaobo was given a heavy sentence. The Chinese communist regime must be delighted about its act. It must be thinking that since those overseas powers, which "incessantly desire to overthrow it", have made irresponsible remarks on the case of LIU Xiaobo, it might as well choose to hand down the sentence in this joyful festival of these foreigners, so as to manifest the rule of law of a great nation rising to power in its own style. Perhaps, they do not know that such perverse acts would only add another connotation to Christmas. In future, when Chinese wish each other "Merry Christmas", they will recall that an intellectual who is concerned about the fate of the country and its people has been sentenced by the totalitarian regime in China on that day and being put in the dark political prison for expressing his views.

In China, literary inquisition is nothing new. In the past, Emperor QIN imposed the cruel punishment of having their corpses exposed for people who had conducted private talks on streets. Over the various dynasties, though the expression of words would result in imprisonment, a lot of intellectuals had risked their lives to voice their opinions. Despite the fall of the feudalistic regimes, history continues to repeat itself. WEN Yiduo, who was assassinated by the secret agents of Kuomintang, wrote an article titled "The Last Lecture" (《最後一次演講》) in 1946. In the article, he said, "What offence has Mr LI committed to warrant such a fatal treatment? He has just used his pen to write articles and his mouth to voice his opinions. Besides, what he writes and says are after all the opinions that should be written by a Chinese who has not lost his conscience! We all have a pen and a mouth. What are the reasons for doing so? Speak up! What are the facts? Speak up! Why do they dare to beat up and murder but dare not do it openly and overtly, why do they have to act so stealthily and resort to assassination? How ridiculous? I ask myself what these shameless creatures are thinking, what kind of psychological state are they in, and do they have a heart? The answer is simple. They created horror in such a lunatic manner for they are in horror themselves! They are scared! So they inflict horror, for they themselves are filled with horror!"

The Chinese communist regime today, like the Kuomintang at that time, is filled with panic and horror.

Sixteen years ago, I wrote in a regular column of *The Express News* about the imprisonment of XI Yang, a reporter of *Ming Pao Daily News*, on the Mainland. Today, I have found the remarks therein still fresh enough. I wrote, "The communist party has ruled China for more than 40 years, all along it has been resorting to deceiving and terrorized tactics, imprisonment and death sentences to maintain its rule. In the past, the Communist Party managed to mobilize its people to follow it blindly with its lofty ideology. The force to strive for democracy had thus been tied down by military power and the preaching in the "Bible" of Karl MARX, Vladimir LENIN and MAO Zedong. However, to date, the ideology of communism has already collapsed. The only weapon that the Communist Party can resort to is violence — a primitive means for ruling. When a political power fails to achieve its aim even by using deceiving tactics and has to rely solely on stark violence, it is bringing itself closer to the brink of fall whenever it resorts to violence."

President, on Christmas day, a festive season sharing the love of Jesus Christ regardless of religion, LIU Xiaobo was imposed a heavy sentence. I would like to quote an article in a leaflet titled "Preaching the gospel to Premier WEN Jiabao" written by WANG Yi, a preacher of a Mainland family church, in support of LIU Xiaobo. Two paragraphs in the article state, "Though what you have done is in no way comparable to that of LIU Xiaobo, in my view, Mr LIU represents the conscience of our nation, an intellectual whom I respect. And you are but a poor politician with aspirations being trapped in sin and greed, unable to gain your own release. The moral conscience you display on television in front of the people only manifests that you are all the more incapable, filthy and shameless in comparison with Mr LIU. Though I am a preacher and I am willing to forgive you out of the love of Jesus Christ and to pray for you, I have to admit that it is so difficult to love you the same way I love Mr LIU. But, sincerely, I have to tell you that Jesus Christ loves your soul as much as that of Mr LIU. Mr LIU is a victim, given the harm he has suffered, he can hardly believe in grace. But you, as the one inflicting the harm, too cannot believe in grace, for you have hurt too many people. But in Christ, Premier WEN, the Lord is willing to hold you both in His arms. The Lord has sacrificed Himself.

This is my creed. On the foundation of this creed, Premier WEN, I plead with you to release Mr LIU Xiaobo in fulfilment of your unshirkable obligations in front of the Lord, the Constitution and the people. Before his release, you are still requested to do your level best to treat him with humanity and dignity. In the name of Jesus Christ, I call upon you to repent, stop inflicting harm and

depriving the rights and dignity of your people in terms of their thoughts, expression of opinions, religion and human dignity. Only true repentance alone can bring you to the true gospel."

On the one hand, we have to pay the most respectful tribute to benevolent and upright men like LIU Xiaobo, TAN Zuoren and HU Jia, for they risk their lives to act with benevolence and fight for justice unswervingly. On the other hand, we have to pay homage to the Chinese in Hong Kong who have not lost their conscience and have come forward in support of people like LIU Xiaobo to uphold righteousness and justice, for they have the courage to hold fast to moral justice. To respond to the aspirations of our compatriots on the Mainland, we in a relatively free realm have to demand for the release of LIU Xiaobo and all political dissidents imprisoned for the expression of their views. This is to declare to the world that Hong Kong is the last hope for China in achieving incorruptible politics.

With these remarks, I support the motion.

MR LEE WING-TAT (in Cantonese): President, I speak in support of Mr Fred LI's motion. In Hong Kong, we still enjoy the freedom of expression. Surely, even if this motion is passed, it does not mean that the Chinese Government will release LIU Xiaobo. However, man does not only live to eat, sleep and find pleasure, he still has to have his principles. One of the principles is to differentiate right from wrong. The request we now put forth is close to our bottomline. Even if we can put aside the subjects of democracy, freedom and the rule of law, when it comes to right and wrong, should we not make a differentiation?

LIU Xiaobo is an intellectual, but he has been imposed a heavy sentence only because of his expression about the development of his country. On the night when the verdict was given, I happened to be having a dinner gathering with my university schoolmates. One of my friends, whom I have known for several decades, told me for the first time his highly impassioned remarks. He said that China was hopeless. I told him that we did not consider China hopeless, only that the Chinese Communist Party was hopeless. He meant to say that though he seldom took part in politics, when he saw the Chinese Government imposing a sentence of 11-year imprisonment on a person who had merely written a few articles, he was completely dumb-founded. However, I told him that superficially, the Chinese Government has imposed a heavy

sentence on LIU Xiaobo, an intellectual who has only written a few articles general in nature, it has reflected a problem. If a military force in control of the government machinery, which is in possession of 50 million to 60 million party members and governing power that can hardly be challenged, still has to impose a heavy sentence on an intellectual who has only written several articles, it is evident that this Government is weak and fearful. So, this will go down in history. It will be remembered in history that on 25 December 2009, LIU Xiaobo was sentenced for giving the right comments. It can also be put this way, if the Chinese Government fails to carry out reform and to respect human rights and freedom, this Government is in fact working against the people, and it cannot remain in such a position forever.

I wonder find it hardly comprehensible that a government which always claims to be a strong one in the international community would impose a heavy sentence of 11 years on a vulnerable intellectual just for the several articles he has written. Actually, it only reflects that the Government is weak and fearful. Though it has the weapons to suppress its people, it fails to act benevolently to win over its people. We always preach that we should win people over by virtue, which means we have to persuade our enemies or people holding different views with reasonableness. If economic power, or even military force or the force of the so-called State weapon, is always used to intimidate its people to submission or to silent them, this nation can never be regarded as a powerful one. Hence, whenever people come to me and say that our mother country is powerful, I would raise objection.

The economy is strong, but for being powerful CHAN Kam-lam is not in this Chamber. According to the preaching of Confucius on benevolence and righteousness, if an organization or a nation can win everyone over with benevolence, righteousness and reasons, it will be most powerful. If only high-handed approaches are used, it is in fact not a powerful government and nation.

President, I have just finished reading a book about GAO Yaojie. Sometimes, reading these books will be heart rending and may bring you to tears. She is not talking about politics, and she just wants to bring up the problems found in her socialist mother country. She wants to reveal the story that many people, including the elderly and the newborn, have contracted AIDS through blood transfusion. When Dr GAO — Ms GAO — only intended to reveal the incident to the public in her own way, the State machinery immediately prohibited her from doing so. Consequently, more people, a lot of them are

children, have contracted AIDS because of the move taken by the Central Government, the Government of the Henan Province and the authorities of her village. Sometimes, I wonder if such actions are taken utterly without conscience and heartlessly. These people are not attempting to overthrow the Communist Party with violence, nor do they want to embarrass the Government, they only wish to protect the general public and the people from being infected by the disease.

At times, when I wake up in the middle of the night, I ask myself what we would do if we happen to know these people, and they may not necessarily be our relatives, but just someone we know. Does their revelation of these incidents or work tantamount to attempts to overthrow the leadership of the Communist Party? If we in Hong Kong do not differentiate the right from wrong, but only singing praise to wrongdoings, or trying to abdicate our responsibilities, we would have to ask ourselves honestly whether we are trying to facilitate the development of China or to do just the opposite. Thank you, President.

MR LEE CHEUK-YAN (in Cantonese): President, I think this Christmas Day is the saddest day in the year. In the past, when we watched movies, we would come across the Montage filming style. I recalled one impressive scene in the movie Godfather. President, in a scene depicting the baptism of a baby, brutal killings were taking place outside while the baby was being baptized inside the Church.

Actually, the decision of the Chinese Communist Party to hand down a heavy sentence on LIU Xiaobo on 25 December has definitely created a Montage effect. On that day, the whole world was counting down to celebrate this joyful day. But the Chinese Communist Party chose to pass a heavy sentence of 11 years imprisonment on LIU Xiaobo. For this reason, to us, 25 December is no longer a joyful day for celebrations. It is now a day that brings anger and sorrow. We are angry and sad because we are Chinese, because we see that our country does not even have the breadth of mind to accommodate a man like LIU Xiaobo. LIU Xiaobo has only written a few articles on the Internet, but he is arrested and imprisoned for 11 years. What kind of a country is this? LIU Xiaobo has only written a number of articles and initiated the 08 Charter, what offence has he committed? Today, the Chinese Communist Party imposes imprisonment on words, initiates unwarranted charges, initiate prosecution against expressions, and "spank its children behind closed door". In other words, China has regressed to the feudalistic system adopted in the past dynasties.

Hence, I think the heavy sentence imposed on LIU Xiaobo is, to many people I recalled that during the motion debate on the 4 June incident, many Members or external comments said that China had made progress. For those who have said China had made progress, shut up! What kind of progress has been achieved? China may have successfully launched the Shenzhou 7 and staged the Olympic Games with grandiose venues built, but the heavy sentence imposed on LIU Xiaobo brings to light that the state of civilization in China has absolutely made no progress.

How can it talk about the rise to power of a great nation? If it is truly a great nation rising to power, it will not only possess "hard power" but will also "soft power". Then it will be able to announce proudly in front of all mankind in the world that, "We are the most advanced nation in the world in terms of humanity and civilization." This is the nation we aspire for. A nation must make progress in its state of civilization before it can be called a great nation, and be known as a nation that enjoys equal status with other countries in the world today.

But regrettably, by now, I still cannot understand why this regime, which claims to be a great nation, will be so fearful that it cannot accommodate even the pen of a man? Many colleagues have read out part of the verdict earlier, but I think I have to read out all the content therein, for the verdict is really stimulating. However, I will have to read very quickly, lest that it will waste too much time. I quote to the effect that: "This court believes that defendant Liu Xiaobo, with the intention of overthrowing the state power and socialist system of our country's people's democratic dictatorship, used the Internet's features of rapid transmission of information, broad reach, great social influence, and high degree of public attention, as well as the method of writing and publishing articles on the Internet, to slander and incite others to overthrow China's state power and socialist system. His actions constitute the crime of incitement to subvert state power. Furthermore, the crimes were committed over a long period of time, and the subjective malice was immense. His articles were widely linked, reproduced, and browsed, spreading vile influence. He is an offender of major crimes and should be given severe punishment according to the law. The facts in the charge of inciting subversion of state power brought against Liu Xiaobo by the Beijing Municipal People's Procuratorate Branch No. 1 are clear and the evidence is reliable and ample; the criminal charge is well-established. Regarding defendant Liu Xiaobo's justification during the court hearing and the defense opinion issued by his defense counsel, the facts and evidence established through examination by this court hearing of the case have amply proved that Liu Xiaobo used the media features of the Internet and by means of publishing slanderous

articles online carried out activities that incited subversion of China's state power and socialist system. Liu Xiaobo's actions have obviously exceeded the freedom of speech category and constitute criminal offence."⁽²⁾

After reading the verdict, you should deem that the Internet should be the real culprit. Following this logic, there should not be freedom of information in this world, for the Internet as a whole From the beginning till the end of the verdict, the Internet is the subject. The act of downloading from the Internet is also an offence, and in that case, we are accomplices, for we download materials from the Internet everyday. How can such remarks be made? It is outrageous. This is really heart rending. Having read the verdict, I cannot help asking one question: How can this be a crime? How can this be regarded as committing the crime over a long period of time? I write a lot of articles everyday, so I have been committing the offence all along. President, how can this be the case? Really, I wonder why the country could come to such a state today. Why should it give such remarks? This really breaks our hearts. Now, it has even resorted to suppressive means to settle social conflicts. I see no prospect in this.

President, finally, I would like to pass some comments on my colleagues. In response to "NPC Deputy HO" — Raymond HO, who has spoken earlier, I now urge all those studying Engineering to hide yourselves away. See what a representative your functional constituency has elected, that is the one who dares to advocate toleration and respect for history in this case. Respect for history? Should we respect the feudalistic monarchy adopted in the past thousands of years? Should we respect Emperor Qin for burning books and burying intellectuals? Since you study Engineering, you make me feel shameful for studying Engineering like you. It is really an insult. I have never participated in the election of this constituency, so Priscilla LEUNG is also ridiculous, but I do not have the time to reproach her, so I will just leave it.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

MR LEUNG KWOK-HUNG (in Cantonese): President, what is the theme of the debate today? I heard Mr Paul TSE says that lower courts cannot alter the decisions of higher courts. I wonder what he is trying to get at.

(2) Extracted from the translation of the verdict by the Human Rights In China: <<http://www.hrichina.org/public/contents/press?revision%5fid=172717&item%5fid=172713>>

The present discussion is about the legislature. In any place where democracy and freedom exist, when the lower house of the parliament makes a resolution, it does not have to take into account the views of the whole parliament. Besides, the lower house has the right to submit petitions to the whole parliament. The rationale is simple. Only those who live under the regime of centralization will say that authorities under the National People's Congress (NPC) are not allowed to discuss an issue further once the NPC has given its comments. According to the Constitution of China, authorities under the NPC may make resolution in the light of their individual situation, only that they cannot force the NPC to implement such resolutions. The principle is just that simple.

The other Member is Dr Priscilla LEUNG. I heard what she says, and it is really a matter of great import. When she was interviewed by a reporter, she said the heavy sentence imposed this time should be attributable to the comments and support given by overseas countries. What she said may be a fact. But as an intellectual and an assistant professor of laws, she should have added the following remark — that the Government should not do so, for a government should uphold the independence of the rule of law. Had she added this last sentence, her remarks would have been perfect. In these days, those who try to curry favour with the dictators, most often than not, can but give some frail reasons without coming to any conclusion.

Conscience is of utmost importance to intellectuals. The characteristics of an intellectual are to have character and integrity. They should not speak of the obvious which even the average man knows, without daring to draw a conclusion of their own, and dare not present their views on universal value even though they have undergone intensive philosophical training. She has talked about these values in this Chamber at other times. But now, in the face of a true story in which the Government has blatantly violated universal values, exercised dictatorial rule and criminalized the expression of opinions, she dared not say whether the Government is right or wrong. It is in this way that the matter has become serious.

May I ask all Members present to answer one question: It is right or wrong for the Chinese Government to incriminate someone for expressing his views? Even during the discussion of the legislation on Article 23 in Hong Kong, the Johannesburg Principles have made it very clear. Has the act of LIU Xiaobo in writing articles and publishing them on the Internet put the state power under imminent threat? No, for those articles were published a long time ago.

The verdict stated that he had exerted extensive influence. But no one was seen purchasing ammunition, no one was seen staging demonstrations, people only come forward to sign. I too have signed the 08 Charter. Signatures in the size of mosquitoes are densely affixed therein, for too many people have signed the Charter. So, back to the Johannesburg Principles, will those people who have signed be detained for the reason that they have caused more people to add their signatures? Therefore, in the discussion today, we are not only speaking up for LIU Xiaobo and the people on the Mainland, we are also sounding the alarm for a return of Article 23.

It has now come to our knowledge that according to the understanding of the Chinese Communist Government, anyone giving a comment that is spreading rapidly will become a target for detention. But in what way does it constitute an incitement to subvert the state? According to the Johannesburg Principles, there is no such thing. For when the comment does not give rise to imminent incitement, the case is not justified. In other words, if I advocate to the public for an invasion of this place on Friday, I could be detained, for people will really charge towards this place on Friday, right? The principle is just that simple, how come a lawyer could be unaware of this. It will truly be miserable when it comes to the legislation on Article 23, for the case has been completely distorted.

What is the second argument? The Communist Party often makes self-proclaimed solemn undertakings, right? President, please listen to what I will now read out, it is a piece of writing published in the *Jiefang Daily* during the wartime in 1945. What was published at that time? "The Chinese Communist Party is always faithful to the undertakings made to the people. We always practice what we preach. Hence, every provision and every sentence laid down in its guiding principle would be fully realized. We definitely will not pay lip service to the protection of human rights, but will respect the lofty sentiments and aspirations for better development of mankind. We will adopt a lenient approach to those who have made mistakes but choose to return to brightness. The arrest, interrogation and punishment of any person without going through statutory procedures are prohibited. Regarding the freedom of speech, of publication, of assembly, of association, of conscience, of abode and of movement, they have long been safeguarded, and we will continue to gear towards this direction in future."

What else was also stated? "It is not adequate for the Government just to make explicit provisions to protect the democracy and freedom of the people. It is not adequate for public officers to only understand the need to protect

democracy and the freedom of the people. The people must treasure it themselves. For rights established only in the border area of the democratic base for resisting the Japanese force, we demand that such rights be properly protected in the border area and be promoted nation-wide. When people in general obtain the rights of democracy and freedom, it will not only become a material force, but will develop into an unconquerable force."

President, the 08 Charter complies with the principles laid down by the Communist Party, for it is said that not only you, or the public officers, should have such rights, but the people should also have such rights. That is the content of the 08 Charter. The various provisions therein inform the public of their constitutional rights. President, this is the photocopy of the verdict. Today, I will demonstrate how to disdain a verdict — by tearing it apart slowly, Mr Paul TSE, this is possible. I am tearing it apart, tearing the paper that records the Bastille prison of mankind. This is incrimination for views expressed — This reminds me of WEI Jingsheng, who was incriminated for his views expressed 30 years ago. Today, LIU Xiaobo is likewise incriminated for his views expressed. In 1979, WEI Jingsheng sacrificed himself for the democratic movement of China. In 2009, there was the recurrence of a sorrowful sacrifice, by LIU Xiaobo.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

DR PRISCILLA LEUNG (in Cantonese): President, the discussion today is on the case of LIU Xiaobo. Members may express their views, and I have been listening to them all along. Regarding past reports on this case, in which my remarks were quoted, first, I think the sentence is too heavy. Second, (Mr LEUNG Kwok-hung was talking) I hope that Mr LEUNG Kwok-hung can let me to explain it clearly. Second, it is about my mentioning of the involvement of overseas governments. I would like to take this opportunity to spend some time to explain it clearly. On that day, the reporter asked me: Since a lot of overseas governments and consular corps had voiced support, had a relatively lenient sentence been meted out in the case? I replied that according to my understanding, I did not think the sentence was lenient, for the sentence of 11 years' imprisonment was too heavy. The support voice by overseas governments has somehow been counter productive and I am not surprised about that. I did not say that the support of overseas government was directly related to the heavy

sentence. No one can tell. However, in response to the reporter's question about whether the sentence was lenient, I expressed my view that such an approach definitely could not help In other words, they will not get the expected result by voicing support, for this may not necessarily bring about positive effect.

What is the focus? In this connection, I perhaps have more experience than others. Honestly, regarding the practice of writing mitigation letters and mobilizing more members of the sector to render support, we have done a lot in the past two decades. Others may think that we have done nothing but making criticisms, but this is not the case. Actually, we kept a low profile when we did all this, for we considered that in this way the result would be better.

I have had some personal experience about this. Two years ago, I voice support for a friend in the professional sector. We lined up some 60 supporters, including experts from overseas and China. We collected all the views from experts, but it achieved the negative effect. Hence, regarding my remarks, I hope Though we have presented our own observations, many people may not want to lend us their ears. Concerning the approach adopted by overseas governments in voicing support, I would like to tender a piece of advice to Honourable Members. Back to the case mentioned earlier, the person involved went along with us. We did not seek support from governments but experts only, but what we did could not achieve any effect. Even though many people had voiced support, they failed to bring about any positive effect. We think that to the judicial sector in China, these supportive campaigns will only cause side-effects. I say this from my own experience.

I indeed know LIU Xiaobo. I have known him for many years. I will not say that we are close, but I know his stance and his development so far. I may not necessarily agree with his comments or certain personal views, but I very much respect him, for he is one of the minority He is willing to return to China while insisting on his opinions. Hence, when I stated my views, I did not mean to state whether or not the sentence was reasonable. Since Mr LEUNG Kwok-hung has given particular mention to this remark repeatedly today, I would like to say something about the incident and explain it further.

At the present stage, insofar as this incident is concerned, I think if Members really want to render some really effective support, they may have to cease using the existing approach. I can only say that if Members believe me —

very much like a doctor's advice that warns you of the further deterioration of your health when a certain diet is continued. You may not have to believe it, you may not have to like to hear it, and it does not matter. You may continue to adopt such an approach. However, we have been a few steps ahead, and we know that this approach definitely will not bring about the results you expected. Whether or not you listen to it, it is your decision, but we will use an alternative approach.

I have discussed this verdict in the judicial sector of China and on various occasions, and I think that the verdict has been written in a relatively lousy manner. We do not see many justifications presented therein, a point already raised by us. So, do not force others to follow your approach. According to our experience, the approach you adopted does not work, and may even bring about undesirable effects. But we have to respect each other. Though our approaches may be different, they may accomplish the same objective, only that views are presented in different manners. I hope Honourable colleagues will give due respect to this.

Today, the Legislative Council will vote on the judgment in respect of this incident, but I will not take part in it. I have expressed my opinions on open occasions, and I have presented my views to the judicial sector of China in private. However, on the platform of the Legislative Council, views are expressed by means of voting, which I personally consider an inappropriate approach, so I will not take part in the voting. I have made my decision clear here. Thank you, President.

MR ALBERT CHAN (in Cantonese): President, "China, as a great nation of the world, one of the five permanent members of the United Nations Security Council, and a member of the Human Rights Council, should contribute to peace for humankind and progress in human rights. But to people's regret, among the great nations of the world, China, alone, still clings to an authoritarian political way of life. As a result, it has caused an unbroken chain of human rights disasters and social crises, held back the development of the Chinese people, and hindered the progress of human civilization. This situation must change! The reform of political democratization can no longer be delayed. Because of this, we, with a civic spirit that dares to act, publish the "08 Charter." We hope that all Chinese citizens who share this sense of crisis, responsibility and mission, without distinction between the government or the public, regardless of status,

will hold back our differences to seek common ground, actively participate in this citizens' movement, and jointly promote the great transformation of the Chinese society, so that we can establish a free, democratic and constitutional nation in the near future and fulfill the dreams that our people have pursued tirelessly for more than a hundred years."⁽³⁾

President, this paragraph is the conclusion of the Charter 08. In the Charter 08, several concepts are laid down, including freedom, human rights, equality, republicanism, democracy and constitutionalism. There are also 19 basic standpoints which include the amendment of the Constitution, the separation and balance of power, the democratization of the legislative process, the independence of the judiciary, the use of public institutions by the public, the protection of human rights, the election of public officials, urban-rural equality, the freedom of association, the freedom of assembly, the freedom of expression, the freedom of religion, civic education, the protection of private property, financial and tax reform, social security, environmental protection, the establishment of a federal republic and transitional justice. President, as many Members said, many items included in the Charter 08 are universal values. I believe the use of public institutions by the public is the greatest worry of the Communist Party of China (CPC). For over all these years, since the founding of the CPC, all public instruments have been for the use of the CPC basically. The standpoint on the use of public institutions by the public refers to "the realization of the nationalization of the armed forces. The military shall be loyal to the Constitution and to the country. The political party organizations in the armed forces should be withdrawn. The level of military professionalism should be raised. All civil servants including the police shall remain politically neutral. Discrimination in employment of civil servants based on party preference should be eliminated and equal employment without any party preference should be adopted."⁽⁴⁾ This standpoint may have struck the Achilles heel of the CPC. I believe Members are familiar with the famous line by MAO Zedong: "Political power grows from the barrel of a gun".

The Charter 08 on the whole states clearly that as a powerful nation and an advanced country or society, many political, social and institutional reforms must

(3) Extracted from the translation of the 08 Charter by the Human Rights In China: <<http://www.hrichina.org/public/contents/press?revision%5fid=89851&item%5fid=85717>>

(4) Extracted from the translation of the Charter 08 by the Human Rights In China: <<http://www.hrichina.org/public/contents/press?revision%5fid=89851&item%5fid=85717>>

be carried out. Since the CPC has defined itself as the ruling party at the 17th session of the Communist Party of China Central Committee of the Fourth Plenary Session, many measures introduced during the early stage of revolution More than 20 years ago, the Kuomintang lifted the prohibition on newspapers and political parties, allowing them to develop. In view of the present development, the CPC is lagging far behind the Kuomintang in openness and progressiveness.

The imprisonment of LIU Xiaobo by such a strict and high-handed approach is a regression in politics. Many Members have mentioned that such incidents of political suppression may continue. As a member of the public or an individual who is concerned about the future of democratic development in China, one must show concern for the imprisonment of LIU Xiaobo. One cannot be a deserter. Some Members mentioned and criticized the verdict being lousy, but they are shy from voting on it, so they become deserters, and they must be denounced. As Members, public figures, or representatives of public opinions, on seeing instances of injustice, impropriety and unfairness, they should all the more refrain from clinching secret deals over the dinner table. This is black-box politics. As a public figure, when one sees impropriety in an incident of public concern — especially some people so-called teaching "dog shit" law — I do not know, but insofar as issues of law are concerned, one should all the more point out the legal issues

(Dr Priscilla LEUNG stood up)

PRESIDENT (in Cantonese): Dr Priscilla LEUNG.

DR PRISCILLA LEUNG (in Cantonese): I think Mr Albert CHAN was suggesting something. I felt that he was offending me for I said just now that I did not agree that the Legislative Council of Hong Kong should vote on such a motion. Obviously, he was referring to me and he said something about the teaching of some sort of law

PRESIDENT (in Cantonese): Dr Priscilla LEUNG, your speaking time is over.

DR PRISCILLA LEUNG (in Cantonese): I demand that he withdraw those remarks.

PRESIDENT (in Cantonese): Dr Priscilla LEUNG has demanded that Mr Albert CHAN withdraw the remarks made just now for she considers them offensive

MR ALBERT CHAN (in Cantonese): President, if someone should admit teaching "dog shit and rubbish", so be it. President, it is very clear in the Rules of Procedure, one must specify. President, if a teacher of law does not know the law, he might as well change his trade. President, I think you have to make a ruling as to which part of my remarks just now referred to which particular Member.

PRESIDENT (in Cantonese): Did your remarks refer to any particular Member of this Council?

MR ALBERT CHAN (in Cantonese): President, my remarks just now were very clear, and so was the content. I did not mention any names. If someone should like to pigeonhole it, it is more than welcome.

PRESIDENT (in Cantonese): Dr Priscilla LEUNG.

DR PRISCILLA LEUNG (in Cantonese): President, in law, this is the case with innuendo, that is, it is clearly offensive even without naming names. So I personally think that Mr Albert CHAN was suggesting something, and I demand that he withdraw those remarks. May I request the President to make a ruling.

PRESIDENT (in Cantonese): Dr Priscilla LEUNG insists on Mr Albert CHAN withdrawing the remarks made just now, and Mr Albert Chan refuses to do so.

In order to examine if those remarks made by Mr CHAN just now were really offensive to any Member, I now suspend the meeting for purposes of reviewing the relevant recording.

3.33 pm

Meeting suspended.

3.57 pm

Council then resumed.

PRESIDENT (in Cantonese): I now make a ruling on whether or not the remarks made by Mr Albert CHAN in his speech just now contain offensive, insulting expression. Members, according to the Rules of Procedure, any expressions that are offensive, insulting to Members are out of order. It is stipulated therein that such Members may not necessarily mean any particular Member of this Council. In Mr Albert CHAN's speech just now, I believe there are two sentences that have caused Dr Priscilla LEUNG to take issue with them. Initially, Mr Albert CHAN said, "Some Members criticized the verdict being lousy, but they are shy from voting on it, so they become deserters." I do not consider this remark offensive or insulting to Members. In this Chamber, when Members level criticisms at one another, some wordings or acts There were remarks in the past the severity of which might not pale in comparison with that made by Mr Albert CHAN.

Then Mr Albert CHAN went on to say, "especially some people so-called teaching (I am quoting him) 'dog shit' law". This remark, I consider offensive, insulting. But the wording used by him was "especially some people so-called". We have repeatedly listened to his remark, and after that, I did ask Mr Albert CHAN if he was referring to any Member of this Council and he said he had not referred to any particular Member of this Council. For this reason, even though I consider that remark inappropriate, I still hope Members, when they make speeches in this Chamber, can refrain by all means from using any insulting language. But it did not attempt to refer obviously to any Member of the

Legislative Council. For this reason, I cannot rule the remark made by Mr Albert CHAN out of order according to the Rules of Procedure.

Mr Abraham SHEK, do you have a point of order?

MR ABRAHAM SHEK (in Cantonese): Yes, it is a point of order. President, I have a question. "Some people" — naturally Members of the Legislative Council are also such people — in particular those who are in the Chamber may hear that it was referring to Dr LEUNG. I think it is offensive. I hope Mr Albert CHAN, being a gentleman, can withdraw that remark. In that case, that would be better.

DR PRISCILLA LEUNG (in Cantonese): President, in respect of a case in the past about "Foul grass grows out of a foul ditch", which is very famous, Mr LEUNG Yiu-chung was ruled to have offended an unnamed Member. On a previous occasion, Mr CHIM Pui-chung was ordered to tender apologies to Dr Margaret NG when he similarly had not named any names. President, I am dissatisfied with this ruling of yours. So in protest, I will withdraw from the Chamber and will not return to attend this meeting today.

(Dr Priscilla LEUNG turned around and left the Chamber)

PRESIDENT (in Cantonese): Dr Priscilla LEUNG, you may certainly leave. But I have to make this clear to Members. Since Dr LEUNG has mentioned two precedents, I have to make an explanation to Members. In the first precedent cited by her, Mr LEUNG Yiu-chung was present and he may recall it, the then President did ask Mr LEUNG if his remarks referred to Members of this Council. At the beginning, I already said that there was no stipulation in Rule 41(1) of the Rules of Procedure that there must be reference to any particular Member. Any language which is offensive to Members of the Legislative Council is out of order. At that time, Mr LEUNG replied categorically that his remark included Members of this Council. It was based on this reason that the then President ruled that that remark had violated the Rules of Procedure.

(Dr Raymond HO stood up)

DR RAYMOND HO (in Cantonese): President, the remark made by Mr Albert CHAN just now referred clearly to those teaching law. He said "dog shit law". But there is only one full-time teacher of law among us and it is Dr Priscilla LEUNG. I think it was clearly referring to her, nobody else. There might be some others who were not in the Chamber, but there was really only one who is a full-time teacher of law. I believe it was crystal clear. This is my view, President.

PRESIDENT (in Cantonese): I see your point. I have listened to that remark carefully. Mr Albert CHAN said "some people", but he did not mention any Member. When Members speak in this Chamber, they would invariably mention people other than Members. Mr Paul TSE, do you also have a point of order?

MR PAUL TSE (in Cantonese): President, not long ago, an incident of vulgar language happened in this Council that brought this Council into disrepute. President, you are to blame for you have enforced the rules not impartially, nor stringently. Should you allow such a situation to continue, more similar incidents will happen in future.

PRESIDENT (in Cantonese): Mr Paul TSE, please be seated.

(Mr Paul TSE remains standing)

MR PAUL TSE (in Cantonese): The so-called offensive language bears some similarity to libel in court proceedings, for the naming of names may not be necessary.

PRESIDENT (in Cantonese): Mr Paul TSE, please sit down.

(Mr Paul TSE sat down)

PRESIDENT (in Cantonese): We are not having a debate here. And I do not think a ruling made by the President should be debated in this Chamber. If Members have any opinion about any ruling made by me, I am prepared to give audience to their views after the meeting. Insofar as the remarks of Mr Albert CHAN and the request of Dr Priscilla LEUNG are concerned, I have made a ruling. I hope Members will respect this ruling.

MR ALBERT CHAN (in Cantonese): These people who are mere "dog shit and rubbish" are more sensitive to these issues related to conscience. This exactly is the significance of human conscience. Therefore, I appeal to all those who teach "dog shit and rubbish" or those who reckon themselves as such. In regard to the case of LIU Xiaobo and the unfair, unreasonable sentence, particularly the sentence of 11 years of imprisonment, they should study Charter 08 and the judgment again in detail. On humanitarian grounds and from the angle of universal values, especially in respect of democracy and human rights, any move to suppress freedom of speech and suppress the fight for democracy and human rights should be condemned.

President, looking back at the entire development of China, its achievement in economic development is undeniable. Of course, the damage it has done to the environment is very serious. However, when a society is progressing like this economically and still lagging behind politically, this can be regarded as a very serious problem of deep-rooted conflict of China itself. WEN Jiabao can accuse the SAR Government of being oblivious to the deep-rooted conflicts in Hong Kong. Similarly, when LIU Xiaobo is sentenced to such a heavy penalty, it is also creating another deep-rooted conflict in the Mainland that will further aggravate this deep-rooted conflict. In order to have a harmonious society, pure resort to this kind of suppression will not work. Therefore, I appeal to the Chinese Government that, on this issue, it should show the demeanour of a great nation and progress with the times. In the development of democracy and human rights, it should progress together with economic development. Thank you, President.

PRESIDENT (in Cantonese): Your speaking time is up.

MR FREDERICK FUNG (in Cantonese): President, what makes a country being seen as civilized and strong? Is it its long history and culture? Is it its rapid economic growth? Or is it its innumerable infrastructure facilities and countless construction projects? Or is it the improvement in the people's material life? Or is it its increased say in international organizations? All these are obviously only some people's presumed and one-sided understanding of our country's prosperity and strength. However, the LIU Xiaobo incident has shown that our country is developing in the opposite direction.

Undoubtedly, since the reunification, a number of surveys have shown that public confidence in the country is rising. While all of us are admiring the rapid economic development of our country and that its economic strength has placed it among the superpowers, the LIU Xiaobo incident can precisely demonstrate that the strength of our country has remained at the level of economic development and material abundance. Let us not talk about for the time being the serious damage to the environment which was the price we paid for the pursuit of economic growth in the past. What I wish to talk about is people's freedom of thought, social justice and the openness of our political system, which are still helplessly progressing as slowly as a snail, or have even witnessed retrogression.

What those in power have done to LIU Xiaobo this time has set an extremely bad precedent. This incident has undoubtedly proved that the system of rule of law in the Mainland is manipulated without restraint, there is no redress in justice, and the so-called freedom of thought and speech are purely illusionary. State institutions have been reduced to tools for those in power to suppress dissidents. President, is this how a strong and civilized country should look like? Why does a big country have such a guilty conscience? What exactly is it afraid of? Why does it fear so much so that it has to suppress a dissident with such intensity?

President, when the people of Hong Kong are enjoying the peaceful and joyous atmosphere of Christmas, the intellectuals, the enlightened and eloquent and human rights activists in the Mainland are moving towards another cold winter. LIU Xiaobo, a dissident respected by Hong Kong people, was sentenced to 11 years of imprisonment and two years of deprivation of political rights by the Beijing No. 1 Intermediate People's Court on 25 December 2009 on charges of inciting to subvert state power. The charges specified that he had

participated in drafting and co-signing Charter 08 and written six commentaries. President, this judgment is indeed perplexing. I think these charges are fabricated.

Does it mean that advocating enlightened concepts or even proposing widely-accepted universal values is tantamount to subverting state power? The goodwill of the intellectuals is that the country will develop in the direction of freedom of thought and open politics. What offence have they committed? Those who have some ideas about the notion of historical development should know that continuous economic development and improvement in people's material civilization will be followed by the pursuit of spiritual civilization and a greater demand for rights of individuals, social justice and political participation, and such is irreversible. Do those in power think this practice of conviction by one's expression of opinions this time can mete out strict punishment as a warning to others or even achieve the political purpose of deterring dissidents in their cause? This is an approach of the utmost foolishness. Given the existing backward political and rule of law system in the Mainland, it will only bring adverse effects. When the public have no avenue to air their discontent and no way to access justice, long-standing unstable factors, if not relieved, will only grow in magnitude and then emerge as problems.

President, intellectuals in the Mainland have come forth boldly and taken the front line in thoughts to advocate political reform. There is no joking about it because they have to pay a heavy price. They will not only lose their personal freedom but also suffer the agony of imprisonment. However, they have still proceeded with determination because their focus is on the overall and comprehensive development of China in the future, the parallel development of people's spiritual and material civilization and the long-term stability of China rather than only the short-term economic growth before us.

President, we should know clearly that the superficial economic affluence of China now is only built on quicksand. How long will this superficial prosperity last? Are we blinded by the prosperity before our eyes and are thus unable to see the crisis and inequality which has encapsulated society? A stable and harmonious society requires not only economic development but also improvement of the people's lot, and it also requires the pursuit of a democratic system and a system of rule of law, insistence on equality and justice, care for the

disadvantaged, tolerance of dissidents and protection of the ecology. Only in this way can I envisage the starting point for the strong development of China.

With these remarks, President, I support the motion.

MR TOMMY CHEUNG (in Cantonese): President, on 25 December last year, Beijing No. 1 Intermediate People's Court handed down the verdict in the LIU Xiaobo case, announcing that the accused, LIU Xiaobo, was guilty of inciting to subvert state power and sentenced to 11 years of imprisonment and two years of deprivation of political rights. Hong Kong is a place with freedom of speech, and it is understandable why the case has aroused extensive concern in Hong Kong.

Actually, quite a number of people, including those from the legal sector, have pointed out that as the case only involved "writing and then publishing documents on the Internet" and did not involve any violence or direct organization or incitement of anti-government acts, LIU Xiaobo's sentence of 11 years of imprisonment is quite a heavy one.

Others have pointed out that, as evident in press reports in recent years, sentences for people guilty of similar offences did not exceed 10 years, or some sentences were even as light as three to seven years. In comparison, the currently 54-year-old LIU Xiaobo was sentenced to a longer term of imprisonment. After serving his sentence, he will be over 60 years old. This has reinforced the perception that the sentence is too heavy. Even a colleague in this Council who is well-versed in Mainland laws considers that LIU Xiaobo has been given a heavy sentence this time. The Liberal Party also considers this issue open to question.

However, this motion today, which stated clearly that this Council, among other things, "demands that the Central Government should immediately release LIU Xiaobo and other dissidents", has made a very serious constitutional mistake and should not be supported.

President, Article 12 of the Basic Law stipulates that "The Hong Kong Special Administrative Region shall be a local administrative region of the People's Republic of China, which shall enjoy a high degree of autonomy and

come directly under the Central People's Government." In other words, although Hong Kong has a "high degree of autonomy" under the law, it is only a local administrative region in China which is a unitary state. May I ask whether it is proper or appropriate for this Council, as the legislature of a local administrative region, to query the judgment of the Central Authorities, particularly that of the judiciary?

Besides, the legislative power of Hong Kong is not inherent to Hong Kong but is granted by the Central Authorities, and neither does any "residual power" exist. In other words, the Legislative Council of Hong Kong can only exercise its powers and functions in accordance with the Basic Law, without involving the affairs of the Mainland or the Central Authorities. What is more, the Mainland and Hong Kong are two separate jurisdictions. It is neither appropriate nor proper for the Legislative Council of Hong Kong to comment on the judgment of Mainland courts or intervene in Mainland judicial affairs.

I believe the vast majority of Hong Kong people uphold "one country, two systems". However, the successful implementation of "one country, two systems" calls for strict compliance with the Basic Law by the Mainland and Hong Kong and mutual respect between the two places. At the level of the Central Authorities, this means upholding national unity and sovereignty, respecting and protecting the high degree of autonomy of the Hong Kong Special Administrative Region (SAR) in accordance with the law and not intervening in matters within the limits of the autonomy of the Hong Kong SAR. At the level of the Hong Kong SAR, this means respecting the constitutional power of the Central Authorities and the socialist system in the Mainland. But the motion today is tantamount to blatantly intervening in Mainland affairs. Is this contrary to the spirit of "one country, two systems"?

Assuming that the National People's Congress (NPC) also discusses judgments made by the domestic authorities or courts of Hong Kong, and "demands" the SAR Government to take certain measures, I believe Members will not agree with this, and neither will they be willing to see these situations.

As for the issue of the constitutional system of Hong Kong mentioned in the original motion, I very much wish to stress that the consultation exercise on the 2012 elections is now in full swing, and it is now the critical moment for the constitutional development to move forward. Different sectors of the community should discard biases and seek common ground and accommodate

differences, and forge a consensus on the methods for selecting the Chief Executive and for forming the Legislative Council as soon as possible in accordance with the Basic Law, in order to facilitate the ultimate implementation of the Decision of the NPC and attain universal suffrage for election of the Chief Executive in 2017 and the Legislative Council in 2020.

On the contrary, the original motion demands the SAR Government to expeditiously implement dual universal suffrage in Hong Kong according to the concepts and principles of Charter 08. This will only disrupt the discussion and make it more complicated, which is not conducive to the forging of consensus.

Finally, I believe Members may also have noticed that the lawyer representing LIU Xiaobo indicated that LIU Xiaobo had formally filed an appeal with the People's High Court of Beijing on 29th of last month. That being the case, we think it is now imperative for the case to receive fair and just treatment by the Court and for a proper verdict to be reached. I believe this is also the general wish of the people of Hong Kong. We also consider that enhancing the transparency of the Mainland judicial system will facilitate the public in understanding the rationale for the judgments of cases and enhance public confidence in judgments under the system.

With these remarks, President, I oppose the motion.

MR IP KWOK-HIM (in Cantonese): President, on 25 December last year, the Beijing No. 1 Intermediate People's Court gave the verdict of the first instance on the case of LIU Xiaobo for incitement to subvert state power. LIU Xiaobo was given a fixed-term sentence of 11 years' imprisonment for incitement to subvert state power, and deprived of political power for two years. In the report of the Xinhua News Agency, the official press, it was stressed that the case was processed in strict accordance with the statutory requirements for open hearings at the Court, where the litigation right of LIU Xiaobo was protected.

The case of LIU Xiaobo has aroused concern in society. Regarding the verdict of the first instance on the case of LIU Xiaobo, many people have different views and opinions, expressed through various channels and means. All along, the freedom of expression of the people of Hong Kong has been sufficiently protected.

When the verdict of the first instance on the LIU Xiaobo case was handed down, some people raised the alarmist talk that "the people of Hong Kong may be deprived of the freedom of expression, and they will one day, sooner or later, meet the same fate of LIU Xiaobo", but this remark is obviously groundless.

Under "one country, two systems", the capitalist system and the socialist system are implemented in Hong Kong and the Mainland separately. Due to the different systems adopted and the differences in social background, cultural background, values and ideologies, citizens in Hong Kong and those on the Mainland may hold different views and opinions on certain issues, which is only natural. I believe the majority public pay attention to the incident out of their concern for the democratic political system and the establishment of the rule of law of the country. They have every good intention of seeing the country to grow to be powerful, democratic and civilized.

However, the recent developments have shown some improper tendencies. Some people provoked the use of physical violence during demonstrations and raided the Liaison Office of the Central People's Government in the Hong Kong SAR. Some people have sowed seeds of discord in society, taking advantage of the opportunity to provoke conflicts between Hong Kong and the Central Authorities. These acts will not only undermine the social stability and long-term development of Hong Kong, but will at the same time challenge the significant core values, rationalism and the rule of law prevailing in Hong Kong. These tendencies have caused anxieties, and an increasing number of members of society are on the alert.

President, LIU Xiaobo is a resident of the Mainland and the case occurred on the Mainland, which is within the jurisdiction of the Mainland judiciary. Under "one country, two systems", the Hong Kong Special Administrative Region (SAR) should not intervene in the law enforcement and judicial power of the Mainland, as the Mainland authorities have not intervened in cases within the jurisdiction of the SAR. We respect the freedom of expression of the various sectors and individuals in Hong Kong, and agree that it is the right of all sectors to express their views on the case of LIU Xiaobo. However, the Legislative Council is the legislature of a local government of the Peoples' Republic of China, the Hong Kong Special Administrative Region. Any condemnation of cases handled by the Mainland judiciary and demand for the alteration of verdicts handed down by the Mainland judiciary by the Legislative Council will violate the principles of "one country, two systems" and judicial independence, which is

undesirable to the relationship between Hong Kong and the Central Authorities and inconsistent with the spirit and principles of the rule of law. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) disagrees with such actions.

The constitutional development of Hong Kong and the LIU Xiaobo case do not have a direct relation. The constitutional development of Hong Kong should proceed in accordance with the Basic Law and the principles of "one country, two systems" and "Hong Kong people ruling Hong Kong", and follow the timetable for universal suffrage confirmed by the Standing Committee of the National People's Congress in the light of the actual situation in Hong Kong society in a gradual and orderly manner. At present, our primary task is to implement the constitutional proposals for 2012. The DAB takes this opportunity to again urge all sectors of society and Members from all political parties and groupings of the Legislative Council to restore the rational and pragmatic attitude. We should all work hard to narrow the differences, so as to take a step forward towards democracy on basis of the constitutional proposals for 2012 and get well prepared for the implementation of dual universal suffrage, ensuring that constitutional development will not remain standstill again.

The DAB supports the further development of the constitutional system. We oppose the "Resignation *en masse* of Members returned from five geographical constituencies as a referendum" and all acts not in the interest of Hong Kong. The so-called referendum does not have any legal basis. It will only intensify social conflicts and confrontations, undesirable to the discussions of the constitutional arrangement in 2012 in society, nor is it conducive to the democratization of the constitutional system of Hong Kong. These destructive acts are in no way constructive, which are extremely irresponsible behaviour.

With these remarks, President, I oppose the original motion on behalf of the DAB. Thank you, President.

DR LAM TAI-FAI (in Cantonese): President, last year marked the 60th anniversary of the founding of the People's Republic of China. It can be said that at the early years of its establishment, our country was poverty-stricken, problem-ridden, poor and backward, and it was a society almost completely shut off from the outside world. However, after 60 years of struggle and

development, our country has witnessed an economic take-off. From the economic and political point of view, we have become an influential country in the world, and Western countries have refrained from disparaging us.

Actually, our country's achievements nowadays have been made through a difficult process, they do not come by easily. I know very little about our country's first three decades of development because I did not have any opportunity to visit the Mainland and see it personally. All of my knowledge about our country comes from newspapers and magazines. Frankly, it is very narrow and limited.

In 1978, our country's economic reform and open policy was launched. For business reasons, I always had to travel between the Mainland and Hong Kong. So I had a rather profound understanding of the country's economy, people's livelihood, politics and democratic development and evolution.

In the 1970s, 1980s and even during the early 1990s, many Hong Kong people indeed considered everything on the Mainland unacceptable. There was the bureaucratic style of administration, corruption, backdoor dealings, undue reliance on human connections and disregard of the judicial system and human rights. Besides doing business, I also co-operated with some Mainland universities to run schools and construct primary schools. During the process, I was left exasperated in many events, and sometimes I had a feeling that I even had to pay to get this bad experience.

Visiting the Mainland in the early years, one was unable not only to enjoy any personal protection but also to have any freedom of action or speech, compared with Hong Kong. However, over the past decade or so, I have realized that our country has indeed gone through great changes and improvement. Its economy has taken off, the people's livelihood has improved, the education level has been markedly raised, the awareness of environmental protection has been enhanced, and everyone has been working hard to bring various aspects on a par with international standards. As we all know, a minimum wage has been implemented in China, while it is still under discussion in Hong Kong. With the country's opening up and advancement in information technologies, people in the Mainland may not enjoy as much freedom of action and speech as Hong Kong people do, but they are indeed enjoying more freedom than before.

The State leaders have made it very clear that the objective is to build a moderately prosperous society in all respects, but they have also undertaken to develop a harmonious society and make our country a responsible superpower at the same time. Our country will definitely not send troops to intervene in the administration of other countries. I believe Members will also agree with the development objective of our country, but some people may consider our country's pace of democratization too slow, falling short of their expectation. However, Members should note that our country has a population of 1.3 billion and it is a multicultural country, and the disparity between the rich and the poor is still serious. Therefore, a prudent and gradual approach must be adopted and haste must be avoided in the course of development, or the consequences of any slip will be unimaginable.

Given the current situation of our country, I think its pace of development, including that of the economy, politics, democracy and human rights, can hardly be compared with that of developed countries in the West. Many people criticized the State for its inadequate care and concern for its people. But just take a look at the snow disaster in 2008 and the Sichuan earthquake. All of us could see how our State carried out the disaster relief work. A few hours after the earthquake, Premier WEN Jiabao risked his life and arrived at the scene to co-ordinate the relief work. Comparatively speaking, when New Orleans of the United States was hit by massive flooding after a hurricane in 2005, President George W. BUSH did not arrive at the scene of the disaster until one week later to inspect the situation. From this, which state leader showed more compassion to the people's hardship? Compared with other cities in the Mainland, Hong Kong enjoys a high degree of freedom. Hong Kong is a free and open place where the East meets the West, while the Mainland is gradually opening up from a closed society. Both places have different political and judicial systems with different political and historical burdens. It is actually very difficult, if at all possible, to adopt the same model to govern and develop the two places.

I understand very well that many Members have made proposals and criticisms in relation to our country for the good of it. Because when our country is well, Hong Kong will naturally be well. Therefore, putting myself in their shoes, I also hope Members will respect "one country, two systems". We do not want the Mainland to intervene in or interfere with our judicial system, and the people of Hong Kong would like to have "Hong Kong people ruling Hong Kong". I believe the Mainland also hope to have "Mainland people ruling the Mainland", too.

Actually, Chinese people who really have a sense of integrity and conscience will not wish to maintain their status as colonial citizens. Why do we still have so much discontent against our country and why are there still so many conflicts in society 12 years after the reunification and the colonial era? I think the main reason is the lack of adequate mutual understanding, which has given rise to inadequate communication and the lack of a genuine reunification of people's hearts. Therefore, I have the following two proposals.

First, I think the SAR Government has indeed failed to do a good job of national education, and inadequate efforts have been made over these 12 years. National education is not only about singing a few songs on upholding the Basic Law and making a few trips to China, as these cannot increase nationals' understanding of China. National education has to start with reforms of the school curriculum. It has to start in the campus and among the youth. Therefore, we must step up efforts on youth affairs and provide additional cultural and recreational activities for the youth, allocate more resources for the community and advocate a culture of love and care in society, in order to enable the reunification of people's hearts, or else conflicts in society will increase and grievances will accumulate.

Second, there should be more opportunities for exchanges, which can facilitate effective co-operation. Chinese people always talk about developing bonding by meeting up with people. The Chinese race attaches great importance to meeting up with one another because when people see each other more frequently, they will naturally feel a sense of intimacy with each other. Therefore, I very much hope the SAR Government will actively consider pursuing with the Central Authorities the return to Honourable colleagues without Hong Kong and Macao Residents Entry and Exit Permits their Permits so that more of our colleagues can go back to our country more often and find out the real situation of our country for themselves in order to reduce their established negative perception of it. I am convinced only by enhanced understanding and communication will unnecessary disputes be reduced; and when unnecessary disputes are reduced, mutual respect will be enhanced; and when there is mutual respect, I believe we can be tolerant of each other, seek common grounds and accommodate differences and reduce conflicts.

With these remarks, President, I do not support today's motion.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

MR ANDREW CHENG (in Cantonese): President, regarding this motion, many Members, including Mr IP Kwok-him, Dr Priscilla LEUNG and Dr LAM Tai-fai just now, have eloquently stated their case, indicating their hope that people who do not have the Hong Kong and Macao Residents Entry and Exit Permit like us will be able to obtain the Permit one day. Thanks for the kindness. However, President, I also want to stress that even if we had the Permit today, and even if we went back to our country and saw the current situation, I believe our understanding and principle would be the same.

Like Dr LAM Tai-fai, many people have been calling on us, this group of the so-called opposition camp or the pan-democratic camp, to wait over the years. They said, "Our country is making progress, and it is not easy to provide for the living of 1.3 billion people. Bribery? Corruption? These only happen during the process. There will surely be improvement. Every society in progress must go through a transitional period and these problems will definitely be resolved one day, so let us just wait." President, today we are discussing the issue of releasing LIU Xiaobo. If you would like us to wait, may I ask, particularly Dr LAM Tai-fai, whether our country is really strong? Or whether it is only making progress on the surface? After all the singing and dancing in the Olympic Games, in which tens of billions of dollars were spent to demonstrate our country's accomplishments, LIU Xiaobo was given a heavy sentence; at the 60th anniversary of the establishment of our country, and after the military parade with state of the art military technologies has demonstrated the strength of our country, LIU Xiaobo was given a heavy sentence; but at the same time, at the 20th anniversary of the 4 June incident, when justice has yet to be done to those who were killed, LIU Xiaobo was given a heavy sentence. May I ask Members and those who are really patriotic to genuinely ponder and ask themselves whether our country is really making progress? Or whether it is strong only on the outside with the help of its economic and military power, but is very weak and feeble on the inside, so much so that it has to suppress dissidents, unable to accommodate even the expression of dissenting views in writings?

At the same time, Members talked about "one country, two systems", saying that we should not try to dictate any instructions on the internal affairs of our country. The first two words of "one country, two systems" are "one country". If you are really patriotic, this is our country; if we find lots of

wrongs, bribery and corruption in our country after the earthquake, you said our Premier had worked very hard, but has it ever crossed your mind that if not for those tofu-dreg construction works, why were there such massive casualties in the earthquake?

I think if we are really patriotic, we should be so concerned about our country that we are passionate with our criticisms against it, rather than acting like what Dr Priscilla LEUNG has said: as we have already done a lot in the past, it would be better for us to keep a low profile instead of a high one, or we will be dragging these dissidents into it; and foreign consuls had better keep their mouths shut or a heavier sentence would be passed, and so on and so forth. President, after listening to these remarks, I believe those who are really patriotic would be heartbroken. It is heartbreaking in that people like us who have the opportunities to speak out and enjoy "one country, two systems" at the same time dare not criticize the corruption of "one country". And this is the main point. What other more effective methods are there? This is the question I would like to put to Dr Priscilla LEUNG, but unfortunately she has left the Chamber and will not come back again today to cast her vote. I would like to ask her these questions. When she said we should keep a low profile, how low should we keep our profile? What approach should we adopt? If you have been adopting a low-profile approach over the past two or six decades and witnessed genuine progress in our country and these dissidents neither went missing one after another nor were convicted by their expression of opinions, I would believe this approach might really be effective and better than making criticisms, as what we are doing now. But, this is not the case. Over the past six decades, particularly over the past eight to 10 years, or after the financial turmoil, when the European and American economies collapsed and had to gain entry into the huge Mainland market to do business, our country could even pay no attention to their so-called pressure imposed on its suppression of human rights and freedom of speech. Therefore, as all of us can see, the sentence of 11 years of imprisonment imposed on LIU Xiaobo's on 25 December is concrete evidence of it. In the eyes of China, does it have to be afraid of you? To put it more frankly, it does not have to care about you, as you have to continue to do business with it, and if you make further comments, it will stop doing business with you. This is deplorable, President.

Today, many Members of this Council have spoken on the subject, which is after all better than keeping silence, as in the case of the debate on 4 June incident. Regarding the LIU Xiaobo incident, Members may have a good debate on it. I hope this debate can help uncover the truth. Mr IP Kwok-him said we

had raised alarmist talk. He even said Hong Kong would continue to enjoy the freedom under "two systems" and we would not have to worry that anything similar to the LIU Xiaobo incident would happen in Hong Kong in future. Frankly speaking, this is the chilling effect. When I saw Mrs Regina IP in the Chamber — she was then the Secretary responsible for the introduction of legislation on Article 23 of the Basic Law — if Hong Kong really have to conduct a debate again on the issue of "incitement to subversion" in relation to the introduction of legislation on Article 23 of the Basic Law, then we will ask: When Hong Kong is under "one country, two systems", will our freedom of speech be suppressed or reduced because of the need to introduce legislation on Article 23? As we can still freely express our ideas now, we should act according to our conscience instead of aiding and abetting injustice; and we should not conceal our fear with the so-called low-profile approach and embellish our country's sovereignty and the CPC. Thank you, President.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr Fred LI, you may now reply and you have four minutes 15 seconds.

MR FRED LI (in Cantonese): President, first of all, I wish to point out that 23 Honourable Members have spoken, and among them, most are Members from the pan-democratic camp. Certainly, six of them are not. I have been sitting here to listen to their speeches. Basically, summing up, those Members who do not agree to the motion, who oppose the motion and who walked out in protest have all said that Hong Kong and the Mainland have different judicial systems. We should not interfere with the Mainland, nor do we wish that the Mainland interfere with us. Moreover, the living environments of the two places are different.

However, please bear in mind that if you were a layman, your judgment on this incident will be — someone is put in jail for 11 years simply for the charge that he has written a number of articles to criticize the government in power and incited people to subvert this regime. He has released his articles on the

Internet, which are widely circulated. This government then finds him vicious and unacceptable and has to put him in jail for 11 years. That is the reason. As such, I very much doubt whether those Members who oppose the motion, such as Dr LAM Tai-fai, Mrs Sophie LEUNG, Dr Raymond HO, Mr IP Kwok-him and Mr Tommy CHEUNG have ever read the 08 Charter. Why do they query if this incident is related to universal suffrage then? The 08 Charter has mentioned checks and balances, judicial independence as well as democratic elections. In fact, these are all what we are talking about now, nothing new at all. The things mentioned in the 08 Charter are not something unrealistic or abnormal. Rather, they are basically some universal values recognized in the international community. The government expresses dissatisfaction against someone who has challenged those in power in his articles. However, this is a pen only and the articles are only released on the Internet, rather than being distributed as pamphlets on the streets. If he has distributed pamphlets on the streets, the charge against him will be much more serious, right? In 1967, President, your brother was also arrested for distributing pamphlets during the riots. It was regarded as an act of incitement. We could also say that the then colonial government was high-handed and totalitarian. We do not agree with it at all. I believe you do not agree with such arrests, either. So, why are the same values interpreted differently today? Some Honourable Members said that we should not interfere with the affairs on the Mainland for certain reasons. Is it because you have business dealings in the Mainland? Or is it due to the fact that being a Deputy to the NPC or a delegate of the CPPCC, you have such a close relationship with the Central Authorities, resulting that it is not convenient for you to speak out or you simply dare not do so?

Someone asked me, "Fred LI, will your Home Visit Permit be confiscated again for proposing this motion?" My Permit has been confiscated twice before. When my Permit was confiscated for the second time, the public security officer at the border told me, "As you endanger national security, I have to confiscate your Home Visit Permit." I told him that I just went there to eat lychees. How would I endanger national security?*(Laughter)* The public security officer said in all seriousness, "As you endanger national security, I have to confiscate your Home Visit Permit." He kept on repeating this sentence. I asked him the reasons for doing so? If it was such a serious offence, he had better lock me up. I thought if I did endanger national security, my fate would be similar to that of LIU Xiaobo. He did not give me any explanation, but simply confiscated my Permit and pushed me away.

Let us think about this. Being a civilized country, a superpower, China, our Motherland, has such a practice. How will I feel happy about this? How can it give others an impression that it is a civilized country? As mentioned by Dr LAM Tai-fai, the economy of China has taken off, which is much better than 10-odd years ago. That is right. Those who come to Hong Kong to buy luxurious flats and stir up the speculation are all mainlanders. State enterprises, public enterprises and private enterprises are all very powerful, having amassed astronomical sums of capital. However, can its 1.3 billion people benefit from such prosperity? Can they share it as well? No, only a small number of people can be benefited. They have privileges. Those who are in power do not allow others to put forth different opinions. These are universal values. Let us put our hand on our conscience and ask this question. If a person, who has written some articles with a pen to point out others' wrongdoings, has to be put in jail for 11 years for a charge of sedition, what on earth is such a society? If I were in the Mainland, I am indeed not allowed to say what I am saying. Basically, it is so simple. Because those in power are not happy about this and do not allow him to do so. These are universal values, which have nothing to do with the different legal system in the Mainland. Although I am not a lawyer, this is just as simple as ABC. If such incidents occur and if one dare say that the Mainland is different, I will find it unacceptable. Honourable Members, if you do have conscience, please leave your seats and not to vote. You should neither vote against it nor abstain here. That way, I will on the contrary think that you have done something for China.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Fred LI be passed. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr Fred LI rose to claim a division.

PRESIDENT (in Cantonese): Mr Fred LI has claimed a division. The division bell will ring for three minutes.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Margaret NG, Mr CHEUNG Man-kwong, Dr Joseph LEE and Mr CHEUNG Kwok-che voted for the motion.

Dr Raymond HO, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Ms Miriam LAU, Mr Timothy FOK, Mr Tommy CHEUNG, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Dr LAM Tai-fai, Mr IP Wai-ming, Mr IP Kwok-him and Dr PAN Pey-chyou voted against the motion.

Ms LI Fung-ying, Mr CHAN Kin-por and Dr Samson TAM abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Albert CHAN, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr KAM Nai-wai, Ms Cyd HO, Miss Tanya CHAN, Mr WONG Sing-chi and Mr WONG Yuk-man voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan, Mr WONG Kwok-kin and Mrs Regina IP voted against the motion.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, four were in favour of the motion, 16 against it and three abstained; while among the Members returned by geographical constituencies through direct elections, 28 were present, 18 were in favour of the motion and nine against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

PRESIDENT (in Cantonese): Second motion: Promoting the philosophical thinking of Confucianism.

Members who wish to speak in the debate on the motion will please press the "Request to speak" button.

I will call upon Mr CHAN Kam-lam to speak and move his motion.

PROMOTING THE PHILOSOPHICAL THINKING OF CONFUCIANISM

MR CHAN KAM-LAM (in Cantonese): President, we have always taken great pride in Hong Kong as a metropolitan city and a global financial centre. Although we were hit by the financial tsunami last year, with signs of recovery shown by the gradual stabilization of the external economic environment, we are presented with opportunities again. Last month, the East Asian Games in Hong Kong was successfully completed. Athletes obtained unprecedented achievements and successfully created the legend of Hong Kong, which has boosted the morale of the whole community. We have successfully tided over adversities and overcome various challenges. This has fully demonstrated the unyielding and fighting spirit of Hong Kong people.

However, behind all its success, Hong Kong is problem-ridden. Looking at our society nowadays, the weak concept of morality, the increasingly distant moral relationship, and problems such as the frequent occurrence of domestic violence and child abuse incidents and problems of drug addiction, drug abuse and compensated dating among young people are indeed heartrending. Coupled

with various social problems, we need to ponder over the question of what has happened to Hong Kong.

Hong Kong is a society of economic prosperity and people's pursuit of a quality life does not confine to material abundance but also include the spiritual fulfilment in culture. Over the past, the Government did not attach much importance to the passing down of the Chinese culture. This has rendered the advanced and sophisticated Chinese culture subject to the onslaught of Western culture. To date, Chinese culture is threatened by a decline, and so people have to seek a culture to which they can identify with.

Confucian thinking is the spiritual treasure of the Chinese culture. Despite its long history of more than 2 500 years, it stays in vigour and vitality and is even held in high esteem in the international community. This precisely demonstrates that Confucianism has its universal value. Confucius was long ago elected one of the 10 most outstanding philosophers in the world, and his famous maxim of "What you do not wish for yourself, do not impose on others" has even become a basic principle enshrined in the Declaration Toward a Global Ethic.

In 1998, a group of Nobel Laureates gathered together in Paris and made an appeal that if mankind wishes to continue to survive, it must look back to 2 500 years ago and learn from the wisdom of Confucius. Besides, on 28 October 2009, the House of Representatives in the United States passed a resolution with an overwhelming majority, commemorating the 2 560th anniversary of Confucius' birthday to commend the contribution of Confucian thinking to human society. Even Prof Charles KAO, who has recently been awarded the Nobel Prize for Physics, highly esteems Confucian thinking. In his autobiography *A Time and A Tide*, he quoted Confucius' famous maxim "To learn something and regularly practise it — is it not a joy?" Prof Charles KAO's understanding of this maxim is: "It is most delightful to be able to apply what has been learned." Prof Charles KAO also agrees with the Confucian idea that one should "derive new understanding while revising what has been learned", thinking that constantly studying and exploring is the way to acquire new knowledge. This shows Confucian thinking has received extensive recognition and is highly valued by the world.

However, the philosophical thinking of Confucianism is not familiar to the society of Hong Kong at all, especially when compared with Japan and Korea,

which is indeed embarrassing. Masaaki KUBO, professor of Greek and Latin at the University of Tokyo in Japan, pointed out that he studied the *Analects of Confucius*, the *Works of Mencius* and the *Historical Records* when he was 12 years old. In Japan back then, these classics were compulsory curriculum from primary school to university, and were also part of the syllabus of university admission examinations. Besides, Korea has been maintaining a strong Confucian culture for a long time. United Nations Secretary-General BAN Ki-moon, who is Korean, pointed out that he had been affected by the thinking of Confucius and Mencius throughout his life, and the teachings of Confucius still served as his guiding principles. In recent years, a trend of paying reverence to Confucius and reading the classics has also emerged on the Mainland. Students in many primary and secondary schools and universities have started to recite traditional Chinese classics. Although individual schools in Hong Kong have also started to hold the "Adulthood Capping Ceremony" and the "Respect Teachers, starting from Pen Writing Ceremony", and Confucian philosophy is also taught in some schools, the number of these schools is very small.

President, regarding promoting Confucian thinking and enhancing the humanistic qualities of the public, the Government is duty-bound. I propose that schools and tertiary institutions offer ethics courses featuring traditional Chinese cultural thinking. In the teaching of Chinese traditional philosophy, schools in Hong Kong are indeed very inadequate. Confucian classics, such as *The Analects of Confucius*, only take up one or two reading texts in the Chinese Language subject. Besides, with the abolition of prescribed texts in the Chinese Language subject in recent years, texts from *The Analects of Confucius* and *The Works of Mencius* have even become optional. Actually, as Confucian philosophy is held in high esteem in the international community, as Chinese, we are all the more obliged to teach the younger generation Confucian teachings in order to pass down Chinese culture, thereby helping students develop and put into practice Chinese virtues.

Given the weak concept of morality and the imbalance in moral values of the Hong Kong community, it is all the more necessary for us to revive our moral concepts by promoting Confucian philosophy. Confucianism has established a moral system of human spiritual civilization 2 500 years ago. It places strong emphasis on public morality, that is, the so-called "four cardinal principles" (propriety, righteousness, integrity, and honour) and the "eight virtues" (loyalty and filial piety, benevolence and love, honesty and justice and harmony and

peace). Interpersonal relationship has to be maintained by ethical relationship, that is, the so-called "five ethical relations" (between parents and children, ruler and officials, man and wife, old and young, and between friends) and the "five constant values" (benevolence, righteousness, propriety, wisdom and fidelity).

Besides, the humanistic spirit of "the man of benevolence loves others" advocated by Confucianism has a universal value as well. The so-called "benevolence" suggests "the man of benevolence loves others". Everyone is a man of benevolence, and everyone needs to transform oneself and the others with love. With constant interpersonal conflicts, relationships among family members will deteriorate and we can even hear about fierce fights and people hurting each other. This is the result of our lack of benevolent love. The frequent occurrence of domestic violence is evidence of this.

According to the statistics of the Social Welfare Department (SWD), during the three years from 2006 to 2008, spouse battering, child abuse and elder abuse cases were constantly surging. In 2008, there were even over 8 300 such cases. Regarding the improvement of family relationship, Confucianism advocates the observance of the doctrine of filial piety and fraternal duty, and stresses that filial piety is the foundation of all moral virtues. As parents have treated their children with kindness by raising them up, filial piety is the duty that children owe to their parents. Confucianism also stresses filial piety and honouring ancestors, in order to promote the internal harmony and order of the family. The Confucian idea of "benevolence" also implies the spirit of mutual support and assistance. At the application level, when conflicts appear between neighbours, or when the old and helpless encounter difficulties, the Confucian idea of "benevolence" will call upon us to reach out for the less fortunate out of compassion. The saying "It is better to have close neighbours than distant relatives" suggests that neighbours should support and help each other rather than "never relating to each other". This should be the spirit of Hong Kong.

Last year, the sub-prime crisis triggered a global financial crisis. Although the cause of its failure came from the economy, it was actually rooted in culture. Many people of Hong Kong suffered great losses in their investments because financial institutions acted in contrary to the principle of being "people-oriented" in doing business and took their clients as targets for reaping exorbitant profits.

To cure this global economic malaise at root, we must start with morality. The Confucian idea of "prioritizing righteousness over gains" means when righteousness and gains are in conflict, one should accord priority to righteousness and act in accordance with the principle of "giving regard to righteousness in the view of gains". In parallel with striving for personal gains, one should also strive to benefit the others and the self and achieve mutual benefits. On the basis of being on good terms but not necessarily agreeing with one another, the two parties should respect each other, seek common ground and accommodate differences and strive to maintain harmony in order to achieve a win-win situation. Besides, Confucian philosophy also advocates that enterprises should operate with honesty and truthfulness. This is one of the main reasons why we always say that enterprises should take up their social responsibilities.

President, on the birthday of Confucius, quite a number of Asian places would organize large-scale activities to commemorate Confucius. In Confucius' native city of Qufu in Shandong, major commemorative events are held every year to attract descendants of Confucius from all over the world, foreign consuls in China and officials of the United Nations Educational, Scientific and Cultural Organization to attend the celebrations. I think the Government of the Hong Kong Special Administrative Region (SAR) should also proactively promote and develop Confucian culture and organize celebrations on the birthday of Confucius in order to commemorate Confucius' contribution to the culture and civilization of the world.

President, with these remarks I move the motion and implore Members of this Council to support my motion.

Mr CHAN Kam-lam moved the following motion: (Translation)

"That, given that Confucius' philosophical thinking of Confucianism is highly respected by many countries in the world, and Confucius was long ago elected one of the 10 most outstanding philosophers in the world, and the United Nations Educational, Scientific and Cultural Organization established a 'Confucius Prize for Literacy' in 2005 to award individuals who have made remarkable contribution to education, it is evident that the philosophical thinking of Confucianism is held in high esteem in the world; in view of the weak concept of morality of the Hong Kong

community, increasingly distant moral relationship, confusing social values, the frequent occurrence of domestic violence and child abuse incidents, as well as the serious problems of drug addiction, drug abuse and compensated dating among young people, there is indeed a need for the Government to revive the philosophy of Confucianism in the community, with a view to building social order and harmony, strengthening business ethics, and enhancing personal virtues and qualities; in this connection, this Council urges the Government to:

- (a) promote the philosophy of Confucianism to revive the concept of public morality, and strengthen the maintenance of ethical relationship in families to enhance the community spirit of mutual help;
- (b) promote the application of the philosophy of Confucianism to social enterprises and business operations, so as to enhance the humanistic qualities of the public;
- (c) introduce in schools and tertiary institutions moral education courses which feature traditional Chinese cultural thinking and emphasize the cultivation of one's moral character; and
- (d) designate the birthday of Confucius as the Confucius Day to establish the esteemed position of Confucian thinking in the Hong Kong community."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr CHAN Kam-lam be passed.

PRESIDENT (in Cantonese): Mr WONG Ting-kwong will move an amendment to this motion. This Council will now proceed to a joint debate on the motion and the amendment.

I will call upon Mr WONG Ting-kwong to speak and move his amendment to the motion.

MR WONG TING-KWONG (in Cantonese): President, I move that Mr CHAN Kam-lam's motion be amended.

President, the saying "*O tempora! O mores!*" (O the times! O the customs!) can precisely reflect the actual situation of the Hong Kong community today. As expressed in the wording of Mr CHAN Kam-lam's motion, the Hong Kong community has witnessed a weak concept of morality, increasingly distant moral relationship and confusing social values, which have given rise to various criminal cases, including domestic violence, child abuse and problems of drug addiction, drug abuse and compensated dating. Reports on these can be found in the news media almost everyday. One just cannot help saying, with a sigh, "These are what I do not wish to see". Therefore, the motion moved by Mr CHAN Kam-lam today is worthy of our consideration and support.

Looking back, the Chinese culture is advanced and sophisticated and it has a long history, and is greatly influenced by the philosophical thinking of Confucianism. Given the corrupted public morals in Hong Kong nowadays, there is a need for us to realign our morals with the philosophical thinking of Confucianism. In Confucian thinking, the concepts of "government means correctness", "righteousness is doing what is appropriate" and "to stay where benevolence is and to follow the road of righteousness" have expressed the pursuit of social justice. Confucianism advocates "self rectification" and encourages "holding righteousness to be of highest importance". These ideas are helpful in establishing a just human social order. Confucianism also regards "sincerity is the way of Heaven", and "the attainment of sincerity is the way of men", which demonstrates the perception of sincerity in human relationship as the foundation of religion. As traditional Chinese ethics attaches much importance to the family, Confucianism thus advocates: "A gentleman shows affection for his kin, benevolence toward other people and care for all other things", and that "a man has to cultivate his moral character before he can put his family affairs in order, then he can run the country well and ultimately achieve universal peace", in order to attain the state of "Extend your respect for your aged parents to all the aged, and extend your love for your own children to all children."

Confucian thinking is also conducive to economic development. Confucius urged people that "the gentleman may have to endure want, but the lowly man, when in want, gives way to unbridled courses". This cautions us that gentlemen should remain law-abiding despite their poverty. However,

when the lowly man is in poverty, he will do whatever he desires. The multibillion-dollar fraud of Bernard L. MADOFF, former Chairman of the NASDAQ Stock Market of the United States, rocked the whole world, and many investment institutions and large banks also fell into the trap and suffered losses amounting to over US\$50 billion. If people all over the world understood Confucian philosophy and acted in compliance with the ethical code of their own industries, the financial tsunami would possibly have been avoided. Even if a crisis emerges, if the Confucian spirit of "the man of benevolence loves others", "prioritizing righteousness over gains", "honesty and trustworthiness" "people-orientedness", "according virtues with priority" and "cherishing harmony" can be promoted and developed, I think these crises could be overcome or even turned into opportunities.

To inculcate the philosophical thinking of Confucianism in the community and pass it down from generation to generation and also develop and promote moral virtues, I have proposed an amendment to Mr CHAN Kam-lam's motion. I propose to add "and consider designating that day as a public holiday" after the last item, that is, after "designate the birthday of Confucius as the Confucius Day to establish the esteemed position of Confucian thinking in the Hong Kong community". The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) considers that designating the birthday of Confucius as a public holiday can not only honour Chinese tradition but can also add to the substance of Chinese culture in Hong Kong. With this festival in Hong Kong, public awareness of respecting traditional culture will be enhanced. This can not only make the philosophical thinking of Confucianism the spiritual centre of the Chinese people but will also promote the revival of the Chinese race.

Information available shows that quite a number of places in the world have designated the Gregorian birthday of Confucius, that is, 28 September, as the teachers' day. Among these, legislation was passed by the Senate and the House of Representatives of the United States in 1971 to designate the birthday of Confucius as the teachers' day of the United States. Shortly afterwards, the California State Legislature also designated 28 September as the Confucius Day of the state of California by way of voting. On 28 October last year, the House of Representatives of the United States also passed a resolution with 361 votes in favour of commemorating the birthday of Confucius to commend the contribution of the philosophical thinking of Confucianism to human society. The government of the United Kingdom also intends to introduce Confucian

philosophy into the primary and secondary curricula in a bid to raise students' academic standards. In 2005, the United Nations Educational, Scientific and Cultural Organization passed a decision on setting up a Confucius Education Award. These show that Confucian thinking is recognized and valued highly by different countries all over the world.

In Hong Kong, the Government of the Hong Kong Special Administrative Region (SAR) designated 10 September as the Teachers' Day in 1997 to promote and develop the spirit of respect for teachers, but this move was unable to demonstrate the greatness of the philosophical thinking of Confucianism. When foreign countries can esteem Confucius and his philosophical thinking to such an extent, why can we not, as Chinese who are under the great influence of Confucian thinking, do more and better?

At present, there are a total of 17 public holidays in Hong Kong. If the birthday of Confucius is to be designated as a public holiday — I have to make it clear here that I do not propose to designate the birthday of Confucius as one of the 11 paid statutory holidays — I understand that designating the birthday of Confucius as a public holiday means designating an additional holiday, which is a very sensitive issue. The existing public holidays are prescribed after extensive consultation, and any amendment to them may create an impact on various sectors of the community, especially the industrial and commercial sectors, the financial sector and the education sector. Therefore, my proposed amendment requires Members' serious consideration and examination. Should we prescribe one additional public holiday to make 18 in total or make adjustments within the original 17 public holidays? I think this can only be implemented when a consensus is reached in society.

President, with these remarks, I support the original motion and also hope Members will support my amendment.

Mr WONG Ting-kwong moved the following amendment: (Translation)

"To add ", and consider designating that day as a public holiday, so as" after "the Confucius Day"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr WONG Ting-kwong to Mr CHAN Kam-lam's motion, be passed.

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, I would like to thank Mr CHAN Kam-lam for moving the motion on "Promoting the philosophical thinking of Confucianism" and Mr WONG Ting-kwong for proposing the amendment.

The culture of Hong Kong is part of Chinese culture. As a metropolitan city, Hong Kong has to develop and promote the fine traditional Chinese culture and support improvement and the pursuit of excellence, in parallel with maintaining a high degree of openness and receptivity to foreign culture. The core values of Hong Kong people are partly rooted in Chinese cultural thinking. Our move to further promote Confucian thinking in Chinese culture is conducive to nurturing a good social atmosphere and developing a society of care and loving kindness, stability and order as well as harmony and tolerance.

Confucianism as founded by Confucius has a far-reaching impact on the culture of China. The political culture of "exercising government with virtues and love of the people", the ethical culture of "filial piety, fraternal duty and harmony", the ritual and music culture of "courtesy and decorum" and the people-oriented approach of "keeping the deities at a distance and staying close to the people" have created a significant impact on the philosophy, religion, ethics, literature, art and also politics and economy of the Chinese race, and become the treasure of Chinese culture. Certainly, in the same way as we treat our traditional culture, we also have to take the essence of Confucian thinking and the Confucian tradition and remove their ineffectual elements to meet the actual needs of modern society.

The Family Council set up by the Government of the Hong Kong Special Administrative Region (SAR) will launch the Happy Family Campaign this year to advocate the values of "love and care", "responsibilities and respect" and "communication and harmony". The Committee on the Promotion of Civic Education (CPCE) also promotes the theme of "Develop a Positive Attitude towards Life, Build Happy Families" and strengthens the concept of responsibility sharing, thereby promoting mutual help between neighbours, and

together with the work on strengthening community networks, gradually extending the culture of loving and caring for the family to the entire community. These objectives and values are comparable to the principles of cultivating one's moral character before one can put the family affairs in order; maintaining a courteous decorum and abiding by the law; respect for teachers, honouring the old and esteeming the virtuous in Confucian thinking. Confucianism advocates regulating people's behaviour by moral teachings and "leading through policies and disciplining through punishments" and using legal means to uphold social order. This is in line with our concept of a society ruled by law.

The CPCE also actively encourages enterprises to take up their social responsibilities and integrate the concept of civic responsibilities into commercial decisions and operations and give regard to the impact of commercial decisions on various sectors of the community. Confucianism opposes draining the pond to get all the fish. The Confucian commercial culture developed with a long history also places emphasis on taking up social responsibilities and "helping the whole community".

Developing a correct value system has to start with education. Traditional Chinese thinking and cultural elements, including Confucian thinking and values, are incorporated into various learning areas of the primary and secondary curricula of Hong Kong. I know individual schools have already incorporated Chinese classics, including guided readings on Confucian cultural thinking, in their school-based curriculum from the primary levels in a structured manner in order to allow children to develop a foundation for their character and moral beliefs from an early age. Some keen organizations have also organized recitation classes and competitions in the community to encourage parents to recite classics in Chinese culture with their children and train up voluntary tutors, thereby joining hands to promote the passing down of Chinese culture.

Confucius is honoured as the "Exemplar for teachers through the ages" and "Most sagacious and venerated master". Some civilian groups in Hong Kong organize celebration activities on the birthday of Confucius every year, including Confucian sacrificial ceremonies and Confucian ritual music recitals, to give the public more exposure to Confucius and Confucianism. The SAR Government takes an encouraging and supportive attitude towards the organization of activities celebrating the birthday of Confucius in the community. As to whether this day should be designated as a public holiday, as Mr WONG

Ting-kwong has said, a consensus in society is required, and adequate regard should be given to its possible social and economic impact on Hong Kong.

I look forward to listening to Members' remarks and will give a further response later. Thank you, President.

MR LEE CHEUK-YAN (in Cantonese): I find it very strange that Mr CHAN Kam-lam of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) moves this motion today. It seems the DAB wishes to change its name to "Confucian DAB". Does he intend to develop Hong Kong on the basis of Confucianism? Actually, I think we should respect Confucianism as a school of thought, and we can practise it on our own. However, if we regard this school of thought as one that should be promoted, would it be too remote from the issues Members have mentioned just now?

In the motion today, Mr CHAN Kam-lam highlights all the social problems in Hong Kong, including child abuse, drug addiction and drug abuse, confusing social values and distant moral relationship, assuming that by promoting Confucian thinking, all these problems can be solved. Frankly, I think all this is already "out". What we are talking about is the "post-80 generation" but they are dealing with things "before Christ". Certainly, it is said that the essence of the thinking "before Christ" is very good, and that we should learn from it. But studying and practising it at a personal level is good enough. Everyone makes his own choice of which school of thought to follow and he then can adopt it on his own. Nowadays, there is no reason why Hong Kong should regress to the old days when all schools of thought were condemned and only Confucianism is to be advocated. Therefore, I think Members may promote it at the community level and make promotional efforts in the community. With respect to the Government, I have heard very clearly just now that the Government has only mentioned that it would encourage different sectors of the community to make more efforts while the Government would not take up the promotion work. The Government nowadays would not only promote a single school of thought. This is unacceptable to a democratic and pluralistic society.

I would like to make it clear that I absolutely respect the choice of sectors of the community, academic institutions and individuals for esteeming

Confucianism because this is a pluralistic society. However, I think it is very dangerous for the Government to promote a school of thought. Besides, the various problems mentioned just now cannot be resolved only by raising the moral standards, and a genuinely democratic society with a value system which respects universal values is ultimately needed in Hong Kong before many problems arising from internal conflicts can be resolved.

Therefore, I do not intend to cast my vote on this motion today. The Government may promote it if it so wishes, but I think there is no reason for the Government to do so, and everyone may do whatever he or she wishes. Finally, I think this school of thought is very outdated. No matter how the Government promotes it, frankly speaking, if people do not support it, it will be futile. If we deal with the issue at the community level, it will be more acceptable.

Finally, I would like to say a few words about holidays. I heard Mr WONG Ting-kwong say he has only proposed to increase the number of public holidays. If his proposal is not about statutory holidays, actually I do not want to talk about it, because my greatest hope is that public holidays would be equal in number to statutory holidays. Now the proposal is to prescribe one additional public holiday or to replace one of the 17 public holidays by the birthday of Confucius. This has nothing to do at all with the statutory holidays entitled by the wage earners. However, I have to make a final note. As I have said before, nowadays, we should not allow one school of thought to dominate in our society. Therefore, I do not think we should have this holiday. Thank you, President.

MRS REGINA IP (in Cantonese): President, I would like to thank Mr CHAN Kam-lam for moving this meaningful motion today and Mr WONG Ting-kwong for moving the amendment. I have also listened to Mr LEE Cheuk-yan's remarks.

I agree nowadays the society of Hong Kong cannot expect that the promotion of Confucian thinking can resolve all deep-rooted problems. Anyhow, I would like to point out that many leaders and leading thinkers in the world also agree that the cultural tradition and core values of a society have far-reaching impact on its socio-economic development and development on other fronts.

There is a very famous example in contemporary times about the importance of culture. This person is already 86 years old, but we cannot say he is "out". He is Mr LEE Kuan-yew. In early 1990s, in around 1994, he was interviewed by a prominent Western academic journal *Foreign Affairs* and was asked this question: Why could the four little tigers in Asia emerge and China experiences an economic take-off, while Africa, the then Indian subcontinent and many developing countries were unable to work economic miracles? The famous line of Mr LEE Kuan-yew back then, which has been repeated by many Western academics, was "culture is destiny". He thought culture influences destiny. He pointed out that Singapore had remarkable achievements at that time in the 1990s because most Chinese in the Singaporean society had deep-rooted Confucian thinking and values. Every family placed strong emphasis on education and was aware of the importance of the family, hard work and thriftiness, sacrificing the self for the common good and maintaining social stability. That is why Singapore has achieved the development today.

I think the explanation provided by Mr LEE Kuan-yew is quite applicable to the development of our country during the few decades after the reform and opening up. Besides releasing massive productivity by adopting the market economy, the Chinese society is also richly nurtured by Confucian thinking, which makes people work hard, love their families and maintain social stability. This was also the impetus of growth of our country and even Hong Kong in the past. Therefore, I very much agree with Mr CHAN's original motion and Mr WONG's amendment, which urge the Government to promote Confucian thinking.

As to how it should be carried out, I think the Government has to think about it, and perhaps our Honourable colleagues should examine it. Mr LEE Cheuk-yan pointed out just now that he noted from the Secretary's remarks that it should mainly be community-led. The Secretary also said it should be a school-based development carried out in schools and students would need more guided readings. I am very disappointed that I can only see Secretary TSANG Tak-sing here today because in order to promote a better understanding among members of the community of Confucian thinking, education is particularly important. Unfortunately, the Secretary for Education is not here today.

I would like to raise a couple of points on education. First, regarding the existing Chinese Language curriculum, although I had consulted the Education

Bureau and the Hong Kong Examinations and Assessment Authority (HKEAA), and both asserted that the number of prescribed texts has not been reduced. While the quantity has not been reduced, the quality has been greatly undermined compared with the time I studied Chinese Language. There has been regression in quality. For people of the "post-50 generation" like me, although I resided in foreign countries for a long time and received education in English — I attended British missionary schools operating in Hong Kong — I have acquired some basic knowledge of Chinese literature and Chinese culture, thanks to the prescribed texts taken from the four major categories of Chinese classics, namely, Confucian classics, history, philosophy and *belles-lettres*, which I studied during my school days, and also *The Great Learning*, *The Doctrine of the Mean*, *The Analects of Confucius* and *The Works of Mencius*.

Nowadays, however, a lot of these prescribed texts taken from Confucian classics have been slashed from the existing Chinese Language curriculum. I do not know whether it is because the education sector thinks these basic classics are difficult to teach and students are unable to acquire an understanding of them, and this has pulled down the standard considerably. When young people are unable to gain any exposure to Confucian thinking during their school age, that is, in primary and secondary schools, for example, when they do not know the concept or idea of benevolence and what is meant by the benevolent man, or when they are unable to gain exposure to the important thinking in *The Great Learning*, *The Doctrine of the Mean*, *The Analects of Confucius* and *The Works of Mencius*, they can hardly develop the value system of Confucian thinking when they grow up and work in society, especially in the Hong Kong society which focuses on instant success and short-term monetary gains. Therefore, I wish Secretary Mr TSANG will reflect to his colleagues in the Education Bureau that this is to be regretted.

The existing Chinese Language education is indeed shallow. Recently, a university vice-chancellor complained to me that the examination process of the HKEAA is too long and the examination results are published too late. They will not be published until 1 July, and thus universities in Hong Kong are unable to compete with overseas universities for top-notch students. University admission examinations even include an oral Cantonese component, that is, even Cantonese conversation has to be tested. This shows how low the standard and how ridiculous the situation is, but no additional texts from Confucian classics are taught.

Besides, I have one more point to make. If the Government really wants to help our Honourable colleagues or many prominent members of the community who attach importance to Confucian thinking promote the Confucian value system, there is no reason why it makes Chinese History an optional subject. After launching the subject of Liberal Studies, apart from Chinese Language, English Language, Mathematics and Liberal Studies, many subjects are not required. A recent report has pointed out that in this typically utilitarian society of Hong Kong, Business, Accounting and Financial Studies is the most popular subject in senior secondary levels, while the number of students who take Chinese History has reduced to 16.4%, that is, by half. I believe if this situation persists, no student will study history in university any more, whether it be Chinese history or Western history. There will be no one at all to study history. When the number of people who study history becomes fewer in the future, Confucius and Mozi may even be portrayed as martial art masters in Hong Kong movies in future. Then what can we do? Thank you, President.

DR PAN PEY-CHYOU (in Cantonese): President, a great number of schools in Chinese and Western philosophical thinking have emerged since the ancient times. In our country, Confucianism, in particular, has the strongest vitality as it has remained influential even to this day.

As early as during the Spring and Autumn period and the Warring States period when various schools of thought could freely compete with each other all until the Western Han dynasty under the reign of Emperor Wudi who paid supreme tribute to Confucianism while banning all other schools of thought, Confucianism has played a pivotal role in Chinese culture. Although some ideas of Confucianism may not be applied to present-day society, many Confucian values can still produce a positive effect on our society in Hong Kong.

As society changes continuously and people's work hours become longer and longer, television and computer have penetrated into each and every household. The time that family members spend with each other and communicate with each other thus becomes less and less, causing family and moral relationships to become increasingly distant and moral concepts have gradually weakened, and we have from time to time heard of shocking, abominable incidents. Some time ago there was a case in which a care worker

forced an elder to eat faeces; there was also a case in which an unfilial son abandoned his father on the streets in Guangzhou after taking away his father's identity documents and bankbook. We have also heard of a young girl engaging in compensated dating in order to earn money to satisfy her materialistic desires unfortunately ended up being killed and dismembered; and there is someone who shamelessly recounted his sexual relations in defiance of morality with the purpose of seeking huge sums of money. Do we wish to see these incidents? Where is all the importance that we used to attach to family relationships, and where is our pursuit for moral values?

Before the situation develops to a state completely out of control, we must address these problems squarely by rebuilding the social order and reversing the bad social trends. Promoting Confucianism is an effective means to this end.

Confucianism advocates benevolence and righteousness and attaches importance to rituals and propriety. It preaches such values as "What you do not wish for yourself, do not impose on others", and stresses filial piety and obedience to parents, and reverence to the elders. Confucius said, "Nowadays filial piety merely means being able to feed one's parents. Even dogs and horses are being fed. Without reverence, how can you tell the difference?" The teaching is that apart from materialistic support, spiritual respect is actually all the more important.

Meanwhile, Confucianism strongly promotes the concept of morality and the cultivation of a person's moral character. It preaches the principle of being strict to oneself but lenient to others. It stresses the importance of distinguishing right from wrong and a person's trustworthiness, preaching that "Since time immemorial, all men are subject to death. If the people do not trust you, you have nothing to stand on."

All these values that I have just mentioned are what Hong Kong needs now. Having said that, it is not the case that all the Confucian ideas are applicable to present-day society. For example, while it is good for Confucianism to attach importance to family responsibilities, it nevertheless neglects the importance of abiding by the law, and this is why there is the story about the son covering up for his father who had stolen a sheep. This is unacceptable by the standards under the rule of law nowadays. Besides, the five cardinal relationships in traditional ethics have already undergone changes. For

example, in Confucianism, the relationship of a couple must be made up of a man and a woman with the consent of both families. But modern values lay more emphasis on personal responsibilities, and the marriage of two people to become husband and wife is after all the choice of the couple. Furthermore, on the principle of the freedom of love, a relationship of lovers is no longer just heterosexual, as the same kind of intimate relationship is deemed possible between two people of the same sex. In this connection, the Confucian principle of a husband-and-wife relationship will need to be revised.

Confucianism attaches importance not only to spiritual values, but also to hygiene and health. Wage earners in Hong Kong are known for working long hours, they do not take meals at regular times and tend to consume a lot of food which is bad to health, causing them to suffer from various diseases common among city-dwellers. To encourage the public to attach greater importance to health, the Government should conduct more studies on ways to promote healthy living to the public and in this respect, the dietary principles preached by Confucius can precisely provide some useful ideas and examples.

Confucius considered a healthy diet as a way to preserve health. In the Chapter of Xiang Dang of *The Analects of Confucius*, Confucius said, "Rice that had spoiled or stank, fish that had decayed, and meat that had rotted he would not eat. Things that had discoloured he would not eat. Things that smelt foul he would not eat. Things that had not been ripened he would not eat." He said that things that had decayed, smelt badly, discoloured, not properly cooked or unfresh should not be eaten.

In fact, these principles are precisely in line with the modern concepts, and are conducive to the effective prevention of gastroenteritis, hepatitis, and other infectious diseases.

Besides, in the Chapter of Xue Er of *The Analects of Confucius*, Confucius said, "The gentleman, in eating, does not seek satiety", cautioning against overeating, for excessive intake of food is bad for digestion and so, one must restrain his desire for materialistic enjoyment. If one can uphold the "doctrine of the mean", or steer the middle course, in doing everything, it will be beneficial rather than harmful to the preservation of health. This is also in line with the findings of recent scientific studies.

CHIEN Mu, a famous Confucian scholar, said to the effect that Confucius did not eat more even though the rice he ate was the finest, and he did not eat more even though the meat was the best cut. This has shown us most clearly how Confucius had behaved, and his dietary attitude is worthy of learning by Hong Kong people.

In recent years, the Government has encouraged a dietary habit of consuming less meat and more vegetables, and that is a great step forward in the promotion of healthy living. But this is just a beginning. I think the Government can consider adopting Confucius' teachings on preservation of health as the theme of publicity, with a view to further promoting public participation. We must bear in mind that when the public attaches importance to their daily dietary habits, it would be conducive to developing a health-conscious culture in society, which can in turn reduce the health care expenditure and burden of Hong Kong.

It is true that following the developments and changes in history, some Confucian values may have become obsolete and cannot be fully applicable to modern society.

With respect to the thinking of Confucianism, we should carefully make a choice. We should do away with the obsolete parts, and for those which can produce positive effects and are compatible with modern society, they should not only be preserved but also further promoted. Meanwhile, new elements can be added, so as to uphold the values and meaning of the Chinese traditional culture on the one hand and on the other, encourage the public to attach greater importance to the concept of public morality and cultivation of a moral character in the individual.

President, I so submit.

MR ALBERT HO (in Cantonese): President, the philosophy of Confucianism and the thinking of Confucius have no doubt influenced our entire country and people extensively and profoundly. They have also become an integral part of the culture of our country and people.

I started out to be studying in the science stream. Then I took up legal studies and subsequently practised law and engaged in politics. I am a person

who likes studying. For the past 30 or 40 years I have certainly read a lot of books but there are some which I often read again and again and are even put at my bedside. They are *The Four Books*, one of which that I read again and again is *The Analects of Confucius*. Certainly, I greatly admire the wisdoms of Confucianism and Confucius, for they have given us a lot of inspirations to our life.

However, as I tried to understand this motion under our debate today, I listened very attentively to the speeches made by Mr CHAN Kam-lam and Mr WONG Ting-kwong earlier. In commanding the thinking and philosophy of Confucianism, they seemed to have attached great importance to one side of Confucianism and that is, the philosophy of being "sagely within" for cultivating a moral character, stressing the need to "practise benevolence and righteousness" and to "know the way of Heaven". Obviously, these teachings have given birth to some cultural and traditional values, such as respect for teachers and truth, and the need to be prudent in performing funerary rites and to remember our ancestors, which all contribute to a culture of enhanced virtues, and this is also a culture that I respect. But apart from this, we must not neglect the other side of Confucianism and that is, the philosophy of being "kingly without" for the purpose of governing a country and in this respect, Members must also pay attention to people-oriented thinking. Although people-oriented thinking has not developed as fully as the philosophy of being "sagely within" for cultivating a moral character and it cannot be compared to the peak of Neo-Confucian philosophy in Song and Ming dynasties, it is consistent with modern thinking in many aspects.

Let me just cite several examples. In *Shang Shu* (the Classic of History), it said to the effect that the people are the foundation of a country and if the foundation is sound, the country will be peaceful. There is also this famous quotation from Mencius: "To a state, the people are the most important thing, the altars to the gods of earth and grain come second, and the ruler is the least important thing." This means the people are the host and most important whereas the ruler is of lesser importance and hence can be taken as guests. Later, the great Confucian scholar in Ming dynasty, HUANG Lizhou, also said to the effect that the country is the host and the ruler is the guest. Xunzi also said to the effect that Heaven did not create people for the sake of the ruler, and Heaven established the ruler for the sake of the people. Members can see from this that people-oriented thinking is very important.

Over the past 2 000 years, since DONG Zhongshu in Han dynasty banned all schools of thought and upheld Confucianism Certainly, the thinking of Confucianism did help establish stability and order and consolidate the emperor's rule, as it embodies the very clear thinking of three bonds and five relationships⁽⁵⁾. But unfortunately, it had often been turned into an instrument of governance by the emperor. So, as many studies have pointed out, the socialization of Confucianism would produce the effect of consolidating class rule and worse still, it was often the case that while the emperor had on the surface upheld benevolent rule as advocated by Confucianism, what they actually practised was the philosophy of Legalism and the School of Yin-yang. The resultant mode of governance is that the officials are immune to penalty and the common people do not have the privilege to be treated in accordance with propriety. What the intellectuals cared about in peaceful times were some far-fetched heresies, and they did not seriously study practical, down-to-earth ways of governing the country. This is why Confucian scholars in Song dynasty were criticized for unrealistically concentrating on discussions on the mind and human nature during peaceful times but in times of danger, all they managed to do was to kill themselves to repay the emperor. This is not what we wish to see, and we are all the more unwilling to see the unification of the state and religion when a reputed school of thought would be turned into the philosophy of a new ruling authority. This is not what I would wish to see.

We have recently seen that when Mr JIA Qinglin, Chairman of the National Committee of Chinese People's Political Consultative Conference, attended a ceremony on the Mainland held by the International Confucian Association to mark the 2 560th anniversary of the birth of Confucius, he called for the better propagation of Confucianism for the promotion of the development and prosperity of the country's socialist culture. If that is really the case, I would really be worried. Is it going to be turned into political propaganda again and used as a tool to tame and even enslave the thinking of the people? I hope this is not the case, and I absolutely oppose the Government taking a leading role to do it. Certainly, Mr TONG Yun-kai of the Confucian Academy has made a lot of efforts and I respect and support very much what he has done. But this is not an official school of thought. Please stop making it an official school of thought.

(5) The three bonds refer to a king being the role model for his ministers, a father the role model for his son, and a husband the role model for his wife; and the five relationships refer to the relationships between father and son, king and ministers, husband and wife, among siblings in a family, and between friends.

I share the view of Dr PAN Pey-chyou who said earlier that Confucianism, having developed through the ages, must take on a new course of development, laying stress on the philosophy of being "kingly without". Last night, I read again "A Respectful Declaration on Behalf of the Chinese Culture to the World" jointly proposed by MOU Tsung-san, HSU Fu-guan, CHANG Chun-mai, and T'ANG Chüni. In the Declaration published in the 1950s, they said to the effect that the thinking of "a world shared by all" and "equality for all" advocated by Confucianism must be developed as the ideology and undertaking for building a democratic country, and any development based on this thinking is definitely in conflict with monarchy so, the moral realization of a world shared by all and equality in personality is certainly leading us to a course of development in recognition of a democratic system."

I so submit.

MR CHEUNG MAN-KWONG (in Cantonese): President, Mr Albert HO talked about perspective thinking today. I would like to talk about history from a macroscopic.

Mr CHAN Kam-lam's motion calls on the Government to promote and revive the thinking of Confucianism. The Democratic Party must state clearly that although we always respect Confucius and the thinking of Confucianism, we must point out that promoting and reviving such thinking is not the duty of the Government, but the duty of the community. The most important duty of the Government is to maintain a social environment which allows freedom of thought, so that different political and philosophical thoughts can co-exist and flourish, and interact and contend with each other, while preventing ideological monopolization and even the purging of people who hold dissenting views.

I would like to explain the evils done by government-led thinking and the lessons it taught with the history of China from a macroscopic perspective. We can see from history that the periods with weakest government control conversely marked the most glorious eras for thought.

During the Spring and Autumn period and the Warring States period, the central authorities were weak and the state was torn apart among rivaling warlords. But these periods saw the flourishing of numerous schools of thought

and free competition among them. That was the most glorious and thriving era in the history of Chinese civilization.

As dynasties and emperors taking over one another during the 2 000-odd years since the unification of China by Qin Shi Huang (the first emperor of Qin dynasty), the Chinese academia and culture were unable to revive the thriving scenes of the pre-Qin era; nor had there been the emergence of great scholars comparable to Confucius, Mencius, Laozi and Mozi.

It has long been proven in history that where the government does not esteem a particular school of thought, an environment will be created for free competition, allowing various schools of thought to be expressed freely without being subject to restriction and suppression. This is a pre-requisite for robust academic development.

Looking back on history, it is not difficult to find out that whenever the government advocates a particular school of thought, there is often a strong political motive behind. This will consequently impede the healthy development of scholarly thinking, which is detrimental to the people and culture.

After unifying the six states, Qin Shi Huang ruled with the thinking of Legalism. He burned books and buried the Confucian scholars alive. He made it the state policy to use the provisions in law as the teaching materials in education and implement the law by government officials. As a result, the freedom of thinking was fettered and a lot of important literary texts were lost or became corrupted, causing catastrophic damage to scholarly pursuits and culture.

In Han dynasty, Emperor Wudi banned all schools of thought and advocated the studies of Confucianism. Confucian teachings were venerated in culture and education, whereas on the political front, Legalism was the ruling philosophy of the state. As a result, all other schools of thought apart from Confucianism, such as Taoism, Mohism and the Logicians, were deprived of healthy development and even on the decline. Taoism, which focuses on nature, Mohism, which stresses equality for all, and the logical thinking of the Logicians were all nipped in the bud and not provided with the soil to grow. Confucianism was the only school of thought allowed to flourish. This was a significant loss to the Chinese culture.

ZHU Yuanzhang of the Ming dynasty advocated Confucianism but stressed only the Confucian principles relating to the rites and etiquettes, proper regard for

superiority and inferiority and social order, and he detested the thinking of Mencius which stressed: "To a state, the people are the most important thing, the altars to the gods of earth and grain come second, and the ruler is the least important thing." He made it a stipulation that the imperial civil examination would test only the skills to master the eight-legged essays. Candidates were allowed only to explain the thinking of ancient scholars and they were prohibited from expressing their own views. This is why the Ming dynasty was the most monotonous and lifeless era in Chinese scholarly thinking.

The three reigns of Kangxi, Yongzheng and Qianlong in the Qing dynasty actually saw a continuation of the practices adopted by ZHU Yuanzhang, which stressed the Confucian virtues of loyalty, filial piety, moral integrity and righteousness, and continuously encouraged the intellectuals to sit in the examination on "eight-legged essays". The academia was doomed to a state of morbid stagnation. In the early years of the Qing dynasty, although the Manchus could still maintain stability for a hundred years or so through military powers, following the invasion from the West on the military and civilization fronts in middle of the Qing dynasty, the Chinese culture lost its dynamics and was incapable of putting up an effective resistance. All it could do was to bear with the constant invasion and humiliation.

During the period from the late Ming era to the early Qing era, although western missionaries such as Matteo RICCI and Robert MORRISON had brought into China the latest fruits of western culture, the dominance of Confucianism in both Ming and Qing dynasties had impeded the development of other schools of thought. Chinese people were hence unable to make any progress in line with the latest ideas of the world, thus lagging far behind other countries and even being taken over by Japan. The defeat in the Sino-Japanese War was an extremely tragic lesson for China in history.

After the finding of new China by the Communists, Marxism was upheld and even regarded as the theoretical foundation of the country. All scholars were forced to conduct research and studies on history, literature, arts and science based on the Marxist-Leninist doctrines, resulting in the fading out of all other schools of thought and causing internal injuries to thinking. Many valuable research results were considered feudalistic and backward and were hence criticized; many historical and cultural relics were burnt and devastated in the gruesome struggles, resulting in irrevocable losses in history.

Even the Anti-LIN Biao and Anti-Confucius Campaign in the 1960s was a *de facto* political struggle. The underlying purpose of the Anti-Confucius campaign was to criticize ZHOU Enlai and the great Confucian scholars in Chinese politics, and this eventually impeded the modernization of China. Therefore, no matter it is on the cultural or political front, and no matter it is about revering or condemning Confucius, or no matter it is about upholding or opposing Confucianism, the Government should not have any role to play in any of these, let alone promote it.

What the Government should do is to defend academic freedom and autonomy, so that different schools of academic thinking can freely compete with each other, enabling all schools of thought to flourish and contend with each other, and only in doing so would it be most beneficial to the development of the country, the people and the culture. Therefore, the Democratic Party regrets that we cannot support Mr CHAN Kam-lam's motion. However, we do respect Mr TONG, and we respect his life-long efforts. We still hope to convey the position of the Democratic Party that we respect Confucius and Confucianism. So, we will abstain from voting on the original motion — only the original motion.

President, I so submit.

MS LI FUNG-YING (in Cantonese): President, originally I did not intend to speak in this debate on a philosophical topic. But as the amendment proposed to designate the birthday of Confucius as a public holiday and Mr WONG Ting-kwong stressed in his speech earlier that his amendment proposed to designate that day as a public holiday, not a statutory holiday under labour laws, as a Member representing the labour sector, I must say that I do not agree with this position and in the meantime, I would also express some of my views on Confucianism.

I support the promotion of the learning of Confucianism in society, though my views may be different from the objectives of learning Confucianism as proposed in the original motion. I also support the designation of the birthday of Confucius as a statutory holiday. This is not a question of giving an additional holiday to employees. I support it because Confucianism is of great significance to the Chinese people who mostly belong to the Han race by ethnic origin.

Although I consider it necessary to promote the learning of the thinking of Confucianism in society, I am not saying that promoting the learning of Confucianism is an effective means to revive moral values in society. I think a more important purpose of learning the thinking of Confucianism is for a person to understand oneself. President, I would like to cite a few lines by a thinker, Mr LI Zehou, in his article on a tentative discussion on the deep structure of Confucianism. He said to the effect that an important characteristic of Confucianism is that its value and meaning do not necessarily hinge on whether or not people consciously recognize it and identify with it, but the fact that it has become a key component of the cultural and psychological structure of the Han race, consistently providing norms to the thinking, emotions, behaviour and activities of the intellectuals and even the entire society for hundreds and thousands of years; and it has grown from a state of consciousness to one of unconsciousness, becoming some sort of fixed ideological pattern and emotional orientation.

In other words, Confucianism has exerted an extremely important influence on the national characteristics of the Chinese people and their identity of being Chinese. Such national characteristics with Confucianism as the backbone can also be an organic composition with its strengths and weaknesses. Understanding Confucianism is a process of self-understanding. In an open society and with the global culture comes pounding like surging billows, I think in promoting the learning of the Confucian culture, the way forward should stress on an understanding of our own strengths and weaknesses as well as enabling a process of adaptation and incorporation in the meeting of different cultures, thereby upgrading the qualities and virtues of the nation.

The deep structure of the national character of the Chinese people will gradually undergo changes following the import of a modern way of life. As Mr LI Zehou analyses it, putting the people's livelihood and the customs on the right track, and advocating a metaphysics of ethics will not produce any truly effective results.

President, as I said earlier, the thinking of Confucianism is of tremendous significance to Chinese people who mostly belong to the Han race. It is a matter of course to designate the birthday of Confucius, the founder of Confucianism, as a public holiday. To be prudent in performing funerary rites and to remember our ancestors is a teaching by Confucius in Book One: Xue Er (the joy of

learning) of *The Analects of Confucius*. However, I must point out that this public holiday should be a statutory holiday, or labour holiday, as is commonly referred to. Moreover, I do not agree that while the birthday of Confucius is proposed to be designated as a statutory holiday on one hand, it is on the other hand suggested to replace another statutory holiday, for this would only amount to disrespect to other days of commemoration.

President, I so submit.

MR WONG KWOK-HING (in Cantonese): President, I speak in support of the original motion and the amendment.

When I was young, I studied in Confucian College in Macao in lower secondary forms. As I was in lower secondary forms and young at age, I had only a hazy idea about Confucius and the thinking of Confucianism. All I knew was that we paid tribute to Confucius on his birthday, and that was all. Later, I quitted school because my family was poor and I had not been in touch with Confucianism any more. It was only when the Anti-LIN Biao and Anti-Confucius Campaign broke out that I came across it more often. In fact, I had come across it more often because of President TONG Yun-kai who is now in the public gallery, and I must thank him for this. He has been so kind as to send to me every year calendars and booklets with the sayings of Confucius as well as their explanations, and whenever I received these materials which promote Confucian teachings, I would read them very carefully, thus arousing my interest in and attention on the teachings of Confucianism. Then I started to read *The Analects of Confucius* and I have basically read the whole book once. As it was written in classical Chinese and I do not have the knowledge, I had really spent a great deal of time thinking about the teachings word by word and I finally managed to read it once. I think the promotion of the thinking of Confucianism gives no cause for criticism. It is worthy of promotion and support by the Government or the community. However, I must point out that we should take a more critical attitude towards the feudalistic and obsolete parts of the Confucian theories. We should progress with the times and absorb the progressive principles and theories in Confucianism, and we should take a critical attitude towards the obsolete parts and refrain from promoting them. This is my first point.

Second, as also mentioned by other Members, the social trends nowadays, especially the moral qualities of young people, do warrant our concern, particularly in view of the recent situation of drug abuse and compensated dating. It is indeed imperative to strengthen education on morality. The promotion of Confucian thinking and theories is indeed conducive to rebuilding public morality and this is of great importance.

President, let me cite some recent examples. In this Chamber of the Legislative Council, we have even seen acts such as throwing bananas at people, using foul language, refusing to observe order by rushing out to sweep away everything on the bench and tearing the documents into pieces. I think in order to promote a good moral character, as Members of the Legislative Council, we should follow Confucius' teaching of setting the right example with our own deeds. Otherwise, we would be setting the wrong example for children. It is very important as to what kind of example we have set.

Third, I would like to say that apart from respecting and promoting the philosophies of Confucius and Mencius, there are many fine cultures in the Chinese tradition which should also be promoted. So, what we should promote is more than just the thinking of Confucianism and Mencius. In fact, many philosophies and thinking embedded with the fine Chinese cultural tradition are worthy of promotion too, such as the thinking of Laozi, Mozi, and so on, which, I think, also merit our respect. We should respect not only Confucianism. In fact, there are also many very good theories and philosophical viewpoints in Legalism. I think we should draw on the merits of various schools of thought, rather than just focusing our attention on one school of thought.

Lastly, on the proposal made in the amendment of considering the designation of the birthday of Confucius as a public holiday, apart from the suggestion made by Ms LI Fung-ying earlier which is worthy of consideration by the Government, I would like to call on the Government to truly conduct in-depth and extensive consultation from another angle. If the birthday of Confucius is designated as a public holiday, how will the other religions be handled? It would be very difficult not to consider the views of other religious groups. What can we do in order to ensure fairness and strike a balance and avoid pleasing one group but offending another? I think this is what the Government must consider.

So, I will support the original motion and the amendment. In order to address this issue properly, I hope that the Government can thoroughly listen to the views of various sectors of the community. Anyway, we see that President TONG and various other people who are genuinely concerned about this topic are here observing this meeting today. I think their spirit is indeed praiseworthy and their proposals are worthy of support. I very much hope that the Government can take them into consideration. Thank you, President.

MR TAM YIU-CHUNG (in Cantonese): President, first of all, I thank Mr TONG Yun-kai, President of Hong Kong Confucian Academy, and various other persons in charge for coming to the Legislative Council today to listen to the debate on the motion on promoting the philosophical thinking of Confucianism.

In his speech earlier, Mr LEE Cheuk-yan questioned why the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) would propose this topic for discussion. He considered that it is now a bit outdated to talk about the thinking of Confucianism which, in his view, is unable to address the problems in Hong Kong society nowadays. However, I take exception to his views.

First of all, the DAB actually proposed this motion on promoting the philosophical thinking of Confucianism as a result of the influence of President TONG Yun-kai. Because he has repeatedly told members of the DAB that in view of the many current social problems, he considered that enhancing the promotion of moral education should be able to help. Besides, I also heard Members of the Democratic Party say in their speeches earlier that Mr CHAN Kam-lam's motion is wrong in urging the Government to play a role. They said that this should be promoted by the community without any participation by the Government. I do not agree to that. It is because with regard to the four points proposed by Mr CHAN Kam-lam, promotion by the Government will be required in many areas. This includes involvement by government officials because if they do not have this intention or idea in mind, there would be problems in the formulation of public policies. Let me cite a simple example. We have often criticized the policy on social welfare because while it promotes the Confucian value of filial piety and respect for the elderly, it is very difficult to apply for the Comprehensive Social Security Assistance (CSSA) when the parents live with their children but on the contrary, it is easier for an application to be approved if

they live separately. Moreover, in applying for the CSSA, the children have to sign a document, known commonly as the "bad son statement", to prove that they cannot afford to provide for the living of their parents. We think that the policy seems to be intended to break up a household in which the parents live with their children in order to enable the parents to receive social welfare. As a result, the relationship between parents and children has become distant and respect for the elderly cannot establish a foothold in society.

We hope that the Government will consider this philosophical thinking in formulating various policies and apart from this, in the radio station owned by the Government, namely, the Radio and Television Hong Kong, we also hope that more programmes and announcements of public interest relating to family harmony and the virtue of filial piety can be produced, with a view to promoting filial piety and respect for the elderly. I understand that the Government has made a lot of efforts but the fact is that only the Government has sufficient resources to do this. So, I remain to be unconvinced of the view that government participation is unwarranted. The Government can also exert an influence in respect of schools and tertiary institutions. As regards how moral education can be promoted through the teaching of traditional Chinese cultural thinking, the Government is in a position to exert an influence and has the resources to help take forward this task. Mr WONG Ting-kwong proposed earlier to designate the birthday of Confucius as the Confucius Day and make it a public holiday for the community to show greater respect to Confucius. This, I think, will also require government involvement. Therefore, I do not agree to the view that it is only right for the promotion work to be taken up by the community without any government participation.

The Confucian thinking is a spiritual treasure of the Chinese people and has commanded much respect from many countries worldwide. So, there is nothing wrong for the Government to promote it. In fact, many countries in the world have also been promoting it. It is learned that there are more than 80 Confucian Academies worldwide. We hold that promoting the philosophical thinking of Confucianism can help maintain social stability. It is also conducive to strengthening business ethics and enhancing personal virtues and qualities.

In view of the changes which are taking place in Hong Kong, I think there is a pressing need to promote the thinking of Confucianism. The *Three Character Primer* by Confucius is a classic text widely known to all.

Everybody knows it very well, and here, I wish to cite an example to explain the urgency of promoting Confucianism. Last Friday when I stepped out of the Legislative Council Building at around 10 to 11 o'clock after a meeting of the Finance Committee, I heard a lot of alternative "three-character words" used to hurl abuses at me very rudely. I feel very resentful about this. These people do not even know the basic courtesy in getting along with others. So, I think this motion on promoting moral education can brook no delay and is most timely. The DAB proposes this motion today in order to arouse the attention of society and call for concerted efforts from the Government and the community, in the hope of seizing this opportunity to help reverse the existing social trends on morality. I particularly wish to say something more on filial piety and respect for the elderly and that is, what has been done in respect of research and survey in this aspect is inadequate.

MR WONG YUK-MAN (in Cantonese): President, with regard to Mr CHAN Kam-lam's motion which proposes to promote the philosophical thinking of Confucianism, if I just look at the topic, I would give it my 100% support. The same applies to a motion on promoting the philosophy of Zhuangzi sponsored by any other Member. It would be best to have a motion on promoting Chinese culture or conducting studies on the furtherance of Chinese culture and if that is the case, I would really put up even my feet to support it.

The philosophy of Confucianism is the most important part of Chinese culture, and in particular, humanism. Over the past 2 000 years or so, there had been many contentions on this school of thought, and it had faced many attacks too. However, all the attacks on the philosophical thinking of Confucianism were like an ant trying to topple a giant tree and they were ridiculously overrating their strength.

At this point, I think of the Anti-LIN Biao and Anti-Confucius Campaign in the 1970s. When I think of this Campaign and when I then look at the TSANG brothers, I would think of something else. Right now in this Chamber, we see Secretary TSANG Tak-sing and President Jasper TSANG. I wonder if they remain to be followers of Marxism, Leninism and Maoism. Marxism, Leninism and the thinking of MAO Zedong are anti-Confucius and anti-Confucianism. So, history is kind of strange. I will certainly not ask the President whether he has persistently remained a Marxist, and even if he is a Marxist, this may not be in conflict with his advocacy for Confucianism, right?

Or perhaps you can say that you are no advocate of Confucianism. But Secretary TSANG Tak-sing does advocate it. In his speech earlier he has given recognition to the thinking of Confucianism and Chinese culture.

But I am a person who studied philosophy and history. What is the history and philosophy of the communist party? The TSANG brothers must know it only too well. I wonder if Mr CHAN and Mr WONG Ting-kwong have any idea about it. It is a materialistic conception of history. A materialistic conception of history is poles apart from the thinking of Confucianism.

Karl MARX had classified the development of human society into five stages. The first is primitive society devoid of social class and struggles; then it proceeds to slave society where there are struggles between the slaves and their owners; then it progresses to feudal society where there are struggles between landlords and peasant slaves; then it comes to capitalistic society where there are struggles between the bourgeoisie and the proletariat and next comes a stage when the bourgeoisie are eliminated through the dictatorship of the proletariat, and society enters the stage of communism devoid of social class and struggles. The existence of political parties is no longer needed; nor is the existence of the state. This is also echoed by the Preamble of the Constitution of the People's Republic of China, which provides an academic and theoretical basis for persistent leadership by the Communist Party of China (CPC). Because the objective is to progress to a communist society, when the communist revolution is successful, everyone will belong to the proletariat, and the means to this end is the dictatorship of the proletariat. In such a society, there is neither social class nor struggle, and hence there is no state and political party. The CPC is a political party of the proletariat, is it not? When society proceeds to communism through the dictatorship of the proletariat, there is no state and political party. This is why it is necessary for the CPC to persist in the transition from a capitalistic society to a communist society, and this is necessary. The state and political parties are all means and tools; political parties and the state are all instruments of oppression.

Sometimes when we look back on these events of history, we would really find them quite interesting. When the Anti-LIN Biao and Anti-Confucius Campaign was rolling on in full force, and as we all know, during the Cultural Revolution in the 1970s, the political movements were really formidable. From the central authorities to villages, all must do according to the instructions given

by the central authorities in the policy documents, and all Party Committee Secretaries and leaders in local governments must launch these campaigns against LIN Biao and Confucius. The campaigns had to be launched even in a rural commune. There was once a commune in a certain place where the public rallied to criticize LIN Biao and Confucius, and a peasant came out and said in all righteousness (*in Putonghua*), "Today, we gather in this place to admonish the wrongdoings of LIN Biao and Confucius. A most important problem to resolve is to really understand very clearly the background of this person named Confucius. So, who is he? Let us go and get him. Who had introduced him to the communist party?" These political campaigns were senseless and ignorant indeed. Honestly, I trust all the people in this Chamber, including the TSANG brothers, would not wish to see those political campaigns in the 1970s happen continuously on the soil of China.

Let me say this from the bottom of my heart. I thank Mr CHAN Kam-lam very much for proposing this motion today, which enables us to rethink what has actually happened in this place of Hong Kong where the Eastern and Western cultures meet. Why is it that the qualities and virtues of the Chinese culture are considered useless in Hong Kong nowadays? As Mrs Regina IP pointed out earlier, Chinese History is outrageously excluded from the junior secondary curriculum — But we are following this up; she and I are both involved in following up this matter. Schools can teach it if they like and they can skip it if they do not like it. So, buddy, Secretary TSANG Tak-sing should not be the only official sitting in this Chamber today. Secretary Michael SUEN should also be here in this meeting.

When a member of a nation does not even have the slightest understanding of his own history and culture and when he does not consciously feel a sense of pride, what future will this nation have? Things are even worse when it comes to the standard of Chinese language. The Chinese language standard today is downright crap — I do not mean to be offensive — The Chinese Language standard nowadays is crap indeed. Let me tell Members this. It is precisely because of this situation that the President always has to correct Members' pronunciation. Why does it happen? Because nobody can teach Chinese language, and nobody can teach Chinese history. All they know is to show off their learning by reciting *The Analects of Confucius* or *The Four Books*. We are really good at reciting. I am not kidding. Just that we do not have the time to compete with them today.

A few days ago someone said to me, "Yuk Man, what you did the other day was wrong and you have to accept the criticisms". I said yes. In *The Analects of Confucius*, there is this teaching: (A gentleman) "does not befriend those beneath him. When he makes a mistake he is not afraid to correct it." When one makes a mistake, he must admit it. I have five designs for my name card. Members can take a look here. One of the designs that I most often use is an extract from Datong (the Great Harmony) in the Chapter of Liyun (Conveyance of the Rites) of *The Book of Rites*. It says: "Where the great way prevails It is written very clearly here. It is very difficult for me to support (*The buzzer sounded*)

PRESIDENT (in Cantonese): Mr WONG, time is up.

MR WONG YUK-MAN (in Cantonese): the original motion due to its contents. I am sorry, but I support the promotion of the philosophy of Confucianism. Thank you.

MS AUDREY EU (in Cantonese): There is certainly a reason for the thinking of Confucianism to remain prevalent through the ages and command respect by people all over the world. I always study the thinking of Confucianism too, and I hope I can develop Confucian virtues and qualities. That said, I regret to say that I cannot support the original motion today. As a matter of fact, the promotion of a certain school of thought or scholarly thinking by the Government is very much questionable. But if it is suggested that the Government should promote moral virtues and qualities, President, I would not see any problem with it and I would absolutely support it.

President, with respect to this topic, I wish to say in particular that I think it is very much questionable for the SAR Government to promote the thinking of Confucianism at this stage. Why? It is because the most central value in the thinking of Confucianism is practising benevolence in governance. But please listen to the grievances in the community. Why is the wealth gap so serious in Hong Kong? People think that one of the reasons is the SAR Government's failure to listen to their voices. They think that the Government now is not elected by the public by one person, one vote, and there are always criticisms

about collusion between the Government and business. The Government certainly denied these allegations, but the fact is that our political system is indeed malformed, and it is also a fact that a "small circle" government is created, and even half of the Members are also returned by the "small circle" of functional constituencies. This is why the Government has failed to do anything in many areas, such as health care support for chronic patients, residential care home places for the elderly, protection for the retired, and even the transport subsidy that we talked about this morning. Such being the case, how can it be possible work to ask this Government to promote the virtues of benevolence, righteousness and morality as advocated by Confucianism?

President, I particularly respect friends who are committed to promoting Confucianism in Hong Kong. They have a bible of the teachings of Confucius. I have brought with me *The Analects of Confucius* today. Chapter two is about the art of governance, and the first point is "The Master said: 'He who conducts government with virtue may be likened to the North Star, which, seated in its place, is surrounded by multitudes of other stars.'" According to the explanation here, it means that in order to rule the country by virtues, the ruler must set an example with his own deeds or set an example of a moral character. Only in this way can the ruler truly command support from his people, like the Polaris being surrounded by other stars. But what does our SAR Government say? It says that people are treated differently depending on their closeness in the relationship with the Government. President, how can we say it "conducts government with virtue"? Besides, paragraph 2.19 says, "Duke Ai asked, 'What must we do to make the people obedient?' Confucius answered, 'Promote the upright, place them above the crooked, and the people shall be obedient. Promote the crooked, place them above the upright, and the people should be disobedient.'" What does it mean? It means accusing people who did the right thing for being wrong and saying that a person who did something wrong is right. This is downright calling a stag a horse. But the SAR Government has always done this. It always sets a bad example by, for instance, saying that the functional constituencies represent balanced participation. I often go to schools and tell primary and secondary students that when we talk about the principle of fairness, it does not mean that in the Legislative Council there must be seats set aside for those with powers to be elected uncontested. Rather, everyone should be elected to the Legislative Council on the principle of fairness. Only a fair election can represent balanced participation. Balanced participation does not mean that it is particularly easy for people with money and knowledge to join the parliamentary

assembly and enjoy a sumptuous meal in politics, so to speak. This is not the principle of fairness.

Members can look at paragraph 2.22: The Master said, "If a man is not truthful, I do not know how he can get along." It means that only a person who keeps his promise can practise benevolence. The first thing that the Government must do is to keep its promise. The Chief Executive told us when he ran in the election that he would "play a big game" and that he would thoroughly resolve the issue of universal suffrage in his term of office. But he has reneged on his words, and his promise has disappeared into obscurity. When we questioned him about this, he said that our English grammar was wrong but in fact, he was the one who got it wrong. He has not honoured his undertaking made during the election. He even shamelessly told others that he would give us a timetable but at that time, we did not ask him anything about the roadmap. What he said was obviously not true.

Members can also see that with regard to the principles stressed by Confucius, this SAR Government has completely failed to practise them and since it has failed to practise them, how can it promote them? President, the motion proposed by CHAN Kam-lam today suggests that promoting Confucianism can solve a lot of problems in Hong Kong. These problems are, to a certain extent, problems caused by deep-rooted conflicts in Hong Kong, as Premier WEN has said. In this connection, this reminds me of Financial Secretary John TSANG recently saying on his blog site that the "post-80s" are only concerned about the size of the swimming pool in their clubhouse. After this comment was made, I have been receiving e-mails from some people among the "post-80s" who said that they were furious and they considered that the SAR Government does not understand them at all. Some of the e-mails are very long and well-written but I cannot read them out here and so, I can only put them on my blog site.

This Government has actually done a lot which have consequently driven the "post-80s" to come out to fight for justice, but the Government has failed to listen to their voices. This is why Members can see outside this Council words written to mean that when the ruler is unkind and unjust, this Council can only behave discourteously. What we must do is not to purely promote a certain school of thought. I am not saying that this school of thought is not good. But I do not think that it can address the deep-rooted problems in Hong Kong. Let

me make an appeal here. In the express rail link incident, for instance, let us not only ask why the people would resort to such agitated actions, why these people are willing to launch the "bitter trek" across the territory, and why these people are willing to stage a hunger strike. Rather, the SAR Government must listen to more different voices, so as to see a clear picture of the policy it has introduced. Take the express rail link as an example. There are many shortcomings in it, such as inadequate consultation, which have caused so much discontent among the people. All these cannot be addressed simply by promoting the thinking of Confucianism.

Therefore, I particularly wish to tell friends in the public gallery that we very much respect Confucius and we do appreciate the importance of the thinking of Confucianism to society, to culture and to us. But about this motion topic, regrettably, we can only abstain in the vote on the original motion proposed by Mr CHAN Kam-lam.

MS MIRIAM LAU (in Cantonese): President, Confucius is a very great Chinese thinker in ancient times and an educationist reputed as a paragon of all teachers. Being the founder of Confucianism, Confucius has contributed significantly to the compilation and promotion of the thinking of Confucianism and also to the development of popular education, maintaining an influence on Chinese culture for several millenniums.

The thinking of Confucianism is influential not only in China. As early as in the Middle Ages, Confucianism was already spread to the cultural world in Europe, which broadened the horizons of the westerners. The House of Representatives of the United States even passed a resolution on 28 October last year on the commemoration of the 2 560th anniversary of the birthday of Confucius to give recognition to his contribution to the culture of mankind.

In fact, the moral principles relating to family ethics, loyalty, trust, filial piety and sibling piety, and the spirit of mutual care and assistance among neighbours as advocated by Confucianism all carry positive meanings which I believe should be helpful to addressing many social problems nowadays to a certain extent. For this reason, the Liberal Party certainly supports the proposal made in the motion of promoting the philosophical thinking of Confucianism.

However, the thinking of Confucianism is after all a product of more than 2 000 years ago. If we look at them from a present-day perspective, we will inevitably find some feudalistic and backward ideas in it. For example, Confucianism advocates a husband's superiority over his wife, requiring the wife to obey her husband and uphold his husband's interest in doing everything. This is obviously advocating men's superiority over women with men being the centre of society. There is also a famous saying of Confucius which everyone knows well, and I quote, "Women and small men are the most difficult to keep" (end of quote). This is even putting women on a par with small men. I trust that even Mr CHAN Kam-lam, sponsor of this motion today, does not share this view, does he? I hope that my guess is not wrong.

On the political front, Confucius promoted the principle that "If you are not in a certain office, do not concern yourself with its affairs". This is in one way or another putting an emphasis on the concept of class in society, which is very different from the principle of promoting active involvement in community affairs in a modern civil society.

In fact, in this highly developed Hong Kong in the 21st century, what are being upheld are such important social values as equality between men and women, democracy and freedom. If the thinking of Confucianism is to be suddenly promoted on all fronts, it may somehow give a feeling of incongruity and so, it is indeed necessary to make careful choices when promoting these principles.

On the proposal made in the original motion of promoting the application of the philosophy of Confucianism to social enterprises and business operations, our view is that clarification is still necessary in many areas. No doubt the class system upheld in Confucianism is in the order of scholar-gentry, peasants, artisans and merchants, which puts the business sector at the lowest position in terms of importance. If the Confucian business philosophy as referred to in the original motion means attaching little importance to merchants, I am afraid many people, particularly those in the business sector, will not agree to it. But of course, Confucianism attaches importance to benevolence and the principle that the rich people should make profits in the right way and stresses integrity in business operations. All these happen to be in line with the code of business ethics nowadays.

In fact, since the outbreak of the financial crisis last year, the Liberal Party has been calling on all enterprises to avoid retrenchment or cutting staff wages by all means. We even took concrete actions by initiating the signing of a charter by hundreds of enterprises in December 2008 undertaking not to lay off their employees. We called on employers to keep their employees' "rice bowls" by all means despite the once-in-a-century economic crisis, in order to ride out the storm together. We did so purely in the hope that enterprises can fulfil a little bit more social responsibilities.

On the proposal made in the original motion of introducing the thinking of Confucianism into the moral education curriculum in schools, as I have said just now, while we agree to this proposal, we consider it necessary to make choices carefully in order not to promote principles which have become obsolete.

In fact, the thinking of Confucianism can be imparted to students through the Chinese History subject in the current secondary school curriculum, in the subject of Liberal Studies and the elective components of the Chinese Language subject in the new academic structure for senior secondary education. So, students actually have many opportunities to come across the philosophy of Confucianism. But certainly, the Liberal Party is not against its further promotion.

However, the original motion mentions that when trying to solve the serious social problems, such as drug addiction, drug abuse and compensated dating among young people, it seems to suggest that Confucianism is the only solution, and that only when the thinking of Confucianism is promoted and the philosophy of Confucianism is revived can these problems be resolved. We think that this may only be a wishful thinking, because these social problems are very complicated, which can be solved only with a multi-pronged approach. The promotion of one school of thought alone is still unable to tackle these serious and complicated social problems at root, no matter how good this thinking may be.

President, as regards the proposal in the original motion of designating the birthday of Confucius as the Confucius Day, we consider that similar to the Teachers' Day, it is meaningful to encourage the community to pay tribute to such

philosophers and educationists of great importance. However, the amendment proposes to designate the birthday of Confucius as a public holiday and we consider that this proposal is open to question. Some Honourable colleagues who spoke earlier expressed support for designating this day as a day of no-pay leave while some supported making it a paid holiday or even a statutory holiday, showing that there are quite a lot of controversies on this issue. In this respect, I think more discussion in society is warranted.

Moreover, if the birthday of Confucius is designated as the Confucius Day, what about the other suggestions made by the Taoists and other religious groups, such as designating a day as the Taoist Day? Should the Government also respond to their demands and accord the same treatment to them? So, in our view, an ideal approach is for the community to conduct more discussion and anyone who wishes to have a day set aside for commemorating a certain school of thought or religion should put up such request for public discussion, and a decision should be taken after a consensus is reached in the community.

President, I so submit.

MR RONNY TONG (in Cantonese): President, this Chamber is a place where we talk about politics. Talking about philosophy and even religion on a political platform indeed gives people a feeling that this is a bit out of place. Particularly as we can see that many Honourable colleagues have been moving their heads from side to side in citing the classics and quoting lines from *The Four Books and The Five Classics*, I feel as if I have returned to those days when I studied in junior secondary school. This even makes me feel quite at a loss, because with respect to such philosophical discussions, I think Margaret NG is more qualified to give comments, and it seems rather awkward for me, being somebody who had received an education in English, to comment on these issues.

But President, being a person engaging in politics, I absolutely cannot accept the attitude of quoting ideas out of context and saying or doing what is to the liking of other people, and even turning a blind eye on some of the very central ideas. This is unacceptable to me. President, Confucianism is an important school of Chinese philosophy which has been widely spread, and it is

complete in itself. However, from the Warring States period to the present, and even in this Chamber today, the thinking of Confucianism is often used by autocratic people or those in power as a political instrument to please other people. Certainly, if you are an autocratic person or someone holding powers, you will respect and particularly lay stress on the five relationships, moral values, and the principles that "Let a sovereign act like a sovereign, a minister like a minister, a father like a father and a son like a son" and "The sovereign should employ the officials in accordance with the rituals; the officials should serve the sovereign with loyalty." These are what they would like to hear. However, they seem to have forgotten that in respect of ethics or political science, Confucianism has its own ideas.

On the ethics front, the central idea is benevolence and righteousness. Ms Audrey EU has cited the principle that "He who conducts government with virtue may be likened to a North Star, which, seated in its place, is surrounded by multitudes of stars." And there is also this principle: "Extend your respect for your aged parents to all the aged, and extend your love for your own children to all children." Which government can do it and in particular, can this SAR Government of ours do it? Can Chief Executive Donald TSANG say that he has practised a virtuous rule or a benevolent rule throughout the many years of his office?

According to the principles in political science, the situation is even more improper. President, the thinking of Confucianism promotes benevolent rule, the way of the King and great harmony. Mencius said, "To a state, the people are the most important thing, the altars to the gods of earth and grain come second, and the ruler is the least important thing.); Xunzi said, "To follow the dictates of the Way rather than those of one's lord and to follow the requirements of morality rather than the wishes of one's father constitute the highest standard of conduct." President, these ideas are tantamount to treason and heresies. People who said these things — LIU Xiaobo, for instance, was sentenced to 11 years of imprisonment. We do not talk about important political thinking and the central thinking of Confucianism here but instead, the motion only talks about confusing social values, weak concept of morality, the occurrence of domestic violence and child abuse incidents and even suggests designating the birthday of Confucius as the Confucius Day. President, I do not oppose the idea of whether

or not it should be designated as a holiday. But I think when one talks about this philosophy which is held in high repute, one really must not quote the ideas out of context.

We can see from history that the thinking of Confucianism actually was not given much weight during the Warring States period. Then how did this school of thought emerge? It was because the Spring and Autumn period was an era of excessive warfare when the rites and music of decorum were in tatters. During the period when different schools of thought could contend with each other, Confucianism was not the mainstream school of thought and it was not even the ruling ideology of a government. Importance was given to it only by the state of Lu. Certainly, we know that the state of Lu was ultimately destroyed. As a matter of fact, after the burning of books and the burial of scholars alive, and the founding of the Han dynasty, Emperor Wudi of Han dynasty began to lay eyes on the advocacy of the five relationships that I have mentioned just now, that is, the principle of "Let a sovereign act like a sovereign, a minister like a minister, a father like a father and a son like a son.", for he considered this an important theory to support the building of the foundation of the Chinese feudalistic thinking. It was only since then that Confucianism has been upheld.

Over the past millenniums of Chinese history, various emperors, and even in the new China founded by the Communist Party, only adopted the part of Confucius thinking which is conducive to consolidating their rule while insisting on the importance of upholding morality, that is, the principle that "Let a sovereign act like a sovereign, a minister like a minister, a father like a father and a son like a son.". All the rulers seem to have forgotten the principle which I have just said, and that is, "To a state, the people are the most important thing, the altars to the gods of earth and grain come second, and the ruler is the least important thing", meaning that the ruler is actually of the least importance. What we must stress is the "Way" and righteousness, and there is the teaching of "To follow the dictates of the Way rather than those of one's lord and to follow the requirements of morality rather than the wishes of one's father". No matter if someone is the Chief Executive, a father or a party leader, he should stand on the people's side when things go against the principle. Therefore, while this motion proposed by Mr CHAN Kam-lam is very meaningful, I hope very much that he can learn from the principle of "To follow the dictates of the Way rather than those of one's lord and to follow the requirements of morality rather than the wishes of one's father" which we have just said. The Democratic Alliance for

the Betterment and Progress of Hong Kong does not support the implementation of universal suffrage in Hong Kong as soon as possible. Their election platform had said that there would be dual universal suffrage in 2007 and 2008 and yet, they could even change this point. If CHAN Kam-lam can learn from the several Confucius principles that I have just cited, he can actually stand out from all the others by siding with the people, siding with the principle of virtuous rule, and siding with the principle of benevolent rule.

Originally, I could perhaps support this motion today, but if only part of the Confucius thinking is adopted to consolidate a certain regime or to consolidate this downright imbalanced political system that we have today, I am sorry to say that I think this amounts to violation and defiance of the integrity of this complete, lofty and respectable school of philosophy as well as its central thinking. If that is the case, please forgive me for not acting in the way as they wish, for it is very difficult for me support this motion.

Thank you, President.

MR IP WAI-MING (in Cantonese): President, the thinking of Confucianism, as a key philosophical thinking of the nation, is worth studying. As regards ways of promoting Confucian thinking as the major thinking of a region or nation, I think further discussions can be held. Furthermore, as pointed out by two Honourable colleagues just now, any attempt to enhance and appreciate Confucian thinking must give due regard to the realistic circumstances.

Actually, I will not quote the classics because many people here have much greater accomplishments in studies of Chinese culture than me. I will only focus on some of the understandings of the *Confucian Analects* I gained when I was studying in secondary school and my understanding of the life of our workers in particular, by putting my understanding of the *Confucian Analects* into real lives.

Very often, we hear teachers say that "ren⁽⁶⁾ (仁)" is an important Confucian thinking, right? According to a survey, the word "ren" appears 109 times throughout the *Confucian Analects*. I have been told by my assistant, however, that people will probably be laughed at should they talk about

(6) The term "ren" is difficult to translate; it could be summed up to mean "complete virtue".

"compassion (仁愛)" and "righteousness (仁義)" in the Hong Kong community nowadays. It is said that actually, since the Industrial Revolution, many people will not merely look at compassion and righteousness. Capitalists pursue benefits and endless profits, many of them have resorted to reckless layoff and arbitrary exploitation and suppression of workers, and even using the economic development and benefits of the community as a whole as the pretext.

Let us imagine this. If our community really takes righteousness seriously, it will be hard to imagine why some employers would have offered their employees an hourly wage of a dozen dollars in disregard of their life or death. It is also impossible for us to figure out why some employers would hope to set the minimum wage at the lowest possible level in disregard of whether their employees can eke out a living.

Of course, many employers, particularly major enterprises, will package themselves and say that they have already fulfilled their corporate social responsibility. However, the so-called corporate social responsibility is merely lip-service to righteousness and morality. In times of making great profits, employers will take a little bit of money out of their pockets for so-called charitable community causes and then say that they have already fulfilled their corporate social responsibility. The year before last, the Pacific Century CyberWorks Limited cut staff while making enormous profits and, at the same time, received a so-called corporate social responsibility award. We find this utterly ironic.

The "people-based" approach is another thinking of Confucianism. In the *Works of Mencius* and the *Doctrine of the Mean*, which is among the *Four Books*, it is mentioned that "benevolence is the characteristic element of humanity". If we really take compassion and righteousness seriously, respect should be given to the principal value of humanity, and humans as labour must not be regarded as worthless. Despite the Chief Executive's repeated emphasis on the "people-based" approach, all the employment policies known to us cannot be described as "people-based".

Since the launch of the Civil Service Reform in 2000, the Government has been employing its staff by way of outsourcing or on contracts. Not only does the Government offer these people substantially reduced salaries and little benefit, they will also be dismissed upon the expiry of their contracts. I have

recently joined my colleague, Dr PAN Pey-chyou, in handling the contracts of the non-civil service contract staff of the Buildings Department. Because of a lack of money, the Development Bureau is going to lay off 700 people, and none of these staff can stay no matter what. President, if all these 700 people are regarded as humans, and if the Government truly adopts the "people-based" approach, as claimed by the Chief Executive, will the Government lay off 700-odd people around the Lunar New Year? Actually, it is not that they have nothing to do. Given that so many illegal structures are awaiting demolition, is it really necessary for the Government to lay off so many people? The Chief Executive is actually deceiving himself and others when he stresses the "people-based" approach.

"Worrying about unequal distribution but not scarcity" is also a key Confucian concept. What it means is that we worry about disparity between the rich and the poor but not scarcity of national wealth. The general concept in the Hong Kong community now seems to go in an exactly opposite direction, with pursuit of investments and making more money being the most important goals. The per capita income of Hong Kong people has now reached US\$28,000 and ranks among the front-runners of the world. Unfortunately, Hong Kong also has the most serious problem of disparity between the rich and the poor. Being rich with unequal distribution is indeed the portrayal of the Hong Kong community.

President, I would like to tell a story about a meeting between Mencius and King Hui of Liang⁽⁷⁾. When King Hui of Liang said to Mencius, "What is to be done to profit my kingdom?", Mencius replied, "If your Majesty say 'What is to be done to profit my kingdom?', the officials will say, 'What is to be done to profit our families?' and the common people will say, 'What is to be done to profit our persons?'" If everyone merely acts in their own interest, what good will it do to the country? Therefore, Mencius asked the king to emphasize righteousness and not to focus merely on benefits.

Certainly, as a commercial society, Hong Kong cannot talk about righteousness only. However, I still hope the Government and capitalists can demonstrate the minimum conscience by treating their employees and the poor

(7) Legge, James. 1992. The Chinese-English Bilingual Series of Chinese Classics: The Four Book. Hunan: Hunan Publishing House. P. 260

more fairly. When it comes to setting a minimum wage level, I hope the SAR Government can prescribe a level that can support the living of families and enact legislation on setting standard working hours.

I so submit.

PROF PATRICK LAU (in Cantonese): President, I would like to make a remark for Dr Priscilla LEUNG, "Confucius said, 'Of all people, girls and servants are the most difficult to behave to. If you are familiar with them, they lose their humility. If you maintain a reserve towards them, they are discontented⁽⁸⁾.'"

Since the heeding of the advice of DONG Zhongshu by Emperor Han Wu Di to "dismiss the hundred schools and revere only the Confucians", the philosophy of Confucianism has become the Chinese government's

PRESIDENT (in Cantonese): Prof LAU, please put on your microphone.

PROF PATRICK LAU (in Cantonese): Sorry.

It has significant influence on the development of Chinese culture over the past 2 000 years. Today, we still respect Confucius, the pioneer of Confucian thinking, as a "saint", "the supreme saint", or "an exemplary teacher for all ages".

Frankly speaking, the ideas of Confucianism are extensive and profound. Though I am no expert on Confucianism — many Confucianism experts are listening — I do have some thoughts about Confucian thinking as I was brought up in a traditional Chinese family and have worked in the university for years. I am particularly impressed by Confucius' great idea of "providing education to all people without discrimination" which paved the way for the imperial examination system and broke the situation whereby the academic circle and official posts in ancient times were monopolized by the rich and the powerful.

(8) Legge, James. 1992. The Chinese-English Bilingual Series of Chinese Classics: The Four Book. Hunan: Hunan Publishing House. P. 237

Confucianism also emphasizes upgrading personal cultivation, respecting the elderly, caring for the small and the weak, fostering a harmonious community, and so on. Mencius once advocated this: "Care for my own aged parents and extend the same care to the aged parents of others; love my own young children and extend the same love to the children of others". Confucius even advised people in power to administer the government in a benevolent manner. He said, "It is, when you go abroad to behave to everyone as if you were receiving a great guest; to employ the people as if you were assisting at a great sacrifice; not to do to others as you would not wish done to yourself; to have no murmuring against you in the country, and none in the family⁽⁹⁾".

President, I think the proposal of introducing in schools moral education courses which emphasize the cultivation of one's moral character can help young people gain knowledge of traditional Chinese culture and encourage them to engage in thinking and self-reflection more. However, I have been told by some front-line teachers that schools have all along been providing moral education courses. Students should enjoy the freedom to decide whether they accept these courses and how to put morality into practice. Furthermore, students might feel offended by the addition of extra sessions. I have reservations about the introduction of moral education courses in tertiary institutions because these institutions advocate academic freedom and seek to nurture independent thinking and self-learning. Students wishing to study Confucianism can take philosophy or study in libraries.

When it comes to free thinking, I would like to point out that while I agree with promoting Confucianism, I do not think we should revere Confucianism only because every school of thought has its own merits and demerits, and Confucianism does not represent the entire Chinese culture. Furthermore, we are now in a diversified world in the 21st century. It seems not entirely satisfactory if only a certain philosophy is advocated. The development of academic thinking was most remarkable during the time of the Spring and Autumn Period, the Warring States Period, and the Qin Dynasty when all schools of thought were contending for attention. Owing to the political chaos at that time, various states hoped to come up with good measures that could bring wealth and beef up military strength in preparation for their fight for territory in ancient central China, and their quest for talent had prompted intellectuals to publish a

(9) Legge, James. 1992. The Chinese-English Bilingual Series of Chinese Classics: The Four Book. Hunan: Hunan Publishing House. P.167

great diversity of philosophical theories, such as Daoism, Mohism, Legalism, the School of the Military, the School of Names, the Yin-Yang School, and so on. Like Confucianism, these schools of thought, which are also part of China's cultural and intellectual treasure, merit promotion, too. Furthermore, ancient emperors, the literati and intellectuals, who studied different schools of thought since they were young, could thoroughly master different schools of thought and apply them appropriately according to actual needs.

I agree with Ms Miriam LAU's views on the application of Confucianism to business operations. According to my understanding, Confucianism, which was advocated by Confucius, was treated as political science by the literati during the Spring and Autumn Period to help them exercise proper restraints in dealing with people. Furthermore, Confucianism had a low appraisal of the farming, artisan and commercial activities carried out by the common people at that time, as these jobs were considered to be lowly and the literati and the noble did not engage in production. Simply put, the literati "favoured officialdom over merchants". This is why FAN Chi, who expressed his wish to learn farming, was criticized by Confucius. I hope someone with insight can resolve this paradox.

As regards the proposal of designating the birthday of Confucius as a public holiday, I agree with the Secretary that it is necessary to consult the public and gain their support. In this respect, I think the motion proposed by Mr CHAN merits our consideration.

Thank you, President.

MS CYD HO (in Cantonese): President, if I purely judge this motion topic from the angle of the taste of a reader, I would find this debate extremely boring. Frankly speaking, I was not greatly interested in reading passages about Confucianism in my secondary school textbooks when I was young. Many female students would lose their interest when they read the line saying "Of all people, girls and servants are the most difficult to behave to⁽¹⁰⁾", and they would stop reading.

(10) Legge, James. 1992. The Chinese-English Bilingual Series of Chinese Classics: The Four Book. Hunan: Hunan Publishing House. P. 237

Just now, Prof Patrick LAU even said that, "If you are familiar with them, they lose their humility. If you maintain a reserve towards them, they are discontented⁽¹¹⁾." In other words, they do not want you to get close to them, and yet they will be unhappy if you keep them at a distance. How difficult it is to behave to girls and servants! Prof Patrick LAU was actually talking about half of the population. Of course, some studies argue that Confucius was not discriminating against women. It was only under certain special circumstances that the remarks were made — he was actually referring to the story in which female musicians was sent to the State of Qi by the State of Lu as a present and no court was held for three days because of such superb entertainment. Nevertheless, such a generalization is hardly acceptable.

As a reader, I would rather read Zhuangzi's works of pure fantasy. I am not going to cite from his original (I believe colleagues in the Legislative Council Secretariat can hardly cope with it). According to Zhuangzi, there was a big fish in the North, which would suddenly turn into a bird. The bird was so big that its wings would even block the clouds. And then, the bird would fly to the South, and its breath could last as long as six months. These descriptions are so interesting that they are exactly like the animation created by MIYAZAKI Hayao. I would also rather read Chu Ci (楚辭). In shan gui pian⁽¹²⁾ (山鬼), there is a story about a spirit riding a jaguar in the jungle. Besides him were many other animals and his body was covered with various kinds of plants, flowers and fruits. He was rushing to meet his lover, only to return in great disappointment. Depicting love affairs between humans and the expression of true human feelings in the natural environment, these romantic and yet mystical descriptions are actually mythical literature which can rarely be found in Chinese literature. Fortunately, they have been preserved.

I must confess that, as a reader, I prefer essays expressing feelings to those conveying truth. There are people of different personalities in this world. In my personal opinion, yuan qu⁽¹³⁾, song ci⁽¹⁴⁾, legends, and even chapters are much more interesting than DONG Zhongshu (董仲舒)'s "Tian Ren San Ce" (天人三

(11) Legge, James. 1992. The Chinese-English Bilingual Series of Chinese Classics: The Four Book. Hunan: Hunan Publishing House. P. 237

(12) "shan gui" means mountain spirits

(13) "yuan qu" is a type of verse popular in the Yuan Dynasty

(14) "song ci" is a type of verse popular in the Song Dynasty

策) in which he appeals to Han Wu-di (漢武帝) to dismiss the hundred schools and revere only the Confucians. If not for this motion, I would not have taken a look at this book, but I really had no interest in reading it because it was so boring.

President, people of the older generation like us are very fortunate to have had the opportunity of being exposed to different literatures and genres in school. I hope young students can also be given the same exposure to different cultures through different teachings and thinkings, thereby establishing their own humanistic values.

The original motion considers that promoting Confucianism can guide people towards a good path. Actually, this is not unique to Confucianism. Many other teachings and thinkings can bring peace and harmony. For instance, Mohism advocates universal love and Buddhism advocates equality among all mortal beings. Actually, both of them advocate that justice and care are indispensable to the community. In fact, they surpass the Confucian thinking of morality and affinity differences with different people in the community in terms of advocating impartial love.

Therefore, President, we do not necessarily have to begin with the thinking of Confucianism in order to uphold certain social values and mutual care, as suggested by Members just now. When it comes to criticizing people, Confucius says, "If you do not learn the rules of Propriety, your character cannot be established⁽¹⁵⁾". Shi Jing (詩經), or the Book of Odes, can be very harsh in condemning people. Although I do not usually recite from books, I have a particularly good memory of some lines of criticism. For instance, a person is compared to a rat for being so shameless that he even does not care about his own face, as if a rat which does not care about its own skin. The rat is already a sneaky and disgusting creature. It would be even more unpleasant if a rat does not have skin. Hence, all kinds of emotions, including the emotion of making criticisms, can erupt anytime. However, Members might not fully understand or be fully aware of the criticism if the criticisms are delivered in classical Chinese. Therefore, they may not show much emotional reaction.

(15) Legge, James. 1992. The Chinese-English Bilingual Series of Chinese Classics: The Four Book. Hunan: Hunan Publishing House. P.223

President, I hope that the authorities will remember discussing with the Secretary for Education after listening to this motion debate today, because the Secretary for Education really should have attended this meeting today. I hope the Education Bureau can promote the principles of liberal studies. According to the website of the Education Bureau, the goal of promoting the liberal studies curricula is to nurture students to respect diversified culture and become persons who are able to criticize, reflect and think independently, as well as enabling students to admire and respect different cultures and points of view and learn to handle conflicting values in a diversified community. Therefore, the best approach is to allow all schools of thoughts to contend, so that students can not only get to know the culture of different philosophers but also get to know Chinese and Western cultures, thereby establishing their own values of life and becoming global citizens in the third millennium. Thank you, President.

MR LEUNG KWOK-HUNG (in Cantonese): President, I find the motion proposed by Mr CHAN Kam-lam very ridiculous. If Mr CHAN

PRESIDENT (in Cantonese): Mr LEUNG, please put on your microphone.

MR LEUNG KWOK-HUNG (in Cantonese): I do understand the reasons for revering only Confucianism. However, after such a long time, and after the May Fourth Movement, I cannot subscribe to people of later generations borrowing from Confucian thinking and describing the teachings of Confucianism as a kind of feudal ethics and rites, or an ethic which gives emperors, generals and prime ministers an advantage.

Actually, the motion proposed by Mr CHAN Kam-lam today gives us a faint impression that he is revering only Confucianism because he suggests the Government take measures, including teaching Confucius' thinking of Confucianism, because of decayed moral standards. Ladies and Gentlemen, Han Wu-di (漢武帝) revered Confucianism in order to resolve political disputes. It was justifiable because of political struggles. Now, Confucius is dead. If not for Emperor Qin Shi Huang (秦始皇), who ordered the burning of books and burying scholars alive, people of later generations would not have to study what Confucius said. Like all other great philosophers, Confucius was a transmitter,

not a maker⁽¹⁶⁾. What is the shortcoming of being a transmitter but not a maker? People of later generations can go on interpreting what he said.

The May Fourth Movement had once advocated knocking down Confucius and Confucian thinking. CHEN Duxiu, the communist party's leader, was deeply grieved and fiercely criticized hypocrites turning the teachings of Confucius into a feudal code of ethics to suppress women and people being ruled.

To meet its political expediencies, the Communist Party of China tried to suppress Confucius, as if he was still living at that time. It had also done nothing to sort out or rationalize Confucian thinking with a pragmatic approach. The campaign to purge LIN (Biao) and Confucius was actually a political struggle, like the one taken place in the Han Dynasty. For instance, I drag ZHOU Enlai into the water simply because I like to criticize him. After LIN and Confucius, the Duke of Zhou (周公) was the next target. I do not know why Mr CHAN Kam-lam would have come up with such an idea today. I wonder if his proposal of revering only Confucianism has anything to do with his business or his muddled thinking.

Today, we have discussed in this Chamber the imprisonment of Mr LIU Xiaobo. He is a bit like WEN Tianxiang, am I right? Despite being locked up in the cell, he continued to make his voice heard. While he does not necessarily believe in the teachings of Confucianism, Mr LIU Xiaobo is actually a dark horse in the Chinese literary circle, and he always argues with Mr LI Zehou.

The advocacy advanced by Mr CHAN Kam-lam is entirely aimed at serving the regime. It is extremely dangerous to do so. Philosophers, Jesus and Aristotle in the Western world will never become a national religion. Attempts were made by Western countries to unify the state and the church, such as Eastern Orthodoxy, Christianity and Catholicism, but they all failed. In the secular society of Western Europe, the democratic party which believes in Christianity nowadays has never dared to tell people to believe in Christianity or else they will lose their voting rights, and so on, because this is not going to work.

What I would like to say here is that "抽水 (taking advantage of someone)" is the "in" phrase nowadays. Mr CHAN Kam-lam is actually taking

(16) Legge, James. 1992. The Chinese-English Bilingual Series of Chinese Classics: The Four Book. Hunan: Hunan Publishing House. P.117

advantage of Confucius. It should be the responsibility of academics to develop and sort out Confucian thinking in a free environment. Should the tragic history of revering only Confucianism and exterminating nine schools of thought and the novelists be let to repeat itself?

In WEN Tianxiang's *Zheng qi ge*, it reads, "And, while the wind whistles under the eaves, I open my books and read; and lo! in their presence my heart glows with a borrowed fire⁽¹⁷⁾." Only Mr LIU Xiaobo can carry such a description because all supporters of Communism, that is, all supporters of China, simply cannot use Confucianism to indicate their political stance. After the 4 June incident, I do not know what word can be used to describe the three crises of no-confidence. If nationalism can be pursued — the rising of the big nation is understandable — but please do not try to frame Confucius by mentioning Confucianism again because Confucius has already passed away.

I will come to the end of my speech very soon. In the final chapters of *A Madman's Diary*, LU Xun said that many people had been killed because the feudal code of ethics was everywhere. Regarding this motion proposed by Mr CHAN Kam-lam today, I dare not say that he is acting in the same manner, but it is extremely dangerous for him to think in this way. Unification of the state and the church and revering only Confucianism are contrary to Chinese tradition. We Chinese people respect nine schools of thought and the novelists.

Thank you, President.

DR RAYMOND HO (in Cantonese): President, before debating this motion today, I would like to take this opportunity to thank Mr CHAN Kam-lam for giving me a copy of the *Bible of the Confucian Analects* (論語聖經) as a gift. When I read documents in my office over the past weekend, I flipped through the book and came across this line,

"The Master said, 'Perfect is the virtue which is according to the Constant Mean⁽¹⁸⁾!'"

(17) <<http://www.silkqin.com/02qnpu/10tggy/tg34zqg.htm>>

(18) Legge, James. 1992. The Chinese-English Bilingual Series of Chinese Classics: The Four Book. Hunan: Hunan Publishing House. P.115

The Mean referred to by Confucius, which is the highest moral standard of the teachings of Confucianism, means dealing with affairs and people according to objective principles in an unbiased manner. It is a pity to see various disputes erupted in the community recently. The use of radical means to express views by some people has given rise to conflicts, which members of the public do not want to see, and it has subsequently rendered it impossible for rational discussions to be held among various parties.

The Master said, "The empire, its State, and its families, may be perfectly ruled; dignities and emoluments may be declined; naked weapons may be trampled under the feet; — but the course of the Mean cannot be attained to⁽¹⁹⁾."

Confucius deliberately compares three goals which are difficult to attain by ordinary people with the Mean to highlight the supreme position of the Mean in his heart as well as arousing the attention of the people in the world. Despite the difficulty in attaining the Mean, I would also like to call on people from all walks of life to put the Mean into practice by keeping calm and avoid being controlled by their emotional thinking, thereby reducing unnecessary disputes in the community.

Confucius is revered as the "teacher for all ages" and, having 3 000 students, is regarded as an authority in education. For instance, with the passage of time, Confucius' words of wisdom, such as "gaining new insights through revising old material", "if three of us are walking together, at least one of the other two is good enough to be my teacher", "learning without thought means labour lost; thought without learning is perilous", and so on, still hold true to the education profession today.

Given its remarkable progress in recent years, China plays a key role in the international arena. With a growing interest in Chinese language and culture, overseas academics hope to explore new business markets through cultural exchanges. In order to satisfy overseas demands for Chinese culture, the Chinese Government has set up the Confucius Institute to collaborate with various educational institutions across the world in providing quality Chinese language education and promoting Chinese culture. Since its establishment in 2004, the Institute has set up 282 branches in 88 countries and regions. The

(19) Legge, James. 1992. The Chinese-English Bilingual Series of Chinese Classics: The Four Book. Hunan: Hunan Publishing House. P.29

popularity of Chinese culture and the thinking of Confucianism in other parts of the world is thus evident.

Contrary to the enthusiastic response of foreigners in learning the teachings of Confucianism, local students know little about Confucianism. Although some local school sponsoring bodies, such as the Confucian Academy, promote Confucius' teachings in Hong Kong, they have, regrettably, failed to arouse students' interest in studying Confucianism.

It is pointed out in the motion that Confucianism is held in high esteem in the world and recognized by various governments. Unfortunately, the SAR Government has still not designated any official memorial day to remember Confucius and organize related events. I understand that it takes time to consult the public on revising the arrangement for statutory holidays, and this cannot be achieved overnight. Designating the birthday of Confucius as a public holiday can help arouse the interest of the new generation of Hong Kong in Confucianism and make them reflect on the values of the needs of contemporary society, thereby consolidating ethical relationship in families. I hope the Government will not ignore Confucius, a highly respected master of the generation.

With these remarks, President, I support the original motion and the amendment. Thank you.

MR LEE WING-TAT (in Cantonese): President, the motion under debate today is related to the teachings of Confucius. I know that many followers of the Confucian Academy are sitting in the gallery. Like the President of the Academy, Mr TANG, they have made a lot of efforts in promoting Confucianism and the teachings of Confucius, and their efforts command our respect. However, I hope Members can understand that, generally speaking, it is more appropriate for non-governmental organizations (NGOs) to promote religions, academic studies or philosophy. Sometimes, it is not entirely appropriate to have too much government involvement in participating or guiding the promotion of a certain theory or religion as the mainstream of society.

President, there are some lessons in history we must learn. For instance, adverse impacts were quite profound when Confucianism was turned into a political tool in the Han Dynasty. Although Confucius had originally hoped for more debate at a time when a hundred schools of thought were contending for

attention, the ruler at that time decided to dismiss the hundred schools, and a political environment in which the freedom of certain speeches was restrained was thus formed. I believe this was probably something Confucius did not want to see. Furthermore, the rulers would sometimes distort the philosophy of compassion advocated by Confucius, such as loyalty and forgiveness, as the ideology of being patriotic and loyal to the throne and turn it into a tool for certain rulers or ruling classes to consolidate their aristocratic regime, or even advocate a social order governed by a patriarchal system in which precedence was given the utmost emphasis. Should we go to the extreme, we might end up like being "consumed by decency and propriety", as described by LU Xun in one of his works.

Of course, I know that followers of the Confucian Academy do not think in this manner. This is why we say that Confucianism basically advocates that a person has to cultivate himself before he can achieve a harmonious family, then he can talk about ruling a country and ultimately head for pacifying the whole world. The so-called ideology of the "Great World", which emphasizes the people-based approach and benevolent governance, is also among Confucius' political ideals. The highest goal of Confucius in teaching his followers is for them to put the weight of the world on their shoulders and advocate the Great Learning, namely to illustrate illustrious virtue, to renovate the people and to rest in the highest excellence⁽²⁰⁾.

When Confucius travelled from state to state, his political ideology was not accepted by the rulers. So he withdrew from politics eventually and started a school, not willing to sacrifice his ideals in exchange for power and influence. Even though he was stranded between the states of *chen* and *cai*, and his life was in danger because he had offended the powerful and the rich, he was still unwilling to compromise. It is actually worthwhile for us to learn this virtue of his. When a person holds on to certain principles, he or she will not change his or her views in order to get close to the powerful and the influential or please the powers-that-be.

President, it is actually extremely worthwhile for the community to discuss Confucianism. However, as pointed out by me just now, it is more appropriate for NGOs to play a more active role in promoting any religions or philosophical

(20) Legge, James. 1992. The Chinese-English Bilingual Series of Chinese Classics: The Four Book. Hunan: Hunan Publishing House. P.3

theories on all fronts. While it may be a good thing for the Government to select a religion, theory or philosophy for mainstream discussion in the community as a start, what will happen as things begin to unfold? This is unpredictable.

Therefore, President, I hope followers of the Confucian Academy can continue to promote discussions on the teachings of Confucius and adopt this approach in promoting the teachings of Confucius in the community, too.

Thank you, President.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

MRS SOPHIE LEUNG (in Cantonese): President, the discussions held in the meeting today cannot be considered too long because many things should be brought up for discussion in the community. Both the members of the Confucian Academy and this motion proposed by Mr CHAN Kam-lam today are very mild, or they are talking about very simple things. Actually, all countries hold their own philosophers or philosophical thinking in high esteem, not to mention that the thinking of Confucianism is widely recognized throughout the world and, to a certain extent, held in high esteem. In my opinion, we only need to strike home a message to let members of the public and students to have a better understanding. I think it is right to do so.

Just now, Mr Ronny TONG said that he received Western-style education. Like Mr TONG, I also received education in English. How much do we know about Confucianism and even the thinkings of Chinese philosophers? Except for those ridiculous lines such as "Of all people, girls and servants are the most difficult to behave to", as quoted by a colleague earlier, our knowledge is actually very shallow. However, all philosophical thinking must be acceptable to modern people and understood from a modern point of view, so as to achieve the goal of cleansing and purifying people's minds. Therefore, I think that Confucianism should be held in high esteem. At the same time, we need not think too hard and deem it as a plot by the Government to manipulate our minds with the thinking of Confucianism. Frankly speaking, how can the minds of Hong Kong people be manipulated? The Confucian thinking, if ever promoted more widely, can only serve as some sort of seasoning in life. I think this is pretty good. Although I will support today's motion, I understand that the

motion, even if passed today, is not binding. It is a separate issue as to whether the Government will implement the proposal. Members of the Confucian Academy should also understand this. But eventually, we will still be able to promote Confucianism to let the academic circle to know more about the Confucius Day. As liberal studies have already been introduced, we may try to talk more about the ideas of Confucius, Mencius and philosophers of different schools of thought. I think it is also good to do so. Hence, I will support the motion today. Thank you, President.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

MS STARRY LEE (in Cantonese): President, the motion today is about "promoting the philosophical thinking of Confucius". The purpose of proposing this motion is to revive the concept of the community, not to revere only Confucianism or request the Government to do a lot of ideological work, as mentioned by a number of colleagues just now.

Like me, many of the people sitting here are parents. They probably feel the same way as I do, that is, they feel a sense of helplessness when they see a lot of social phenomena. Why would Miss LEONG be regarded as young girls' idol for giving birth to a child for a tycoon? Why could an unmarried woman giving birth to a child make headlines? Why do young girls engaging in compensated dating believe that there is no problem with making money with their bodies? Many phenomena of putting profit before everything, such as the Lehman Brothers incident, have demonstrated the disappearance of the community's moral concepts amid commercial acts and thus given rise to numerous innovative financial products without anyone giving consideration to the issue of morality. Therefore, today, we are going to revive social values, not to revere only Confucianism.

Members should not say that the DAB is the only advocate for this view. Even Taiwan, a place frequently mentioned by us, shares this view. This is precisely because there is a need to continue promoting this sort of Chinese value in Chinese communities and make it part of people's lives. In September last year, there were disputes in Taiwan over whether a certain official post could be taken up by a woman. People might find this quite ridiculous on learning about it — Why would a government post be gender sensitive? This post, called a

"sacrificial official post", is quite special in the sense that it is specifically created to honour Confucius' contribution. Responsible for the grand ceremony to worship Confucius every year, this is the only hereditary post in Taiwan. Therefore, Members should not say that such things will absolutely not happen in other places.

Many colleagues also mentioned earlier that the thinking of Confucius has become very popular in all parts of the world, and there are 282 Confucian institutes worldwide. Actually, I very much agree that this topic is related to education. From my personal experience, I find that the learning stage offers the best opportunity for us to instill in children correct social values generally recognized by Chinese people. Therefore, I very much hope that the Secretary can convey our views to the Secretary for Education that should the number of Chinese texts, that is, texts in Chinese language textbooks, continue to be reduced, the opportunity for our next generation to access relevant knowledge about Confucianism will become less and less, as very few people in the present generation will talk about the philosophy of Confucianism.

In addition to education, I think that the Family Council should also promote Confucianism vigorously, as mentioned by the Secretary just now, for family plays an important role in the thinking of Confucianism. The emergence of many social problems nowadays precisely reflects the problems with family ties. Family values, which are taken most seriously by traditional Chinese culture, emphasize "filial piety and fraternal duty", thus leading to the proliferation of such concepts as learning from the old traditions and rites of our ancestors and showing filial respect for our family members and ancestors. With this foundation, it is only natural for family members to care for each other. I very much hope that the Secretary can strengthen the weakening family values in Hong Kong through the Family Council. I also hope that colleagues can put this motion in the right perspective. I believe all parents feel the same way as I do that many social problems are indeed attributable to the absence of a comprehensive set of moral concepts for teaching our children. I sincerely hope that we can make joint efforts to teach our children these important concepts.

President, I so submit.

(Mr TAM Yiu-chung raised his hand in indication)

PRESIDENT (in Cantonese): Mr TAM Yiu-chung, what question do you wish to raise by raising your hand?

MR TAM YIU-CHUNG (in Cantonese): President, I raised my hand to seek your permission for me to speak because when I spoke just now, I said that the Three Character Classic (三字經), or San Zi Jing, was written by Confucius, but it was a slip of the tongue. I would like to clarify that the Three Character Classic was written by WANG Yinglin of the Tang Dynasty, not by Confucius. Although no one might have noticed it, I think I must clarify this.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr CHAN Kam-lam, you may now speak on Mr WONG Ting-kwong's amendment. You may speak for up to five minutes.

MR CHAN KAM-LAM (in Cantonese): I agree with the amendment proposed by Mr WONG Ting-kwong. If the birthday of Confucius can be designated as a public holiday, we can definitely give the Confucius Day a deeper meaning to encourage more people to pay attention to the philosophical thinking of Confucius. Not only can we show our respect for Chinese history and heritage, we can also enrich the essence of Chinese culture.

Now we are going to propose a compromise. We will not insist on designating the birthday of Confucius as a public holiday because we understand that many people in the industrial and business sector or the community are concerned that disputes may arise in the community if we add one more public holiday on top of the existing public holidays. Some people even think that designating the Confucius Day as a public holiday might mean replacing a certain existing public holiday with the Confucius Day, and this might lead to religious opposition.

Actually, the six major religions in Hong Kong have once discussed this issue. They have all agreed that the Confucius Day can be offset by the last day

of the existing Easter holiday, as this day is actually not yet designated as a public holiday. The six major religions have also signed a consent letter for this purpose. This is why we consider that a consensus has been reached among the religions.

Of course, the community does not fully understand why the Confucian Academy and Members have been campaigning for this cause. Through this motion debate today, I believe we can make all these facts open to the public. People will then understand that, first, respecting Confucius is the essence of Chinese traditional culture; and second, there is no conflict between adding this public holiday and the existing public holidays.

This decision will not have any significant impact on people's daily lives because, firstly, there will be no increase in the number of public holidays; and secondly, the day in question has already been designated as a public holiday, and this will remain unchanged. Therefore, we very much hope that the Government can accept that this consensus has already been reached among Hong Kong's six major religions. If we can designate Confucius Day as a public holiday, we can definitely give this special day a new meaning.

As mentioned by me earlier, the House of Representatives of the United States passed a resolution on 28 October last year to honour the birthday of Confucius as the Confucius Day. It is a great pity if Hong Kong does not give due weight to our own academic heritage by designating the Confucius Day as a public holiday. Other countries will also think that our culture has deficiencies, which is ridiculous.

Hence, I hope the Government can support Mr WONG Ting-kwong's amendment. I also hope other colleagues will support his amendment. Thank you, President.

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, I would like to thank Honourable Members for their views on the motion. These views cover numerous areas, including politics, morality, philosophy, history, literature, education, and so on, and so I can only summarize my response in a few points.

Let me begin with the concept of family morality, which is greatly emphasized by the thinking of Confucianism. As mentioned by Ms Starry LEE

just now, the Family Council, since its establishment by the Government in 2007, has been promoting and publicizing family core values and work with relevant stakeholders to promote and publicize family core values, including Love and Care (愛與關懷); Respect and Responsibility (責任與尊重); and Communication and Harmony (溝通與和諧). As pointed out by Mr TAM Yiu-chung just now, the Family Council has been disseminating relevant messages through various channels, such as the electronic media, in the hope of strengthening traditional family morality concepts, like respecting the elderly, caring for the young, and fostering harmony between father and son, brothers and spouses.

In order to further encourage the Hong Kong community to attach importance to family culture and maintain family morality, the Family Council will launch a "Happy Family Campaign" in the coming year and collaborate with government departments and advisory bodies, the education sector, the business sector and NGOs to encourage the public to build families cherished by Hong Kong people, for the injection of elements such as happiness, kindness, support, mutual appreciation and joint commitment, into families.

I have pointed out in my previous speech that the curriculum of primary and secondary schools in Hong Kong has already covered knowledge, skills and values for the nurturing of students' holistic development. There are learning elements such as Chinese traditional thinking and culture as well as the thinking and values of Confucianism in every learning domain and subject. Under the New Senior Secondary Curriculum, launched in 2009, Liberal Studies, a compulsory subject, includes familiarizing oneself with Chinese culture as a compulsory theme for studies.

In promoting moral education, schools will also adopt different approaches having regard to their ideology, mission and student needs, with a view to developing a comprehensive and targeted curriculum. In tertiary institutions, traditional Chinese cultural thinking is also incorporated into their academic activities by such means as establishing Chinese cultural research centres, operating Chinese cultural courses, and even organizing related liberal studies activities.

The next point I would like to raise concerns the "community spirit of mutual support". The "community spirit of mutual support", which begins with

individuals, can be extended to mutual support between groups, and "neighbourhood mutual help" is one of its key elements. Through different levels in the community, including owners' corporations, mutual aid committees, Area Committees and District Councils, the Government hopes to promote care and mutual support among neighbourhoods.

Cross-sector and cross-district collaboration is also a manifestation of the "community spirit of mutual support". In many social issues, we can see full co-operation between government departments, business enterprises and non-government voluntary agencies in giving play to their synergy.

Through fulfilling their corporate social responsibility, business enterprises can also give play to "community spirit of mutual support". The fulfilment of their corporate social responsibility by business enterprises concerns not just one business enterprise, it is also the manifestation of social culture and values. This is indispensable to promoting the development of society as a whole.

The emergence of social enterprises in recent years has also manifested the spirit of compassion. People from different sectors and organizations seek to achieve the goal of social charity with innovative thinking and business models, such as offering employment assistance to the disadvantaged, giving support to families, caring for the elderly, and so on, for the purpose of fostering the culture of mutual care. The Government has all along been actively promoting collaboration among the community, business enterprises and the Government and launching various programmes in support of the development of social enterprises.

As regards Mr CHAN Kam-lam's proposal of designating the birthday of Confucius as the Confucius Day, as mentioned by me at the beginning of the debate, activities have long been launched in Hong Kong to celebrate the birthday of Confucius. The Government has not only shown great respect for the related activities, but also encouraged and participated in these activities. While attaching importance to and respecting the philosophy of Confucius, the SAR Government also attaches importance to and respect various other philosophies, as well as the uniqueness of religious thinking. While the freedom of thinking and academic freedom are held in high esteem by us, the freedom of religion is also protected by the Basic Law.

As for the proposal of designating the birthday of Confucius as a public holiday, Mr WONG Ting-kwong also mentioned in proposing his amendment that the upper limit to public holidays had been set after extensive consultation. Except for Sundays, there are 17 public holidays in a year. In Hong Kong, public holidays are provided for under the General Holidays Ordinance for compliance by all banks, educational institutions, offices of the public sector and government departments. Therefore, any proposal to designate new holidays, including adding or replacing holidays, will have an impact on all sectors of the community.

For this reason, an extensive consensus in the community must be forged in dealing with the proposal of designating the birthday of Confucius as a public holiday. Like the diverse views expressed in the motion debate earlier, the relevant proposal has yet to gain extensive recognition in the community.

The consensus among various religions mentioned by Mr CHAN Kam-lam just now is actually not yet confirmed. Like many Honourable Members, I have great respect for the Hong Kong Confucian Academy and its President, Mr TANG, for their persistent efforts in promoting the thinking of Confucius.

In my opinion, promoting the thinking of Confucius and the culture of Confucianism and the addition or revision of public holidays should be treated as two separate issues. Similarly, the enormous efforts made and remarkable results achieved by the Mainland in reviving the thinking of Confucius and the culture of Confucianism in recent years bear no relevance to the public holidays arrangement.

We must respect history and the reality, especially attaching importance to religious and social harmony, in dealing with the issue of public holidays, because promoting harmony in the community has all along been a key principle of the SAR Government as well as the underlying spirit of the thinking of Confucianism.

President, I so submit.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr WONG Ting-kwong to Mr CHAN Kam-lam's

motion, be passed. I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr WONG Sing-chi rose to claim a division.

PRESIDENT (in Cantonese): Mr WONG Sing-chi has claimed a division. The division bell will ring for three minutes.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Raymond HO, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr Timothy FOK, Dr Joseph LEE, Mr Jeffrey LAM, Mr WONG Ting-kwong, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him and Dr PAN Pey-chyou voted for the amendment.

Mr CHEUNG Man-kwong and Mr CHEUNG Kwok-che voted against the amendment.

Dr Margaret NG, Ms Miriam LAU, Ms LI Fung-ying, Prof Patrick LAU and Dr Samson TAM abstained.

Geographical Constituencies:

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan and Mrs Regina IP voted for the amendment.

Mr Albert HO, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO and Mr WONG Sing-chi voted against the amendment.

Ms Audrey EU, Mr Ronny TONG and Miss Tanya CHAN abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 18 were present, 11 were in favour of the amendment, two against it and five abstained; while among the Members returned by geographical constituencies through direct elections, 21 were present, eight were in favour of the amendment, nine against it and three abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr CHAN Kam-lam, you may now speak in reply. You still have four minutes and 26 seconds.

MR CHAN KAM-LAM (in Cantonese): President, there were already records in history of dismissing the hundred schools and revering only the Confucians a long time ago, and this was certainly not a good idea. However, I wish to clarify that our present proposal of holding Confucianism in high esteem has nothing to do with dismissing the hundred schools and revering only the Confucians.

Confucianism, Buddhism and Taoism have been in harmonious co-existence in China for a long time. In the Hong Kong community, the doctrines of Confucius could be found a long time ago, with many schools and

institutions using words of Confucius as their mottos. For instance, the motto of the University of Hong Kong is "明德格物" (Sapientia et Virtus), and the motto of The Chinese University of Hong Kong is "博文約禮⁽²¹⁾" and that of Chung Chi College is "止於至善⁽²²⁾". Our proposal of promoting Confucianism merely seeks to enhance the influence of Confucian thinking on our daily lives on the existing foundation in the hope that every member of the community can be benefited. The Master said, "The superior manufacturing is affable, but not adulatory; the mean is adulatory, but not affable⁽²³⁾". Confucian thinking advocates tolerance and forgiveness, as well as respect for diverse views and mutual inclusion. Hence, advocating Confucian thinking will not affect the development of other religious or philosophical schools. On the contrary, we encourage a hundred flowers blossom and a hundred schools of thought contend for attention.

In the present-day community, profit is everything. The school curriculum is mainly geared towards crash courses and liberal studies in disregard of students' ethical cultivation. Of course, unlike some Members who say that establishing a democratic system through full-scale universal suffrage can resolve all problems, we do not mean to say that promoting the philosophy of Confucianism can resolve all social problems, as such mentality is biased and one-sided. In their speeches today, many Members mentioned an instance in which an elderly person was abused by a staff member of a home for the aged. Measure it against the thinking of Confucianism, such conduct is unethical, disloyal, dishonest and impious. If every one of us has a sense of propriety, justice, honesty and honour in our hearts, I believe the staff would not have fed the elderly with faeces. It was mentioned just now that the House of Representatives of the United States had passed a resolution last year by a majority of 361 to 47, or a ratio of nearly 8 to 1, to commemorate Confucius. It would be really regrettable and ridiculous if the Legislative Council in Hong Kong cannot pass this motion while even a parliament in a Western country could have taken the teachings of Confucius so seriously. Many Members have already indicated that they are prepared to support the teachings of Confucius, promote the spirit of compassion, and even study the works of Confucius regularly as well as putting Confucian classics on their desks. Unfortunately, in

(21) "博文" is to broaden one's intellectual horizon; and "約禮" is to keep within the bounds of propriety.

(22) "止於至善" means "resting in the highest excellence".

(23) Legge, James. 1992. The Chinese-English Bilingual Series of Chinese Classics: The Four Book. Hunan: Hunan Publishing House. P.185

promoting the teachings of Confucius, some Members have distorted my original intention of proposing the motion today in many ways by describing the act of holding Confucianism in high esteem as revering only Confucianism, thereby stifling social progress. This is most baffling and regrettable.

Some people consider that the Government should not promote religious thinking by practically belittling the philosophical thinking of Confucianism while apparently treating various religions in an unbiased manner. This can be seen from Confucius' saying that "When a man holds fast virtue, but without seeking to enlarge it, and believes right principles, but without firm sincerity, what account can be made of his existence or non-existence?" Furthermore, some people have criticized the Government for failing to administer benevolent governance for fear that promoting Confucianism will be taken as looking down upon business, or even sex discrimination. I think all this is unnecessary. The Master once said, "The virtue without proper cultivation; the not thoroughly discussing what is learned; not being able to move towards righteousness of which a knowledge is gained; and not being able to change what is not good — these are the things which occasion me solicitude⁽²⁴⁾." The DAB has actually transcended religious belief in promoting the philosophical thinking of Confucianism. We hope to absorb the essence of Confucianism from the broad and profound Chinese culture and integrate Confucianism into present-day society.

President, I so submit.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr CHAN Kam-lam be passed.

PRESIDENT (in Cantonese): I now put the question to you as stated. Will those in favour please raise their hands?

(Members raised their hands)

(24) Legge, James. 1992. The Chinese-English Bilingual Series of Chinese Classics: The Four Book. Hunan: Hunan Publishing House. P.117

PRESIDENT (in Cantonese): Those against please raise their hands.

(Members raised their hands)

Mr Fred LI rose to claim a division.

PRESIDENT (in Cantonese): Mr Fred LI has claimed a division. The division bell will ring for three minutes.

PRESIDENT (in Cantonese): Will Members please proceed to vote.

PRESIDENT (in Cantonese): Will Members please check their votes. If there are no queries, voting shall now stop and the result will be displayed.

Functional Constituencies:

Dr Raymond HO, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr Timothy FOK, Ms LI Fung-ying, Dr Joseph LEE, Mr Jeffrey LAM, Mr WONG Ting-kwong, Prof Patrick LAU, Mr CHAN Kin-por, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Dr Samson TAM voted for the motion.

Dr Margaret NG, Mr CHEUNG Man-kwong, Ms Miriam LAU and Mr CHEUNG Kwok-che abstained.

Geographical Constituencies:

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr Frederick FUNG, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan and Mrs Regina IP voted for the motion.

Mr LEUNG Kwok-hung voted against the motion.

Mr Albert HO, Mr Fred LI, Mr James TO, Ms Emily LAU, Mr Andrew CHENG, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Miss Tanya CHAN and Mr WONG Sing-Chi abstained.

THE PRESIDENT, Mr Jasper TSANG, did not cast any vote.

THE PRESIDENT announced that among the Members returned by functional constituencies, 18 were present, 14 were in favour of the motion and four abstained; while among the Members returned by geographical constituencies through direct elections, 23 were present, nine were in favour of the motion, one against it and 12 abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 3.00 pm tomorrow.

Adjourned accordingly at twenty-six minutes to Eight o'clock.

Appendix 1**REQUEST FOR POST-MEETING AMENDMENTS**

The Secretary for Labour and Welfare requested the following post-meeting amendment to Question 3

Line 3 to 6, first paragraph, page 24 of the Confirmed version

To amend "Originally, 162 organizations joined the LSG subvention system, but there are now 171 after the addition of nine organizations. In other words, this system is welcomed but not opposed by the organizations, which is a very important point." as "Originally, 162 organizations could join the fund, but there are now 171 after the addition of nine organizations." (Translation)

(Please refer to line 5 to 8, second last paragraph, page 3981 of this Translated version)

Line 2, third paragraph, page 24 of the Confirmed version

To amend "that is, 2008-2009," as "that is, 2009-2010," (Translation)

(Please refer to line 3, first paragraph, page 3982 of this Translated version)